



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3258

Introduced 2/24/2011, by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-220.3 new

Amends the Public Utilities Act. Provides that a gas or electric utility may recover through an automatic adjustment clause tariff the costs associated with an investment in qualifying infrastructure facilities and such costs may be amortized over a 4-year period at the election of the utility, subject to certain limitations. Provides that the automatic adjustment clause tariff may be established outside the context of a general rate filing. Provides that the Commission shall review and, by order, approve or approve as modified the proposed tariff within 90 days after the date on which it was filed. Provides that the Commission shall not consider the availability or existence of an automatic adjustment clause tariff or any amounts of investments or revenue recovered by such tariff in its determination of a utility's rate of return on rate base. Defines "costs associated with an investment in qualifying infrastructure facilities", "Director", "qualifying infrastructure facilities", "qualifying projects", and "contributions in aid of construction". Makes other changes. Includes a severability clause. Effective immediately.

LRB097 10880 ASK 51401 b

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 adding
5 Section 9-220.3 as follows:

6 (220 ILCS 5/9-220.3 new)

7 Sec. 9-220.3. Automatic adjustment clause tariff for
8 investment in qualifying natural gas and electric utility
9 infrastructure.

10 (a) For purposes of this Section:

11 (1) "Costs associated with an investment in qualifying
12 infrastructure facilities" means all costs incurred by the
13 utility associated with construction and installation of
14 qualifying infrastructure facilities that are not
15 reflected in the rate base used to establish the utility's
16 base rates, including, but not limited to, a return on the
17 capital investment in such facilities at the rate of return
18 on rate base approved in the utility's most recently
19 completed general rate case and depreciation expense
20 related to such facilities at the depreciation rate used in
21 the utility's most recently completed general rate case.

22 (2) "Director" means the Director of the Department of
23 Commerce and Economic Opportunity.

1 (3) "Qualifying infrastructure facilities" means gas
2 or electric equipment and facilities used in connection
3 with the distribution and delivery of gas or electricity to
4 qualifying projects and include, but are not limited to,
5 new or replacement gas distribution mains, meters,
6 services, regulators and compressors, and new or
7 replacement electric distribution lines, substations, and
8 meters.

9 (4) "Qualifying projects" means new or expanded
10 customer facilities that are classified by the North
11 American Industry Classification System under
12 classification codes 424510 or 493130 or under
13 classification codes beginning with 31, 32, 33, 48, 49, 51,
14 52, 55, 56, or 62 and that have been certified by the
15 Director as being reasonably projected to create 50 or more
16 incremental full-time equivalent jobs associated with the
17 construction, installation, and operations of such
18 facilities within 12 months after the start of operations.

19 (5) "Contributions in Aid of Construction" means the
20 costs in excess of the free limits resulting from the
21 utility's implementation of Part 500.310, Part 500.320, or
22 Part 410.410 of the Illinois Administrative Code that are
23 to be paid by the customer. Such contributions shall be
24 calculated including a credit for the anticipated
25 incremental delivery service revenues resulting from the
26 project's first 3 years of operation. The utility shall

1 supply the customer, upon request, (A) a detailed breakdown
2 of facilities cost estimate before construction begins and
3 (B) a final detailed cost statement upon project completion
4 if the utility intends to rebill the customer due to
5 variances from the estimate.

6 (b) A gas or electric utility shall be permitted, at its
7 election, to recover through an automatic adjustment clause
8 tariff the costs associated with investments in qualifying
9 infrastructure facilities that have not been recovered from the
10 customer as provided under subsection (d) of this Section, and
11 such costs may be amortized over a 4-year period at the
12 election of the utility. The automatic adjustment clause tariff
13 may be established outside the context of a general rate
14 filing, and the Commission shall review and, by order, approve
15 or approve as modified the proposed tariff within 90 days after
16 the date on which it was filed. The Commission shall not
17 consider the availability or existence of an automatic
18 adjustment clause tariff or any amounts of investments or
19 revenue recovered by such tariff in its determination of a
20 utility's rate of return on rate base.

21 Costs associated with investment in qualifying
22 infrastructure facilities related to qualifying projects may
23 be included for recovery under the automatic adjustment clause
24 tariff in each of the first 3 years following the effective
25 date of the tariff subject to the following limitations:

26 (1) For a gas or electric utility that serves 3,000,000

1 or more customers, the costs associated with investments in
2 qualifying infrastructure facilities shall not exceed:
3 \$20,000,000 in the first year, an additional \$15,000,000 in
4 the second year, and an additional \$10,000,000 in the third
5 year.

6 (2) For a gas or electric utility that serves less than
7 3,000,000 customers but more than 250,000 customers, the
8 costs associated with investments in qualifying
9 infrastructure facilities shall not exceed: \$6,600,000 in
10 the first year, an additional \$5,000,000 in the second
11 year, and an additional \$3,300,000 in the third year.

12 (3) For a gas or electric utility that serves 250,000
13 or less customers, the costs associated with investments in
14 qualifying infrastructure facilities shall not exceed:
15 \$1,500,000 in the first year, an additional \$1,000,000 in
16 the second year, and an additional \$500,000 in the third
17 year.

18 Costs included for recovery under the automatic adjustment
19 clause tariff during the first 3 years following the effective
20 date of the tariff shall continue to be recovered through the
21 tariff following such 3-year period until the costs are fully
22 recovered. In the event that the number of qualifying projects
23 related to a gas or electric utility is anticipated to cause
24 the limitations set forth in this subsection (b) to be
25 exceeded, qualifying projects shall be prioritized in the order
26 in which the Director approves the projects.

1 (c) A gas or electric utility that has implemented an
2 automatic adjustment clause tariff approved by the Commission
3 pursuant to this Section may effectuate a change in its
4 surcharge pursuant to the provisions of this Section no more
5 than twice every 12 months, provided, however, that if the
6 utility's investments require a change in the surcharge more
7 than twice in a 12-month period to fully recover such
8 investments, then the utility shall be permitted to record and
9 defer those costs plus carrying charges as a regulatory asset
10 to be included for recovery through the automatic adjustment
11 clause tariff the next time the surcharge is changed. At such
12 time as the regulatory asset is included in the next change to
13 the surcharge, it shall, consistent with subsection (b) of this
14 Section, be amortized over a 4-year period.

15 (d) Customers with qualifying projects may elect to have
16 their Contributions in Aid of Construction capped at 25% of the
17 calculated value or \$250,000, whichever is less. Any customer
18 who elects to have the Contribution in Aid of Construction
19 capped waives the right to refunds that would otherwise result
20 if other customers are connected to qualifying infrastructure
21 facilities.

22 (e) In the event the Commission issues an order
23 establishing customer rates in a general rate proceeding or a
24 proceeding pursuant to subsection (c) or (d) of Section
25 16-108.5 or subsection (c) or (d) of Section 19-150 of the Act
26 that incorporates in the utility's base rates all costs

1 associated with the utility's investments in qualifying
2 infrastructure facilities that were prudently incurred and
3 reasonable in amount, the utility shall file revised rate
4 schedules to reset the surcharge in the automatic adjustment
5 clause tariff to zero.

6 (f) This Section is repealed on December 31, 2014, provided
7 that such repeal shall have no impact on the validity or
8 continued operation of a tariff approved by the Commission
9 pursuant to this Section.

10 Section 97. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes.

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