

*As Amended by Senate Committee*

*Session of 2018*

**SENATE BILL No. 279**

By Committee on Utilities

1-16

1 AN ACT concerning utilities; relating to the gas safety reliability  
2 surcharge, definitions; amending K.S.A. 2017 Supp. 66-2202, 66-2203  
3 and 66-2204 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 66-2202 is hereby amended to read as  
7 follows: 66-2202. For the purposes of this act:

8 (a) "GSRs" means gas system reliability surcharge;

9 (b) "appropriate pretax revenues" means the revenues necessary to  
10 produce net operating income equal to:

11 (1) The natural gas public utility's weighted cost of capital *last*  
12 *approved by the commission* multiplied by the net original cost of eligible  
13 infrastructure system ~~replacements~~ *investments*, including recognition of  
14 accumulated deferred income taxes ~~and~~, accumulated depreciation  
15 associated with eligible infrastructure system ~~replacements~~ *which*  
16 ~~investments and regulatory assets~~ that are included in a currently effective  
17 GSRs;

18 (2) recover state, federal and local income or excise taxes applicable  
19 to such income;

20 (3) recover depreciation expenses;

21 (c) "commission" means the state corporation commission;

22 (d) "eligible infrastructure system ~~replacement~~ *investments*" means  
23 natural gas public utility plant projects that:

24 (1) Do not increase revenues by directly connecting the infrastructure  
25 ~~replacement~~ *investments* to new customers;

26 (2) are in service and used and required to be used; and

27 (3) were not included in the natural gas public utility's rate base in its  
28 most recent general rate case;

29 (e) "natural gas public utility" shall have the same meaning  
30 respectively ascribed thereto by ~~subsection (a) of~~ K.S.A. 66-1,200(a), and  
31 amendments thereto;

32 (f) "natural gas utility plant projects" ~~may~~ consist ~~only~~ of the  
33 following:

34 (1) Mains, *meters*, valves, service lines, regulator stations, vaults and  
35 other pipeline system components installed to *replace, upgrade or*  
36 ~~modernize existing~~ *obsolete facilities, including, but not limited to,*

1 *installation to comply with state or federal safety requirements—as*  
2 ~~replacements for replacing~~ existing facilities;

3 (2) main relining projects, service line insertion projects, joint  
4 encapsulation projects and other similar projects extending the useful life  
5 or enhancing the integrity of pipeline system components *including, but*  
6 *not limited to, projects* undertaken to comply with state or federal safety  
7 requirements; ~~and~~

8 (3) facility relocations required due to construction or improvement  
9 of a highway, road, street, public way or other public work by or on behalf  
10 of the United States, this state, a political subdivision of this state or  
11 another entity having the power of eminent domain provided that the costs  
12 related to such projects have not been reimbursed to the natural gas public  
13 utility;

14 (4) *system security costs including allocated corporate costs incurred*  
15 *by a natural gas public utility; and*

16 (5) *investments made in accordance with the utility's safety and risk*  
17 *management programs;*

18 (g) "GSRS revenues" means revenues produced through a GSRS  
19 exclusive of revenues from all other rates and charges;

20 (h) ~~"regulatory asset" means recorded depreciation expense and~~  
21 ~~interest on eligible infrastructure system investments incurred from the~~  
22 ~~date such assets are placed in service until those investments are included~~  
23 ~~in the natural gas public utility's GSRS or base rates approved by the~~  
24 ~~commission at the utility's next rate proceeding. Such expense and interest~~  
25 ~~shall be recorded in a designated asset account and included for recovery~~  
26 ~~in the natural gas public utility's GSRS, base rate proceeding or other~~  
27 ~~commission-approved cost recovery proceeding. Interest shall be based on~~  
28 ~~the pretax cost of capital last approved for the utility by the commission.~~  
29 ~~This regulatory asset will be calculated only for eligible infrastructure~~  
30 ~~systems investments that exceed the cap as specified in K.S.A. 2017 Supp.~~  
31 ~~66-2204(e)(1), and amendments thereto, and shall be recorded and~~  
32 ~~treated as a regulatory asset for recovery in the utility's next GSRS or in a~~  
33 ~~rate case. The regulatory asset shall be reduced by the amounts that are~~  
34 ~~included in and recovered through rates established in a base rate~~  
35 ~~proceeding or other commission-approved recovery mechanism "obsolete~~  
36 ~~facility" means a facility: (1) Comprised of materials that are no longer~~  
37 ~~produced or supported by the manufacturer; (2) that shows signs of~~  
38 ~~physical deterioration; or (3) does not meet current safety codes or~~  
39 ~~industry standards. "Obsolete facility" includes the cost-effective~~  
40 ~~replacement of other facilities that are not considered obsolete when the~~  
41 ~~replacement of such is done in conjunction with the replacement of an~~  
42 ~~obsolete facility; and~~

43 (i) "system security" shall mean capital expenditures to protect a

1 *utility's capital assets, including both physical assets and cyber assets,*  
2 *such as networks, computers, servers, operating systems, storage,*  
3 *programs and data, from attack, damage or unauthorized use and access.*

4 Sec. 2. K.S.A. 2017 Supp. 66-2203 is hereby amended to read as  
5 follows: 66-2203. (a) Notwithstanding any other provisions of chapter 66  
6 of the Kansas Statutes Annotated, and amendments thereto, beginning July  
7 1, 2006, a natural gas public utility providing gas service may file a  
8 petition and proposed rate schedules with the commission to establish or  
9 change GSRs rate schedules that will allow for the adjustment of the  
10 natural gas public utility's rates and charges to provide for the recovery of  
11 costs for eligible infrastructure system ~~replacements~~ *investments*. The  
12 commission may not approve a GSRs to the extent it would produce total  
13 annualized GSRs revenues below the lesser of \$1,000,000 or ½% of the  
14 natural gas public utility's base revenue level approved by the commission  
15 in the natural gas public utility's most recent general rate proceeding. The  
16 commission may not approve a GSRs to the extent it would produce total  
17 annualized GSRs revenues exceeding ~~10%~~ 20% of the natural gas public  
18 utility's base revenue level approved by the commission in the natural gas  
19 public utility's most recent general rate proceeding. A GSRs and any  
20 future changes thereto shall be calculated and implemented in accordance  
21 with the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204, and  
22 amendments thereto. GSRs revenues shall be subject to a refund based  
23 upon a finding and order of the commission to the extent provided in  
24 ~~subsections (e) and (h) of~~ K.S.A. 2017 Supp. 66-2204(e) and (h), and  
25 amendments thereto.

26 (b) The commission shall not approve a GSRs for any natural gas  
27 public utility that has not had a general rate proceeding decided or  
28 dismissed by issuance of a commission order within the past 60 months,  
29 unless the natural gas public utility has filed for or is the subject of a new  
30 general rate proceeding.

31 (c) In no event shall a natural gas public utility collect a GSRs for a  
32 period exceeding 60 months unless the natural gas public utility has filed  
33 for or is the subject of a new general rate proceeding; except that the  
34 GSRs may be collected until the effective date of new rate schedules  
35 established as a result of the new general rate proceeding, or until the  
36 subject general rate proceeding is otherwise decided or dismissed by  
37 issuance of a commission order without new rates being established.

38 (d) Notwithstanding the 60-month filing deadlines in subsections (b)  
39 and (c), upon motion by a natural gas public utility, the commission may  
40 extend the 60-month deadline in subsections (b) and (c) for a period of up  
41 to 12 months as the commission determines reasonable or necessary.

42 Sec. 3. K.S.A. 2017 Supp. 66-2204 is hereby amended to read as  
43 follows: 66-2204. (a) At the time that a natural gas public utility files a

1 petition with the commission seeking to establish or change a GSRS, it  
2 shall submit proposed GSRS rate schedules and its supporting  
3 documentation regarding the calculation of the proposed GSRS with the  
4 petition and shall serve commission staff and the citizens utility ratepayer  
5 board with a copy of its petition, its proposed rate schedules and its  
6 supporting documentation.

7 (b) (1) When a petition, along with any associated proposed rate  
8 schedules, is filed pursuant to the provisions of K.S.A. 2017 Supp. 66-  
9 2202 through 66-2204, and amendments thereto, the commission shall  
10 conduct an examination of the proposed GSRS;

11 (2) the staff of the commission shall examine information of the  
12 natural gas public utility to confirm that the underlying costs are in  
13 accordance with the provisions of K.S.A. 2017 Supp. 66-2202 through 66-  
14 2204, and amendments thereto, and to confirm proper calculation of the  
15 proposed charge. The staff shall submit a report regarding its examination  
16 to the commission not later than 60 days after the petition is filed. No other  
17 revenue requirement or ratemaking issues may be examined in  
18 consideration of the petition or associated proposed rate schedules filed  
19 pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 and 66-2204, and  
20 amendments thereto;

21 (3) the commission may hold a hearing on the petition and any  
22 associated rate schedules and shall issue an order to become effective not  
23 later than 120 days after the petition is filed; and

24 (4) if the commission finds that a petition complies with the  
25 requirements of K.S.A. 2017 Supp. 66-2202 through 66-2204, and  
26 amendments thereto, the commission shall enter an order authorizing the  
27 natural gas public utility to impose a GSRS that is sufficient to recover  
28 appropriate pretax revenue, as determined by the commission pursuant to  
29 the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204, and  
30 amendments thereto.

31 (c) A natural gas utility may effectuate a change in its rate pursuant to  
32 the provisions of this section no more often than once every 12 months.

33 (d) In determining the appropriate pretax revenue, the commission  
34 shall consider only the following factors:

35 (1) The net original cost of eligible infrastructure system  
36 ~~replacements~~ *investments*. The net original cost shall be defined as the  
37 original cost of eligible infrastructure system ~~replacements~~ *investments*  
38 less associated retirements of existing infrastructure;

39 (2) the accumulated deferred income taxes associated with the  
40 eligible infrastructure system ~~replacements~~ *investments, as adjusted to*  
41 *comply with internal revenue service regulations;*

42 (3) the accumulated depreciation associated with the eligible  
43 infrastructure system ~~replacements~~ *investments;*

1 (4) the current state, federal and local income tax or excise rates;

2 (5) the natural gas public utility's actual regulatory capital structure as  
3 determined during the most recent general rate proceeding of the natural  
4 gas public utility;

5 (6) the actual cost rates for the natural gas public utility's debt and  
6 preferred stock as determined during the most recent general rate  
7 proceeding of the natural gas public utility;

8 (7) the natural gas public utility's cost of common equity as  
9 determined during the most recent general rate proceeding of the natural  
10 gas public utility;

11 (8) the current depreciation rates applicable to the eligible  
12 infrastructure system ~~replacements~~ *investments*; and

13 (9) in the event information pursuant to paragraphs (5), (6) and (7)  
14 are unavailable and the commission is not provided with such information  
15 on an agreed-upon basis, the commission shall utilize the average of the  
16 recommendations contained in the testimony submitted by the natural gas  
17 public utility and commission staff during the most recent general rate  
18 proceeding of the natural gas public utility to determine the capital  
19 structure, recommended cost rates for debt and preferred stock and  
20 recommended cost of common equity to determine the average weighted  
21 cost of capital.

22 (e) (1) The monthly GSRS charge shall be allocated among the  
23 natural gas public utility's classes of customers in the same manner as  
24 costs for the same type of facilities was allocated among classes of  
25 customers in the natural gas public utility's most recent general rate  
26 proceeding. If that allocation is not available or determinable, the  
27 commission shall utilize the average of the recommendations contained in  
28 the testimony submitted by the natural gas public utility and the  
29 commission staff regarding class allocation of costs. A GSRS shall be  
30 charged to customers as a monthly fixed charge and not based on  
31 volumetric consumption. Such monthly charge shall not increase more  
32 than ~~\$.40~~ *\$.80* per residential customer over the base rates in effect for the  
33 initial filing of a GSRS. Thereafter, each filing shall not increase the  
34 monthly charge more than ~~\$.40~~ *\$.80* per residential customer over the most  
35 recent filing of a GSRS;

36 (2) at the end of each twelve-month calendar period the GSRS is in  
37 effect, the natural gas public utility shall reconcile the differences between  
38 the revenues resulting from a GSRS and the appropriate pretax revenues as  
39 found by the commission for that period and shall submit the  
40 reconciliation and a proposed GSRS adjustment to the commission for  
41 approval to recover or refund the difference, as appropriate, through  
42 adjustments of the GSRS charge.

43 (f) (1) A natural gas public utility that has implemented a GSRS

1 pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 through 66-2204,  
2 and amendments thereto, shall file revised rate schedules to reset the  
3 GSRS to zero when new base rates and charges become effective for the  
4 natural gas public utility following a commission order establishing  
5 customer rates in a general rate proceeding that incorporates in the utility's  
6 base rates, subject to subsections (h) and (i), eligible costs previously  
7 reflected in the currently effective GSRS; *and*

8 (2) upon the inclusion in a natural gas public utility's base rates  
9 subject to subsections (h) and (i) of eligible costs previously reflected in a  
10 GSRS, the natural gas public utility shall immediately thereafter reconcile  
11 any previously unreconciled GSRS revenues as necessary to ensure that  
12 revenues resulting from the GSRS match as closely as possible the  
13 appropriate pretax revenues as found by the commission for that period.

14 (g) A natural gas public utility's filing of a petition or change to a  
15 GSRS pursuant to the provisions of K.S.A. 2017 Supp. 66-2202 through  
16 66-2204, and amendments thereto, shall not be deemed to be a rate  
17 increase for purposes of K.S.A. 66-117, and amendments thereto.

18 (h) Commission approval of a petition, and any associated rate  
19 schedules, to establish or change a GSRS pursuant to the provisions of  
20 K.S.A. 2017 Supp. 66-2202 through 66-2204, and amendments thereto,  
21 shall in no way be binding upon the commission in determining the  
22 ratemaking treatment to be applied to eligible infrastructure system  
23 ~~replacements investments or regulatory assets~~ during a subsequent general  
24 rate proceeding when the commission may undertake to review the  
25 reasonableness and prudence of such costs. In the event the commission  
26 disallows, during a subsequent general rate proceeding, recovery of costs  
27 associated with eligible infrastructure system ~~replacements investments~~  
28 previously included in a GSRS, the natural gas public utility shall offset its  
29 GSRS in the future as necessary to recognize and account for any such  
30 over collections.

31 (i) Nothing in this section shall be construed as limiting the authority  
32 of the commission to review and consider *the costs of* infrastructure  
33 system ~~replacement costs investments or regulatory assets~~, along with  
34 other costs, during any general rate proceeding of any natural gas public  
35 utility.

36 Sec. 4. K.S.A. 2017 Supp. 66-2202, 66-2203 and 66-2204 are hereby  
37 repealed.

38 Sec. 5. This act shall take effect and be in force from and after  
39 **January 1, 2019, and** its publication in the statute book.