

HOUSE BILL NO. 427  
INTRODUCED BY B. BERGREN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NATURAL GAS UNIVERSAL SYSTEM BENEFITS LAWS; CLARIFYING THE DEFINITION OF "UNIVERSAL SYSTEM BENEFITS PROGRAMS"; CLARIFYING THAT THE PUBLIC SERVICE COMMISSION HAS ONGOING OVERSIGHT FOR NATURAL GAS UTILITY UNIVERSAL SYSTEM BENEFIT PROGRAMS; PROVIDING THAT A UNIVERSAL SYSTEM BENEFITS CHARGE MAY BE ESTABLISHED AND REVISED THROUGH A TRACKING PROCEDURE; CLARIFYING THAT A NATURAL GAS UTILITY'S FUNDING REQUIREMENT IS A MINIMUM FUNDING REQUIREMENT; INCREASING THE ANNUAL FUNDING REQUIREMENT; REQUIRING AN ANNUAL REPORT; AMENDING SECTIONS 69-3-1402 AND 69-3-1408, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 69-3-1402, MCA, is amended to read:

**"69-3-1402. Definitions.** As used in this part, the following definitions apply:

(1) "Customer" means a natural gas customer or consumer of natural gas supply or natural gas transmission facilities, storage facilities, or distribution facilities.

(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, licensed by the commission that is offering to sell natural gas to retail customers in the state of Montana.

(5) "Natural gas utility" means a utility regulated by the commission on May 2, 1997, that provides natural gas services to the public.

(6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services

providers, and customers on a nondiscriminatory and comparable basis.

(7) "Performance-based ratemaking" means those forms of regulation that include but are not limited to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect changes in any index adopted for the implementation of the performance-based form of regulation.

(8) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering storage service for natural gas and generally means any underground reservoir suitable for the storage of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

(9) "Transition costs" means:

(a) a natural gas utility's net, verifiable ~~production-~~ production-related and gathering-related costs, including costs of capital, that become unrecoverable as a result of customer choice and open access. These costs include but are not limited to:

(i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that may be accounted for up to the point in time that the commission issues a final order in a docket addressing transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

(ii) the above-market costs associated with existing gas supply commitments;

(iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer choice and open access;

(iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

(v) the costs associated with the issuance of any related transition bonds authorized by the commission pursuant to 69-3-1403.

(b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

(10) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission services provider that are used to transport natural gas from a gathering line or storage facility to a distribution facility, storage facility, or end-use customer.

(11) "Transmission services provider" means a person controlling or operating transmission facilities.

(12) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits program costs.

(13) "Universal system benefits programs" means public purpose programs for cost-effective local energy conservation, low-income energy bill discounts, low-income weatherization, and emergency low-income energy bill assistance."

**Section 2.** Section 69-3-1408, MCA, is amended to read:

**"69-3-1408. Universal system benefits programs -- establishing nonbypassable rate.** (1) A natural gas utility shall implement, upon commission approval and subject to ongoing commission oversight and direction, a universal system benefits program ~~that considers existing universal system benefits programs in the state.~~

(2) The commission shall establish a universal system benefits charge that ~~either~~ all natural gas transmission services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility, cost-effectiveness, and similar costs imposed in other states. The charge may be established and revised through a universal system benefits charge tracking procedure. The method of assessing ~~those rates~~ the charge may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, beginning January 1, 2007, a natural gas utility's minimum annual funding requirement for low-income weatherization and low-income energy bill assistance is established at ~~0.42%~~ 1.2% of a natural gas utility's annual revenue for the previous year. A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

(3) A natural gas utility shall file an annual report of its universal system benefits charges, programs, and program funding levels with the commission in a manner prescribed by the commission.

~~(3) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. The determination should focus specifically on the existence of markets to provide for any of the universal system benefits programs or on whether other means for funding those universal system benefits programs have developed. These recommendations may also address how future reevaluations will be provided, if necessary."~~

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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