



Ohio Legislative Service Commission

Bill Analysis

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H.B. 319

130th General Assembly
(As Introduced)

Rep. Grossman

BILL SUMMARY

Application for an infrastructure development rider

- Permits a natural gas company to file an application with the Public Utilities Commission of Ohio (PUCO) for approval of an infrastructure development rider to cover prudently incurred infrastructure development costs of either of the following economic development projects:
 - A SiteOhio project that, upon completion, will be a site and facility primarily intended for commercial, industrial, or manufacturing use; or
 - An economic development project that is located in an area where adequate natural gas infrastructure is not available, infrastructure development will provide opportunities for increased natural gas usage, and economic-development benefits may result from infrastructure development.
- Requires an infrastructure development rider approved by the PUCO to be a fixed, monthly charge as determined by the PUCO for all customers of the natural gas company.
- Requires the infrastructure development rider to take effect 60 days after the date of the application's filing unless the PUCO, for good cause shown, sets the matter for hearing – after which the PUCO must approve, modify, or deny the application.
- Specifically prohibits the PUCO from authorizing the infrastructure development rider if the proceeds to be generated by the rider are projected, in any one calendar year, to exceed 1% of the valuation of the natural gas company's property, as determined by the PUCO.

- Permits a natural gas company to file an application with the PUCO to adjust a previously approved infrastructure development rider.
- Requires a natural gas company that has an approved infrastructure development rider to accumulate the proceeds generated from that rider to fund the economic development projects.

Application to use infrastructure development rider proceeds

- Permits a natural gas company to apply to the PUCO for approval to use proceeds to fund prudently incurred infrastructure development costs of the economic development projects.
- Requires the natural gas company to file a preapplication notification letter with the PUCO of the company's intent to file the application for use of proceeds at least 30 days before filing the application.
- Prohibits the PUCO from considering whether any property of the natural gas company that is currently owned or projected to be owned is used and useful in rendering utility service when considering the application for the use of proceeds.
- Permits a natural gas company to submit multiple applications for approval to use the proceeds.
- Requires the PUCO to adopt rules to provide for an accelerated review of an application for approval to use the proceeds.

Reconciliation report

- Requires a natural gas company that has an approved infrastructure development rider to file an annual reconciliation report with the PUCO that specifies the amount of proceeds generated by the rider and the amount of infrastructure development costs.
- Requires the company to propose in the report a method for the disposition of any proceeds that exceed the amount of infrastructure development costs to customers through the infrastructure development rider on an annual basis.

Financial audit

- Permits the PUCO to, at its discretion, conduct a financial audit of a natural gas company that is approved to fund an economic development project with proceeds generated from a rider to determine if the company spent proceeds in conformance with PUCO orders.

Property valuation report

- The bill excludes the following from being included in the property valuation report of a natural gas company for purposes of setting utility rates under existing law:
 - Any sum of money that a natural gas company may have received or is projected to receive as of the date certain from an infrastructure development rider or rider adjustment under the bill's provisions;
 - Any sum of money that a natural gas company may have received or is projected to receive as of the date certain from infrastructure development that is placed into service.

CONTENT AND OPERATION

Application for an infrastructure development rider

The bill permits a natural gas company to file an application with the Public Utilities Commission of Ohio (PUCO) for approval of an infrastructure development rider to cover prudently incurred infrastructure development costs of economic development projects (see "**Economic development projects**," below) (see **COMMENT 1**).¹

For the bill's purposes, a natural gas company is a public utility that distributes natural gas to the facilities of its Ohio consumers for lighting, power, or heating purposes.² "Infrastructure development costs" under the bill means the investment in constructing extensions of storage, transmission, or distribution facilities that a natural gas company owns and operates to which all of the following apply:

(1) The investment is for an economic development project;

(2) The investment is not considered economically justified by the natural gas company ("economically justified" is a determination based on a formula that is unique for each natural gas company);

(3) The investment is for any deposit required by the natural gas 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.

¹ R.C. 4929.161(A).

² R.C. 4929.01, not in the bill.



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

The bill requires an infrastructure development rider approved by the PUCO to be a fixed, monthly charge as determined by the PUCO for all customers of the natural gas company (see **COMMENT 2**).⁴

Economic development projects

A natural gas company may apply for an infrastructure development rider for one of the following economic development projects:

(1) A SiteOhio project that, upon completion, will be a site and facility 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 sites and facilities intended primarily for residential, retail, or government use);

(2) An economic development project to which all of the following apply: (a) the project is located in an area where adequate natural gas infrastructure is not available, (b) infrastructure development will provide opportunities for increased natural gas usage, and (c) economic-development benefits may result from infrastructure development.⁵

Application process for rider

The bill provides that the infrastructure development rider will take effect 60 days after the date of the application's filing unless the PUCO, for good cause shown, sets the matter for hearing. After the hearing, the PUCO must approve, modify, or deny the application. Any hearing on the rider is to be governed by existing law regarding PUCO hearings.⁶

The bill prohibits the PUCO from authorizing the infrastructure development rider if the proceeds to be generated by the rider are projected, in any one calendar year, to exceed 1% of the valuation of the natural gas company's property, as determined by the PUCO under existing law for the company's most recent rate case proceeding,

³ R.C. 4929.16.

⁴ R.C. 4929.161(D).

⁵ R.C. 4929.161(A) and 4929.165(A); R.C. 122.9511, not in the bill.

⁶ R.C. 4929.161(B) and 4929.163.

unless the PUCO determines, for good cause shown, that the cumulative amount should be reduced or eliminated (see **COMMENT 3**).⁷

Adjustment to infrastructure development rider

The bill permits a natural gas company to file an application with the PUCO to adjust a previously approved infrastructure development rider. The adjustment is to take effect 60 days after the date of the application's filing unless the PUCO, for good cause shown, sets the matter for hearing. After the hearing, the PUCO must approve, modify, or deny the application. Any hearing to adjust the rider is to be governed by existing law regarding PUCO hearings.⁸

Accumulation of proceeds

The bill requires a natural gas company that has an approved infrastructure development rider to accumulate the proceeds generated from that rider to fund the economic development projects.⁹

Application to use infrastructure development rider proceeds

The bill permits a natural gas company to apply to the PUCO for approval to use infrastructure development rider proceeds to fund prudently incurred infrastructure development costs of the economic development projects. The application must contain the following:

- (1) A description of the economic development project to be funded; and
- (2) An estimate of the infrastructure development costs to serve the economic development project.
- (3) If the economic development project is the type that (a) is located in an area where adequate natural gas infrastructure is not available, (b) will provide opportunities for increased natural gas usage, and (c) economic-development benefits would result from infrastructure development, the application must include a description of how the project meets each of these criteria.¹⁰

⁷ R.C. 4905.18, not in the bill, and 4929.161(C); R.C. 4909.15(A)(1), not in the bill.

⁸ R.C. 4929.162 and 4929.163.

⁹ R.C. 4929.164.

¹⁰ R.C. 4929.165(A) and (B).



Preapplication notification letter

Before filing an application for the use of its infrastructure development rider proceeds, the bill requires the natural gas company to file a preapplication notification letter with the PUCO of the company's intent to file at least 30 days before filing the application.¹¹

Multiple applications for use of proceeds

The bill permits a natural gas company to submit multiple applications for approval to use infrastructure development rider proceeds to fund prudently incurred infrastructure development costs of the economic development projects if the company desires to fund multiple economic development projects. The company is permitted to use its discretion in determining which economic development projects to seek approval to fund.¹²

Rules for accelerated review

The bill requires the PUCO to adopt rules to provide for an accelerated review of an application for approval to for the use of infrastructure development rider proceeds. The rules must provide for the automatic approval of the application not later than 30 days after the date of the application filing unless the PUCO suspends the application for good cause shown. If the application is suspended, the PUCO must approve, deny, or modify the application not later than 15 days after the date of the suspension.¹³

Use and useful standard not applicable

In considering an application for approval to fund an economic development project with infrastructure development rider proceeds, the bill prohibits the PUCO from considering whether any property of the natural gas company that is currently owned or projected to be owned is used and useful in rendering utility service.¹⁴

Reconciliation report

The bill requires a natural gas company that has an approved infrastructure development rider to file an annual reconciliation report with the PUCO on July 1, beginning in the calendar year immediately following the calendar year in which the

¹¹ R.C. 4929.165(C).

¹² R.C. 4929.165(E).

¹³ R.C. 4929.165(D).

¹⁴ R.C. 4929.166.



rider is approved. The report must include both of the following for the immediately preceding calendar year:

(1) The amount of proceeds generated by the rider, including any associated carrying costs calculated using the company's short-term cost of debt;

(2) The amount of infrastructure development costs funded by the rider.

If the report shows that the proceeds exceed the amount of infrastructure development costs, the company must propose in the report a method for the disposition of the difference, including any associated carrying costs, to customers through the infrastructure development rider on an annual basis. The PUCO must either approve the proposed method or direct that a different method be used.¹⁵

Financial audit

The bill permits the PUCO to, at its discretion, conduct a financial audit of a natural gas company that is approved to fund an economic development project with infrastructure development rider proceeds to determine if the company spent them in conformance with PUCO orders.¹⁶

Property valuation report

The bill excludes the following from being included in the property valuation report of a natural gas company for purposes of setting utility rates under existing law:

(1) Any sum of money that a natural gas company may have received or is projected to receive as of the date certain from an infrastructure development rider or rider adjustment under the bill's provisions;

(2) Any sum of money that a natural gas company may have received or is projected to receive as of the date certain from infrastructure development that is placed into service under the provisions of the bill addressing the application and approval to use infrastructure development rider proceeds.¹⁷

¹⁵ R.C. 4929.167.

¹⁶ R.C. 4929.168.

¹⁷ R.C. 4909.05(C)(7).



COMMENT

1. The meaning of "prudently incurred" with respect to "infrastructure development costs" is unclear. While the term suggests a requirement that infrastructure development costs must be "prudently incurred," the bill contains no such actual requirement. Additionally, the bill is silent on when the costs would be examined for prudence and what the consequences, if any, would be if it were determined that costs were not prudently incurred.

2. The provision requiring the rider to be a "fixed, monthly charge as determined by the PUCO for all customers" is unclear as to what the PUCO would be determining and whether the charge would be different amounts for different customer classes.

3. The bill imposes a cap on the amount of money that a natural gas company may collect from customers under the bill's rider. If the proceeds are projected to exceed the cap the PUCO is not permitted to approve the rider unless the PUCO determines, "for good cause shown, that the cumulative amount should be reduced or eliminated." How this provision is to operate, and its effect, are unclear.

HISTORY

ACTION	DATE
Introduced	10-29-13

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