

Pipeline Replacement and Infrastructure Modernization and Enhancement Act

Section 1. Short Title.

This Act may be called the Pipeline Replacement and Infrastructure Modernization and Enhancement Act (PRIME).

Section 2. Purpose.

The purpose of this Act is to accelerate the replacement of any existing deteriorating natural gas pipe with upgraded pipe by allowing utilities to immediately recover eligible costs of the replacement through a plan filed with and approved by the state public utility commission. The Act is intended to remove any limits in utilities' ability to make needed natural gas pipeline replacements that will improve reliability of the system and reduce repairs, maintenance costs, and service interruptions for ratepayers.

Section 3. Definitions. As used in this Act:

(A) "Commission" means the state public service commission.

(B) "Eligible infrastructure replacement" means natural gas utility facility replacement projects that: (1) enhance safety or reliability by reducing system integrity risks associated with customer outages, corrosion, equipment failures, material failures, or natural forces; (2) do not increase revenues by directly connecting the infrastructure replacement to new customers; (3) are commenced on or after [January 1, 20XX]; and (4) are not included in the natural gas utility's rate base in its most recent rate case using the cost of service methodology, or the natural gas utility's rate base included in rate base schedules filed with a performance-based regulation plan, if the plan did not include the rate base.

(C) "Eligible infrastructure replacement costs" includes the following:

1. Return on the investment. In calculating the return on the investment, the Commission shall use the natural gas utility's regulatory capital structure as calculated utilizing the weighted average cost of capital, including the cost of debt and the cost of equity used in determining the natural gas utility's base rates in effect during the construction period of the eligible infrastructure replacement project. If the natural gas utility's cost of capital underlying the base rates in effect at the time its proposed PRIME plan is filed has not been changed by order of the Commission within the preceding five years, the Commission may require the natural gas utility to file an updated weighted average cost of capital, and the natural gas utility may propose an updated weighted average cost of capital. The natural gas utility may recover the external costs associated with establishing its updated weighted average cost of capital through the PRIME rider. Such external costs shall include legal costs and consultant costs;

2. Revenue Conversion Factor. A revenue conversion factor, including income taxes and an allowance for bad debt expense, shall be applied to the required operating income resulting from the eligible infrastructure replacement costs;

3. Depreciation. In calculating depreciation, the Commission shall use the natural gas utility's current depreciation rates;

4. Property taxes; and

5. Carrying costs on the over- or under-recovery of the eligible infrastructure replacement costs. In calculating the carrying costs, the Commission shall use the natural gas utility's regulatory capital structure as determined in Subsection 1 of the definition of eligible infrastructure replacement costs.

(D) "Investment" means costs incurred on eligible infrastructure replacement projects including planning, development, and construction costs; costs of infrastructure associated therewith; and an allowance for funds used during construction. In calculating the allowance for funds used during construction, the Commission shall use the natural gas utility's actual regulatory capital structure as determined in Subsection 1 of the definition of eligible infrastructure replacement costs.

(E) "Natural gas utility" means any investor-owned public service company engaged in the business of furnishing natural gas service to the public.

(F) "Natural gas utility facility replacement project" means the replacement of storage, peak shaving, transmission or distribution facilities used in the delivery of natural gas or supplemental or substitute forms of gas sources by a natural gas utility.

(G) "PRIME plan" means a plan filed by a natural gas utility that identifies proposed eligible infrastructure replacement projects and a PRIME rider.

(H) "PRIME rider" means a recovery mechanism that will allow for recovery of the eligible infrastructure replacement costs, through a separate mechanism from the customer rates established in a rate case using the cost of service methodology, or a performance-based regulation plan.

Section 4. Filing of petition with Commission to establish or amend a PRIME plan; recovery of certain costs; procedure.

A. Notwithstanding any provisions of law to the contrary, a natural gas utility may file a PRIME plan as provided in this Act. Such a plan shall provide for a timeline for completion of the proposed eligible infrastructure replacement projects, the estimated costs of the proposed eligible infrastructure projects, and a schedule for recovery of the related eligible infrastructure replacement costs through the PRIME rider, and demonstrate that the plan is prudent and reasonable. The Commission may approve such

a plan after such notice and opportunity for hearing as the Commission may prescribe, subject to the provisions of this Act.

B. The Commission shall approve or deny, within 180 days, a natural gas utility's initial application for a PRIME plan and shall base its approval upon the utility's fulfillment of the PRIME plan requirements specified in Subsection A of this Section. A plan filed pursuant to this Section shall not require the filing of rate case schedules. The Commission shall approve or deny, within 120 days, a natural gas utility's application to amend a previously approved plan. If the Commission denies such a plan or amendment, it shall set forth with specificity the reasons for such denial, and the utility shall have the right to re-file, without prejudice, an amended plan or amendment within 60 days, and the Commission shall thereafter have 60 days to approve or deny the amended plan or amendment. The time period for Commission review provided for in this Subsection shall not apply if the PRIME plan is filed in conjunction with a rate case using cost of service methodology, or a performance-based regulation.

C. The Commission shall not reduce a utility's future return on common equity or other measure of utility profit as a result of the implementation of a PRIME rider.

D. Any PRIME plan and any PRIME rider that is submitted to and approved by the Commission shall be allocated and charged in accordance with appropriate cost causation principles in order to avoid any undue cross-subsidization between rate classes.

E. No other revenue requirement or ratemaking issues may be examined in consideration of the application filed pursuant to the provisions of this Act.

F. At the end of each 12-month period the PRIME rider is in effect, the natural gas utility shall reconcile the difference between the recognized eligible infrastructure replacement costs and the amounts recovered under the PRIME rider, and shall submit the reconciliation and a proposed PRIME rider adjustment to the Commission to recover or refund the difference, as appropriate, through an adjustment to the PRIME rider. The Commission shall approve or deny, within 90 days, a natural gas utility's proposed PRIME rider adjustment.

G. A natural gas utility that has implemented a PRIME rider pursuant to this Act shall file revised rate schedules to reset the PRIME rider to zero, when new base rates and charges that incorporate eligible infrastructure replacement costs previously reflected in the currently effective PRIME rider become effective for the natural gas utility, following a Commission order establishing customer rates in a rate case using cost of service methodology, or a performance-based regulation plan.

H. Costs recovered pursuant to this Act shall be in addition to all other costs that the natural gas utility is permitted to recover, shall not be considered an offset to other Commission-approved costs of service or revenue requirements, and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism. Further, if the Commission approves (1) an updated weighted average cost of

capital for use in calculating the return on investment, (2) the carrying costs on the over- or under-recovery of the eligible infrastructure replacement costs, (3) the allowance for funds used during construction, or (4) any combination thereof, such weighted average cost of capital shall be used only for the purpose of the eligible infrastructure replacement costs for the PRIME rider and shall not be used for any purpose in any other proceeding.

Section 5. Effective date.

This Act takes effect upon becoming law.