

AN ACT concerning regulation.

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

Section 5. The Public Utilities Act is amended by adding Sections 5-111 and 9-220.3 as follows:

(220 ILCS 5/5-111 new)

Sec. 5-111. Natural gas performance reporting.

(a) The General Assembly recognizes that for well over a century Illinois residents and businesses have relied on the natural gas utility system. The General Assembly finds that in order for a natural gas utility to provide safe, reliable, and affordable service to the State's current and future utility customers, a utility must refurbish, rebuild, modernize, and expand its infrastructure and adequately train its workforce on appropriate operations procedures and policies designed to effectively maintain its infrastructure.

(b) A natural gas public utility shall report annually to the Commission the following information, compiled on a calendar-year basis, beginning with the first report on April 1, 2014:

(1) the number of emergency calls with response times exceeding both 30 minutes and 60 minutes and the number of emergency calls in which the utility stopped the flow of

natural gas on the system or appropriately vented natural gas in a time exceeding both 60 minutes and 90 minutes;

(2) the number of incidents of damage per thousand gas facility locate requests to the utility's pipeline facilities resulting from utility error and the number of incidents of damage per thousand gas facility locate requests to the utility's pipeline facilities resulting from the fault of third parties;

(3) the number of scheduled cathodic protection readings below -0.850 volts;

(4) the number of service lines that were inactive for over 3 years and not disconnected from a source of supply;

(5) the number of difficult to locate services replaced;

(6) the number of remotely-readable cathodic protection devices;

(7) the miles of main and numbers of services replaced that were constructed of cast iron, wrought iron, ductile iron, unprotected coated steel, unprotected bare steel, mechanically coupled steel, copper, Cellulose Acetate Butyrate (CAB) plastic, pre-1973 DuPont Aldyl "A" polyethylene, PVC, or other types of materials identified by a State or federal governmental agency as being prone to leakage;

(8) the number of miles of transmission facilities on which maximum allowable operating pressures have been

established;

(9) the number of miles of transmission facilities equipped with remotely controlled shut-off valve capability; and

(10) the value in dollars of contracts in force with minority-owned, female-owned, and qualified service-disabled veteran-owned businesses.

(c) Reports required under this Section shall be submitted to the Commission by April 1 of each year. Reports shall be verified in the same manner as Form 21 ILCC and contain the information specified in subsection (b) of this Section for the preceding calendar year. The reports shall further identify the number of jobs attributable to each of the reporting requirements in (b)(1) through (b)(10) of this Section. Following the submission of a utility's initial report, subsequent reports by the utility shall state year-over-year changes in the information being reported. The Commission shall post the reports on the public portion of its web site.

(d) A natural gas utility shall submit an annual plan specifying its goals for each of the items identified in subsection (b) of this Section, and such utility is expected to show reasonable and continuing progress in improving its performance under the criteria identified in subsection (b) of this Section. If the Commission finds, after notice and hearing, that a utility has failed to show progressive improvement in its performance under those criteria, the

Commission may require the natural gas utility to submit a remediation plan for the criteria identified in subsection (b) of this Section designed to improve the utility's performance.

(e) The Commission may adopt rules to implement the requirements of this Section.

(f) This Section does not apply to a gas utility that on January 1, 2013 provided gas service to fewer than 100,000 customers in Illinois.

(220 ILCS 5/9-220.3 new)

Sec. 9-220.3. Natural gas surcharges authorized.

(a) Tariff.

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

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

authorized by subsection (i).

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

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

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

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

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

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

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

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

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

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

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

(B) the communications hardware and software and

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

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

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

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

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

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

(1) operating and maintenance costs; and

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

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

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

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

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

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

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

(e) Review of investment.

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

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

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

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

rate case.

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

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

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

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

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

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