

# Senate Study Bill 1049

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CO=CHAIRPERSONS BEHN  
and WARNSTADT)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act to authorize public utilities providing natural gas  
2 service to impose an infrastructure system replacement  
3 surcharge for the recovery of costs of certain infrastructure  
4 system replacements.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1485SC 81  
7 kk/gg/14

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1 1 Section 1. NEW SECTION. 476.110 CITATION.  
1 2 This section and sections 476.111 through 476.116 shall be  
1 3 known and may be cited as the "Infrastructure System  
1 4 Replacement Surcharge Act".  
1 5 Sec. 2. NEW SECTION. 476.111 APPLICABILITY.  
1 6 Sections 476.110 through 476.116 shall be applicable to  
1 7 public utilities furnishing natural gas subject to rate  
1 8 regulation by the utilities board pursuant to section 476.1  
1 9 and shall only apply to the surcharge authority for expenses  
1 10 incurred by gas public utilities for eligible infrastructure  
1 11 system replacements.  
1 12 Sec. 3. NEW SECTION. 476.112 DEFINITIONS.  
1 13 As used in sections 476.110 through 476.116, unless the  
1 14 context otherwise requires:  
1 15 1. "Appropriate pretax revenues" means the revenues  
1 16 necessary to produce net operating income equal to all of the  
1 17 following:  
1 18 a. The gas public utility's weighted cost of capital  
1 19 multiplied by the net original cost of eligible infrastructure  
1 20 system replacements, taking into account the accumulated  
1 21 deferred income taxes and accumulated depreciation associated  
1 22 with eligible infrastructure system replacements which are  
1 23 included in a currently effective infrastructure system  
1 24 replacement surcharge.  
1 25 b. State, federal, and local income or excise taxes  
1 26 applicable to the gas public utility's net operating income.  
1 27 c. All other infrastructure system replacement surcharge  
1 28 costs.  
1 29 2. "Base revenue" means all revenues derived from the  
1 30 regulated sale of natural gas and the provision of regulated  
1 31 transportation services less the cost of purchased natural gas  
1 32 approved by the board in the gas public utility's most recent  
1 33 formal rate proceedings.  
1 34 3. "Board" means the utilities board within the utilities  
1 35 division of the department of commerce.  
2 1 4. "Eligible infrastructure system replacements" means gas  
2 2 public utility plant projects that meet all of the following  
2 3 conditions:  
2 4 a. Do not increase revenues by directly connecting the  
2 5 infrastructure replacement to new customers.  
2 6 b. Are in service or will be in service within sixty days  
2 7 of the date the gas public utility files a petition pursuant  
2 8 to section 476.113.  
2 9 c. Were not included in the gas public utility's rate base  
2 10 in its most recent formal rate proceeding before the board.  
2 11 d. Replace, relocate, upgrade, protect, or otherwise  
2 12 extend the useful life of existing infrastructure.  
2 13 5. "Gas public utility" means a public utility that

2 14 furnishes natural gas that is subject to rate regulation by  
2 15 the board pursuant to this chapter.

2 16 6. "Gas public utility plant projects" includes all of the  
2 17 following:

2 18 a. Mains, valves, service lines, regulator stations,  
2 19 vaults, and other pipeline system components and support  
2 20 systems installed to comply with state or federal safety  
2 21 requirements as replacements, upgrades, or compliance with  
2 22 such requirements for existing facilities that have worn out  
2 23 or are in deteriorated condition.

2 24 b. Main relining projects, service line insertion  
2 25 projects, joint encapsulation projects, and other similar  
2 26 projects including support systems and equipment extending the  
2 27 useful life, upgrading, or enhancing the integrity of pipeline  
2 28 system components undertaken to comply with state and federal  
2 29 safety requirements or industry practices.

2 30 c. Facility relocations required due to construction or  
2 31 improvement of a highway, road, street, public way, or other  
2 32 public work by or on behalf of the United States, this state,  
2 33 a political subdivision of this state, or another entity  
2 34 having the power of eminent domain provided that the costs  
2 35 related to such projects have not been reimbursed to the gas  
3 1 public utility.

3 2 7. "Infrastructure system replacement surcharge costs"  
3 3 means depreciation expenses and taxes that are due within  
3 4 twelve months of the infrastructure system replacement  
3 5 surcharge filing.

3 6 8. "Infrastructure system replacement surcharge revenues"  
3 7 means revenues produced through an infrastructure system  
3 8 replacement surcharge exclusive of revenues from all other  
3 9 rates and charges.

3 10 Sec. 4. NEW SECTION. 476.113 PETITION FOR SURCHARGE ==  
3 11 SURCHARGE REVENUES == FORMAL RATE PROCEEDING RELATIONSHIP.

3 12 1. Notwithstanding any other provision of this chapter, a  
3 13 gas public utility may file a petition and proposed rate  
3 14 schedules with the board to establish or change infrastructure  
3 15 system replacement surcharge rate schedules that will allow  
3 16 for the adjustment of the gas public utility's rates and  
3 17 charges to provide for the recovery of costs for eligible  
3 18 infrastructure system replacements. The board shall not  
3 19 approve an infrastructure system replacement surcharge to the  
3 20 extent it would produce total annualized infrastructure system  
3 21 replacement surcharge revenues less than one-half of one  
3 22 percent, or more than ten percent, of the gas public utility's  
3 23 base revenue level approved by the board in the gas public  
3 24 utility's most recent formal rate proceeding. An  
3 25 infrastructure system replacement surcharge and any future  
3 26 changes thereto shall be calculated and implemented in  
3 27 accordance with sections 476.110 through 476.116.

3 28 2. The board shall not approve an infrastructure system  
3 29 replacement surcharge for any gas public utility that has not  
3 30 had a formal rate proceeding decided or dismissed by the board  
3 31 within the three years preceding the filing of the petition,  
3 32 unless the gas public utility has filed for or is the subject  
3 33 of a new formal rate proceeding initiated since the filing of  
3 34 the petition.

3 35 3. A gas public utility shall not collect an  
4 1 infrastructure system replacement surcharge for a period  
4 2 exceeding three years. However, if a gas public utility has  
4 3 filed for or is the subject of a new formal rate proceeding,  
4 4 an existing surcharge may be collected until the effective  
4 5 date of the new rate schedules established as a result of the  
4 6 new formal rate proceeding, or until the new formal rate  
4 7 proceeding is otherwise decided or dismissed by the board  
4 8 without new rates being established.

4 9 4. A gas public utility that has implemented an  
4 10 infrastructure system replacement surcharge pursuant to  
4 11 sections 476.110 through 476.116 shall file revised rate  
4 12 schedules to reset the infrastructure system replacement  
4 13 surcharge to zero when new base rates and charges become  
4 14 effective for the gas public utility following a board order  
4 15 establishing customer rates in a formal rate proceeding that  
4 16 incorporates the utility's base rates.

4 17 5. A gas public utility's filing of a petition for an  
4 18 infrastructure system replacement surcharge pursuant to this  
4 19 section shall not be considered a request for a general  
4 20 increase in the gas public utility's base rates and charges.

4 21 6. Nothing in this section shall be construed to impair  
4 22 the authority of the board to review the reasonableness of the  
4 23 rates or charges of a gas public utility.

4 24 Sec. 5. NEW SECTION. 476.114 RATE SCHEDULES == BOARD

4 25 REVIEW == FINAL ORDER.

4 26 1. At the time that a gas public utility files a petition  
4 27 with the board seeking to establish or change an  
4 28 infrastructure system replacement surcharge, the gas public  
4 29 utility shall submit proposed infrastructure system  
4 30 replacement surcharge rate schedules and supporting  
4 31 documentation regarding the calculation of the proposed  
4 32 surcharge, and shall serve the office of the consumer advocate  
4 33 with a copy of the petition, proposed rate schedules, and  
4 34 supporting documentation.

4 35 2. When a petition, along with any associated proposed  
5 1 rate schedules, is filed pursuant to section 476.113, the  
5 2 board shall review the proposed infrastructure system  
5 3 replacement surcharge.

5 4 3. The board shall review information submitted by the gas  
5 5 public utility to confirm that the underlying costs are in  
5 6 accordance with sections 476.110 through 476.116, and to  
5 7 confirm proper calculation of the proposed charge. No other  
5 8 revenue requirement or ratemaking issues may be reviewed in  
5 9 consideration of the petition and associated proposed rate  
5 10 schedules.

5 11 4. The board may hold a hearing on the petition and any  
5 12 associated rate schedules and shall issue an order to become  
5 13 effective not later than ninety days after the petition is  
5 14 filed.

5 15 5. If the board finds that a petition complies with the  
5 16 requirements of section 476.113 and this section, the board  
5 17 shall enter an order authorizing the gas public utility to  
5 18 impose an infrastructure system replacement surcharge that is  
5 19 sufficient to recover appropriate pretax revenues, as  
5 20 determined by the board pursuant to sections 476.110 through  
5 21 476.116.

5 22 6. A gas public utility may petition for a change in its  
5 23 rate no more often than two times every twelve months.

5 24 7. In determining the appropriate pretax revenues, the  
5 25 board shall consider only the following factors:

5 26 a. The current state, federal, and local income tax or  
5 27 excise tax rates.

5 28 b. The gas public utility's actual regulatory capital  
5 29 structure as determined during the most recent formal rate  
5 30 proceeding for the gas public utility.

5 31 c. The actual cost rates for the gas public utility's debt  
5 32 and preferred stock as determined during the most recent  
5 33 formal rate proceeding for the gas public utility.

5 34 d. The gas public utility's cost of common equity as  
5 35 determined during the most recent formal rate proceeding for  
6 1 the gas public utility.

6 2 e. The current property tax rate or rates applicable to  
6 3 the eligible infrastructure system replacements.

6 4 f. The current depreciation rates applicable to the  
6 5 eligible infrastructure system replacements.

6 6 g. In the event information required for submission  
6 7 pursuant to this section is unavailable, the board shall apply  
6 8 previously established regulatory principles and shall at a  
6 9 minimum permit rates and charges which will allow the gas  
6 10 public utility the opportunity to earn a return on common  
6 11 stock equity equal to that which the board held reasonable and  
6 12 just in the most recent rate proceeding involving the same  
6 13 utility or the same type of utility service, provided that if  
6 14 the most recent final decision of the board in an applicable  
6 15 rate proceeding was rendered more than twelve months prior to  
6 16 the date of filing of the petition for an infrastructure  
6 17 system replacement surcharge, the board shall also consider  
6 18 financial market data that is filed or that is otherwise  
6 19 available to the board and shall adjust the rate of return on  
6 20 common stock equity that was approved in that decision upward  
6 21 or downward as necessary to reflect current conditions.

6 22 Sec. 6. NEW SECTION. 476.115 MONTHLY SURCHARGE  
6 23 CALCULATION == RECONCILIATION.

6 24 1. The monthly infrastructure system replacement surcharge  
6 25 shall be calculated based on a reasonable estimate of billing  
6 26 units in the period in which the charge will be in effect,  
6 27 which shall be conclusively established by dividing the  
6 28 appropriate pretax revenues by the customer usage determined  
6 29 by the gas public utility pursuant to its recovery of costs  
6 30 under section 476.6, subsection 16. However, the monthly  
6 31 infrastructure system replacement surcharge may vary according  
6 32 to customer class and, if the gas public utility chooses, may  
6 33 be calculated based on customer numbers as determined during  
6 34 the most recent formal rate proceeding for the gas public  
6 35 utility so long as the monthly infrastructure system

7 1 replacement surcharge for each customer class maintains a  
7 2 proportional relationship equivalent to the proportional  
7 3 relationship of the monthly customer charge for each customer  
7 4 class.

7 5 2. At the end of each twelve-month calendar period the  
7 6 infrastructure system replacement surcharge is in effect, the  
7 7 gas public utility shall reconcile the difference between the  
7 8 revenues resulting from an infrastructure system replacement  
7 9 surcharge and the appropriate pretax revenues as determined by  
7 10 the board for that period and shall submit the reconciliation  
7 11 and a proposed infrastructure system replacement surcharge  
7 12 adjustment to the board for approval to recover or refund the  
7 13 difference, as appropriate, through adjustments of the monthly  
7 14 infrastructure system replacement surcharge.

7 15 Sec. 7. NEW SECTION. 476.116 RULES.

7 16 The board shall adopt rules pursuant to chapter 17A  
7 17 necessary for the implementation of sections 476.110 through  
7 18 476.115.

#### 7 19 EXPLANATION

7 20 This bill grants authority to public utilities providing  
7 21 natural gas service to adjust the utility's rates and charges  
7 22 through a surcharge for the recovery of costs of certain  
7 23 infrastructure system replacements.

7 24 The bill requires gas public utilities that wish to recover  
7 25 the costs of certain infrastructure replacements through an  
7 26 increase in the utility's rates and charges to file a petition  
7 27 with the utilities board of the department of commerce with  
7 28 proposed new rate schedules. The board shall examine the  
7 29 proposed rate schedules and shall issue an order authorizing  
7 30 or denying the petition within 90 days after the petition is  
7 31 filed. A surcharge approved by the board shall be sufficient  
7 32 to recover appropriate pretax revenues as defined by the bill  
7 33 as determined through a review of the utility's incometax  
7 34 information, capital structure, actual cost rates for debt and  
7 35 preferred stock, cost of common equity, applicable property  
8 1 tax rates, and depreciation rates.

8 2 The monthly surcharge shall be calculated based on a  
8 3 reasonable estimate of billing units in the period in which  
8 4 the charge is in effect and may vary according to customer  
8 5 class. Twelve months after a surcharge is in effect, the  
8 6 utility shall submit a reconciliation of the difference  
8 7 between the revenues resulting from the surcharge and the  
8 8 appropriate pretax revenues for that period and a proposed  
8 9 surcharge adjustment for the board's approval.

8 10 The board shall not approve a surcharge that would produce  
8 11 revenues less than 0.5 percent, or more than 10 percent, of  
8 12 the utility's base revenue level approved by the board at the  
8 13 utility's last formal rate proceeding. The board shall not  
8 14 approve a surcharge if the utility has not had a formal rate  
8 15 proceeding within the three years preceding the petition for a  
8 16 surcharge unless the utility files for a formal rate  
8 17 proceeding after the filing of the petition.

8 18 The bill provides that a utility shall not collect a  
8 19 surcharge for more than three years. However, a utility may  
8 20 collect a surcharge for more than three years if, prior to the  
8 21 expiration of the three years, the utility requests a formal  
8 22 rate proceeding at which time the surcharge may continue until  
8 23 the new formal rate proceeding is concluded. The bill  
8 24 provides that after a gas public utility implements a  
8 25 surcharge, the utility must file revised rate schedules to set  
8 26 the surcharge to zero once a formal rate proceeding has  
8 27 established new base rates and charges.

8 28 The board shall adopt rules necessary to implement the  
8 29 provisions of the bill.

8 30 LSB 1485SC 81

8 31 kk:nh/gg/14