



Mary S. Connor

Bill Analysis
Legislative Service Commission

H.B. 437

124th General Assembly
(As Introduced)

**Reps. Schuring, Webster, Cirelli, Krupinski, Jerse, Rhine, Key, Seaver,
Patton, Carano**

BILL SUMMARY

- Prohibits natural gas meters from being read less often than once a month from November through March.
- Requires performance bonds of retail natural gas suppliers and requires that the bonds be sufficient to cover the difference between contract rates and the rates of default providers.
- Requires that the Public Utilities Commission prescribe natural gas storage requirements for default providers of natural gas during periods of peak demand.
- Creates a joint legislative study committee to examine state energy policy and submit a report to the Governor and General Assembly.
- Authorizes drilling rules of the Division of Mineral Resources Management to specify minimum distances between oil and gas wells and rivers and other bodies of water.

CONTENT AND OPERATION

As stated in the bill's title, the bill addresses various matters related to state energy resources. These matters include the frequency of natural gas meter readings; financial protection regarding the performance of retail natural gas suppliers; natural gas storage requirements for default providers of natural gas; state energy policy; and oil and gas drilling rules, as follows.

Natural gas meter reading

The bill prohibits a natural gas company from providing for actual, company readings of customer meters less often than once a month from November through March (sec. 4905.76). The prohibition applies to natural gas companies that are public utilities as defined under continuing law, which utilities generally include any for-profit or not-for-profit businesses supplying natural gas for lighting, power, or heating purposes to end use customers in Ohio, but exclude certain producers or gatherers of Ohio-produced gas, municipal operations, or operations owned and operated exclusively by and solely for their customers (secs. 4905.02 and 4905.03).

The prohibition would be enforceable by the Public Utilities Commission (PUCO) under continuing public utility law. Remedies applicable to a violation of the bill's prohibition are the assessment by the PUCO of a forfeiture of up to \$1,000 per violation per day (sec. 4905.54), authority for the PUCO to seek a mandamus order or injunction (sec. 4905.60), and authority for an injured party to seek treble damages if the PUCO found a violation (sec. 4905.61). Applicable also would be a provision of existing public utility law that declares that the act, omission, or failure of an officer, agent, or employee of the company, while acting in that capacity, is an act or failure of the company (sec. 4905.55).

Under current law, there is a legal requirement of an annual meter reading. The requirement was established by a PUCO order issued in a complaint case (*In the Matter of the Complaint of Marcella Fallucco, Complainant, v. The East Ohio Gas Company, Respondent*, Case No. 84-361-GA-CSS (June 4, 1985; rehearing denied July 23, 1985)). This annual meter reading requirement is included in each natural gas utility's rate schedule (commonly referred to as "tariff") filing with the PUCO. Reportedly, some natural gas utilities serving rural customers may read meters only once a year, but most as a matter of practice read meters every two months.

Retail natural gas supplier performance bond

Under natural gas law recently enacted in Am. Sub. H.B. 9 of the 124th General Assembly, a for-profit or not-for-profit retail natural gas supplier must be certified by the PUCO as to its managerial, technical, and financial capability to provide a competitive retail natural gas service and must provide reasonable financial assurances sufficient to protect customers and natural gas companies from default (sec. 4929.20(A)). The term "retail natural gas supplier" includes a marketer, broker, or aggregator of natural gas, but excludes a natural gas company that is a public utility, a governmental aggregator, a municipal operation, a utility owned and operated exclusively by and solely for its customers, a billing or

collection agent, and a producer or gatherer of gas to the extent such producer or gatherer is not a natural gas utility (sec. 4929.01(N)).

As an additional condition of such certification of a retail natural gas supplier, the bill *requires* a supplier to provide a performance bond that is sufficient to protect customers and natural gas companies from default *and* to cover the difference between contract rates and the rates of default providers (sec. 4929.20(A)).

Under current law, a supplier *may be required* to provide performance bonds sufficient to protect customers and natural gas companies from default (sec. 4928.20(A)). Under rules not yet effective but recently adopted by the PUCO to implement Am. Sub. H.B. 9, a natural gas company may require in its tariff that a retail natural gas supplier issue and maintain a financial security with the company to protect the company and gas cost recovery customers in the event the supplier fails to deliver contracted service to a customer that the company supplied in its capacity as default supplier. If the supplier fails to maintain that financial security, the natural gas company may apply to the PUCO for relief. (*In the Matter of the Commission's Promulgation of Rules for Competitive Retail Natural Gas Service and Its Providers Pursuant to Chapter 4929, Revised Code*, Case No. 01-1371-GA-ORD (November 20, 2001), Rule No. 4901:1-27-08.)

Natural gas storage by default providers

The bill requires the PUCO to prescribe natural gas storage requirements for default providers during periods of peak demand (sec. 4928.31). The PUCO does not currently prescribe any such storage requirements for natural gas distribution companies, which it has designated as the sole default providers of natural gas service.

State energy policy

The bill creates a 14-member joint legislative study committee to examine state energy policy and submit to the Governor and to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the House and Senate committees with primary jurisdiction regarding state energy policy, not later than June 30, 2002, a report of its findings, conclusions, recommendations, and proposed legislation. The bill requires the committee to study and consider (1) the use of clean coal technologies in lieu of natural gas, and the use of renewable energy technologies in lieu of other technologies, to meet the energy demands of Ohio, (2) the reasonableness and effectiveness of gas cost recovery policies, (3) the effectiveness of policies concerning the default provision of natural gas service, (4) the dynamics of evolving, competitive energy markets and Ohio's transition to competitive energy

markets, and (5) such other matters as the committee considers appropriate to ensure a state energy policy that meets the state's short- and long-term energy needs. The committee must gather and review necessary information and data and encourage testimony and comment by all interested parties, including consumers and industry representatives. The Department of Development, PUCO, Department of Natural Resources, Environmental Protection Agency, and other state agencies must provide technical assistance upon the committee's request.

The committee must consist of seven members of the House of Representatives appointed by the Speaker, not more than four of whom are of the same political party; and seven Senators appointed by the President of the Senate, not more than four of whom are of the same party. The Speaker and Senate President each must select one of the majority party appointees as co-chairs. Any vacancy on the committee must be filled in the manner of the original appointments. The committee ceases to exist upon submission of its report. (Section 3.)

The last time a formal energy policy was developed for the state was in 1994 by the PUCO, pursuant to Am. Sub. S.B. 143 of the 119th General Assembly. Current law requires the PUCO to estimate statewide and regional energy needs for projected five- and ten-year periods and statewide and regional energy demand for 20 years ahead, and to submit in the annual report of the PUCO to the Governor and General Assembly information identifying emerging energy supply, demand, and cost trends and specifying statewide and regional energy needs (sec. 4935.01). It also requires the PUCO to maintain an energy data collection and analysis program (sec. 4935.02).

Oil and gas drilling

Current law specifies the scope of rules that the Division of Mineral Resources Management of the Department of Natural Resources may adopt regarding oil and gas well drilling and production for the protection of public health or safety or to prevent damages to natural resources. These rules include rules specifying, among other things, minimum distances that wells or other excavations, structures, and equipment must be located from water wells, streets, roads, highways, railroads, and buildings. The bill authorizes such drilling rules additionally to include allowable minimum distances between oil and gas wells and rivers and other bodies of water. (Sec. 1509.23(A).)

HISTORY

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Introduced	11-21-01	p. 1094

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