



Ohio Legislative Service Commission

Final Analysis

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(As Passed by the General Assembly)

Reps. Grossman, Amstutz, Anielski, Boose, Buchy, Burkley, Dovilla, Hackett, Hayes, McGregor, Pelanda, Wachtmann, Young, Batchelder

Sens. Balderson, Burke, Coley, Eklund, Hite, Jones, Kearney, Lehner, Patton, Peterson, Sawyer, Schaffer, Seitz

Effective date: March 23, 2015

ACT SUMMARY

Economic development projects

- Permits a natural gas company to apply to the Public Utilities Commission of Ohio (PUCO) for approval of one or more economic development projects (EDPs) for inclusion in an infrastructure development rider.
- Permits the PUCO to approve EDPs of two types: (1) an EDP that meets PUCO criteria established in rules (referred to in this analysis as a general EDP) or (2) a certified SiteOhio EDP that, upon completion, will be primarily intended for commercial, industrial, or manufacturing use.
- Permits the PUCO to approve an EDP if:
 - The infrastructure development costs are projected to generate a return on the natural gas company's investment that is less than the most recently authorized rate of return; and
 - The infrastructure development costs to be incurred by the company per calendar year for the EDP and all previously approved EDPs of the same type are not projected to exceed (1) \$2 multiplied by the aggregate number of the company's Ohio customers, with respect to general EDPs, and (2) \$1 multiplied by the aggregate number of the company's Ohio customers, with respect to SiteOhio EDPs.

- Provides that any property installed or constructed by a natural gas company to enable the provision of natural gas service to an approved EDP must be considered used and useful in rendering public utility service for purposes of fixing utility rates.

Infrastructure development rider

- Permits a natural gas company to file an application with the PUCO for approval of an infrastructure development rider to recover prudently incurred infrastructure development costs for one or more general and SiteOhio EDPs.
- Establishes an infrastructure development rider cost cap on the costs a natural gas company may recover from any single Ohio customer for all approved EDPs for which recovery was authorized.
- Sets the cost cap at not more than \$2 from any single Ohio customer each calendar year for a general EDP and not more than \$1 from any single Ohio customer each calendar year for a SiteOhio EDP.

Reconciliation report

- Requires a natural gas company that has established an infrastructure development rider to file an annual report with the PUCO that (1) details the infrastructure development costs related to applicable EDPs and (2) sets forth the rider rate for the 12 months after the annual report.

Financial audit

- Permits the PUCO, at its discretion, to conduct a financial audit of a natural gas company that has established an infrastructure development rider to determine if the infrastructure development costs incurred by the company and collected under the rider are in conformance with PUCO orders.

CONTENT AND OPERATION

Overview

The act permits a natural gas company to apply to the Public Utilities Commission of Ohio (PUCO) for approval of one or more economic development projects, the infrastructure development costs of which are to be paid for by an infrastructure development rider.¹

¹ R.C. 4929.161, 4929.163, and 4929.164.



For the act's purposes, a natural gas company is a public utility that supplies natural gas to its Ohio consumers for lighting, power, or heating purposes.² "Infrastructure development costs" under the act means investment to which both of the following apply:

(1) The investment is for any deposit required by the company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project.

(2) The investment is in constructing extensions of transmission or distribution facilities that the company owns and operates.

"Infrastructure development costs" also include planning, development, and construction costs and, if applicable, any allowance for funds used during construction.³

Economic development projects (EDPs)

A natural gas company may apply to the PUCO for approval of one of the following types of economic development projects (EDPs):

(1) An EDP that satisfies criteria established by the PUCO (referred to in this analysis as a general EDP); or

(2) A SiteOhio EDP that, upon completion, will be primarily intended for commercial, industrial, or manufacturing use and that is certified by the Director of Development Services under the SiteOhio certification program (this does not include projects intended primarily for residential, retail, or government use).

The act specifies that the company must file the application for approval prior to beginning the EDP.⁴ This is necessary if the company will later apply for an infrastructure development rider to recover the infrastructure development costs of the project (see discussion below).

Application requirements

General EDP

The act requires that a general-EDP application contain descriptions of (1) the EDP, (2) the infrastructure development costs to be expended on the EDP, and (3) how

² R.C. 4929.01, not in the act.

³ R.C. 4929.16.

⁴ R.C. 4929.163(A) and 4929.164(A); R.C. 122.9511, not in the act.

the EDP meets the criteria set forth in the rules for approval that the act specifically requires the PUCO to adopt.⁵

SiteOhio EDP

The act requires a SiteOhio EDP to be a certified eligible project under the SiteOhio certification program. By rule, the Director of Development Services sets criteria for certification of a SiteOhio project.⁶ The act specifies no other application requirements for a SiteOhio EDP.

Criteria for EDP approval

The PUCO may approve a general or SiteOhio EDP if both of the following apply:

- The infrastructure development costs for the EDP are projected to generate a return on the company's investment that is less than the most recently authorized rate of return (although not expressly stated, this is likely the rate of return in the company's most recent rate case);
- The amount of infrastructure development costs to be incurred by the company per calendar year for the EDP and all other previously approved EDPs of the same type is not projected to exceed the applicable cost recovery cap. For general EDPs, the cost recovery cap is equal to \$2 multiplied by the aggregate number of the company's Ohio customers. For SiteOhio EDPs, the cost cap is equal to \$1 multiplied by the aggregate number of the company's Ohio customers.⁷

Rules for accelerated application review

The act requires the PUCO to adopt rules to provide for an accelerated application review for approval of a general EDP or a SiteOhio EDP. The rules must provide for the automatic approval of the application after the approval period elapses unless the PUCO suspends the application for good cause shown. The approval period is not later than 30 days after the date of the application filing for a general EDP; 90 days for a SiteOhio EDP.

⁵ R.C. 4929.163(B) and (C).

⁶ R.C. 4929.164(A); R.C. 122.9511(C) and (E), not in the act.

⁷ R.C. 4929.163(C) and 4929.164(B).



If the application is suspended, the PUCO must approve, deny, modify, or hold a hearing on the application not later than 45 days after the date that the suspension begins.⁸

Used and useful standard

The act requires that any property installed or constructed by a natural gas company to enable the provision of natural gas service to an approved EDP must be considered used and useful in rendering public utility service for purposes of fixing utility rates.⁹

Infrastructure development rider

The act permits a natural gas company to file an application with the PUCO for approval of an infrastructure development rider to recover prudently incurred infrastructure development costs for approved EDPs. The rider, however, is capped under the act using the same cap concept used for EDP approval (described above under "**Criteria for EDP approval**"). In each calendar year, costs that the natural gas company recovers from any single customer in Ohio may not exceed:

- \$2, for all approved general EDPs for which recovery was authorized under that rider;
- \$1, for all approved SiteOhio EDPs for which recovery was authorized under that rider.¹⁰

Under a rider, in each calendar year a natural gas company must recover the same amount from every customer.¹¹ Not only does that mean that the amount recovered from each customer within a class of customers must be the same, but also the amount recovered from customers of different classes must be the same. For example, the amount recovered from a residential customer must be the same as that recovered from an industrial customer.

Annual report

The act requires a natural gas company that has established an infrastructure development rider to file an annual report with the PUCO. The report must (1) detail

⁸ R.C. 4929.163(D) and 4929.164(C).

⁹ R.C. 4929.166; R.C. 4909.15, not in the act.

¹⁰ R.C. 4929.162(A) and (B).

¹¹ R.C. 4929.162(C).



the infrastructure development costs related to the applicable EDP or EDPs and (2) set forth the rider rate for the 12 months following the annual report.¹²

Financial audit

The act permits the PUCO, at its discretion, to conduct a financial audit of a natural gas company that has established an infrastructure development rider to determine if the infrastructure development costs incurred by the natural gas company and collected under the rider are in conformance with PUCO orders.¹³

HISTORY

ACTION	DATE
Introduced	10-29-13
Reported, H. Public Utilities	12-02-14
Passed House (77-6)	12-04-14
Reported, S. Public Utilities	12-11-14
Passed Senate (31-0)	12-11-14

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¹² R.C. 4929.165.

¹³ R.C. 4929.167.

