**A** **BILL**

TO AMEND SECTION 58-5-410 OF THE 1976 CODE, RELATING TO ELECTION TO COME UNDER THE NATURAL GAS RATE STABILIZATION ACT, TO REMOVE THE PROVISION THAT THE ELECTION SHALL REMAIN IN EFFECT UNTIL THE NEXT GENERAL RATE PROCEEDING; TO AMEND SECTION 58-5-415 OF THE 1976 CODE, RELATING TO THE DURATION OF THE ELECTION AND THE WITHDRAWAL OF A REQUEST TO COME UNDER THE NATURAL GAS RATE STABILIZATION ACT, TO PROVIDE THAT ELECTION BY A UTILITY UNDER THE NATURAL GAS RATE STABILIZATION ACT SHALL REMAIN IN EFFECT FOR FIVE YEARS AND THAT THE UTILITY MAY OPT OUT; TO AMEND SECTION 58-5-420(2) OF THE 1976 CODE, RELATING TO THE CONTENTS OF AN ORDER, TO REMOVE CERTAIN REQUIREMENTS FOR FIGURES; TO AMEND SECTION 58-5-450 OF THE 1976 CODE, RELATING TO THE REVIEW OF REPORTS AND PROPOSED TARIFF RATE ADJUSTMENTS, TO PROVIDE THAT THE OFFICE OF REGULATORY STAFF SHALL PROPOSE CHANGES TO RATE DESIGN; TO AMEND SECTION 58-5-470 OF THE 1976 CODE, RELATING TO THE REVIEW OF INITIAL ORDERS, SCOPE, AND RULE TO SHOW CAUSE FOR WHY A FULL RATE PROCEEDING SHOULD NOT BE INITIATED, TO PROVIDE THAT THE RIGHT OF REGULATORY STAFF TO FILE CERTAIN ACTIONS IS NOT LIMITED; AND TO AMEND ARTICLE 4, CHAPTER 5, TITLE 58 OF THE 1976 CODE, RELATING TO THE NATURAL GAS RATE STABILIZATION ACT, BY ADDING SECTION 58-5-416, TO PROVIDE A LIMITATION ON THE DURATION OF ELECTION.

Whereas, the Natural Gas Rate Stabilization Act (RSA) was ratified in 2005 for the purpose of increasing the stability and predictability of natural gas rates charged to retail customers; providing an efficient rate-setting mechanism for smaller, periodic rate adjustments; and encouraging investment in new, updated, and expanded natural gas infrastructure, reducing the costs of proceedings for the consumers and the public; and

Whereas, once elected by an investor-owned natural gas utility, the RSA provides no opportunity thereafter for the Public Service Commission to review and make appropriate changes to the return on equity, the cost of service, revenue allocation, capital structure, and rate design; and

Whereas, it is reasonable that the Public Service Commission should be permitted to review, make changes to the return on equity, the cost of service, revenue allocation, capital structure, and rate design every five years. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 58-5-410 of the 1976 Code is amended to read:

“Section 58-5-410. A public utility providing natural gas distribution service, in its discretion and at anytime, may elect to have the terms of this article apply to its rates and charges for gas distribution service, on a prospective basis, by filing a notice of the election with the commission and on the same day and by the same means serving a copy on the Office of Regulatory Staff. Upon receipt of notice of the election, the commission shall proceed to make the findings and establish the ongoing procedures required for adjustments in base rates to be made under this article. In carrying out the procedures established by this article with respect to such an election, the commission shall rely upon and utilize the approved rates, charges, revenues, expenses, capital structure, returns, and other matters established in the public utility’s most recent general rate proceeding pursuant to Section 58‑5‑240; provided, however, that the most recent order must have been issued no more than five years prior to the initial election to come under the terms of this article. A public utility may combine an election under this article with the filing of a rate proceeding pursuant to Section 58‑5‑240 and the commission shall include the findings required by this article in its rate orders issued in the Section 58‑5‑240 proceedings~~, and the election shall remain in effect until the next general rate proceeding~~.”

SECTION 2. Section 58-5-415 of the 1976 Code is amended to read:

“Section 58-5-415. The election by a utility to have the terms of this article apply to its rates and charges for gas distribution service once made shall remain in effect for five years. ~~until the next Section 58‑5‑240 general rate proceeding for the public utility at which time the public utility may then elect to continue the applicability of this article to its rates and charges or~~ The utility may elect to opt out of the provisions of this article. The applicant may withdraw its request to come under the terms of this article at any time before the entry of a final order of the commission on the merits of the proceeding in which the election is made or on a petition for rehearing in the proceeding.”

SECTION 3. Section 58-5-420(2) of the 1976 Code is amended to read:

“(2) the commission separately shall state the amount of the utility’s net plant in service, construction work in progress, accumulated deferred income taxes, inventory, working capital, and other rate base components. It also shall state the utility’s depreciation expense, operating and maintenance expense, income taxes, taxes other than income taxes, other components of income for return, revenues, capital structure, cost of debt, overall cost of capital, and earned return on common equity. ~~The figures stated shall be those which the commission has determined to be the appropriate basis on which rates were set in the applicable orders.~~”

SECTION 4. Section 58-5-450 of the 1976 Code is amended to read:

“Section 58-5-450. The Office of Regulatory Staff shall review the monitoring report filed pursuant to Sections 58‑5‑430 and 58‑5‑440 to determine compliance with its terms taking into account the findings of any audit conducted by the Office of Regulatory Staff concerning compliance with Sections 58‑5‑430 and 58‑5‑440. The Office of Regulatory Staff shall propose those adjustments, including changes to rate design, it determines to be required to bring the report into compliance with Section 58‑5‑440. Based upon that report and the findings of any audit conducted by the Office of Regulatory Staff, the commission shall order the utility to make the adjustments to tariff rates necessary to achieve the revenue levels indicated in Section 58‑5‑440.”

SECTION 5. Section 58-5-470 of the 1976 Code is amended to read:

“Section 58-5-470. The review of Initial Orders pursuant to Sections 58‑5‑460 and 58‑5‑465 is limited to issues related to compliance with the terms of this article. Matters determined in orders issued pursuant to Section 58‑5‑420 are not subject to review except in full rate proceedings pursuant to Section 58‑5‑240. Any proceedings pursuant to this article are without prejudice to the right of the commission to issue, or any interested party to request issuance of, a rule to show cause why a full rate proceeding should not be initiated, nor does this article limit the right of a utility to file an application pursuant to Section 58‑5‑240 for an adjustment to its rates and charges, nor does it impose the restrictions on filings contained in Section 58‑5‑240(F). Nothing in this article limits the right of regulatory staff to file an action to show cause as to why a full rate proceeding should not be initiated.”

SECTION 6. Article 4, Chapter 5, Title 58 of the 1976 Code is amended by adding:

“Section 58-5-416. (A) Every five years, a public utility that has operated under the terms of this article for the preceding five years shall submit to the commission and regulatory staff the same information as required for a general rate proceeding pursuant to Section 58-5-240, applicable regulations, and any other requirement set forth by the commission in order to continue its election under this article for a successive term of five years.

(B) After an application has been filed with the commission and a copy provided to regulatory staff, the commission shall, after notice to the public such as the commission may prescribe, hold a public hearing concerning the lawfulness or reasonableness of the relief requested.

(C) Upon receipt of the information pursuant to subsection (A), the commission shall issue an order pursuant to the requirements of Section 58‑5‑420.

(D) The commission shall rule and issue its order approving or disapproving the changes in full or in part within six months after the date the information pursuant to subsection (A) is filed.”

SECTION 7. Pursuant to Section 58-5-416, as added by this act, within twelve months of the effective date of this act, a public utility that has operated under the terms of Article 4, Chapter 5, Title 58 for more than five years shall submit to the Public Service Commission and the Office of Regulatory Staff the same information as required for a general rate proceeding pursuant to Section 58-5-240, applicable regulations, and any other requirement set forth by the Public Service Commission in order to continue its election under this article for a successive term of five years.

SECTION 8. This act takes effect upon approval by the Governor.

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