



H.B. 250

127th General Assembly
(As Introduced)

Reps. Jones, Adams, Blessing, Daniels, DeGeeter, Mandel, Raussen, Seitz, Wagoner, White, Widener

BILL SUMMARY

- Authorizes a natural gas utility to apply for Public Utilities Commission (PUCO) approval of an alternative rate plan that includes a revenue decoupling mechanism.
- Defines "revenue decoupling mechanism" as a rate design or other cost recovery mechanism that provides recovery of the fixed costs of service and a fair and reasonable rate of return, irrespective of system throughput or volumetric sales.
- By declaring that such a plan is an application "not for an increase in rates," removes certain requirements for a hearing on any alternative rate plan that includes a revenue decoupling mechanism, proposes rates and charges based upon the billing determinants and revenue requirements authorized by the PUCO in the utility's most recent rate case, and establishes, continues, or expands an energy efficiency or energy conservation program.
- Prohibits the bill being construed as supporting a claim or finding that an application for such a conservation-related plan filed before the bill's effective date *is* an application to increase rates (and therefore generally subject to hearing).
- Adds the following, twelfth objective to the statutory natural gas policy: to promote an alignment of natural gas utility interests with consumer interest in energy efficiency and energy conservation.
- Changes the requirement that the PUCO follow the state policy when carrying out its duties under the alternative regulation law, to require that

both the PUCO and Ohio Consumers' Counsel (OCC) follow the policy in exercising their respective authorities under that law.

CONTENT AND OPERATION

Alternative rate regulation

(R.C. 4929.01 and 4929.051; Section 3)

Alternative rate plan

Continuing Ohio law generally affirms PUCO authority to regulate the commodity sales service, distribution service, and ancillary service¹ of a natural gas utility (R.C. 4929.03). Under continuing law, a natural gas utility can apply for PUCO approval of an alternative rate plan for its commodity sales service or ancillary service (R.C. 4929.05). Such a plan would establish a different method for determining the rates and charges for the service than ordinarily would occur under the traditional rate-making provisions of continuing law (R.C. 4909.15). Those provisions, for the purpose of setting the utility's rate schedule (tariff), require determination of the revenue requirement of the utility necessary to cover its identified operating costs and receive a fair and reasonable rate of return on its investment in plant used and useful in rendering the service.

As stated, an alternative rate plan allows other methods of determining the rate schedule of the utility than the previously described cost/rate of return method. The definition "alternative rate plan" specifies two, actual alternative mechanisms: (1) an automatic adjustment in rates based on a specified index or changes in a specified cost or costs² and (2) a mechanism that tends to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred. Otherwise, current law specifies as allowable methods what are actually possible outcomes of alternative ratemaking. Those methods can include, but are not limited to, rate-setting methods that will (3) provide adequate

¹ "Commodity sales service" is the sale of natural gas to consumers, excluding distribution or ancillary service (R.C. 4929.01(C)). In other words, it is the sale of the natural gas commodity to retail customers. "Ancillary service" is any service that is ancillary to the receipt or delivery of that natural gas commodity, including, but not limited to, storage, pooling, balancing, and transmission (R.C. 4929.01(B)).

² In addition, R.C. 4929.11 of the alternative regulation law authorizes the PUCO to allow "any automatic adjustment mechanism or device in a [utility's] rate schedules that allows [the] rates or charges for a regulated service or goods to fluctuate automatically in accordance with changes in a specified cost or costs."

and reliable natural gas services and goods in Ohio, (4) minimize the costs and time expended in the regulatory process, (5) afford rate stability, (6) promote and reward efficiency, quality of service, or cost containment, and (7) provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges. (R.C. 4929.01.)

Under the bill, an alternative rate plan could newly include (8) a revenue decoupling mechanism, which the bill defines as a rate design or other cost recovery mechanism that provides recovery of the fixed costs of service and a fair and reasonable rate of return, irrespective of "system throughput" (the amount of gas entering the transmission/distribution system) or volumetric sales.

Plan approval process

Current law prescribes the process for obtaining PUCO approval of an alternative rate plan. It specifies that there must be notice, investigation, and hearing of an alternative rate plan. The standards the PUCO must use to approve the plan are that (1) the plan will produce just and reasonable rates and charges and, after a showing by the utility, (2) the utility is in compliance with the nondiscrimination provisions of Ohio law (R.C. 4905.35)³ and in substantial compliance with the state natural gas policy (which is amended by the bill, as described below), and (3) the utility is expected to be in substantial compliance with that policy following the plan's implementation. (R.C. 4929.05.)

The current approval process authorizes the request for approval of an alternative rate plan as part of an application filed under the rate-making law (R.C. 4909.18) that governs applications by utilities to establish new, or change existing, rates and charges for service. That law prescribes certain timelines for filing such an application and the information the application must contain. It also requires that, if the PUCO believes the application may be unjust or unreasonable, it must hold hearings on the matter. This could apply, for instance, when a utility was asking for a rate increase. However, if the PUCO determines an application is *not for an increase in rates*, the PUCO can permit the filing of the rate schedule and set the date it is to take effect; no hearing is required.

The bill provides that an alternative rate plan filed by a natural gas company under R.C. 4929.05 of continuing law and proposing a revenue

³ Generally, prohibitions against a utility giving undue preference or advantage, or undue or unreasonable prejudice or disadvantage, to anyone relative to utility service, discriminating among suppliers, or treating similarly situated consumers differently as to the terms and conditions of service.

decoupling mechanism can be an application "not for an increase in rates" if both of the following apply: (1) the rates, joint rates, tolls, classifications, charges, or rentals the plan proposes are based upon the billing determinants and revenue requirements authorized by the PUCO in the utility's most recent rate case proceeding and (2) the plan also establishes, continues, or expands an energy efficiency or energy conservation program (R.C. 4929.051).

Bill's effect on existing applications

Regarding any alternative rate plan that was filed before the bill's effective date under R.C. 4929.05 and that proposes a revenue decoupling mechanism and meets the two conditions described immediately above, uncodified law in the bill expressly prohibits the bill being applied in favor of (that is, construed as supporting) a claim or finding that the application *is* an application to increase rates (and therefore generally subject to hearing under traditional rate-making law). (See **COMMENT**, below.)

State natural gas policy

(R.C. 4929.02)

Current Ohio law articulates a state policy that lists eleven objectives regarding natural gas service and requires the Public Utilities Commission (PUCO) to follow that policy when carrying out R.C. Chapter 4929. Aside from authorizing approval of alternative rate plans as described above, that chapter also establishes the conditions under which the PUCO can deregulate natural gas commodity sales and ancillary services upon a filing by a utility and certify governmental aggregators of natural gas and retail natural gas suppliers to operate in Ohio.

The bill adds a twelfth objective to the state policy: to promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation. It also requires both the PUCO and OCC to follow the state policy in exercising their respective authorities relative to Chapter 4929. Under continuing law, OCC serves as the advocate for residential consumers of utility services.

COMMENT

There is a case pending before the PUCO in which a natural gas utility has sought a revenue decoupling mechanism. The case (05-1444-GA-UNC) began in November 2005 with the utility's (Vectren Energy Delivery of Ohio, Inc.) application for approval of a "tariff to recover conservation expenses and decoupling revenues pursuant to automatic adjustment mechanisms and for such

accounting authority as may be required to defer such expenses and revenues for future recovery through those mechanisms." The utility filed the application as an application under R.C. 4929.11 (see footnote 2) and requested "a decoupling mechanism that would recover the difference between [the utility's] actual, weather-normalized usage sensitive base rate revenue and the usage sensitive base rate revenue approved in [the utility's] last rate case and for such accounting authority. . .to defer such revenues and expenses for subsequent disposition and treatment pursuant to the proposed addition of a Conservation Rider" on its rates.

Early on, the attorney examiner in the case ruled that the application be considered a request for an alternate rate plan under the alternative regulation law and thus controlled by R.C. 4929.05. The utility, OCC, and another signatory filed a settlement agreement with the PUCO to resolve issues in the case. The PUCO significantly modified and approved that settlement in September 2006. Since then, OCC applied for a rehearing of the decision (denied) and withdrew as a signatory, various applications for interlocutory appeals were filed, and the utility and others (not including OCC) filed an amended settlement agreement. There also are two appeals by OCC relating to the case that are pending at the Ohio Supreme Court (Supreme Court Nos. 07-0033 and 07-0781). Although more involved than what is presented in this comment, among several issues identified in those appeals are whether the decoupling application constituted an application for an increase in rates and therefore is subject to the procedures of R.C. 4909.18 and traditional ratemaking under R.C. 4909.15, and whether the application could be an alternate rate plan under R.C. 4929.05 if it was not filed as part of an application under R.C. 4909.18.

The entire case record is available at <<http://dis.puc.state.oh.us/>>, by entering the case number.

HISTORY

ACTION	DATE
Introduced	05-30-07

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