Edits add leak repair to GSEP accelerated cost recovery and eliminate 20-year deadline for replacing leak-prone pipe:

**G.L. c. 25 § 1A**

*[Text of section added by 2021, 8, Sec. 15 effective June 24, 2021.]*

Section 1A. In discharging its responsibilities under this chapter and chapter 164, the department shall, with respect to itself and the entities it regulates, prioritize safety, security, reliability of service, affordability, equity and reductions in greenhouse gas emissions to meet statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N.

**G.L. c. 164 § 145: Plan for replacement or improvement of aging or leaking natural gas infrastructure**

Section 145. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

"Customer'', a retail natural gas customer.

*[Definition of "Eligible infrastructure replacement'' of subsection (a) effective until August 11, 2022. For text effective August 11, 2022, see below.]*

"Eligible infrastructure replacement'', a replacement or an improvement of existing infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas company by connecting an improvement for a principal purpose of serving new customers; (iv) reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction in natural gas system leaks; and (v) is not included in the current rate base of the gas company as determined in the gas company's most recent rate proceeding.

*[Definition of "Eligible infrastructure replacement'' of subsection (a) as amended by 2022, 179, Sec. 58 effective August 11, 2022. For text effective until August 11, 2022, see above.]*

"Eligible infrastructure repair and replacement'', a repair, replacement or an improvement of existing infrastructure of a gas company in a way that avoids or minimizes stranded assets that: (i) is made on or after January 1, 2015; (ii) is designed to improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas company by connecting an improvement for a principal purpose of serving new customers; (iv) reduces natural gas emissions through a reduction in natural gas system leaks; (v) is not included in the current rate base of the gas company as determined in the gas company's most recent rate proceeding; (vi) may include use of advanced leak repair technology approved by the department to repair an existing leak-prone gas pipe to extend the useful life of such gas pipe by no less than 10 years; (vii) may include replacing gas infrastructure with utility-scale non-emitting renewable thermal energy infrastructure; (viii) is not inconsistent with the applicable statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N and the commonwealth’s emissions strategies; and (ix) for which a non-pipe alternative has been shown to be infeasible or not cost-effective.

“Non-pipe alternative” means activities or investments that delay, reduce, or avoid the need to build or upgrade traditional natural gas infrastructure, including, but not limited to, non-emitting renewable thermal infrastructure project defined in section 147A of chapter 164.

"Plan'', a targeted infrastructure repair and replacement program construction plan that a gas company files pursuant to subsection (b).

"Project'', an eligible infrastructure repair and replacement project proposed by a gas company in a plan filed pursuant to subsection (b).

(b) A gas company shall file with the department a plan to address aging or leaking natural gas infrastructure within the commonwealth and the leak rate on the gas company's natural gas infrastructure in the interest of public safety and reducing natural gas emissions through a reduction in natural gas system leaks. Each company's gas infrastructure plan shall include annual targets for the next 10 years for the department's review. The department shall review these annual targets to ensure each gas company is meeting the appropriate pace to reduce the leak rate on and to repair or replace the gas company's natural gas infrastructure in a safe and timely manner and on a schedule not inconsistent with the applicable statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N and the commonwealth’s emissions strategies. The gas companies must update the targets each year based on overall progress. The department may levy a penalty against any gas company that fails to meet its most recently updated annual target in an amount up to and including the equivalent of 2.5 per cent of such gas company's transmission and distribution service revenues for the previous calendar year.

(c) Any plan filed with the department shall include, but not be limited to: (i) eligible infrastructure repair and replacement of mains, services, leak-prone meter sets and other ancillary facilities composed of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the federal gas distribution pipeline integrity management plan annually submitted to the department and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v) a description of customer costs and benefits under the plan; (vi) the relocations, where practical, of a meter located inside of a structure to the outside of said structure for the purpose of improving public safety; (vii) a comparison of eligible infrastructure repair and replacement in environmental justice populations as defined in section 62 of chapter 30 with non-environmental justice populations; (viii) a comparison of greenhouse gas emissions reductions from eligible infrastructure repair and replacement with other investment alternatives, such as electrification; and (ix) any other information the department considers necessary to evaluate the plan.

As part of each plan filed under this section, a gas company shall include a timeline for repairing or removing leak-prone infrastructure on an accelerated basis specifying an annual replacement pace. The department shall not approve a timeline as part of a plan unless the allowable recovery cap established pursuant to subsection (f) provides the gas company with a reasonable opportunity to recover the costs associated with removing leak-prone infrastructure on the accelerated basis set forth under the timeline utilizing the cost recovery mechanism established pursuant to this section. Beginning October 31, 2023, a gas company shall annually provide the department with a summary of its repair and replacement progress to date, a summary of work to be completed during the next 10 years and any similar information the department may require. The department may require a gas company to file an updated long-term timeline as part of a plan if it alters the cap established pursuant to subsection (f).

(d) If a gas company files a plan on or before October 31 for the subsequent construction year, the department shall review the plan within 6 months. The plan shall be effective as of the date of filing, pending department review. The department may modify a plan prior to approval at the request of a gas company or make other modifications to a plan as a condition of approval. The department shall consider the costs and benefits of the plan including, but not limited to, impacts on ratepayers, reductions of natural gas emissions through a reduction in natural gas system leaks and improvements to public safety.

(e) If a plan is in compliance with this section and the department determines the plan reasonably accelerates emission reductions from eligible infrastructure repair and replacement and provide benefits, the department shall issue preliminary acceptance of the plan in whole or in part. A gas company shall then be permitted to begin recovery of the estimated costs of projects included in the plan beginning on May 1 of the year following the initial filing and collect any revenue requirement, including depreciation, property taxes and return associated with the plan.

(f) On or before May 1 of each year, a gas company shall file final project documentation for projects completed in the prior year to demonstrate substantial compliance with the plan approved pursuant to subsection (e) and that project costs were reasonably and prudently incurred. The department shall investigate project costs within 6 months of submission and shall approve and reconcile the authorized rate factor, if necessary, upon a determination that the costs were reasonable and prudent. Annual changes in the revenue requirement eligible for recovery shall not exceed (i) for replacements, 1.5 per cent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers, or (ii) for repairs, 1.5 per cent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers. Any revenue requirement approved by the department in excess of such caps may be deferred for recovery in the following year.

(g) All rate change requests made to the department pursuant to an approved plan, shall be filed annually on a fully reconciling basis, subject to final determination by the department pursuant to subsection (f). The rate change included in a plan pursuant to section (c), reviewed pursuant to subsection (d) and taking effect each May 1 pursuant to subsection (e) shall be subject to investigation by the department pursuant to subsection (f) to determine whether the gas company has over collected or under collected its requested rate adjustment with such over collection or under collection reconciled annually. If the department determines that any of the costs were not reasonably or prudently incurred, the department shall disallow the costs and direct the gas company to refund the full value of the costs charged to customers with the appropriate carrying charges on the over-collected amounts. If the department determines that any of the costs were not in compliance with the approved plan, the department shall disallow the costs from the cost recovery mechanism established under this section and shall direct the gas company to refund the full value of the costs charged to customers with the appropriate carrying charges on the over collected amounts.

(h) The department may promulgate rules and regulations under this section. The department may discontinue the repair and replacement program and require a gas company to refund any costs charged to customers due to failure to substantially comply with a plan or failure to reasonably and prudently manage project costs.