



S.B. 139

124th General Assembly
(As Introduced)

Sen. Amstutz

BILL SUMMARY

- Authorizes the competitive installation, operation, and maintenance of electric delivery lines and associated electric plants and equipment.
- Permits the owner or developer of real property, or the owner's or developer's agent, to transfer such a line, plant, and equipment to the electric distribution utility in whose certified territory they are located.
- Requires the Public Utilities Commission to adopt rules for facilitating the competitive installation of electric delivery lines, and associated electric plants and equipment, their interconnection and integration, and their operation and maintenance.

CONTENT AND OPERATION

Competition in the installation, operation, and maintenance of electric delivery lines

Background and general authority

(R.C. 4928.111(A))

Electric distribution utilities (an electric utility that supplies at least retail electric distribution service) typically installed, owned, and maintained electric delivery lines. In the past, those utilities absorbed the costs of line extensions by embedding them in rates paid by consumers, rather than charging the cost of installing a line to the particular customer for which it was installed.

But this changed under Am. Sub. S.B. 3 of the 123rd General Assembly, the electric restructuring act. Under that act, an electric utility could not supply noncompetitive retail electric distribution service in Ohio after January 1, 2001, unless it filed a new schedule of distribution service rates and charges with the

Public Utilities Commission of Ohio (PUCO) prior to that date (R.C. 4928.15). The schedule had to include an obligation to build distribution facilities when necessary to provide adequate distribution service, but provided that the customer requesting the service could be required to pay all or part of the reasonable incremental cost of the new facilities, in accordance with rules, policy, precedents, or orders of the PUCO.

The bill generally provides that installation of an electric delivery line and associated electric plant and equipment is a competitive retail electric service that no longer has to be obtained from the electric distribution utility in whose certified territory the line, plant, and equipment would be located. Notwithstanding any provision of law to the contrary, an owner or developer of real property, or the agent of the owner or developer, may install or cause the installation of an electric delivery line and associated electric plant and equipment, may obtain operation and maintenance services for the line, plant, and equipment, and may transfer ownership of them in accordance with the specific authority in the bill.

Authority to install the line, plant, and equipment and obtain operation and maintenance services

(R.C. 4928.111(B) and (C))

Notwithstanding the law that deems electric distribution services to be noncompetitive (R.C. 4928.01(B)), the bill provides that the installation of an electric delivery line and associated electric plant and equipment, and operation and maintenance services for the line, plant, and equipment, are competitive retail electric services for the purposes of the competitive retail electric service law (R.C. Chapter 4928.).

Under the bill, a real property owner or developer, or the agent of the owner or developer, for the purpose of supplying retail electric service to that property, is authorized to install the line, plant, and equipment, or may cause the installation of such a line, plant, and equipment by a person other than the electric distribution utility in whose certified territory the line would be located. An electric distribution utility has a duty to interconnect and integrate the line, plant, and equipment only if they are installed in compliance with rules the PUCO must adopt under the bill (see "**PUCO's rulemaking authority**," below).

A property owner, developer, or agent that installs or causes the installation of such a line, plant, and equipment pursuant to the bill, and owns the line, plant, and equipment may obtain from any electric services company operation and maintenance services for the line, plant, and equipment, provided the company is certified by the PUCO under existing law for certification to provide competitive

service (R.C. 4928.08).¹ But notwithstanding existing PUCO capability standards for providing competitive retail electric service, certification must be granted pursuant to standards and other requirements the PUCO is required by the bill to prescribe by rule (see "*PUCO's rulemaking authority*," below).

The bill prohibits an electric services company from providing operation and maintenance services for an electric delivery line and associated electric plant and equipment installed in accordance with the bill without first being certified.

If an electric distribution utility in whose certified territory an electric delivery line and associated electric plant and equipment are installed pursuant to the bill does not agree to the request of the property owner, developer, or agent that owns the line, plant, or equipment to provide operation and maintenance services, the PUCO, by order, may require the utility to provide such services on a comparable and nondiscriminatory basis pursuant to unbundled rates and charges.

Authority to transfer the line, plant, and equipment

(R.C. 4928.111(D))

Under the bill, a property owner, developer, or agent that installs or causes the installation of an electric delivery line and associated electric plant and equipment may transfer, to the electric distribution utility in whose certified territory the line, plant, and equipment are located, full ownership of them, and the utility must receive and accept that full ownership. The bill provides that the transfer constitutes full payment to the utility for the capital cost of the line, plant, and equipment, and the utility is not entitled to any other compensation for that capital cost from the property owner, developer, or agent, from any customer, or through its generally applicable rates and charges.

No affect on duty to provide electric distribution service

(R.C. 4928.111(E))

Except as otherwise provided in the bill, nothing in it affects the rights or duties of an electric distribution utility under law to supply electric distribution service on a comparable and nondiscriminatory basis under a schedule that is filed

¹ Under continuing law, an "electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in Ohio. The term includes a power marketer, power broker, aggregator, or independent power producer, but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

with the PUCO pursuant to existing Public Utility Law (R.C. Chapter 4905.) or the competitive retail electric service law.

PUCO's rulemaking authority

(R.C. 4928.111(F))

The bill provides that the PUCO must adopt rules as required by the bill, and may adopt such other rules as it considers necessary and appropriate to carry out the bill or to promote economic development and job retention in Ohio by facilitating the competitive installation of electric delivery lines and associated electric plant and equipment, and by facilitating their interconnection and integration, and operation and maintenance, in a manner that maintains the quality, safety, and reliability of electric utility transmission and distribution systems. Initial rules must be adopted by the PUCO not later than 60 days after the bill's effective date.

The rules for interconnection and integration of electric delivery lines, and associated plant and equipment must prescribe comparable and nondiscriminatory technical standards that such lines, plant, and equipment installed pursuant to the bill must meet in order to compel their interconnection and integration. The standards must ensure that the installation of any such line, plant, and equipment promotes the state's competitive retail electric service policy specified in existing law (which, among other things, ensures the availability of reasonably priced retail electric service and encourages market access), and does not adversely affect the quality, safety, and reliability of electric utility transmission and distribution systems. The rules may allow for different technical standards for different electric distribution utilities as the PUCO determines reasonably necessary and appropriate.

In addition, the rules must prescribe uniform procedures by which a property owner, developer, or agent must provide advance, written notice to the electric distribution utility of the intent to install or cause the installation, in the utility's certified territory, of an electric delivery line and associated electric plant and equipment.

The rules required by the bill prescribing standards and other requirements for the certification of electric services companies to provide operation and maintenance services must ensure that those standards and other requirements reflect best practices, encourage predictive and preventative maintenance, and encourage qualified suppliers to provide such operation and maintenance services.

Prohibitions for electric distribution utilities and electric services companies

(R.C. 4928.111(G)(1) and (H)(1))

The bill provides that no **electric distribution utility** may fail to:

(1) Interconnect and integrate an electric delivery line and associated electric plant and equipment that are installed in compliance with the PUCO rules adopted under the bill.

(2) Conform to the bill and the PUCO's rules adopted under it any schedule filed with the PUCO pursuant to existing Public Utility Law (Chapter 4905.) or the competitive retail electric service law.

(3) Receive and accept full ownership of property transferred to it pursuant to the bill.

(4) Comply with any rule or order adopted or issued by the PUCO pursuant to the bill.

The bill prohibits an **electric services company** from violating the bill's certification requirements to provide operating and maintenance services or any rule or order adopted or issued by the PUCO under the bill.

PUCO's jurisdiction to enforce prohibitions

(R.C. 4928.111(G)(2) and (H)(2))

The bill grants the PUCO jurisdiction in accordance with provisions under existing law to enforce the bill's prohibitions for electric distribution utilities and electric services companies.

Electric distribution utilities. Existing law provides that the PUCO has jurisdiction over electric distribution utilities upon complaint of any person or complaint or initiative of the PUCO:

(1) Regarding the provision of any service for which certain types of electric companies are subject to certification under the competitive retail electric service certification law (R.C. 4928.08);

(2) To determine whether an electric utility has violated or failed to comply with certain provisions (R.C. 4928.01 to 4928.15) in the competitive retail electric service law regarding the state policy, pricing of services, designation of competitive and noncompetitive services, state regulation of competitive or

noncompetitive services, supplier certification, consent to service of process, minimum service requirements, universal service, information requirements, monitoring of retail service, independent transmission, or market power abuse, or with any rule or order adopted or issued under those provisions;

(3) To determine whether certain types of electric companies subject to certification under the competitive retail electric service law, regarding a competitive service, have violated or failed to comply with certain provisions (R.C. 4928.01 to 4928.10) regarding the state policy, designation of competitive and noncompetitive services, state regulation of competitive or noncompetitive services, supplier certification, consent to service of process, minimum service requirements for competitive services, information requirements, or monitoring of retail service, or with any related rule or order.

Existing law also provides that the PUCO, after reasonable notice and opportunity for a hearing, may order rescission of a contract, or restitution to customers in any complaint brought under (1), (2), or (3) above, or order any remedy or forfeiture provided under existing Public Utility Law (R.C. 4905.54 to 4905.60 and 4905.64) upon a finding under (2) or (3) that an electric utility has violated or failed to comply with certain provisions (R.C. 4928.01 to 4928.15 or 4928.35(A) to (D)) of the competitive retail electric service law or any rule or order adopted or issued under those provisions. In addition, the PUCO may order any remedy provided under continuing Public Utility Law (R.C. 4905.54 to 4905.60 and 4905.64) if the violation or failure to comply by an electric utility related to the provision of a noncompetitive retail electric service.

Electric services companies. Existing law provides that the PUCO has jurisdiction over electric services companies in the same manner as it does for complaints described in (1) above for electric distribution utilities. Likewise, the PUCO has jurisdiction to order, after reasonable notice and opportunity for a hearing, rescission of a contract, or restitution to customers, in any complaint described in (1), (2), or (3) above. Existing law also provides that the PUCO may order any remedy or forfeiture provided under existing Public Utility Law (R.C. 4905.54 to 4905.60 and 4905.64) upon a finding that an electric services company, electric cooperative, or governmental aggregator subject to certification has violated or failed to comply, regarding a competitive retail electric service for which it is subject to certification, with certain provisions of the competitive retail electric service law (R.C. 4928.01 to 4928.10) or any rule or order adopted or issued under those provisions.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-26-01	p. 709

s0139-i.124/kl

