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2 91st General Assembly
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A Bill

SENATE BILL 265

4
5 By: Senator Caldwell
6

For An Act To Be Entitled

8 AN ACT TO PROMOTE ECONOMIC DEVELOPMENT AND NATURAL
9 GAS INFRASTRUCTURE EXPANSION; AND FOR OTHER PURPOSES.

Subtitle

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12 TO PROMOTE ECONOMIC DEVELOPMENT AND
13 NATURAL GAS INFRASTRUCTURE EXPANSION.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 23, Chapter 3, Subchapter 6, is amended
20 to read as follows:

21 Subchapter 6 – Gas Utilities – Extension Projects 22

23 23-3-601. Purpose – Petition for certificate.

24 (a) The General Assembly finds that the proportion of the state's
25 population that is without access to service by a ~~natural~~ gas utility exceeds
26 the proportion of the population that is without access to telephone or
27 electric utility service. Therefore, the General Assembly declares it to be
28 the intent and purpose of this subchapter to increase only the availability
29 of natural gas through the procedures provided in this subchapter and not to
30 make the procedures available to electric or telephone utilities.

31 (b) A gas utility may at any time petition the Arkansas Public Service
32 Commission for a certificate of extension project. By its petition, the gas
33 utility requests commission authorization to commence an extension project,
34 to expend funds on the extension project, and to concurrently seek commission
35 approval of changes in rates and surcharges sufficient to recover, at the
36 time the plant goes into service, the excess expenditures arising out of the



1 ~~certificated~~ extension projects that have been granted certificates. A
 2 petition for a certificate shall provide information about the proposed
 3 extension project, including, without limitation, the following:

4 (1) An estimate of the cost of the extension project broken down
 5 into at least labor, materials, and overhead;

6 (2) A schedule of estimated completion dates;

7 (3) A brief description of the physical nature of the
 8 facilities, including pipe diameter and length of the extension in feet or
 9 miles;

10 (4) Estimated sales volumes, estimated number and types of
 11 customers, growth rates, and expected revenues; and

12 (5) A calculation showing the amount of excess expenditures the
 13 gas utility expects to incur;

14 (6) A detailed description of the economic benefit to the gas
 15 utility and the gas utility's existing ratepayers; and

16 (7) An estimate of:

17 (A) The surcharge for each class of customer consistent
 18 with the most recent determination by the commission in its order addressing
 19 the gas utility's most recent application for a general change or
 20 modification in its rates and charges; or

21 (B) The increase in rates for each class of customer if
 22 the investment is to be recovered by the gas utility under a formula rate
 23 review mechanism pursuant to the Formula Rate Review Act, § 23-4-1201 et seq.

24
 25 23-3-602. Definitions.

26 As used in this subchapter, ~~unless the context otherwise requires:~~

27 (1) "Certificate of extension project" or "certificate" means
 28 the Arkansas Public Service Commission order authorizing a gas utility
 29 seeking the order to undertake an extension project. The certificate shall
 30 be issued contemporaneously with the commission order approving the
 31 imposition of rates and surcharges sufficient to recover the excess
 32 expenditures arising out of those extension projects that have been
 33 ~~certificated~~ granted certificates and completed pursuant to this subchapter;

34 (2) "Commission" means the Arkansas Public Service Commission;

35 ~~(3) "Cost of service recovery" means the method by which the~~
 36 ~~commission computes the change in rates necessary for the gas utility to~~

1 ~~recover the cost of that portion of the excess expenditures not recovered~~
 2 ~~through the surcharge. Traditional cost-of-service principles shall be~~
 3 ~~followed in adjusting rates when the cost-of-service recovery method is used~~
 4 ~~to recover the cost of excess expenditures. The allocation of class~~
 5 ~~responsibility for payment of the excess expenditures under the cost-of-~~
 6 ~~service recovery method shall be in accordance with the most recent cost-of-~~
 7 ~~service study approved for the applicant gas utility;~~

8 ~~(4)~~(3) "Excess expenditures" means the difference between:

9 (A) Expenditures made by a gas utility for extensions of
 10 service to areas not served by a gas utility;

11 (B) The sum of the investment allowable under a gas
 12 utility's extension policy, plus amounts, if any initially available from
 13 other applicable sources, which include without limitation funds from:

14 (i) The Arkansas Economic Development Council or its
 15 successor;

16 (ii) Industrial development bonds, municipal bonds,
 17 city bonds, or improvement district bonds;

18 (iii) Special funds which may be created by
 19 particular commission orders for individual gas utilities in rate cases or
 20 other proceedings; and

21 (iv) Customer-provided contributions in aid of
 22 construction;

23 ~~(5)~~(4) "Extension project" means any extension proposed by a gas
 24 utility ~~which~~ that is intended to serve areas of Arkansas not served by any
 25 gas utility or within the range of the extension policy of any gas utility,
 26 which will result in excess expenditures if constructed, and for which the
 27 gas utility seeks authorization from the commission to begin, together with
 28 the authorization to change its rates and surcharges to recover the excess
 29 expenditures as provided in this subchapter;

30 ~~(6)~~(5) "Gas utility" means any natural gas public utility
 31 jurisdictional to the ~~Arkansas Public Service Commission~~ commission; and

32 ~~(7)~~(6)(A) "Surcharge" means a charge ~~which~~ that the commission
 33 may authorize a gas utility to impose on ~~those~~ its customers ~~who directly~~
 34 ~~benefit from extensions funded by excess expenditures. The surcharge may~~
 35 ~~recover the entire excess expenditure or a portion thereof, as the commission~~
 36 ~~shall order~~ to recover, at the time the gas utility plant goes into service,

1 the excess expenditures arising out of the extension projects that have been
2 granted certificates.

3 (B) The amount of the surcharge to be added to the gas
4 utility's rate under subdivision (6)(A) of this section shall be calculated
5 under traditional cost-of-service principles so as to produce the annual
6 revenues equal to the additional annualized revenue requirement to which the
7 gas utility would be entitled had the excess expenditures been included in
8 the gas utility's most recent rate determination by the commission.

9
10 23-3-603. Grant of certificate generally.

11 (a) The Arkansas Public Service Commission shall grant a certificate
12 if it finds that the proposed extension project is of economic benefit to the
13 gas utility and its existing ratepayers and is in the public interest.
14 ~~Within the body of the order, the commission shall apportion the future~~
15 ~~recovery of the cost of the excess expenditures between the surcharge and~~
16 ~~cost of service recovery, in whatever proportions or percentages the~~
17 ~~commission finds reasonable, from zero to one hundred percent (0 — 100%),~~
18 ~~inclusive.~~

19 (b) Once the certificate has been granted by the commission, including
20 the approval of the amount and allocation of rates and surcharges, the gas
21 utility may begin construction and may expend funds on the ~~certificated~~
22 extension project that has been granted a certificate.

23
24 23-3-604. Rates and tariffs.

25 ~~(a)(1) Once a ~~certificated extension~~ an extension project that has~~
26 ~~been granted a certificate~~ is placed into service and is used and useful, the
27 gas utility may collect the ~~rates and tariffs which have been previously~~
28 ~~approved by the Arkansas Public Service Commission and which reflect the~~
29 ~~apportionment of recovery of the cost of the excess expenditures between the~~
30 ~~surcharge and cost of service recovery methods as ordered by the commission~~
31 excess expenditures through a rate or surcharge approved by the Arkansas
32 Public Service Commission. The tariff and rate filing made at the time of
33 the certificate application shall include estimated excess expenditures upon
34 which the commission may grant the certificate.

35 (2) The commission may subsequently modify the previously
36 approved rates ~~and tariffs~~ in any reasonable manner if the actual total costs

1 and excess expenditures differ significantly from the estimated total costs
2 and excess expenditures.

3 ~~(3) In the event that~~ If the actual total costs and excess
4 expenditures significantly exceed the estimated costs and excess
5 expenditures, and the difference is caused by imprudence or other
6 unsatisfactory causes, the commission may disallow recovery of a portion of
7 the actual excess expenditures in the approved rates.

8 ~~(b) The surcharge shall be recovered only from those customers or~~
9 ~~accounts that receive service as a direct result of the certificated~~
10 ~~extension. The surcharge shall recover its proportion of the capitalized~~
11 ~~excess expenditures, plus carrying costs. Surcharged amounts shall be~~
12 ~~treated for ratemaking purposes as customer contributions in aid of~~
13 ~~construction and shall not be added to the rate base upon which a return is~~
14 ~~earned~~ The rate or surcharge implemented under this section remains effective
15 until the implementation of new rate schedules in connection with the next
16 general rate filing of the gas utility wherein such extension project
17 investments can be included in the gas utility's base rate schedules.

18 ~~(c) Those costs and expenses to be recovered under the cost of service~~
19 ~~recovery method shall be recovered in the same manner as they would had they~~
20 ~~been elements of a general rate application. Traditional cost of service~~
21 ~~principles shall be utilized in adjusting rates to recover the cost of excess~~
22 ~~expenditures recovered under cost of service recovery. Allocation of class~~
23 ~~responsibility for recovery of the cost of the excess expenditures shall be~~
24 ~~in accordance with the gas utility's most recently approved cost of service~~
25 ~~study or in accordance with a reasonable cost of service approach which the~~
26 ~~commission shall find acceptable~~ The rate or surcharge for each class of
27 customer shall be determined consistent with the most recent determination by
28 the commission in its order addressing the gas utility's most recent
29 application for a general change or modification in its rates and charges.

30 ~~(d) Amounts recoverable under the cost of service recovery method~~
31 ~~which remain outstanding shall be rolled into the gas utility's next general~~
32 ~~rate application. Recovery of these outstanding expenditures shall be made~~
33 ~~within the rate approved as a result of the application for the certificate~~
34 ~~and corresponding approval of rates.~~

35
36 23-3-605. Conditions, limitations on grant of certificates.

1 Certificates shall be granted under this subchapter ~~pursuant to~~ under
2 the following provisions and conditions:

3 (1)~~(A)~~ Only proposed extension projects ~~shall be~~ are eligible
4 for recovery of the cost of excess expenditures under this subchapter.

5 ~~(B)~~ Proposed extension projects are those for which
6 neither actual construction activity has begun nor expenditures made, other
7 than for planning the extension project, at the time the petition for the
8 certificate is initially filed with the Arkansas Public Service Commission;

9 (2) Certificates shall be granted under this subchapter only for
10 proposed extension projects ~~which~~ that will serve areas not served by any gas
11 utility at the time of the filing of the petition for the certificate;

12 (3) Certificates shall be granted under this subchapter only if
13 the commission determines the extension project is of economic benefit to the
14 gas utility and its existing ratepayers and is in the public interest;

15 (4) Certificates shall not be granted under this subchapter to
16 recover ~~costs~~ excess expenditures incurred in replacing existing pipelines,
17 equipment, or plants, unless the replacement is necessary for adequate gas
18 supply for the proposed extension project;

19 ~~(4)~~~~(5)~~ Where When the commission has granted more than one (1)
20 certificate to a gas utility, the commission may determine prospectively the
21 sequence in which the gas utility shall commence work on pending extension
22 projects based on whatever reasonable criteria ~~it shall develop~~ the
23 commission develops. However, once construction has begun on any given
24 extension project, the commission determination shall not serve to postpone
25 or defer construction; and

26 ~~(5)~~~~(6)~~~~(A)~~ There ~~shall be~~ is a limitation on the total annual
27 dollar recovery of excess expenditures to be recovered ~~pursuant to~~ under §
28 23-3-604 through rates or surcharges ~~resulting from proceedings other than~~
29 ~~general rate cases. The limitation shall be imposed regardless of the number~~
30 ~~of certificates granted to, or projects to be completed by, a gas utility.~~
31 The limitation ~~shall be~~ is a dollar amount ~~which equals one half of one~~
32 ~~percent~~ that equals five-tenths of one percent (0.5%) of the ~~difference~~
33 ~~between the gas utility's recorded gross plant at original cost less recorded~~
34 ~~accumulated depreciation reserves~~ gas utility's gross plant at original cost
35 used in determining the gas utility's most recent application for a general
36 change in rates and charges.

1 (B) "Gross As used in this subdivision (6), "gross plant"
2 ~~shall~~ does not include construction work in progress or portions of
3 ~~certificated extension projects that have been granted certificates and are~~
4 ~~currently receiving cost of service recovery treatment~~ included in the gas
5 utility's base rates; and

6 (7) With respect to any extension project funded under this
7 subchapter to provide service to a project developer that also receives funds
8 or incentives provided by the Arkansas Economic Development Commission, any
9 agreement between a project developer and the Arkansas Economic Development
10 Commission shall include a provision that any funds provided by a surcharge
11 to recover the cost of an extension project under this subchapter shall be
12 recovered from any project developer that failed to take natural gas service
13 from such an extension project.

14
15 23-3-606. Petitions not considered rate applications.

16 Petitions for a certificate ~~pursuant to~~ under this subchapter are not
17 general rate applications.

18
19 23-3-607. Denial of certificate.

20 Denial of a certificate under this subchapter ~~shall~~ does not preclude
21 recovery of the cost of excess expenditures under rates or surcharges, or
22 both, approved pursuant to a gas utility's general rate case or other
23 proceeding in which the Arkansas Public Service Commission finds recovery of
24 the cost of excess expenditures through rates or surcharges appropriate.