

NATURAL GAS INFRASTRUCTURE

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House Bills 5555 & 5557

Sponsor: Rep. Aric Nesbitt

House Bill 5556

Sponsor: Rep. Jim Townsend

Committee: Energy and Technology

Complete to 5-12-14

A SUMMARY OF HOUSE BILLS 5555 - 5557 AS INTRODUCED ON 5-8-14

House Bill 5555 would amend 1939 PA 3 to create a new Section (9u) which would do the following:

- Permit a natural gas utility (utility) to file an Infrastructure Expansion Investment Plan (Plan) with the Michigan Public Service Commission (PSC) to provide the infrastructure necessary to served unserved or underserved areas. The Plan would have to include:
 - A one-year projection of infrastructure expansion investments (e.g., planning, development, acquisition, and construction of pipelines and facilities) to expand natural gas service into unserved or underserved areas
 - A proposed Infrastructure Expansion Recovery Mechanism (Mechanism) that provides for the recovery of the *incremental* revenue requirement (i.e., capital and operational costs that a utilities are allowed to recover for compensation) associated with the expansion
 - All expected costs and benefits associated with proposed investments which demonstrate that investments will augment or enhance any Customer Attachment Programs authorized by the PSC and support the utility's ability to reach or provide adequate capacity for unserved or underserved areas
 - A projection of the investment to support infrastructure expansion for up to five years proposed to be recovered in future consecutive Mechanisms
- Require the PSC, within 180 days after a utility files a Plan, to conduct a contested hearing to evaluate the reasonableness and prudence of the Plan, including the Mechanism, and issue an order that either approves, disapproves, or amends the Plan and Mechanism.
- Permit a utility to implement charges pursuant to the Mechanism under the Plan in a manner approved by the PSC and require such utilities to record *incremental* rate

base items (i.e., value of property that utilities are allowed to earn a specified rate of return on less accumulated depreciation) to illustrate incremental rate base totals on a monthly basis.

- Require the PSC to evaluate the decisions underlying the investment projections included in a Plan filed by a utility and permit the PSC to indicate any costs included in the projections that the PSC would be unlikely to allow a utility to recover from customers in the future.
- Require a utility whose Plan and Mechanism are approved by the PSC to annually file an Infrastructure Expansion Recovery Mechanism Reconciliation (Reconciliation) with the PSC and require the PSC, within 180 days after a utility files a Reconciliation, to conduct a contested hearing to review the Reconciliation and the implementation of the Plan to determine if a utility actually extended natural gas service to unserved or underserved areas and compare the actual investment made to the investment approved in the Plan. Additionally, require the PSC to adjust the Mechanism to reflect actual level of investment made by a utility or permit a utility to recover excess costs if it demonstrates the reasonableness and prudence of those costs.

The bill specifies that Section 9u does not do any of the following:

- Prohibit a utility from filing a General Gas Rate Application.
- Inhibit the PSC's authority to approve rate adjustment mechanisms for natural gas or electric utilities or Customer Attachment Programs.
- Prohibit the PSC from approving Plans and Mechanisms as part of a General Gas Rate Application.

House Bill 5556 would amend various sections of 1969 PA 165 to do the following:

- Require persons who engage in the transport of gas or that own or operate pipeline facilities to communicate annually with county and municipal emergency management coordinators in the local units of government where the person's pipeline facilities are located to review the public education program required under federal law.
- Require the PSC to upload the report required under federal law pertaining to gas pipeline safety on its website, sans state employee information.
- Specify that fines and civil penalties collected under 1969 PA 165 are administrative fines and increase the administrative fine levied on a person who violates 1969 PA 165 from \$10,000 to \$20,000 per day for each violation and increase the maximum administrative fine from \$500,000 to \$800,000.
- Require that the PSC, prior to issuing a fine, provide notice of probable violation and proposed fine to the person the PSC concludes has committed a probable violation and provide an opportunity to the persons who have received a notice to informally discuss the probable violation and proposed fine and, after that discussion, permit the PSC to adjust or eliminate the proposed fine. Additionally, a person who

has received a notice of a probable violation may file a petition for a review with the PSC to initiate a formal proceeding.

House Bill 5557 would amend Section 6f of 1939 PA 3 to prohibit the PSC from allowing a natural gas utility to recover fines and penalties incurred under 1939 PA 3 and 1969 PA 165 from the rates that it charges its customers.

BACKGROUND INFORMATION:

Under current Commission policy, if a customer (whether industrial, agricultural, commercial, or residential) sought natural gas service but was not located near a natural gas pipeline, the customer would generally be required to pay for the costs of connecting to the pipeline via the Customer Attachment Program. Under the Customer Attachment Program, a customer (or group of customers) that wants to connect to the utility system would be required to pay any costs associated with the extension of natural gas pipelines and facilities in excess of anticipated revenue generated by the customer over twenty years or, if the anticipated revenue does not cover the costs of the expansion, payments collected from the customer, typically over five years. Often, these costs are prohibitive.

FISCAL IMPACT:

House Bill 5555 would likely have a fiscal impact on the PSC to the extent that it would engender increased administrative costs for the PSC to conduct contested hearings to review, evaluate, approve/disapprove/amend, and/or compare the Plans, Mechanisms, and Reconciliations described in HB 5555. However, Section 2 of the Costs of Regulating Public Utilities Act of 1972 stipulates that LARA "shall ascertain the amount of the appropriation attributable to the regulation of public utilities... [which] shall be assessed against the public utilities...." Consequently, irrespective of the short-term and long-run fiscal impacts of HB 5555, LARA would assess public utilities the amounts sufficient to administer the PSC's regulatory responsibilities.

House Bill 5556 would have an indeterminate fiscal impact on the PSC dependent on whether the revenue generated by increased fines would more than offset the potential reduction in fine revenue facilitated by the authority granted under HB 5556 for the PSC to work with persons who have probably violated 1969 PA 165 to adjust or eliminate fines.

House Bill 5557 would not have a significant fiscal impact on the PSC.

Legislative/Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.