

HB3044



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3044

by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-220.3

Amends the Public Utilities Act. Makes changes to provisions concerning natural gas surcharge authorization to provide that those provisions apply only to a natural gas utility that, on or after the effective date of the amendatory Act, serves more than 1,000,000 customers or is a combination utility as defined in the Act. Specifies that nothing in the provisions prevents the Illinois Commerce Commission from issuing an order pursuant to certain provisions concerning service obligations and conditions. Effective immediately.

LRB101 07166 JRG 52204 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 9-220.3 as follows:

6 (220 ILCS 5/9-220.3)

7 (Section scheduled to be repealed on December 31, 2023)

8 Sec. 9-220.3. Natural gas surcharges authorized.

9 (a) Tariff.

10 (1) Pursuant to Section 9-201 of this Act, a natural
11 gas utility serving more than 700,000 customers may file a
12 tariff for a surcharge which adjusts rates and charges to
13 provide for recovery of costs associated with investments
14 in qualifying infrastructure plant, independent of any
15 other matters related to the utility's revenue
16 requirement.

17 (2) Within 30 days after the effective date of this
18 amendatory Act of the 98th General Assembly, the Commission
19 shall adopt emergency rules to implement the provisions of
20 this amendatory Act of the 98th General Assembly. The
21 utility may file with the Commission tariffs implementing
22 the provisions of this amendatory Act of the 98th General
23 Assembly after the effective date of the emergency rules

1 authorized by subsection (i).

2 (3) The Commission shall issue an order approving, or
3 approving with modification to ensure compliance with this
4 Section, the tariff no later than 120 days after such
5 filing of the tariffs filed pursuant to this Section. The
6 utility shall have 7 days following the date of service of
7 the order to notify the Commission in writing whether it
8 will accept any modifications so identified in the order or
9 whether it has elected not to proceed with the tariff. If
10 the order includes no modifications or if the utility
11 notifies the Commission that it will accept such
12 modifications, the tariff shall take effect on the first
13 day of the calendar year in which the Commission issues the
14 order, subject to petitions for rehearing and appellate
15 procedures. After the tariff takes effect, the utility may,
16 upon 10 days' notice to the Commission, file to withdraw
17 the tariff at any time, and the Commission shall approve
18 such filing without suspension or hearing, subject to a
19 final reconciliation as provided in subsection (e) of this
20 Section.

21 (4) When a natural gas utility withdraws the surcharge
22 tariff, the utility shall not recover any additional
23 charges through the surcharge approved pursuant to this
24 Section, subject to the resolution of the final
25 reconciliation pursuant to subsection (e) of this Section.
26 The utility's qualifying infrastructure investment net of

1 accumulated depreciation may be transferred to the natural
2 gas utility's rate base in the utility's next general rate
3 case. The utility's delivery base rates in effect upon
4 withdrawal of the surcharge tariff shall not be adjusted at
5 the time the surcharge tariff is withdrawn.

6 (5) A natural gas utility that is subject to its
7 delivery base rates being fixed at their current rates
8 pursuant to a Commission order entered in Docket No.
9 11-0046, notwithstanding the effective date of its tariff
10 authorized pursuant to this Section, shall reflect in a
11 tariff surcharge only those projects placed in service
12 after the fixed rate period of the merger agreement has
13 expired by its terms.

14 (b) For purposes of this Section, "qualifying
15 infrastructure plant" includes only plant additions placed in
16 service not reflected in the rate base used to establish the
17 utility's delivery base rates. "Costs associated with
18 investments in qualifying infrastructure plant" shall include
19 a return on qualifying infrastructure plant and recovery of
20 depreciation and amortization expense on qualifying
21 infrastructure plant, net of the depreciation included in the
22 utility's base rates on any plant retired in conjunction with
23 the installation of the qualifying infrastructure plant.
24 Collectively the "qualifying infrastructure plant" and "costs
25 associated with investments in qualifying infrastructure
26 plant" are referred to as the "qualifying infrastructure

1 investment" and that are related to one or more of the
2 following:

3 (1) the installation of facilities to retire and
4 replace underground natural gas facilities, including
5 facilities appurtenant to facilities constructed of those
6 materials such as meters, regulators, and services, and
7 that are constructed of cast iron, wrought iron, ductile
8 iron, unprotected coated steel, unprotected bare steel,
9 mechanically coupled steel, copper, Cellulose Acetate
10 Butyrate (CAB) plastic, pre-1973 DuPont Aldyl "A"
11 polyethylene, PVC, or other types of materials identified
12 by a State or federal governmental agency as being prone to
13 leakage;

14 (2) the relocation of meters from inside customers'
15 facilities to outside;

16 (3) the upgrading of the gas distribution system from a
17 low pressure to a medium pressure system, including
18 installation of high-pressure facilities to support the
19 upgrade;

20 (4) modernization investments by a combination
21 utility, as defined in subsection (b) of Section 16-108.5
22 of this Act, to install:

23 (A) advanced gas meters in connection with the
24 installation of advanced electric meters pursuant to
25 Sections 16-108.5 and 16-108.6 of this Act; and

26 (B) the communications hardware and software and

1 associated system software that creates a network
2 between advanced gas meters and utility business
3 systems and allows the collection and distribution of
4 gas-related information to customers and other parties
5 in addition to providing information to the utility
6 itself;

7 (5) replacing high-pressure transmission pipelines and
8 associated facilities identified as having a higher risk of
9 leakage or failure or installing or replacing
10 high-pressure transmission pipelines and associated
11 facilities to establish records and maximum allowable
12 operating pressures;

13 (6) replacing difficult to locate mains and service
14 pipes and associated facilities; and

15 (7) replacing or installing transmission and
16 distribution regulator stations, regulators, valves, and
17 associated facilities to establish over-pressure
18 protection.

19 With respect to the installation of the facilities
20 identified in paragraph (1) of subsection (b) of this Section,
21 the natural gas utility shall determine priorities for such
22 installation with consideration of projects either: (i)
23 integral to a general government public facilities improvement
24 program or (ii) ranked in the highest risk categories in the
25 utility's most recent Distribution Integrity Management Plan
26 where removal or replacement is the remedial measure.

1 (c) Qualifying infrastructure investment, defined in
2 subsection (b) of this Section, recoverable through a tariff
3 authorized by subsection (a) of this Section, shall not include
4 costs or expenses incurred in the ordinary course of business
5 for the ongoing or routine operations of the utility,
6 including, but not limited to:

7 (1) operating and maintenance costs; and

8 (2) costs of facilities that are revenue-producing,
9 which means facilities that are constructed or installed
10 for the purpose of serving new customers.

11 (d) Gas utility commitments. A natural gas utility that has
12 in effect a natural gas surcharge tariff pursuant to this
13 Section shall:

14 (1) recognize that the General Assembly identifies
15 improved public safety and reliability of natural gas
16 facilities as the cornerstone upon which this Section is
17 designed, and qualifying projects should be encouraged,
18 selected, and prioritized based on these factors; and

19 (2) provide information to the Commission as requested
20 to demonstrate that (i) the projects included in the tariff
21 are indeed qualifying projects and (ii) the projects are
22 selected and prioritized taking into account improved
23 public safety and reliability.

24 (3) The amount of qualifying infrastructure investment
25 eligible for recovery under the tariff in the applicable
26 calendar year is limited to the lesser of (i) the actual

1 qualifying infrastructure plant placed in service in the
2 applicable calendar year and (ii) the difference by which
3 total plant additions in the applicable calendar year
4 exceed the baseline amount, and subject to the limitation
5 in subsection (g) of this Section. A natural gas utility
6 can recover the costs of qualifying infrastructure
7 investments through an approved surcharge tariff from the
8 beginning of each calendar year subject to the
9 reconciliation initiated under paragraph (2) of subsection
10 (e) of this Section, during which the Commission may make
11 adjustments to ensure that the limits defined in this
12 paragraph are not exceeded. Further, if total plant
13 additions in a calendar year do not exceed the baseline
14 amount in the applicable calendar year, the Commission,
15 during the reconciliation initiated under paragraph (2) of
16 subsection (e) of this Section for the applicable calendar
17 year, shall adjust the amount of qualifying infrastructure
18 investment eligible for recovery under the tariff to zero.

19 (4) For purposes of this Section, "baseline amount"
20 means an amount equal to the utility's average of total
21 depreciation expense, as reported on page 336, column (b)
22 of the utility's ILCC Form 21, for the calendar years 2006
23 through 2010.

24 (e) Review of investment.

25 (1) The amount of qualifying infrastructure investment
26 shall be shown on an Information Sheet supplemental to the

1 surcharge tariff and filed with the Commission monthly or
2 some other time period at the option of the utility. The
3 Information Sheet shall be accompanied by data showing the
4 calculation of the qualifying infrastructure investment
5 adjustment. Unless otherwise ordered by the Commission,
6 each qualifying infrastructure investment adjustment shown
7 on an Information Sheet shall become effective pursuant to
8 the utility's approved tariffs.

9 (2) For each calendar year in which a surcharge tariff
10 is in effect, the natural gas utility shall file a petition
11 with the Commission to initiate hearings to reconcile
12 amounts billed under each surcharge authorized pursuant to
13 this Section with the actual prudently incurred costs
14 recoverable under this tariff in the preceding year. The
15 petition filed by the natural gas utility shall include
16 testimony and schedules that support the accuracy and the
17 prudence of the qualifying infrastructure investment for
18 the calendar year being reconciled. The petition filed
19 shall also include the number of jobs attributable to the
20 natural gas surcharge tariff as required by rule. The
21 review of the utility's investment shall include
22 identification and review of all plant that was ranked
23 within the highest risk categories in that utility's most
24 recent Distribution Integrity Management Plan.

25 (f) The rate of return applied shall be the overall rate of
26 return authorized by the Commission in the utility's last gas

1 rate case.

2 (g) The cumulative amount of increases billed under the
3 surcharge, since the utility's most recent delivery service
4 rate order, shall not exceed an annual average 4% of the
5 utility's delivery base rate revenues, but shall not exceed
6 5.5% in any given year. On the effective date of new delivery
7 base rates, the surcharge shall be reduced to zero with respect
8 to qualifying infrastructure investment that is transferred to
9 the rate base used to establish the utility's delivery base
10 rates, provided that the utility may continue to charge or
11 refund any reconciliation adjustment determined pursuant to
12 subsection (e) of this Section.

13 (h) If a gas utility obtains a surcharge tariff under this
14 Section 9-220.3, then it and its affiliates are excused from
15 the rate case filing requirements contained in Sections
16 9-220(h) and 9-220(h-1). In the event a natural gas utility,
17 prior to the effective date of this amendatory Act of the 98th
18 General Assembly, made a rate case filing that is still pending
19 on the effective date of this amendatory Act of the 98th
20 General Assembly, the natural gas utility may, at the time it
21 files its surcharge tariff with the Commission, also file a
22 notice with the Commission to withdraw its rate case filing.
23 Any affiliate of such natural gas utility may also file to
24 withdraw its rate case filing. Upon receipt of such notice, the
25 Commission shall dismiss the rate case filing with prejudice
26 and such tariffs and the record related thereto shall not be

1 the subject of any further hearing, investigation, or
2 proceeding of any kind related to rates for gas delivery
3 services. Notwithstanding the foregoing, a natural gas utility
4 shall not be permitted to withdraw a rate case filing for which
5 a proposed order recommending a rate reduction is pending. A
6 natural gas utility shall not be permitted to withdraw the gas
7 delivery services tariffs that are the subject of Commission
8 Docket Nos. 12-0511/12-0512 (cons.). None of the costs incurred
9 for the withdrawn rate case are recoverable from ratepayers.

10 (i) The Commission shall promulgate rules and regulations
11 to carry out the provisions of this Section under the emergency
12 rulemaking provisions set forth in Section 5-45 of the Illinois
13 Administrative Procedure Act, and such emergency rules shall be
14 effective no later than 30 days after the effective date of
15 this amendatory Act of the 98th General Assembly.

16 (i-5) Notwithstanding any other provision of this Section,
17 this Section applies only to a natural gas utility that, on or
18 after the effective date of this amendatory Act of the 101st
19 General Assembly, (i) serves more than 1,000,000 customers or
20 (ii) is a combination utility as defined in Section 16-108.5.

21 (i-10) Nothing in this Section prevents the Commission from
22 issuing an order pursuant to Section 8-503 of this Act.

23 (j) This Section is repealed December 31, 2023.

24 (Source: P.A. 98-57, eff. 7-5-13.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.