SENATE BILL No. 546

AN ACT concerning retail natural gas suppliers; relating to franchise agreements; compensation.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) When the service rights of a retail natural gas supplier are terminated by a city during the period in which a valid franchise is in effect and the service rights are assumed by the terminating city, or an entity acting on behalf of or as an agent for the city, the governing body of the city shall acquire from the terminated supplier the parts of the local natural gas distribution system necessary to serve all customers within the previously franchised area and the terminated supplier shall sell the system to the governing body of such city for which it shall be fairly compensated. Such compensation shall be an amount mutually agreed upon by the affected parties or an amount determined by the following formula:

(1) The depreciated replacement cost for the gas utility facilities in the territory in which the service rights have been terminated. As used in this paragraph, "depreciated replacement cost" means the original installed cost of the facilities, adjusted to present value by utilizing a nationally recognized index of utility construction costs, less accumulated depreciation based on the book depreciation rates of the selling utility, as filed with and approved by the state corporation commission, which are in effect at the time of acquisition;

(2) the depreciated replacement costs of the remaining proportion of any take or pay contracts or participation agreements;

(3) the depreciated replacement cost for the gas utility facilities outside the affected territory used in providing service to the formerly franchised area. Such facilities shall include all compression, regulating or transmission facilities throughout the terminated utility's integrated system, the value of which shall be determined by the depreciated replacement cost formula in paragraph (1) multiplied by the percentage of the terminated utility's total retail sales to customers in the affected area during the 12 months next preceding the effective date of the sale;

(4) all reasonable and prudent costs of detaching the gas system facilities to be sold, including the reasonable costs of studies and inventories made to determine the facility's value and all reasonable and prudent costs of reintegrating the remaining gas system facilities of the retail gas supplier whose service rights are terminated;

(5) an amount equal to the net revenues received during the 12 months next preceding the date of termination of the service rights from the customers within the affected area of the retail gas supplier whose service rights are terminated. As used in this paragraph, "net revenues" means the total revenues received by the terminated utility for gas service within the affected area less franchise and sales taxes collected and the cost of gas recovered in the revenues. This number shall be multiplied by the number of years remaining in any franchise contract; and

(6) an amount equal to the state and federal tax liability created by the taxable income pursuant to the provisions of this paragraph and paragraphs (1), (2), (3), (4) and (5) by the retail gas supplier whose service rights are terminated, calculated, without regard to any tax deductions or benefits not related to the sale of assets covered herein.

(b) If the parties are unable to agree upon the amount of compensation to be paid pursuant to this act after 60 days following the date of termination of service rights, either party may apply to the district court having jurisdiction where any portion of the facilities are located for determination of compensation. Such determination shall be made by the court sitting without a jury.

Sec. 2. In addition to the fair cash value of any plant and appurtenance thereto determined pursuant to K.S.A. 12-811, and amendments thereto, a retail natural gas supplier whose service rights have expired by reason of failure of the renewal of a valid franchise shall be entitled to compensation for all reasonable and prudent costs of detaching the gas system facilities to be sold and all reasonable and prudent costs of reintegrating the remaining gas system facilities of such retail gas supplies less the value of all gas system facilities replaced by the new facilities required for the reintegration of the remaining gas system facilities, plus an amount equal to the gross revenues received from the customers within the affected area during the 12 months next preceding the date of expiration of the most recent valid franchise, less taxes and the cost of gas.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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President of the Senate.

Secretary of the Senate.

Passed the HOUSE ________________________

Speaker of the House.

Chief Clerk of the House.

APPROVED ______________________________

Governor.