GSEP - amendments submitted by LEAN and NCLC, May 22, 2023

## Ch. 164, Section 145: Plan for replacement or improvement of aging or leaking natural gas infrastructure and environmental improvement planning.

  Section 145.

1. Gas utilities have a duty to maintain the reliability and safety of the infrastructure used to deliver natural gas to their customers in an affordable and least-cost manner and in a way that helps to achieve the Commonwealth’s climate goals, pursuant to An Act Driving Clean Energy and Offshore Wind, Chapter 179 of the acts of 2022, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, Chapter 8 of the Acts of 2021, and other relevant statutes. As part of this planning activity, gas utilities shall incorporate in their infrastructure maintenance activities and delivery system planning a transition to targeted decommissioning, networked thermal heating and cooling infrastructure investments where appropriate, and as identified in maintenance and transition plans submitted to and reviewed for approval or modification by the Department.

(b) 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) as amended by 2022, 179, Sec. 58 effective August 11, 2022. For text effective until August 11, 2022, see above.]*

  ""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 gas customers; (iv) reduces, or is reasonably expected to reduce, lost and unaccounted for natural gas through a reduction in natural gas system leaks, including a replacement or improvement that is part of decommissioning or targeted decommissioning of a portion of the gas system; (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 the such gas pipe by no less than 10 years;~~ and ~~(vii)~~ may include replacing gas infrastructure with utility-scale non-emitting renewable thermal energy infrastructure pilot projects, with a preference for locations in environmental justice communities and in consultation with the members of impacted communities.

  "Plan'', a targeted infrastructure replacement program construction plan that a gas company files pursuant to subsection (b). (i) Such a plan must include consideration of all reasonable alternatives to natural gas and its equivalents that are not carbon-based and that are consistent with the climate goals of the Commonwealth, including electrification , storage, and utility-scale non-emitting renewable thermal energy infrastructure, including the timing thereof, as well as the following costs and benefits of each: emission reductions, reliability, safety, resilience, customer costs, public health and other benefits, and risks. (ii) Such a plan must also include consideration and incorporation of of targeted decommissioning or decommissioning of the gas system based on an independent assessment of the costs and benefits of decommissioning.(iii) Such a plan must also include identification, description, and prioritization of gas leaks and leak-prone pipes (1) with immediate and significant health and safety concerns. (2) with moderate health and safety concerns, and (3) on the grounds of or inside public buildings that house or serve vulnerable populations, including but not limited to children and elders, including but not limited to schools and public housing.

  "Project'', an eligible infrastructure replacement project proposed by a gas company in a plan filed under this section.

  (b) (i) Until December 31, 2029, a ~~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 lost and unaccounted for natural gas through a reduction in natural gas system leaks. Each company's gas infrastructure plan shall include interim targets for the department's review. The department shall review these interim leak rate targets to ensure each gas company is meeting the appropriate pace to reduce the leak rate on and to replace the gas company's natural gas infrastructure in a safe and timely manner. The interim targets shall be for periods of not more than 6 years or at the conclusion of 2 complete 3-year walking survey cycles conducted by the gas company. The gas companies shall incorporate these interim targets into timelines for removing all leaking or leak-prone infrastructure filed pursuant to subsection (c) and may update them based on overall progress. The department may levy a penalty against any gas company that fails to meet its interim 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.

   (ii) If a plan is in compliance with this section and the department determines the plan to reasonably accelerate eligible infrastructure replacement at least cost and provide increased safety, security, public health, and reliabilty, the department shall issue preliminary acceptance of the plan in whole or in part. In so doing, the department shall calculate the bill impacts of each plan it approves and recommend to the General Court the appropriation of a state supplement to the federal Low Income Home Energy Assistance Program (LIHEAP) equal to at least the total bill impacts of all plans on all low-income rate discount customers. In the absence of such an appropriation, or other equivalent funding, the department shall adjust all low-income rate discounts such that no low-income rate discount customer will bear the costs of each plan. 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.

(iii) No utility shall include in any tariff covered by this section the costs of adding new gas customers, or new buildout of infrastructure to serve new gas customers.

(iv) The Department shall open an investigation into the costs and benefits of recovering the costs associated with the infrastructure investments completed under gas utility plans for replacement or improvement of aging or leaking natural gas infrastructureand environmental improvement planning no later than January 31, 2028. Upon conclusion of said investigation, the Department shall issue a report and recommendation to the General Court on whether the tariffs permitted under this Section are necessary and whether they shall continue to be authorized.