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BILL ANALYSIS

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Senate Bill 1030 (as introduced 5-15-96)
Sponsor: Senator Mat J. Dunaskiss
Committee: Technology and Energy

Date Completed: 5-15-96

CONTENT

The bill would amend Public Act 9 of 1929, which regulates the carrying and transporting natural gas through pipe lines and the production, purchase, and sale of natural gas, to do all of the following:

- **Revise rate-setting and -filing requirements.**
- **Provide for Public Service Commission (PSC) relief of contractual obligations under certain circumstances.**
- **Revise a prohibition concerning giving preference within the business of natural gas common carriers.**
- **Require a natural gas common carrier to act as a "prudent operator" under certain circumstances.**
- **Limit a requirement that a map or plat of proposed pipe lines be submitted to the PSC for approval.**
- **Delete both a requirement that a common purchaser file with the PSC an annual statement and the PSC's regulation of common purchasers' accounts.**
- **Require the PSC to promulgate rules and regulations "necessary to ensure the fair and equitable production of natural gas from production fields and sources of supply".**
- **Prohibit the costs of a pipe line and related facilities from being included in any retail utility rate without the PSC's prior approval.**
- **Repeal several sections of the Act.**

Rate-Setting and Rate-Filing

The Act requires that a natural gas common purchaser or common carrier, before receiving gas for transmission or delivery, file with the PSC a schedule of the rates and prices at which the common purchaser or common carrier will receive gas at delivery stations from a well, field, or source of supply, as well as the rates or charges at which it will deliver gas. Under the bill, that requirement would apply only if natural gas were purchased or transported by a pipe line or lines whose cost was not included in the retail utility rate established under the PSC enabling law.

The Act requires that a common purchaser or common carrier, operating as a carrier for hire, file a copy of each contract for purchasing, receiving, or supplying gas. The price to be paid and the rates and charges must be stated and established in the manner and form required by the PSC and outlined in the PSC's rules for the filing of rates of artificial gas utilities or pursuant to other rules and conditions established by the PSC. Afterward, a common purchaser or common carrier may alter or amend its price paid, rates, charges, and conditions of service by application to and approval of the PSC in the same manner and process and under the same legal limitations as are provided by statute for the rates for electricity transmitted in Michigan. The bill would retain the requirement that these entities file a copy of each contract with the PSC, if the PSC required the filing, but would delete the rate-setting and PSC approval requirements.

Under the bill, all initial prices, rates, charges, terms, and conditions would be a matter of negotiation between the parties. All amendments, revisions, or changes to the initial prices, rates, charges, terms, and conditions, including changes under indefinite pricing provisions, whether or not within an initially fixed range of prices, would become effective either by reaffirmation from the purchaser or common carrier or by negotiation between the parties. If an agreement could not be reached or reaffirmed, the purchaser or common carrier could apply to the PSC to reaffirm or reach agreement on the amendment, revision, or change. Upon that application, the PSC would have to consider the needs of the parties for the gas or services, the value of the gas or services, the efficient production or transmission of the gas, obligations of the parties and affected producers, and any other information the PSC considered important.

Relief of Contractual Obligations

The bill specifies that, if a purchase of natural gas under a contract in existence before the bill's effective date were no longer reasonable for economic reasons, upon application by the purchaser, the PSC could relieve the purchaser of the uneconomic condition, including a purchase obligation.

Preference Prohibition

The Act provides that it is unlawful for any natural gas common carrier doing business in Michigan to give, either directly or indirectly, any preference or advantage to any person, copartnership, corporation, or locality, in any respect whatsoever, as to rates, service, facilities for service, or commodity delivered. The bill would delete from that prohibition "in any respect whatsoever" and would prohibit, instead, the giving of any "unreasonable or undue" preference or advantage as to rates, service, facilities for service, or receipts and deliveries for similar priorities or classes of the common carrier service.

Prudent Operator

The bill provides that, if the costs of a pipe line or lines and related facilities were not included in the retail utility rate established under the PSC enabling law, and the demand for carrying or transporting natural gas exceeded the capacity or operational limits of the pipe line or lines connecting carriers or customers, the common carrier would have to act as a prudent operator and reduce receipts of gas from the points that were necessary to relieve the capacity or operational constraint.

The PSC could establish rules, regulations, and tariffs to govern the reduced receipts of gas and would have to consider any contractual priorities or classes of services. The PSC could prorate the reduction based on the total contractual capacity commitments at a receipt point for any priority or class of service.

Map or Plat Requirement

The Act requires that a corporation, association, or person desiring to construct transmission mains for the transportation or conveyance of natural gas from its source to the locality or localities where used must submit to the PSC, accompanied by its application, a map or plat of the proposed line or lines, before the actual construction of those lines. The bill specifies, instead, that a corporation, association, or person that constructed a pipe line or lines and related facilities would have to submit a map or plat, but it would not have to be accompanied by an application. Under the bill, a corporation, association, or person that exercised its right of eminent domain under the Act or constructed a pipe line or lines and related facilities, in which costs were to be included in the retail utility rates to be determined under the PSC enabling law, would have to include the map or plat with its application for rate determination. (The costs of a pipe line or lines and related facilities could not be included in any retail utility rate without the prior approval of the PSC.)

Delete Filing Requirement & PSC Regulation of Accounts

Under the Act, every common purchaser and common carrier of natural gas must file with the PSC an annual statement of income, expenses, and operating and corporate accounts, including the state of its finances in capital securities, fixed capital, and other related corporate balance sheet accounts. The annual statement also must include statistical data relating to the production, purchase, transmission, and sales of gas by common purchasers and common carriers, its equipment facilities, and customers. The bill would delete common purchasers from these requirements and remove data on purchase and sales from the annual statement filing requirement.

In addition, the PSC must prescribe the manner and the form or system of accounts, financial records, and operating memoranda or data to be maintained and kept by all common purchasers and common carriers of natural gas. The bill would delete common purchasers from that requirement.

Repealers

The bill would repeal a provision that a corporation, association, or person claiming or exercising the right to carry or transport natural gas by pipe line, for hire, compensation, or otherwise, as owner, lessee, licensee, or by virtue of any other right or claim, engaging in the business of purchasing and selling natural gas is a common purchaser. Under the provision to be repealed, a common purchaser must purchase all the natural gas in the vicinity of, or that may be reasonably reached by, its pipe lines, without discrimination in favor of one producer against another. (MCL 483.104)

The bill would repeal a provision requiring the PSC to make regulations for the equitable purchasing, taking, and collecting of natural gas, for the metering and delivery of natural gas, and for the provision of adequate facilities for services demanded. It also gives the PSC authority to relieve any common purchaser, after application, notice, and hearing, of the obligation to purchase gas of an inferior quality or grade or to purchase gas from wells that, for economic reasons, are not a practicable source of supply. (MCL 483.105)

The bill would repeal a provision that, whenever full production from any source or field of natural gas is in excess of the market demand, a common purchaser must take only the proportion of the available supply that may be marketed and used without waste. The PSC is responsible for regulating and enforcing this provision. (MCL 483.108)

The bill would repeal a provision requiring that every common purchaser or common carrier of natural gas file with the PSC a copy of the contract for the sale and purchase of gas entered into between producers and the common purchaser or common carrier, within 30 days after making the contract. (MCL 483.111)

The bill would repeal a provision that gave the 1929 Act immediate effect due to the declaration of an emergency, and specifying that immediate effect was "necessary for the immediate preservation of the public peace, safety, convenience and welfare". (MCL 483.120)

MCL 483.102 et al. Legislative Analyst: P. Affholter

FISCAL IMPACT

This bill would reduce the number of pipe line applicants, as the Commission would have to approve only those applications for eminent domain and rate cases, which therefore over time would reduce the administrative costs of the Commission. It is difficult to determine the exact amount of this reduction as there is no way to predict how many applications the Commission would get for these two categories.

Fiscal Analyst: M. Barsch

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