STATE OF NEW YORK

3664

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. RODRIGUEZ, BICHOTTE HERMELYN, CAHILL, GALEF, COLTON, COOK, BRAUNSTEIN, JOYNER, PEOPLES-STOKES, WALKER, HUNTER -- Multi-Sponsored by -- M. of A. GLICK -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to requiring gas corporations to file a plan addressing aging or leaking pipelines within their service territory

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public service law is amended by adding a new section 68-b to read as follows:

§ 68-b. Aging or leaking pipelines. 1. Definitions. For the purposes of this section, the following words, shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Customer" shall mean a retail customer receiving end use service from a gas corporation.

(b) "Eligible infrastructure replacement" shall mean a replacement or an improvement of existing pipeline of gas corporation that: (i) is performed on or after January first, two thousand twenty-two; (ii) is designed to improve public safety and/or infrastructure reliability; (iii) does not increase the revenue of a gas corporation by connecting an improvement or installing new pipeline for the principal purpose of serving new customers; (iv) reduces, or has the potential to reduce, lost and unaccounted for gas through a reduction in gas leaks; and (v) is not included in the approved rate base of the gas corporation as determined in the gas corporation's most recent approved rate plan.

(c) "Gas infrastructure rate plan" shall mean a pipeline replacement program construction plan that a gas corporation files with the commission pursuant to subdivision two of this section.

(d) "Project" shall mean an eligible pipeline replacement project proposed by a gas corporation in a plan filed under this section.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD03073-01-1

2. A gas corporation shall file with the commission a plan to address aging or leaking pipeline within its respective service territory in the interest of public safety and reducing lost and unaccounted for gas through a reduction in gas leaks. The filing of the plan required pursuant to this subdivision shall be submitted no later than the thirty-first of October, two thousand twenty-two.

3. (a) Any plan filed with the commission shall include, but not be limited to: (i) eligible pipeline replacement of mains, service lines, metering sets, and other ancillary facilities composed of non-cathodically protected steel, cast iron, wrought iron, and any other material the commission deems leak-prone, prioritized to implement the federal gas distribution pipeline integrity management plan annually submitted to the commission and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v) a description of customer costs and benefits under the plan; and (vi) any other information the department considers necessary to evaluate the plan.

(b) Upon the filing of the plan required under this section, a gas corporation shall include a timeline for removing all leak-prone pipeline on an accelerated basis, specifying an annual replacement pace and program end date with a target end date of either: (i) not more than twenty years; or (ii) a reasonable target end date considering the allowable recovery cap established pursuant to subdivision six of this section. The commission shall not approve a timeline as part of a plan unless the allowable recovery cap established pursuant to subdivision six of this section provides the gas corporation with a reasonable opportunity to recover its expenditures related with removing all leak-prone infrastructure and the accelerated basis set forth under the timeline utilizing the cost recovery mechanism established pursuant to this section. After filing the initial plan, a gas corporation shall, no later than the thirty-first of October of each succeeding year, at annual intervals, provide the commission with a summary of its replacement progress to date, a summary of work to be completed during the subsequent year and any additional information the commission may require. The commission may require a gas corporation to file an updated long-term timeline as part of a plan if it alters the cap established pursuant to subdivision six of this section.

4. If a gas corporation files a plan on or before October thirty-first for the subsequent construction year, the commission shall review the plan within six months. The plan shall be effective as of the date of the filing, pending commission review. The commission may modify a plan prior to approval at the request of a corporation or make other modifications to a plan as a condition of approval. The commission shall consider the costs and benefits of the plan including, but not limited to, ratepayer impact, with special consideration of customers receiving assistance through the home energy assistance plan, reductions of lost and unaccounted for gas through a reduction in gas leaks and improvements to public safety. The commission shall give priority review and give preliminary acceptance to plans specifically designed to address leak-prone pipeline most immediately in need of replacement, based on standards established by the commission.

5. If the commission determines a plan is in compliance with the requirements of this section and would reasonably accelerate pipeline replacements and provide benefits, the commission shall issue acceptance in whole or in part. A gas corporation shall then be authorized to begin

recovery of the estimated costs of projects included in the plan beginning on May first of the year following the initial filing and collect any revenue requirement, including depreciation, property taxes and return associated with the plan.

6. On or before May first of each year, a gas corporation shall file final project documentation for projects completed in the prior year to demonstrate substantial compliance with the plan approved pursuant to subdivision five of this section and that all project costs were reasonably and prudently incurred. The commission shall investigate project costs within six months of submission and shall approve and reconcile the authorized rate factor, if necessary, upon a determination that the costs were reasonable and prudent. Annual changes in the revenue requirement eligible for recovery shall not exceed one-and-one half percent of the gas corporation's most recent calendar year of total firm revenues, including revenues attributable to transmission and distribution customers. Any revenue requirement approved by the commission in excess of such cap may be deferred for recovery in the following year.

7. All rate change requests made to the commission pursuant to an approved plan shall be filed annually on a fully reconciling basis, subject to acceptance by the commission pursuant to subdivision five of this section. The rate change included in a plan pursuant to subdivision three of this section, reviewed pursuant to subdivision five of this section and taking effect on May first pursuant to subdivision six of this section shall be subject to review by the commission, to determine whether the gas corporation has over-collected or under-collected its requested rate adjustment with any such discrepancies reconciled on an annual basis. If the commission determines that any of the costs were not reasonably or prudently incurred by a gas corporation, the commission shall disallow the costs and direct the gas corporation to refund the full value of the costs charged to customers with the appropriate carrying charges on the over-collected amounts. If the commission determines that any of the costs were not in compliance with the approved plan, the commission shall disallow the costs from the cost recovery mechanism established under this section and shall direct the gas corporation to refund the full value of the costs charged to customers with the appropriate carrying charges on the over-collected amounts.

8. The commission may promulgate any rules and regulations necessary to effectuate the pipeline replacement program pursuant to this section. The commission may discontinue the replacement program and require a gas corporation to refund any costs charged to customers due to failure to substantially comply with a plan or failure to reasonably and prudently manage project costs.

§ 2. This act shall take effect immediately.