

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 231

An Act to amend the Code of Virginia by adding in Title 56 a chapter numbered 28, consisting of sections numbered 56-610, 56-611, and 56-612, relating to natural gas system expansion infrastructure; recovery and deferral of costs.

[H 1475]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 28, consisting of sections numbered 56-610, 56-611, and 56-612, as follows:

CHAPTER 28.

NATURAL GAS SYSTEM EXPANSION INFRASTRUCTURE.

§ 56-610. Definitions.

As used in this chapter, unless the context requires otherwise:

"Affected customer" means any customer of a natural gas utility receiving service at a premises served by eligible system expansion infrastructure. Any customer receiving natural gas service for which the natural gas utility has received the entire amount required to cover the cost of the eligible system expansion infrastructure as a contribution in aid to construction shall not be considered an affected customer.

"Eligible expansion investment" means that portion of the total capital investment made by a natural gas utility in constructing eligible system expansion infrastructure that is in excess of those costs that would be considered economic under a natural gas utility's economic test, net of any contributions in aid of construction, up to the maximum level of investment per affected customer specified in a system expansion plan.

"Eligible system expansion infrastructure" means natural gas main pipelines and associated facilities, including service lines, meters, and other pertinent facilities, that are constructed and operated by a natural gas utility to deliver natural gas service to affected customers located in an unserved area.

"Eligible system expansion infrastructure costs" includes:

1. Return on investment. In calculating the return on investment, the Commission shall use the natural gas utility's weighted average cost of capital, including the cost of debt and equity, based on its regulatory capital structure used in determining the natural gas utility's base rates in effect during the construction period of the eligible system expansion, applied to eligible expansion investment. The investment, as adjusted for the reserve for depreciation and accumulated deferred income taxes, shall be multiplied by the weighted average cost of capital to determine the return on investment;

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

3. Education and outreach expense. Such expense shall include costs for education and outreach for increasing program awareness;

4. Depreciation, the calculation of which by the Commission shall be based on the natural gas utility's current depreciation rates applied to eligible expansion investment; and

5. Property taxes attributable to eligible expansion investment.

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

"System expansion plan" means a plan filed by a natural gas utility that identifies the level of eligible system expansion infrastructure costs that are projected to be incurred over the term of the plan and provides the calculation of a system expansion rider.

"System expansion rider" means a recovery mechanism that will allow for recovery of the eligible system expansion infrastructure costs from affected customers, through a separate mechanism from the customer rates established in a rate case using the cost-of-service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6. A system expansion rider shall be designed to recover eligible system expansion infrastructure costs.

§ 56-611. Petition to establish or amend expansion plan; cost recovery; procedures.

A. Notwithstanding the provisions of § 56-235.4, a natural gas utility may file a system expansion plan as provided in this chapter. Such a plan shall provide for (i) a business rationale explaining that the expansion plan is in the public interest and of benefit to the affected customers served under the system expansion plan, (ii) the period the system expansion rider is proposed to be in effect, (iii) the estimated eligible system expansion infrastructure costs and a maximum level of investment to be included in the program, (iv) a maximum level of investment per affected customer, (v) the projected

number of customers by rate class that will be served by the proposed investment, (vi) a schedule for recovery of the related eligible system expansion infrastructure costs through a system expansion rider, (vii) a methodology for deferral of unrecovered eligible system expansion infrastructure costs, calculated as determined pursuant to § 56-612, (viii) the class or classes of customers eligible to participate in a system expansion plan, and (ix) the period of time that a customer at a premises receiving natural gas service from eligible system expansion infrastructure will be considered an affected customer for purposes of this chapter. The natural gas utility shall demonstrate that the system expansion plan is prudent and reasonable. The Commission may approve such a plan after such notice and opportunity for a hearing as the Commission may prescribe, subject to the provisions of this chapter.

B. The Commission shall approve a natural gas utility's system expansion plan if it finds that the plan (i) includes the components set forth in subsection A, (ii) provides for the recovery of eligible system expansion infrastructure costs in accordance with the provisions of this chapter, and (iii) is prudent and reasonable. In a final order approving a natural gas utility's system expansion plan, the Commission may require the natural gas utility to file an annual report with the Commission demonstrating whether the natural gas utility's recovery of eligible system expansion infrastructure costs pursuant to its system expansion plan complies with the requirements of clause (ii). Upon a finding by the Commission that a natural gas utility's system expansion plan does not comply with the requirements of clause (ii), the Commission may direct, by order, the natural gas utility to exclude from deferral any unrecovered costs in excess of costs that may be recovered by a system expansion rider.

C. The Commission shall act on a natural gas utility's initial application for a system expansion plan within 180 days. Within that time period, the Commission shall approve, deny, or modify the plan as required by the public interest. A plan filed pursuant to this section shall not require the filing of rate schedules typically filed in conjunction with a rate case using the cost-of-service methodology set forth in § 56-235.2 or a performance-based rate regulation plan authorized by § 56-235.6. The Commission shall act on a natural gas utility's application to amend a previously approved plan within 120 days. Within that time period, the Commission shall approve, deny, or modify the amended plan as required by the public interest. If the Commission denies such a plan or amendment or any part thereof, it shall set forth with specificity the reasons for such denial, and the utility shall have the right to refile, without prejudice, an amended plan or amendment within 60 days, and the Commission shall thereafter have 90 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 system expansion plan is filed in conjunction with a rate case using the cost-of-service methodology set forth in § 56-235.2 or a performance-based rate regulation plan authorized by § 56-235.6.

D. Any system expansion plan and any system expansion rider that is submitted to and approved by the Commission shall allocate and charge costs in accordance with the 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 chapter.

F. Costs recovered pursuant to this chapter 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.

G. A natural gas utility shall have the opportunity to seek recovery of any costs associated with eligible expansion investment not yet recovered at the end of a system expansion plan in a rate case using the cost-of-service methodology set forth in § 56-235.2 or performance-based regulation plan authorized by § 56-235.6. Such recovery shall be subject to Commission approval based upon a determination that the benefits provided by affected customers added under the system expansion plan or plans equal or exceed the impact of recovering such costs from existing customers of the natural gas utility.

H. The provisions of this chapter shall not preclude the filing of other plans or tariff provisions related to extending natural gas infrastructure.

I. The provisions of this chapter shall not apply to interstate pipeline companies regulated by the Federal Energy Regulatory Commission.

§ 56-612. Deferral of eligible system expansion infrastructure costs.

A. A natural gas utility shall account for the difference between actual monthly eligible system expansion infrastructure costs incurred on the cumulative investment in eligible system expansion infrastructure and revenue collected through a system expansion rider as a deferred cost. Such deferred costs shall be accounted for as a regulatory asset and shall not be subject to write-off or write-down by the Commission in an earnings test filing made pursuant to Commission rules governing utility rate increases and annual informational filings.

B. If a natural gas utility collects all of the deferred eligible system expansion infrastructure costs, as well as all eligible expansion investment, through a system expansion rider prior to the expiration of the time period specified in its system expansion plan pursuant to clause (ii) of subsection A of § 56-611, the system expansion rider shall terminate. A natural gas utility may extend the system expansion rider

beyond the period it is proposed to be in effect if necessary to recover any uncollected deferral or eligible system expansion infrastructure costs. A natural gas utility shall notify the Commission of any termination or extension of a system expansion rider at least 60 days prior to its termination or extension. Such termination or extension of the system expansion rider shall be subject to Commission approval.

C. Deferral of costs recovered pursuant to this chapter shall have no effect on the recovery of any other cost by the natural gas utility and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism.

2. That, in recognition of the importance of environmentally responsible practices when constructing utility infrastructure in the Commonwealth, each construction project that is undertaken pursuant to the provisions of this act shall be completed in compliance with the current Annual Standards and Specifications, as amended from time to time, that is filed with the Department of Environmental Quality by the natural gas utility that undertakes the project.