

**Representative Michael E. Noel** proposes the following substitute bill:

**NATURAL GAS INFRASTRUCTURE AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to natural gas infrastructure.

**Highlighted Provisions:**

This bill:

▶ modifies provisions relating to requests for approval of an energy utility's resource decision;

▶ includes a project for rural gas infrastructure development as a resource decision that a gas corporation may request approval of from the Public Service Commission;

▶ provides requirements related to a request for approval of rural gas infrastructure development; and

▶ authorizes the Public Service Commission to spread rural gas infrastructure development costs to the larger customer base and to approve the inclusion of rural gas infrastructure development costs within a gas corporation's base rates under certain circumstances.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **54-17-401**, as last amended by Laws of Utah 2008, Chapter 382

30 **54-17-402**, as last amended by Laws of Utah 2008, Chapter 382

31 **54-17-403**, as enacted by Laws of Utah 2005, Chapter 11



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **54-17-401** is amended to read:

35 **54-17-401. Definitions.**

36 (1) As used in this part:

37 ~~[(1)]~~ (a) "Energy utility" means one of the following with 200,000 retail customers in  
38 the state:

39 ~~[(a)]~~ (i) an electrical corporation; or

40 ~~[(b)]~~ (ii) a gas corporation.

41 ~~[(2)]~~ (a) (b) "Resource decision" means a decision, other than a decision to construct or  
42 acquire a significant energy resource, involving:

43 (i) an energy utility's acquisition, management, or operation of energy production,  
44 processing, transmission, or distribution facilities or processes including:

45 (A) a facility or process for the efficient, reliable, or safe provision of energy to retail  
46 customers; ~~[or]~~

47 (B) an energy efficiency and conservation program; or

48 (C) rural gas infrastructure development; or

49 (ii) a decision determined by the commission to be appropriate for review under this  
50 part.

51 (c) "Rural gas infrastructure development" means the planning, development, and  
52 construction of an extension or expansion of natural gas main lines to serve previously  
53 unserved rural areas of the state.

54 ~~[(b)]~~ (2) The commission may adopt rules in accordance with Title 63G, Chapter 3,  
55 Utah Administrative Rulemaking Act, to specify the nature of resource decisions subject to  
56 approval under Section **54-17-402**.

57 Section 2. Section **54-17-402** is amended to read:

58 **54-17-402. Request for review of resource decision.**

59 (1) Beginning on February 25, 2005, before implementing a resource decision, an  
60 energy utility may request that the commission approve all or part of a resource decision in  
61 accordance with this part.

62 (2) (a) To obtain the approval permitted by Subsection (1), the energy utility shall file a  
63 request for approval with the commission.

64 (b) The request for approval required by this section shall include any information  
65 required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
66 Administrative Rulemaking Act.

67 (c) A request for approval of natural gas infrastructure development shall include:

68 (i) a description of the proposed rural gas infrastructure development project;

69 (ii) an explanation of projected benefits from the proposed rural gas infrastructure  
70 development project;

71 (iii) the estimated costs of the rural gas infrastructure development project; and

72 (iv) any other information the commission requires.

73 (3) In ruling on a request for approval of a resource decision, the commission shall  
74 determine whether the decision:

75 (a) is reached in compliance with this chapter and rules made in accordance with Title  
76 63G, Chapter 3, Utah Administrative Rulemaking Act; and

77 (b) is in the public interest, taking into consideration:

78 (i) (A) whether it will most likely result in the acquisition, production, and delivery of  
79 utility services at the lowest reasonable cost to the retail customers of an energy utility located  
80 in this state;

81 ~~[(ii)]~~ (B) long-term and short-term impacts;

82 ~~[(iii)]~~ (C) risk;

83 ~~[(iv)]~~ (D) reliability;

84 ~~[(v)]~~ (E) financial impacts on the energy utility; and

85 ~~[(vi)]~~ (F) other factors determined by the commission to be relevant~~[-];~~ or

86 (ii) for a request for approval of rural gas infrastructure development:

87 (A) the potential benefits to previously unserved rural areas;

- 88 (B) the potential number of new customers;
- 89 (C) natural gas consumption; and
- 90 (D) revenues, costs, and other factors determined by the commission to be relevant.

91 (4) In a decision relating to a request for approval of rural gas infrastructure  
92 development, the commission may determine that spreading all or a portion of the costs of the  
93 rural gas infrastructure development to the larger customer base is in the public interest.

94 [~~(4)~~] (5) (a) If the commission approves a proposed resource decision only in part, the  
95 commission shall explain in the order issued under this section why the commission does not  
96 approve the resource decision in total.

97 (b) Recovery of expenses incurred in connection with parts of a resource decision that  
98 are not approved is subject to the review of the commission as part of a rate hearing under  
99 Section [54-7-12](#).

100 [~~(5)~~] (6) The commission may not approve a resource decision in whole or in part  
101 under this section before holding a public hearing.

102 [~~(6)~~] (7) Unless the commission determines that additional time to analyze a resource  
103 decision is warranted and is in the public interest, within 180 days of the day on which the  
104 energy utility files a request for approval, the commission shall:

- 105 (a) approve all or part of the resource decision;
- 106 (b) approve all or part of the resource decision subject to conditions imposed by the  
107 commission; or
- 108 (c) disapprove all or part of the resource decision.

109 [~~(7)~~] (8) The commission shall include in its order under this section:

- 110 (a) findings as to the approved projected costs of a resource decision; and
- 111 (b) the basis upon which the findings described in Subsection [~~(7)~~] (8)(a) are made.

112 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
113 Act, the commission shall make rules regarding the process for approval of a resource decision  
114 under this section.

115 Section 3. Section **54-17-403** is amended to read:

116 **54-17-403. Cost recovery.**

117 (1) (a) Except as otherwise provided in this section, if the commission approves any  
118 portion of an energy utility's resource decision under Section [54-17-402](#), the commission shall,

119 in a general rate case or other appropriate commission proceeding, include in the energy  
120 utility's retail rates the state's share of costs:

121 (i) relevant to that proceeding;  
122 (ii) incurred by the energy utility in implementing the approved resource decision; and  
123 (iii) up to the projected costs specified in the commission's order issued under Section  
124 54-17-402.

125 (b) Except to the extent that the commission issues an order under Section 54-17-404,  
126 any increase from the projected costs specified in the commission's order issued under Section  
127 54-17-402 shall be subject to review by the commission as part of a rate hearing under Section  
128 54-7-12.

129 (c) If the commission approves a request for approval of rural gas infrastructure  
130 development under Section 54-17-402, the commission may approve the inclusion of rural gas  
131 infrastructure development costs within the gas corporation's base rates if:

132 (i) the inclusion of those costs will not increase the base distribution non-gas revenue  
133 requirement by more than 2% in any ~~one year~~ three-year period;

134 (ii) the distribution non-gas revenue requirement increase related to the  
135 infrastructure development costs under Subsection (1)(c)(i) does not exceed 5% in the  
136 aggregate; and

137 (iii) the applicable distribution non-gas revenue requirement is the  
137a annual revenue

138 requirement determined in the gas corporation's most recent rate case.

139 (2) (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i)  
140 or (ii), the commission may disallow some or all costs incurred in connection with an  
141 approved resource decision if the commission finds that an energy utility's actions in  
142 implementing an approved resource decision are not prudent because of new information or  
143 changed circumstances that occur after:

144 (i) the commission approves the resource decision under Section 54-17-402; or  
145 (ii) the commission issues an order to proceed under Section 54-17-404.

146 (b) In making a determination of prudence under Subsection (2)(a), the commission  
147 shall use the standards identified in Section 54-4-4.

148 (3) Notwithstanding any other provision of this chapter, the commission may disallow  
149 some or all of the costs incurred by an energy utility in connection with an approved resource

150 decision upon a finding by the commission that the energy utility is responsible for a material  
151 misrepresentation or concealment in connection with an approval process under this chapter.