



Ohio Legislative Service Commission

Bill Analysis

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H.B. 379

129th General Assembly
(As Introduced)

Reps. Blessing, Beck, Stebelton

BILL 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, 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.
- Permits a water-works or sewage disposal system company to apply to the PUCO for a tax adjustment surcharge permitting rate adjustments to recover from or refund to customers increases or decreases in federal or state taxes that occur after a rate case.
- Permits the PUCO to reduce or terminate the tax adjustment surcharge upon determining that the surcharge causes excessive recovery of the associated taxes, and permits the PUCO to provide for termination of the tax adjustment surcharge in a rate-increase case.
- Increases the current cap on an infrastructure improvement surcharge from 3% to 5% of the rates and charges applicable to each affected customer class.
- Permits authorized infrastructure improvement surcharges to continue into 2015 and beyond if the water-works or sewage disposal system company does not file 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.

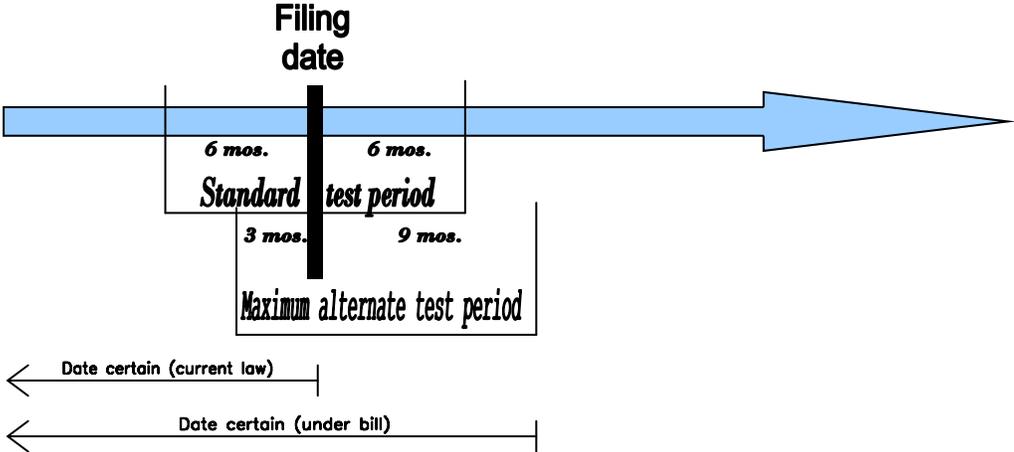
CONTENT AND OPERATION

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

Rate-increase cases

Projected valuation

The bill 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 bill 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 current law, the date certain for water-works and sewage disposal system companies can be no later than the date of application filing. The bill'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 Current law requires, for water-works and sewage disposal system companies, that the property to be valued is, on the date certain, "owned," "held," "leased," or "received" by the company seeking the rate increase and "used and useful" or "in use." The bill 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

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

Adjustments to revenues and expenses

The bill 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 bill 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 bill requires the water-works or sewage disposal system company proposing the adjustments to identify and quantify each adjustment. The bill 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 current law governing rate-increase cases, a public utility's permitted gross annual revenues are calculated by adding the 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:

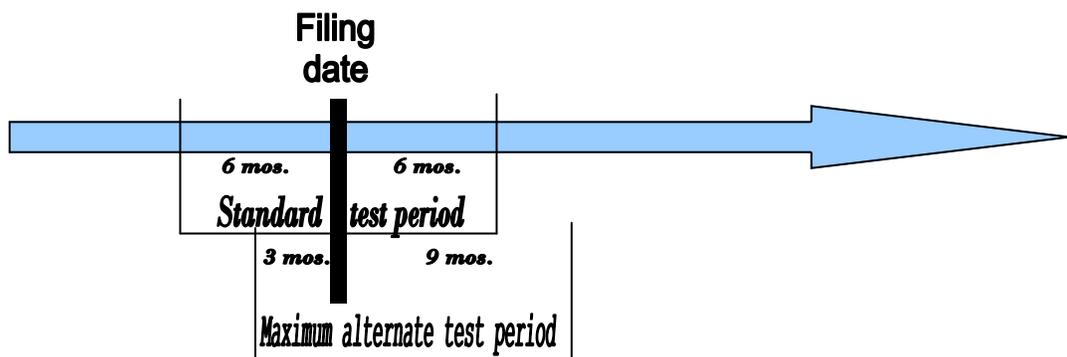
¹ R.C. 4909.15.

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.

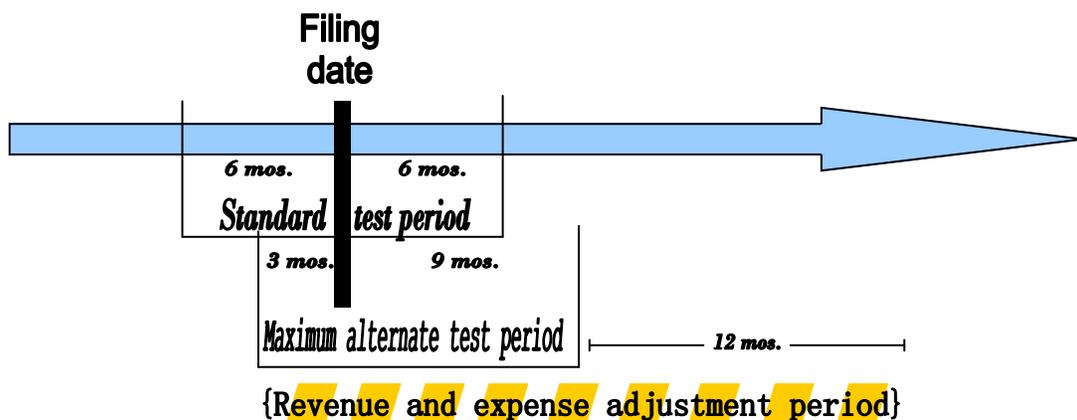
³ R.C. 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, and 4909.18.

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 bill, propose adjustments to revenues and expenses for changes reasonably expected to occur within 21 months after the application filing. This is illustrated as follows:



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

Reconciliation procedures

The bill 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. These proposed adjustments must provide for the recalculation of rates or charges,

⁶ R.C. 4909.15(D).

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 bill 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

Tax adjustment surcharge

The bill permits a water-works or sewage disposal system company that is a public utility to apply to the PUCO for a tax adjustment surcharge, permitting the company to adjust rates to recover from or refund to customers for increases or decreases in federal or state taxes that occur after the company's most recent rate case. The surcharge is to be imposed on customers located in the "affected" service areas, and is required to be just and reasonable. The bill requires that the surcharge be applied to each affected customer class, and, "as to the allowed percentage increase or decrease, shall be uniform for each such affected customer class as prescribed by the [PUCO]."

The bill requires the water-works or sewage disposal system company to notify each affected customer of a tax adjustment surcharge with or on the customer's first bill containing the surcharge.

The surcharge is required to be reconciled and updated annually, through documentation submitted by the company and approved by the PUCO showing the federal or state tax changes that have occurred since the most recent rate case.

⁷ R.C. 4909.191.

⁸ R.C. 4909.17 (not in the bill).

The bill gives the PUCO authority to reduce or terminate a tax adjustment surcharge in effect if the PUCO determines that the surcharge causes the company excessive recovery of the associated taxes. Similarly, the bill specifies that the PUCO may, in an order granting an increase in rates, provide for the termination of a tax adjustment surcharge. The bill also expressly permits the PUCO to adopt rules it considers necessary to carry out the bill's provisions regarding the tax adjustment surcharge.⁹

Changes for infrastructure improvement surcharges

The bill makes changes regarding the infrastructure improvement surcharge that water-works and sewage disposal system companies are permitted to apply for under current law. First, the bill increases the current cap on the surcharge from 3% to 5% of the rates and charges applicable to each affected customer class. Second, the bill eliminates a requirement that any authorized infrastructure improvement surcharge terminates on December 31, 2014, or, if the company finishes a rate-increase case before that date, on the effective date of the rate increase. Instead, the bill requires an order authorizing a rate increase (in a standard rate-increase case) to provide for the termination of any authorized infrastructure improvement surcharge. In effect, this permits infrastructure improvement surcharges to continue into 2015 and beyond in the situation where a company does not finish a rate-increase prior to that year.

Third, the bill 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. Current law excludes these improvements from the surcharge.

Fourth, the bill removes a limitation on the types of capital expenditures that may be covered by the surcharge. Current law limits the surcharge to four types of capital expenditures. The bill also modifies the descriptions of three 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:¹⁰

⁹ R.C. 4909.173.

¹⁰ R.C. 4909.172.

Applicable company	Current description of capital expenditure	Description under the bill
Water-works only	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 only	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.
Water-works or sewage disposal system company	Minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility as described with regard to the other types of capital expenditures that may be covered by a surcharge.	Minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility.

All public utilities

The bill modifies wording with regard to requirements for when rate increases may take effect if the PUCO fails to act within 275 days after the filing of a rate-increase application. Specifically, the bill 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 bill requires instead that "[a]n affidavit attached to the bond or letter of credit" be signed in this manner. In the same vein, where current law requires the undertaking to contain a "promise to refund any amounts collected by the utility" above the determination in the PUCO's final order, the bill requires that the promise be made "on behalf of the utility."¹¹

HISTORY

ACTION

DATE

Introduced

11-15-11

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¹¹ R.C. 4909.42.

