



Ohio Legislative Service Commission

Final Analysis

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Sub. H.B. 379

129th General Assembly
(As Passed by the General Assembly)

Reps. Blessing, Beck, Stebelton, Amstutz, Blair, Buchy, Martin, Stautberg, Batchelder

Sens. LaRose, Bacon, Balderson, Beagle, Coley, Hite, Jones, Lehner, Manning, Niehaus, Patton, Peterson, Sawyer, Schaffer, Seitz, Wagoner

Effective date: March 27, 2013

ACT SUMMARY

Water-works and sewage disposal system companies

- Permits the date certain for property valuation in water-works and sewage disposal system company rate cases to be not later than the end of the test period.
- Permits, in water-works and sewage disposal system company rate cases, the use of projected property valuation as of the date certain and, permits during and one year after the test period, expected revenue and expense adjustments.
- Requires a reconciliation ("true up"), under which only downward adjustments are permitted, for any projected property valuation or expected revenue and expense adjustments incorporated into a rate determination, and permits a final reconciliation after the initial reconciliation.
- Increases the current cap on an infrastructure improvement surcharge, for water-works companies only, from 3% to 4.25% of the rates and charges applicable to each affected customer class for a tariff.
- Permits authorized infrastructure improvement surcharges (for a water-works or sewage disposal system company) to continue through December 31, 2025 if the company does not finish a rate-increase case before then.
- Permits an infrastructure improvement surcharge to cover the cost of and provide a fair and reasonable rate of return on improvements to infrastructure plants that generate more than minimal revenue associated with the elimination of a dead end.

- Removes a limitation on the types of capital expenditures that may be covered by an infrastructure improvement surcharge, and modifies descriptions of some of the types of capital expenditures that may be covered by the surcharge.

All public utilities

- Changes the security requirement regarding a public utility rate increase that takes effect in the absence of a PUCO order concluding the case within 275 days.

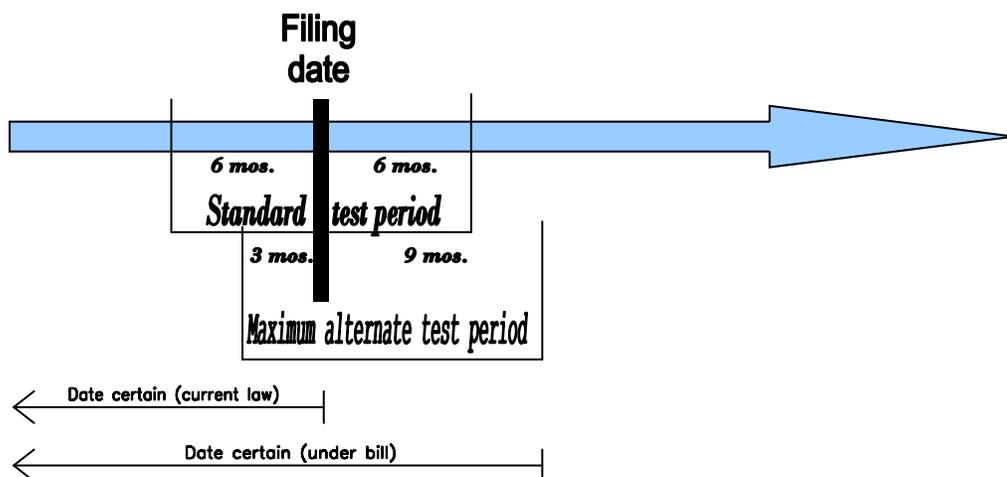
CONTENT AND OPERATION

Regulations changed for water-works and sewage disposal system companies only

Rate-increase cases

Projected valuation

The act permits the use of projections in valuing a water-works or sewage disposal system company's property, for the purpose of determining rates in a rate case. The act does this by permitting, for a water-works or sewage disposal system company, the date on which the property valuation is to be determined, called the "date certain," to be not later than the end of the "test period," which is up to nine months after the date that the rate-increase application is filed, unless the PUCO orders otherwise. Under prior law, the date certain for water-works and sewage disposal system companies was no later than the date of application filing. The act's change to the date certain for water-works and sewage disposal system companies is illustrated below:



The property valuation is what the PUCO uses to determine a "fair and reasonable rate of return."¹ Prior law required, for water-works and sewage disposal system companies, only that the property to be valued was, on the date certain, "owned," "held," "leased," or "received" by the company seeking the rate increase and "used and useful" or "in use." The act adds, to each of these descriptions, "or, with respect to a water-works or sewage disposal system company, *projected to be . . . as of the date certain. . .*"²

Ongoing law permits these same changes for property valuation for natural gas companies.³

Adjustments to revenues and expenses

The act also permits water-works and sewage disposal system companies to propose another change to the rate-calculation formula, with regard to the companies' revenues and expenses. The act permits water-works and sewage disposal system companies to propose adjustments to the revenues and expenses for any changes that are "reasonably expected to occur" during the test period *or* the 12-month period immediately after the test period. The act requires the water-works or sewage disposal system company proposing the adjustments to identify and quantify each adjustment. The act requires the PUCO to incorporate the proposed adjustments into its determination of the revenues and expenses if the adjustments are just and reasonable.⁴

Under continuing law governing rate-increase cases, a public utility's permitted gross annual revenues are calculated by adding the dollar amount of return (determined by the PUCO) to the public utility's cost of rendering service. This cost must be determined during the test period. The test period may be proposed by a utility, as any 12-month period beginning not more than 6 months before an application for a rate case is filed, and ending not more than 9 months after the filing date. The test period used for the calculation must be the period proposed by the utility, unless the PUCO orders otherwise.⁵ The test-period scenarios, assuming the PUCO does not order otherwise, are illustrated below:

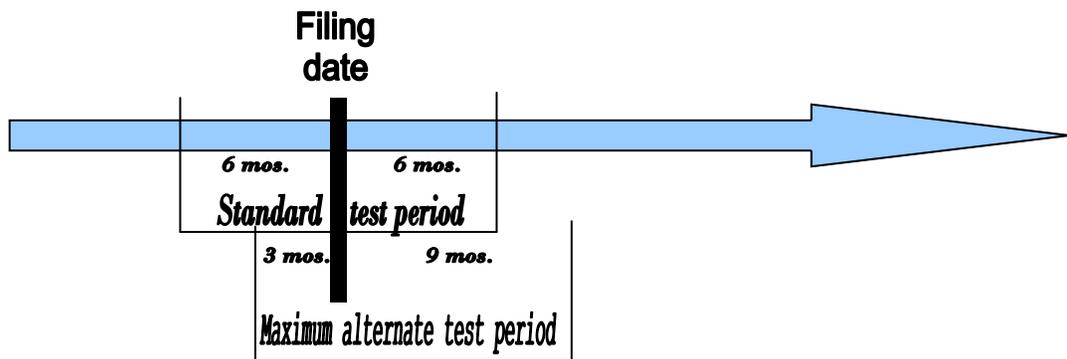
¹ R.C. 4909.15.

² R.C. 4909.05 (emphasis added); conforming changes in R.C. 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, and 4909.18.

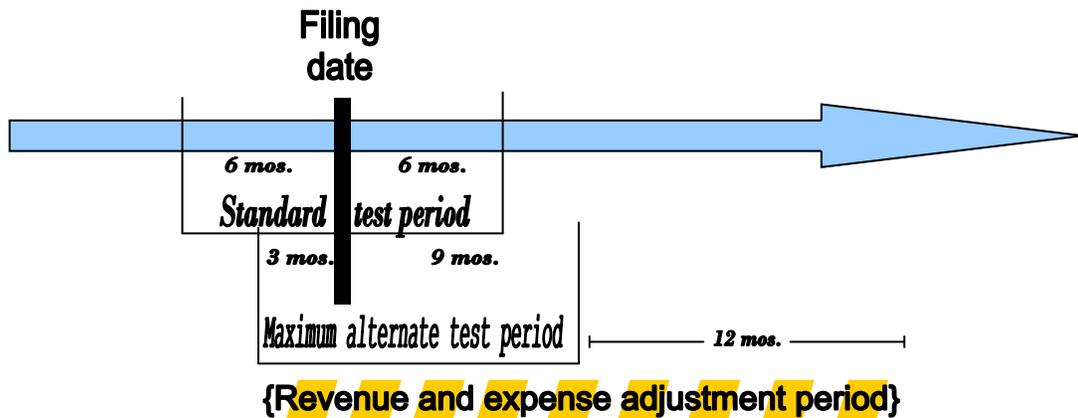
³ R.C. 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, and 4909.18.

⁴ R.C. 4909.15(D).

⁵ R.C. 4909.15(B) and (C).



If the test period were set to end at the latest time permitted, assuming the PUCO does not order otherwise, a water-works or sewage disposal system company could, under the act, propose adjustments to revenues and expenses for changes reasonably expected to occur within 21 months after the application filing. This is illustrated as follows:



Continuing law permits these same revenue and expense adjustments for natural gas companies.⁶

Reconciliation procedures

The act requires a water-works or sewage disposal system company to undergo the same reconciliation ("true up") procedure that a natural gas company is required to undergo for any projected valuation as of the date certain, or expected revenue and expense adjustments, incorporated into a rate determination. This procedure requires the water-works or sewage disposal system company to submit to the PUCO, not later than 90 days after actual data becomes known, proposed rate or charge adjustments.

⁶ R.C. 4909.15(D).

These proposed adjustments must provide for the recalculation of rates or charges, reflective of customer-class responsibility, corresponding to the differences, if any, between incorporated projected valuation and actual valuation as of the date certain, or incorporated expected revenue and expense adjustments and actual revenues and expenses.

Under the reconciliation procedure, the PUCO must then review the proposed adjustments. Hearings are to be held at the discretion of the PUCO if it finds that the proposed adjustments may be unreasonable. The PUCO must, not later than 150 days after proposed adjustments are submitted, issue a final order on the proposed adjustments. The authorized rate or charge adjustments may not be upward. After the issuance of the final order, the company may submit proposed *reconciliation* adjustments that refund to customers the difference between actual revenues collected and the rates or charges recalculated under the authorized rate or charge adjustments. The reconciliation adjustments are to be effective for a 12-month period. After this period, the reconciliation adjustments may be subject to a final reconciliation by the PUCO.⁷

The act exempts the reconciliation procedure from the ongoing law requirement that no rate may become effective until the PUCO determines it to be just and reasonable.⁸

Changes for infrastructure improvement surcharges

The act makes changes regarding the infrastructure improvement surcharge that water-works and sewage disposal system companies are permitted to apply for under former law. First, the act increases the current cap on the surcharge, for water-works companies only, from 3% to 4.25% of the rates and charges applicable to an affected customer class. The act also specifies that neither type of company may have more than three infrastructure improvement surcharges in effect at any time *for any single company tariff*. Prior law limited companies to three surcharges, but did not confine the limitation to a single company tariff. Similarly, the act clarifies that the surcharge percentage is to be applied to the rates and charges applicable to a customer class *for a tariff*.

Second, the act pushes back the date by which authorized infrastructure improvement surcharges, for both types of companies, are required to terminate if the company does not finish a rate-increase case before the termination date. The act moves

⁷ R.C. 4909.191.

⁸ R.C. 4909.17 (not in the act).

the termination date from December 31, 2014 to December 31, 2025. If the company finishes a rate-increase case before the termination date, continuing law requires that infrastructure improvement surcharges terminate on the effective date of the rate increase.

Third, the act permits the surcharge to cover the cost of and provide a fair and reasonable rate of return on improvements to infrastructure plants that generate more than minimal revenue associated with the elimination of a dead end. Prior law excluded these improvements from the surcharge.

Fourth, the act removes a limitation on the types of capital expenditures that may be covered by the surcharge. Former law limited the surcharge to four types of capital expenditures. The act also modifies the descriptions of two of the four types of capital expenditures that may be covered by the surcharge as summarized in the following table, which explains only the portions of the descriptions that are modified:⁹

Applicable company	Current description of capital expenditure	Description under the act
Water-works	Service lines for, and hydrants, mains, and valves installed as a part of, a replacement project for an existing facility.	Replacement of existing plant including chemical feed systems, filters, pumps, motors, plant generators, meters, service lines, hydrants, mains, and valves.
Sewage disposal system	Mains and lift stations installed as part of a replacement project for an existing facility.	Replacement of existing infrastructure including chemical feed systems, filters, pumps, motors, sludge-handling equipment, plant generators, mains and lift stations.

Cross-reference change

The act corrects a cross reference to the description of service lines, equipment, and facilities, for purposes of the infrastructure improvement surcharge.¹⁰

⁹ R.C. 4909.172.

¹⁰ R.C. 4909.172(C)(4).

All public utilities

The act modifies wording with regard to when the rate increases may take effect if the PUCO fails to act within 275 days after the filing of a rate-increase application. Specifically, the act modifies the reference to the "proposed increase" to be "an increase not to exceed the proposed increase" for purposes of the rate increase in case of PUCO delay. The act also changes "undertaking" to "bond or letter of credit," regarding the requirement that a public utility file an undertaking with the PUCO before the rate increase may take effect. Regarding the requirement that the undertaking be signed by two of the utility's officers, the act requires instead that "[a]n affidavit attached to the bond or letter of credit" be signed in this manner. In the same vein, where prior law required the undertaking to contain a "promise to refund any amounts collected by the utility" above the determination in the PUCO's final order, the act requires that the promise be made "on behalf of the utility."¹¹

HISTORY

ACTION	DATE
Introduced	11-15-11
Reported, H. Public Utilities	03-28-12
Passed House (75-22)	05-09-12
Reported, S. Energy & Public Utilities	12-05-12
Passed Senate (31-2)	12-05-12

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¹¹ R.C. 4909.42.

