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NATURAL GAS INFRASTRUCTURE EXPANSION INVESTMENT PLAN

House Bill 4303 as introduced
Sponsor: Rep. Brett Roberts

House Bill 4304 as introduced
Sponsor: Rep. Jason M. Sheppard

Committee: Energy Policy
Complete to 6-2-15

SUMMARY:

House Bill 4303 establishes a mechanism by which a natural gas utility could file a plan to provide the infrastructure necessary to serve unserved or underserved areas of the state, defined to mean areas lacking adequate natural gas pipeline infrastructure to meet the demand of existing or potential end-use customers.

House Bill 4304 prohibits the Public Service Commission from allowing a natural gas utility to recover fines and penalties incurred under the act or under Public Act 165 of 1969 from the rates that it charges its customers.

The bills would take effect 90 days after enactment. A detailed description of House Bill 4303 follows.

House Bill 4303 would add a new section (Section 9u) to the Michigan Public Service Commission Act enabling act, Public Act 3 of 1939, to 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 serve unserved or underserved areas. The bill applies to investor-owned businesses engaged in the sale and distribution of natural gas in the state whose rates are regulated by the PSC. The amount that could be spent annually on a Plan would be capped at $5 million or 25 percent of the utility's annual spending on replacing cast iron, unprotected steel, and vintage plastic pipe, whichever is greater. 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 investment.

- 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 unserved or underserved areas or provide adequate capacity for demand growth in currently unserved or underserved areas. In demonstrating the benefits of the proposed investment, a utility must identify the projected number of customers that will be provided access or increased access to natural gas service; the projected natural gas demand or growth in demand; any economic impacts, including projected customer fuel cost savings; and any impacts on the reliability of natural gas service in the state–all related to the proposed investment.

- 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 in accordance with 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 to compare the actual investment made to the investment approved in the Plan. Additionally, the PSC would be required 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.

- Specify 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.

- Allow the PSC to promulgate administrative rules for the processing of any proceeding required under the bill.

- Define terms, including "incremental rate base," "incremental revenue requirement," "infrastructure expansion investment," and "infrastructure expansion recovery mechanism."

- Repeal Section 9u ten years after the bill's effective date.

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.

House Bill 4303 is similar to House Bill 5555 and House Bill 4304 identical to House Bill 5557 of the 2013-2014 legislative session.

FISCAL IMPACT:

House Bill 4303 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 4303. 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 4303, LARA would assess public utilities the amounts sufficient to administer the PSC's regulatory responsibilities.

House Bill 4304 would not have a significant fiscal impact on the PSC.

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