

"AN ACT TO PROVIDE AN ECONOMIC INCENTIVE TO NATURAL GAS PUBLIC UTILITIES TO EXTEND SERVICE TO UNSERVED AREAS OF ARKANSAS BY ALLOWING SAID GAS UTILITIES TO PETITION THE PSC FOR APPROVAL OF RATES, SURCHARGES, OR BOTH, TO RECOVER EXTENSION RELATED EXPENDITURES WHICH ARE INCURED BUT ARE NOT PRESENTLY RECOVERED IN EXISTING RATES; AND TO AUTHORIZE SUCH RECOVERY WITHOUT REQUIRING SAID GAS UTILITIES TO FILE FOR GENERAL RATE RELIEF; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DEFINITIONS. The following terms are defined for purposes of this Act as follows:

(a) "gas utility" shall mean any natural gas public utility jurisdictional to the Arkansas Public Service Commission.

(b) "excess expenditures" shall mean the difference between (1) expenditures made by a gas utility for extensions of service to areas not served by a gas utility and (2) the sum of the investment allowable under a gas utility's extension policy, plus amounts, if any initially available from other applicable sources, which include, without limitation, funds from: the Arkansas Industrial Development Commission or its successor; industrial development bonds, municipal bonds, city bonds, improvement district bonds; special funds such as may be created by particular Commission orders for individual gas utilities in rate cases or other proceedings; and customer provided contributions in aid of construction.

(c) "surcharge" shall mean a charge which the Commission may authorize a gas utility to impose on those customers who directly benefit from extensions funded by excess expenditures. The surcharge may recover the entire excess expenditure or a portion thereof, as the Commission shall order.

(d) "extension project" shall mean any extension proposed by a gas utility which: is intended to serve areas of Arkansas not then served by any gas utility or within the range of the extension policy of any gas utility; will result in excess expenditures if constructed; and for which the gas utility seeks authorization from the Commission to begin, together with the authorization to change its rates and surcharges to recover the excess expenditures as provided in this Act.

(e) "cost of service recovery" ("COSR") shall mean the method by which the Commission computes the change in rates necessary for the gas utility to recover the cost of that portion of the excess expenditures not recovered through the surcharge. Traditional cost of service principles shall be followed in adjusting rates when the cost of service recovery method is used to recover the cost of excess expenditures. The allocation of class responsibility for payment of the excess expenditures under the cost of service recovery method shall be in accordance with the most recent cost of service study approved for the applicant gas utility.

(f) "Commission" shall mean the Arkansas Public Service Commission.

(g) "Certificate of Extension Project" ("Certificate") shall mean the Commission order authorizing a gas utility seeking such order to undertake an extension project. The Certificate shall be issued contemporaneously with the Commission order approving the imposition of rates and surcharges sufficient to recover the excess expenditures arising out of such extension projects as have been certificated and completed pursuant to this Act.

SECTION 2. (a) The General Assembly hereby finds that the proportion of the State's population that is without access to service by a natural gas utility exceeds the proportion of the population that is without access to telephone or electric utility service. Therefore, the General Assembly declares it to be its intent and purpose in this Act to increase only the availability of natural gas through the procedures provided in this Act, and not to make such procedures available to electric or telephone utilities.

(b) A gas utility may at any time petition the Commission for a Certificate of Extension Project. By such petition, the gas utility requests Commission authorization to commence an extension project, to expend funds on such project, and to concurrently seek Commission approval of changes in rates and surcharges sufficient to recover, at the time the plant goes into service, the excess expenditures arising out of such certificated extension projects. A petition for a Certificate shall provide information about the proposed extension project including, without limitation, the following: an estimate of the cost of the extension project, broken down into at least labor, materials, and overhead; a schedule of estimated completion dates; a brief description of the physical nature of the facilities, including pipe diameter, length of the extension in feet or miles; estimated sales volumes, the estimated number of customers and types of customers, growth rates and expected revenues; and a calculation showing the amount of excess expenditures the gas utility expects to incur.

SECTION 3. The Commission shall grant a Certificate if it finds that the proposed extension project is of economic benefit to the gas utility and is in the public interest. Within the body of the order, the Commission shall apportion the future recovery of the cost of the excess expenditures between the surcharge and cost of service recovery, in whatever proportions or percentages the Commission finds reasonable, from zero to one hundred percent, inclusive. Once the Certificate has been granted, including the approval of the amount and allocation of rates and surcharges, the gas utility may begin construction and may expend funds on the certificated extension project.

SECTION 4. Once a certificated extension is placed into service and is used and useful, the gas utility may collect the rates and tariffs which have been previously approved by the Commission and which reflect the apportionment of recovery of the cost of the excess expenditures between the surcharge and cost of service recovery methods as ordered by the Commission. The tariff and rate filing, made at the time of the certificate application, shall include estimated excess expenditures upon which the Commission may grant the Certificate. The Commission may subsequently modify the previously approved rates and tariffs in any reasonable manner if the actual total costs and excess expenditures differ significantly from the estimated total costs and excess expenditures. In the event that actual total costs and excess expenditures significantly exceed the estimated costs and excess expenditures, and the difference is caused by imprudence or other unsatisfactory cause, the Commission may disallow recovery of a portion of the actual excess expenditures in the approved rates.

(a) The surcharge shall be recovered only from those customers or accounts that receive service as a direct result of the certificated extension. The surcharge shall recover its proportion of the capitalized excess expenditures, plus carrying costs. Surcharged amounts shall be treated for ratemaking purposes as customer contributions in aid of construction, and shall not be added to the rate base upon which a return is earned.

(b) Those costs and expenses to be recovered under the cost of service recovery (COSR) method shall be recovered in the same manner as they would had

they been elements of a general rate application. Traditional cost of service principles shall be utilized in adjusting rates to recover the cost of excess expenditures recovered under COSR. Allocation of class responsibility for recovery of the cost of the excess expenditures shall be in accordance with the gas utility's most recently approved cost of service study, or in accordance with such reasonable cost of service approach as the Commission shall find acceptable.

Amounts recoverable under the COSR method which remain outstanding shall be rolled into the gas utility's next general rate application, and recovery of said outstanding expenditures shall be made within the rate approved as a result of the application for the certificate and corresponding approval of rates.

SECTION 5. Certificates shall be granted under this Act pursuant to the following provisions and conditions:

(a) Only proposed extension projects shall be eligible for recovery of the cost of excess expenditures under this Act. Proposed extension projects are those for which neither actual construction activity has begun nor expenditures made, other than for planning the project, at the time the petition for the Certificate is initially filed with the Commission.

(b) Certificates shall be granted under this Act only for proposed extension projects which will serve areas not served by any gas utility at the time of the filing of the petition for Certificate.

(c) Certificates shall not be granted under this Act to recover costs incurred in replacing existing pipe lines, equipment, or plant.

(d) Where the Commission has granted more than one Certificate to a gas utility, the Commission may determine prospectively the sequence in which the gas utility shall commence work on pending projects based on whatever reasonable criteria it shall develop. Provided, however, that once construction has begun on any given project, said Commission determination shall not serve to postpone or defer construction.

(e) There shall be a limitation on the total annual dollar recovery of excess expenditures to be recovered pursuant to Section 4 of this Act through rates or surcharges resulting from proceedings other than general rate cases. The limitation shall be imposed regardless of the number of certificates granted to or projects to be completed by a gas utility. The limitation shall be a dollar amount which equals one half of one percent (.005%) of the difference between the gas utility's recorded gross plant at original cost less recorded accumulated depreciation reserves. Gross plant shall not include construction work in progress or portions of certificated projects currently receiving COSR treatment.

SECTION 6. Petitions for a Certificate pursuant to this Act are not general rate applications.

SECTION 7. Denial of a Certificate under this Act shall not preclude recovery of the cost of excess expenditures under rates or surcharges or both approved pursuant to a gas utility's general rate case or other proceeding in which the Commission finds recovery of the cost of excess expenditures through rates or surcharges appropriate.

SECTION 8. This Act shall be read in harmony with other Acts which predate the passage and approval of this Act, and shall not be read or construed to repeal any portion of such Acts.

SECTION 9. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of the Act and the

application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 10. It is hereby found and determined by the General Assembly that many areas of the State do not have adequate natural gas services; that this Act provides a mechanism for expediting the extension of natural gas to unserved areas of the State; and this Act should be given effect immediately in order to provide natural gas to the unserved areas of the State as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 3/10/87

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