



Ohio Legislative Service Commission

Bill Analysis

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H.B. 545

130th General Assembly
(As Introduced)

Rep. Gonzales

BILL SUMMARY

- Requires all premises administered by a manufactured home park operator, condominium association, or landlord to measure public utility service provided to the premises through (1) a public utility owned meter or (2) a public utility owned master meter in conjunction with a submeter.
- Applies the requirement to service provided by an electric light company, gas company, and natural gas company, and excepts service provided by a municipal corporation or a cooperative.
- Appears to apply the requirement to property constructed after the bill's effective date.
- Limits the charges for electric service and natural gas service that may be imposed by a park operator, condominium association, or landlord in a submetering situation, based on the electric standard service offer for the area and the amount that residential customers are charged for natural gas service in the area.
- Permits an exception to the limitations described above if a park operator, condominium association, or landlord operates a system to provide electric service using distributed generation, renewable energy resources, or alternative generation.
- Requires, in any submetering arrangement, or when the park operator, condominium association, or landlord operates a system using distributed generation, renewable energy resources, or alternative generation, that the housing agreement detail the prices for electric and natural gas service.
- Requires a park operator, condominium association, or landlord to maintain adequate records of submeter measurements, requires three years of record

retention, and requires that the records are available for inspection by residents, condominium unit owners, and tenants.

- Requires that if costs for electric, gas, and natural gas service provided to common areas and for commonly used equipment are prorated or allocated among residents, condominium unit owners, or tenants, that the park operator, condominium association, or landlord must:
 - Identify the amount attributable to the common areas and commonly used equipment as a separate line item on the periodic statement or invoice provided to the residents, owners, or tenants; and
 - Describe the method used to prorate or calculate the allocation of the cost in each lease, rental agreement, or association agreement.
- Permits a park operator, condominium association, or landlord to terminate the service of facilitating public utility service for nonpayment of that service provided under a submetering arrangement, or when the operator, association, or landlord uses distributed generation, renewable energy resources, or alternative generation.

CONTENT AND OPERATION

References

As used in this analysis, "park operator" refers to a manufactured home park operator, "condominium association" refers to a condominium unit owners association, and "unit owner" refers to a condominium unit owner.

Requirement of measuring utility service with a utility meter or submeter

The bill requires all premises administered by a park operator, condominium association, or landlord to measure public utility service provided to the premises through (1) a public utility owned meter or (2) a public utility owned master meter in conjunction with a submeter.¹ The requirement applies to service provided by an electric light company, gas company, and natural gas company. The bill does *not* apply to service provided by a municipal corporation or a cooperative.²

¹ R.C. 4934.02; R.C. 4781.401, 5311.082, and 5321.061. A corrective amendment is needed to place the requirement on individuals or entities rather than on the premises.

² R.C. 4934.01(M).



A submeter is defined as a device that measures only the amount of public utility service provided to the premises of a resident, unit owner, or tenant.³ A master meter is defined as a device that collectively measures the public utility service provided to multiple residents, unit owners, or tenants by a public utility. A master meter is defined to include a pipe-line system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants, and supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The bill specifies that the term "master meter" excludes a pipeline within a manufactured home, mobile home, or a building.⁴

Grandfathering for property built before the bill

The bill's requirement to measure utility service through a public utility owned meter or a public utility owned master meter in conjunction with a submeter appears to apply only to property constructed on and *after* the bill's effective date. This appears to be the case because the bill states that for premises constructed *before* the bill's effective date, a park operator, condominium association, or landlord "may measure, at their election, public utility service provided to the premises . . . through a public utility owned master meter in conjunction with a submeter."⁵ The implication is that for these older premises, submetering is not required and therefore any system for measuring utility service that is permissible under current law may still be used. But this is not expressly stated.

Property converted to condominium property after the bill

The bill specifies that the requirement to measure utility service through a public utility owned meter or a public utility owned master meter in conjunction with a submeter applies to property converted to condominium property after the bill's effective date.⁶ The effect of this provision is unclear. (See **COMMENT 1**.)

Records of submeter measurements

The bill requires a park operator, condominium association, or landlord to maintain adequate records detailing all submeter measurements for separately charged public utility services provided to premises and the charges for the services. The bill requires that upon reasonable prior request, a park operator, condominium association,

³ R.C. 4934.01(N).

⁴ R.C. 4934.01(H); R.C. 4905.90(H), not in the bill.

⁵ R.C. 4934.03.

⁶ R.C. 4934.02.

or landlord must make all of those submeter records available for inspection by the resident, unit owner, or tenant during normal business hours. The bill also requires the park operator, condominium association, or landlord to keep the records for a minimum of three years after the termination of the lease, rental agreement, or association agreement.⁷

Common areas and commonly used equipment

If costs for electric, gas, and natural gas service provided to common areas and for commonly used equipment are prorated or allocated among residents, unit owners, or tenants, the bill requires the park operator, condominium association, or landlord to identify the amount attributable to the common areas and commonly used equipment as a separate line item on the periodic statement or invoice for the public utility services provided to the residents, owners, or tenants. The bill further requires that a written description of the method used to prorate or calculate the allocation of the cost be included in each lease, rental agreement, or association agreement.

These requirements pertaining to common areas and commonly used equipment are not restricted to a submetering situation.⁸

Limitation on certain utility charges in any submetering arrangement

The bill limits the charges for electric service and natural gas service that may be imposed on a resident, unit owner, or tenant by a park operator, condominium association, or landlord that separately charges for those services through a submeter. For electric service provided on a kilowatt-hour basis, the park operator, condominium association, or landlord is limited to the standard service offer amount per kilowatt hour, including all riders, customer fees, and other utility assessments, that residential customers are charged on an annualized basis by the electric distribution utility serving the area.⁹ For natural gas service provided on a cubic feet basis, the park operator, condominium association, or landlord is limited to the amount per 100 cubic feet, including all riders, customer fees, and other utility assessments, that residential customers are charged on an annualized basis by the natural gas company serving the area.¹⁰ The bill does not provide a limitation for *gas* service, even though the bill's requirement for how utility service must be measured applies to gas service in addition to electric and natural gas service.

⁷ R.C. 4934.07.

⁸ R.C. 4934.09.

⁹ R.C. 4934.05(A).

¹⁰ R.C. 4934.05(B).

These limitations on the amounts that may be imposed for electric and natural gas service in a submetering situation are not impacted by the bill's grandfather clause. So if a park operator, condominium association, or landlord were to choose to use submeters for premises constructed before the bill, the limitations on the amounts that could be imposed, as described above, would apply.

Limitation on charges under certain systems for electric service

If a park operator, condominium association, or landlord operates a system to provide electric service to a resident, unit owner, or tenant using distributed generation, renewable energy resources, or alternative generation, the limitations described above (see "**Limitation on certain utility charges in any submetering arrangement**," above) do not apply if the park operator, condominium association, or landlord establishes, in a lease, rental agreement, or association agreement and for the term of the lease or agreement, a fixed price per kilowatt hour for electricity provided. The bill requires the lease or agreement to clearly state the fixed price that will be charged for the electricity, and to charge no more per kilowatt hour of electricity than the fixed price for the electric service.¹¹

Housing agreements to list prices for electric and natural gas service

In any submetering arrangement, or when the park operator, condominium association, or landlord operates a system to provide electricity that uses distributed generation, renewable energy resources, or alternative generation, the lease, rental agreement, or association agreement must contain written statements detailing both of the following, for the time that the lease, rental agreement, or association agreement was entered into:

- the full, annualized standard service offer price of electric service supplied to "customers"¹² of the electric distribution utility serving the area;
- the full, annualized price of natural gas service supplied to residential customers of the natural gas company serving the area.¹³

¹¹ R.C. 4934.06.

¹² A corrective amendment may be needed to clarify that this provision applies to *residential* customers.

¹³ R.C. 4934.11.



Submeter and master-meter standards

The bill requires all submeters and master meters "operating under [the bill]" to meet the same standards for public utility owned meters, as established by the Public Utilities Commission (PUCO).¹⁴

Termination of public utility service by the housing provider

Termination permitted for nonpayment of public utility service

The bill permits a park operator, condominium association, or landlord to terminate the service of facilitating public utility service for nonpayment of that service provided under any submetering arrangement, or when the park operator, condominium association, or landlord operates a system to provide electricity that uses distributed generation, renewable energy resources, or alternative generation. The bill requires this termination to be done in accordance with all rules for terminating public utility service for nonpayment established by the PUCO as those rules are applied to electric light companies or natural gas companies. The bill does not refer to rules applied to gas companies, even though the termination provision applies to gas service.¹⁵

Termination authority need not be specified in condominium documents

The bill specifies that a condominium association may terminate service as described above regardless of whether authority for that termination is specifically set forth in the condominium declarations or the condominium development disclosure statement.¹⁶

Termination is not constructive eviction

The bill specifies that service termination as described above is not constructive eviction in violation of continuing provisions of the Revised Code (see **COMMENT 2**).¹⁷

Park operators and landlords waive the right to evict

The bill provides that a park operator or landlord that elects to terminate public utility service as described above waives the right to evict the resident or tenant for

¹⁴ R.C. 4934.13.

¹⁵ R.C. 4934.15(A)(1).

¹⁶ R.C. 4934.15(A)(2).

¹⁷ R.C. 4934.15(B).



failure to make timely payment for public utility service pursuant to provisions of continuing law governing evictions.

The bill further specifies that a park operator or landlord that elects to terminate public utility service as described above does not waive or diminish the park operator's or landlord's right to seek eviction for violations of any other provision of a lease or rental agreement.¹⁸

COMMENT

1. The bill specifies that the requirement to measure utility service through a public utility owned meter or a public utility owned master meter in conjunction with a submeter applies to property converted to condominium property after the bill's effective date.¹⁹ In the absence of this statement, the bill's requirement would still apply to property converted to a condominium after the bill's effective date, as long as the property was also built after the bill's effective date.

If the intent behind the insertion of this provision was to apply the bill's requirement to property built *before* the bill's effective date but then converted to condominium property *after* the bill's effective date, that is not accomplished. That intent would have been accomplished by making the condominium provision an exception to the grandfathering provision, but this is not how the bill is currently structured.

2. The bill specifies that termination of utility service as permitted by the bill is not constructive eviction in violation of continuing provisions of the Revised Code.²⁰ But constructive eviction is not prohibited by the Revised Code.

HISTORY

ACTION	DATE
Introduced	05-19-14

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¹⁸ R.C. 4934.17.

¹⁹ R.C. 4934.02.

²⁰ R.C. 4934.15(B).

