



Rep. Joyce Mason

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10200HB3941ham001

LRB102 11274 SPS 31034 a

1 AMENDMENT TO HOUSE BILL 3941

2 AMENDMENT NO. _____. Amend House Bill 3941 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by
5 changing 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7 (Section scheduled to be repealed on December 31, 2023)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.

1 (2) Within 30 days after the effective date of this
2 amendatory Act of the 98th General Assembly, the
3 Commission shall adopt emergency rules to implement the
4 provisions of this amendatory Act of the 98th General
5 Assembly. The utility may file with the Commission tariffs
6 implementing the provisions of this amendatory Act of the
7 98th General Assembly after the effective date of the
8 emergency rules authorized by subsection (i).

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

1 subsection (e) of this Section.

2 (4) When a natural gas utility withdraws the surcharge
3 tariff, the utility shall not recover any additional
4 charges through the surcharge approved pursuant to this
5 Section, subject to the resolution of the final
6 reconciliation pursuant to subsection (e) of this Section.
7 The utility's qualifying infrastructure investment net of
8 accumulated depreciation may be transferred to the natural
9 gas utility's rate base in the utility's next general rate
10 case. The utility's delivery base rates in effect upon
11 withdrawal of the surcharge tariff shall not be adjusted
12 at the time the surcharge tariff is withdrawn.

13 (5) A natural gas utility that is subject to its
14 delivery base rates being fixed at their current rates
15 pursuant to a Commission order entered in Docket No.
16 11-0046, notwithstanding the effective date of its tariff
17 authorized pursuant to this Section, shall reflect in a
18 tariff surcharge only those projects placed in service
19 after the fixed rate period of the merger agreement has
20 expired by its terms.

21 (b) For purposes of this Section, "qualifying
22 infrastructure plant" includes only plant additions placed in
23 service not reflected in the rate base used to establish the
24 utility's delivery base rates. "Costs associated with
25 investments in qualifying infrastructure plant" shall include
26 a return on qualifying infrastructure plant and recovery of

1 depreciation and amortization expense on qualifying
2 infrastructure plant, net of the depreciation included in the
3 utility's base rates on any plant retired in conjunction with
4 the installation of the qualifying infrastructure plant.
5 Collectively the "qualifying infrastructure plant" and "costs
6 associated with investments in qualifying infrastructure
7 plant" are referred to as the "qualifying infrastructure
8 investment" and that are related to one or more of the
9 following:

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

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

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

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

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

7 (B) the communications hardware and software and
8 associated system software that creates a network
9 between advanced gas meters and utility business
10 systems and allows the collection and distribution of
11 gas-related information to customers and other parties
12 in addition to providing information to the utility
13 itself;

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

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

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

26 With respect to the installation of the facilities

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

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

14 (1) operating and maintenance costs; and

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

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

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

26 (2) provide information to the Commission as requested

1 to demonstrate that (i) the projects included in the
2 tariff are indeed qualifying projects and (ii) the
3 projects are selected and prioritized taking into account
4 improved public safety and reliability.

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

26 (4) For purposes of this Section, "baseline amount"

1 means an amount equal to the utility's average of total
2 depreciation expense, as reported on page 336, column (b)
3 of the utility's ILCC Form 21, for the calendar years 2006
4 through 2010.

5 (e) Review of investment.

6 (1) The amount of qualifying infrastructure investment
7 shall be shown on an Information Sheet supplemental to the
8 surcharge tariff and filed with the Commission monthly or
9 some other time period at the option of the utility. The
10 Information Sheet shall be accompanied by data showing the
11 calculation of the qualifying infrastructure investment
12 adjustment. Unless otherwise ordered by the Commission,
13 each qualifying infrastructure investment adjustment shown
14 on an Information Sheet shall become effective pursuant to
15 the utility's approved tariffs.

16 (2) For each calendar year in which a surcharge tariff
17 is in effect, the natural gas utility shall file a
18 petition with the Commission to initiate hearings to
19 reconcile amounts billed under each surcharge authorized
20 pursuant to this Section with the actual prudently
21 incurred costs recoverable under this tariff in the
22 preceding year. The petition filed by the natural gas
23 utility shall include testimony and schedules that support
24 the accuracy and the prudence of the qualifying
25 infrastructure investment for the calendar year being
26 reconciled. The petition filed shall also include the

1 number of jobs attributable to the natural gas surcharge
2 tariff as required by rule. The review of the utility's
3 investment shall include identification and review of all
4 plant that was ranked within the highest risk categories
5 in that utility's most recent Distribution Integrity
6 Management Plan.

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

10 (g) The cumulative amount of increases billed under the
11 surcharge, since the utility's most recent delivery service
12 rate order, shall not exceed an annual average 4% of the
13 utility's delivery base rate revenues, but shall not exceed
14 5.5% in any given year. On the effective date of new delivery
15 base rates, the surcharge shall be reduced to zero with
16 respect to qualifying infrastructure investment that is
17 transferred to the rate base used to establish the utility's
18 delivery base rates, provided that the utility may continue to
19 charge or refund any reconciliation adjustment determined
20 pursuant to subsection (e) of this Section.

21 (h) If a gas utility obtains a surcharge tariff under this
22 Section 9-220.3, then it and its affiliates are excused from
23 the rate case filing requirements contained in Sections
24 9-220(h) and 9-220(h-1). In the event a natural gas utility,
25 prior to the effective date of this amendatory Act of the 98th
26 General Assembly, made a rate case filing that is still

1 pending on the effective date of this amendatory Act of the
2 98th General Assembly, the natural gas utility may, at the
3 time it files its surcharge tariff with the Commission, also
4 file a notice with the Commission to withdraw its rate case
5 filing. Any affiliate of such natural gas utility may also
6 file to withdraw its rate case filing. Upon receipt of such
7 notice, the Commission shall dismiss the rate case filing with
8 prejudice and such tariffs and the record related thereto
9 shall not be the subject of any further hearing,
10 investigation, or proceeding of any kind related to rates for
11 gas delivery services. Notwithstanding the foregoing, a
12 natural gas utility shall not be permitted to withdraw a rate
13 case filing for which a proposed order recommending a rate
14 reduction is pending. A natural gas utility shall not be
15 permitted to withdraw the gas delivery services tariffs that
16 are the subject of Commission Docket Nos. 12-0511/12-0512
17 (cons.). None of the costs incurred for the withdrawn rate
18 case are recoverable from ratepayers.

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

26 (j) This Section is repealed December 31, 2022 ~~2023~~.

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