



**S.B. 44**

125th General Assembly  
(As Introduced)

**Sen. Robert Gardner**

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**BILL SUMMARY**

- Authorizes a waterworks company or sewage disposal system company that is a public utility to submit an application to the Public Utilities Commission (PUCO) for approval to collect surcharges of up to 3% on the company's rates to cover costs of certain infrastructure plant investments made after March 1, 2003.
- Prohibits the PUCO from authorizing a company to have more than three surcharges in effect at any time.
- Authorizes the PUCO on to reduce a surcharge in order to prevent a company from earning an excessive rate of return on the valuation of the company's property considered used and useful in rendering a public utility service.
- Provides that any surcharge authorized pursuant to the bill terminates by operation of law not later than December 31, 2014.
- Authorizes a waterworks company or sewage disposal system company, in certain instances, to submit an application for a rate or charge adjustment for, respectively, water or sewage treatment when the adjustment is based solely on a change in the cost to the company of the water or sewage treatment.

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**CONTENT AND OPERATION**

**Overview**

R.C. Chapter 4909. vests jurisdiction in the Public Utilities Commission to fix, amend, alter, or suspend rates that may be charged by public utilities to their customers. Only those rates or rate adjustments determined by the commission to

be just and reasonable are to become effective. Generally, a public utility desiring to establish or modify a rate is required to file a written application with the commission under the rate case law.<sup>1</sup> If the application is for a rate increase, the utility must file certain exhibits and other information along with its application, including a report detailing the value of the utility's property that is used and useful in rendering its services, a complete operating statement of the utility's last fiscal year, and statements of anticipated income and expenses and of the utility's financial condition. Various publication, notice, and public hearing requirements also apply.

The bill provides two circumstances under which a waterworks company or a sewage disposal system company can increase rates or charges outside of the normal rate case process.

**Surcharges on utility rates for a waterworks or sewage disposal system company**

(R.C. 4909.172)

The bill authorizes a waterworks company or a sewage disposal system company that is a public utility to file an application with the Public Utilities Commission for approval to collect surcharges on the company's utility rates. The surcharges are to cover the company's costs of certain infrastructure plant investments incurred after March 1, 2003, including depreciation expenses, and provide the company with a fair and reasonable rate of return on the valuation of that investment. The surcharges cannot exceed 3% of the rates and charges in effect on the application date for each customer class of the company. The company must provide such customer notice of the application as the commission prescribes.

**Qualifying infrastructure plant investments**

Under the bill, only certain infrastructure plant investments are to be considered when determining the company's investment costs. Qualifying investments made by a waterworks company are (1) any services for, and hydrants, mains, and valves installed as a part of, a replacement project for an existing facility, (2) main extensions installed to eliminate dead ends or to resolve water supply problems presenting significant health or safety issues to existing customers, and (3) main cleaning or relining.

In the case of a sewage disposal system company, qualifying investments are (1) mains and lift stations installed as part of a replacement project for an existing facility, (2) main extensions installed to resolve sewage disposal problems

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<sup>1</sup> R.C. 4909.18 and 4909.19, not in the bill.

presenting significant health or safety issues to existing customers, and (3) main cleaning, inflow and infiltration elimination, or relining.

Regardless of the type of company, qualifying investments also include unreimbursed capital expenditures made by the company for facility relocation required by a governmental entity due to a street or highway project, as well as minimum land or land rights acquired as necessary for any qualifying service, equipment, or facility.

Finally, the bill provides that any improvement providing the company with additional revenue other than any minimal revenue associated with eliminating a dead end is to be excluded from the company's qualifying investment costs.

### **Commission authority**

The bill permits the commission to authorize, by order, surcharges provided for in the bill. The commission is prohibited, however, from authorizing any surcharge that is to be effective on or after January 1, 2015. The bill also prohibits the commission from authorizing a company to have more than three surcharges in effect at any time.

Under the bill, the commission may reduce any surcharge in order to prevent a company from earning an excessive rate of return on the valuation of the company's property considered used and useful in rendering a public utility service.

The bill prohibits a surcharge from being in effect after a rate or charge increase is approved pursuant to an application filed with the commission under the rate case law. Accordingly, any commission order authorizing such a rate or charge increase must also provide for the termination of any existing surcharge. The termination date is to be the earlier of the effective date of the rate or charge increase or December 31, 2014.

Finally, the bill authorizes the commission to adopt any rules deemed necessary to carry out its requirements.

### **Surcharge limitation and termination by law**

A company for which a surcharge has been authorized pursuant to the bill is prohibited from filing an application for another surcharge within 12 months of the filing date of its most recent application.

Finally, the bill provides that any surcharge it authorizes terminates by operation of law not later than December 31, 2014.



**Rate adjustments of a waterworks or sewage disposal system company**

(R.C. 4909.171)

Under current law that is modified by the bill, a waterworks company whose water is supplied by a municipal corporation or other local government unit whose rates are not subject to commission regulation is required to request an adjustment in rates if the adjustment is based solely on a change in the cost of water supplied to the company. When requesting a rate adjustment, the company is required to file evidence of the cost of water supplied to the company as well as appropriate tariff revisions. In revising its tariffs, however, the company is prohibited from changing the distribution of revenue responsibility of its various classes of customers.<sup>2</sup> The tariff revisions become effective immediately upon filing. The application for the rate adjustment is not subject to the application, hearing, or publication procedures set forth in the rate case law.

The bill authorizes any waterworks company or sewage disposal system company to submit an application for a rate or charge adjustment for, respectively, water or sewage treatment provided to the company by either (1) a municipal corporation or other local government unit whose rates are not subject to commission regulation or (2) another waterworks company or sewage disposal system company whose rates have been approved by the commission in a rate case. As under current law, the rate or charge adjustment must be based solely on a change in the cost to the company of the water or sewage treatment. The application is to be accompanied by evidence of the new rates or charges charged to the company.

The bill requires the commission to approve appropriate revisions to the company's public rate schedules filed with the commission to reflect the change in the cost of the water or sewage treatment. As under current law, the rate case law does not apply to the application for the revisions, and the revisions are prohibited from changing the distribution of revenue responsibility of the company's various classes of customers.

Any rate or charge increased pursuant to the bill is not effective until ten days after the company provides affected customers with notice. The notice is to be in a form and by a method as determined by the commission.

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<sup>2</sup> R.C. 4905.31 authorizes a public utility to classify its customers on any reasonable basis and make separate rates for each class.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-04-03	pp. 165-166

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