

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1040

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DATE	D-PG	OFFICIAL STATUS
03/04/2013	485	Introduction and first reading Referred to Environment and Energy

A bill for an act

relating to energy; regulating the recovery of certain gas utility infrastructure costs; amending Minnesota Statutes 2012, section 216B.1635.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 216B.1635, is amended to read:

216B.1635 RECOVERY OF GAS UTILITY INFRASTRUCTURE COSTS.

Subdivision 1. **Definitions.** (a) "Gas utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes natural gas service to retail customers.

(b) "Gas utility infrastructure costs" or "GUIC" means costs incurred in gas utility projects that:

(1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) are in service ~~but were not included in the gas utility's rate base in its most recent general rate case; and~~ or planned to be in service during the period covered by the report submitted in accordance with subdivision 2; and

(3) ~~replace or modify existing infrastructure if the replacement or modification does not constitute a betterment, unless the betterment is required by a political subdivision, as evidenced by specific documentation from the government entity requiring the replacement or modification of infrastructure~~ do not constitute a betterment, unless the betterment is based on requirements by a political subdivision or federal or state regulation, as evidenced by specific documentation or regulation from the government entity requiring the replacement or modification of infrastructure.

(c) "Gas utility projects" means ~~relocation and;~~

(1) replacement of natural gas facilities located in the public right-of-way required by the construction or improvement of a highway, road, street, public building, or other public work by or on behalf of the United States, the state of Minnesota, or a political subdivision; and

(2) replacement or modification of existing natural gas facilities, including surveys, assessments, reassessment, and other work necessary to determine the need for replacement or modification of existing infrastructure that is required by federal or state regulation.

Subd. 2. **Gas infrastructure filing.** ~~(a) The commission may approve a gas utility's petition for a rate schedule~~ A public utility submitting a petition to recover GUIC gas infrastructure costs under this section. A gas utility may ~~must~~ submit to the commission, the department, the Office of Pipeline Safety, and interested parties a gas infrastructure project plan report and a petition ~~the commission to recover a rate of return, income taxes on the rate of return, incremental property taxes, plus incremental depreciation expense associated with GUIC for rate recovery.~~ The report and petition must be made at least 150 days in advance of implementation of the rate schedule, provided that the rate schedule will not be implemented until the petition is approved by the commission pursuant to subdivision 6.

(b) The filing is subject to the following:

(1) ~~A gas utility may submit a filing under this section no more than once per year.~~

(2) ~~A gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC or be subject to denial by the commission. The information includes, but is not limited to:~~

(i) ~~the government entity ordering the gas utility project and the purpose for which the project is undertaken;~~

(ii) ~~the location, description, and costs associated with the project;~~

(iii) ~~a description of the costs, and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;~~

(iv) ~~the proposed rate design and an explanation of why the proposed rate design is in the public interest;~~

(v) ~~the magnitude and timing of any known future gas utility projects that the utility may seek to recover under this section;~~

(vi) ~~the magnitude of GUIC in relation to the gas utility's base revenue as approved by the commission in the gas utility's most recent general rate case, exclusive of gas purchase costs and transportation charges;~~

(vii) ~~the magnitude of GUIC in relation to the gas utility's capital expenditures since its most recent general rate case;~~

3.1 ~~(viii) the amount of time since the utility last filed a general rate case and the utility's~~
3.2 ~~reasons for seeking recovery outside of a general rate case; and~~
3.3 ~~(ix) documentation supporting the calculation of the GUIC.~~

3.4 Subd. 3. **Gas infrastructure project plan report.** The gas infrastructure project
3.5 plan report required to be filed under subdivision 2 shall include all pertinent information
3.6 and supporting data on each proposed project including, but not limited to, project
3.7 description and scope, estimated project costs, and project in-service date.

3.8 Subd. 4. **Gas infrastructure project plan report review.** The Office of Pipeline
3.9 Safety shall evaluate the gas utility's report filed under subdivision 3 and, within 60 days
3.10 of the filing, provide the commission with:

3.11 (1) verification that a gas utility project associated with federal or state regulations
3.12 complies with subdivision 1, paragraph (c), clause (2); and

3.13 (2) an assessment of the appropriateness of the gas utility's proposed plans.

3.14 Subd. 5. **Cost recovery petition for utility's facilities.** Notwithstanding any other
3.15 provision of this chapter, the commission may approve a rate schedule for the automatic
3.16 annual adjustment of charges for gas utility infrastructure costs under this section,
3.17 including a rate of return, income taxes on the rate of return, incremental property taxes,
3.18 incremental depreciation expense, and incremental operation and maintenance costs. A
3.19 gas utility's petition for approval of a rate schedule to recover gas utility infrastructure
3.20 costs outside of a general rate case under section 216B.16, is subject to the following:

3.21 (1) a gas utility may submit a filing under this section no more than once per year; and

3.22 (2) a gas utility must file sufficient information to satisfy the commission regarding
3.23 the proposed GUIC. The information includes, but is not limited to:

3.24 (i) the information required to be included in the gas infrastructure project plan
3.25 report under subdivision 3;

3.26 (ii) the government entity ordering the gas utility project and the purpose for which
3.27 the project is undertaken, or the federal or state regulations causing the project;

3.28 (iii) a description of the estimated costs, and salvage value, if any, associated with
3.29 the existing infrastructure replaced or modified as a result of the project;

3.30 (iv) a comparison of the utility's estimated costs included in the gas infrastructure
3.31 project plan and the actual costs incurred, including a description of the utility's efforts to
3.32 ensure the costs of the facilities are reasonable and were or will be prudently incurred;

3.33 (v) calculations to establish that the rate adjustment is consistent with the terms
3.34 of the rate schedule, including the proposed rate design and an explanation of why the
3.35 proposed rate design is in the public interest;

4.1 (vi) the magnitude and timing of any known future gas utility projects that the
4.2 utility may seek to recover under this section;

4.3 (vii) the magnitude of GUIC in relation to the gas utility's base revenue as approved
4.4 by the commission in the gas utility's most recent general rate case, exclusive of gas
4.5 purchase costs and transportation charges;

4.6 (viii) the magnitude of GUIC in relation to the gas utility's capital expenditures
4.7 since its most recent general rate case; and

4.8 (ix) the amount of time since the utility last filed a general rate case and the utility's
4.9 reasons for seeking recovery outside of a general rate case.

4.10 Subd. 6. **Commission action.** Upon receiving a gas utility report and petition for
4.11 cost recovery under subdivision 2 and assessment and verification under subdivision 4,
4.12 the commission shall approve the annual GUIC rate adjustments provided that, after
4.13 notice and comment, the costs included for recovery through the rate schedule were or are
4.14 expected to be prudently incurred and achieve gas facility improvements at the lowest
4.15 reasonable and prudent cost to ratepayers.

4.16 Subd. 3 7. **Commission authority; rules.** The commission may issue orders and
4.17 adopt rules necessary to implement and administer this section.

4.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.