



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 123  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Brenner

Kathleen A. Luikart, Research Analyst

### SUMMARY

- Exempts, from regulation as a public utility by the Public Utilities Commission (PUCO), a person, business, or other entity that provides, constructs, or installs for customers utility related service at a point after service provided by a public utility is delivered to the public utility's metered points of delivery at the customers' locations.
- Defines "utility related service" to be (1) service or benefit from an advanced energy resource (as defined in ongoing law), (2) electricity, natural gas, or water service, (3) electric vehicle charging, and (4) billing services for electricity, natural gas, or water service and service or benefit from advanced energy resources.
- Prohibits, except for reasons of safety or reliability:
  - A public utility (public utility that is an electric light, natural gas, or water-works company) from setting the location of its meters so that their location prevents a person, business, or other entity from providing, constructing, or installing utility related service at a point after public utility service is delivered at that metered point of delivery.
  - PUCO from adopting any rule allowing such a public utility to locate its meters as described in the prohibition above.

### DETAILED ANALYSIS

#### Public utility definition exception

Ohio law describing the general powers of the Public Utilities Commission (PUCO) specifies what entities are "public utilities" subject to PUCO regulation and what entities *are not* public utilities and thus not subject to PUCO regulation. Under the bill, a "person, business, or other entity" is not a public utility if it "provides, constructs, or installs for customers utility related service at a point after service provided by a public utility is delivered to the public utility's metered points of delivery at the customers' locations." A person, business, or other

entity that meets this exception to the definition of a public utility is exempt from PUCO regulation, including, for example, the utility ratemaking law and hearing procedures under the utility law.<sup>1</sup> A “utility related service” is:

- Service or benefit from an advanced energy resource as defined in ongoing competitive retail electric service law and described below;
- Electricity, natural gas, or water service;
- Electric vehicle (EV) charging.

“Utility related service” also includes billing service for advanced energy resource service or benefit and electricity, natural gas, or water service.

“Advanced energy resources” include: (1) any property, process, device, structure, or equipment that increases an electric generating facility’s generation output to the extent it is achieved without additional carbon dioxide emissions, (2) distributed generation systems consisting of customer cogeneration technology, (3) certain clean coal technology that includes a carbon-based product that is chemically altered before combustion or that includes the design capability to control or prevent the emission of carbon dioxide, (4) certain advanced nuclear technology or improvements to existing facilities, (5) fuel cells used in the generation of electricity, (6) advanced solid waste or construction and demolition debris conversion technology, (7) demand-side management and any energy efficiency improvement, (8) any new, retrofitted, refueled, or repowered generating facility in Ohio, including a simple or combined-cycle natural gas generating facility or a generating facility that uses biomass, coal, modular nuclear, or any other fuel as its input, and (9) any uprated capacity of an existing electric generating facility if it results from the deployment of advanced technology.<sup>2</sup>

It appears that the bill allows a person, business, or other entity to construct or install any utility related service at a point after service provided by a public utility is delivered to the public utility’s metered points of delivery. Utility related service under the bill may include construction or installation of, for example, an electric generating or distribution facility or a facility using an advanced energy resource, such as a distributed generation system or clean coal technology. Such facilities, if located after the metered location, would not be public utilities and therefore would be exempt from PUCO regulation.

The bill does not address net metering, which PUCO regulates under current competitive retail electric service law. However, since a net metering system is a facility to produce electrical energy that is located on a customer-generator’s premises, which would be after the electric utility’s metered point of delivery, it is possible that net metering could be considered a utility service that is exempt from PUCO regulation. If exempt from PUCO regulation, existing law in Revised Code section 4928.67 requiring an electric utility to develop a

---

<sup>1</sup> R.C. 4905.02(A)(6)(a).

<sup>2</sup> R.C. 4905.02(A)(6)(b) and 4928.01(A)(34).

standard contract or tariff for net metering might conflict with the bill’s scheme. Also, PUCO administrative rules for net metering in Ohio Administrative Code Chapter 4901:1-10-28 might no longer apply.

## Public utility meter location prohibition

Except for reasons of safety or reliability, the bill restricts the location of a meter at which public utility service is delivered. Specifically, the bill prohibits a “public utility” (an electric light company, natural gas company, or water-works company that is a public utility) from setting the location of any of its meters so that the meter’s location prevents a person, business, or other entity from providing, constructing, or installing “utility related service” as described above at a point after the public utility service (electricity, natural gas, or water service) is delivered to the public utility’s metered point of delivery at that location.<sup>3</sup> Under this prohibition, it appears a public utility could not discriminate against the provision of utility related services by others through placement of its meters for delivery of service. But, it also appears that, except when safety and reliability is an issue, a public utility would have to consider all the possible utility related services that might be provided when determining point of delivery meter placement. Public utility operations or business considerations that are not safety or reliability related must have lower priority.

## PUCO rules

Except for reasons of safety or reliability, PUCO must not adopt any rule that permits a public utility (an electric light company, natural gas company, or water-works company that is a public utility) to set the location of any of its meters so that the meter’s location prevents a person, business, or other entity from providing, constructing, or installing utility related service at a point after the public utility service is delivered to the public utility’s metered point of delivery at that location.<sup>4</sup>

---



---

## HISTORY

Action	Date
Introduced	05-23-23

ANSB0123IN-135/ks

---

<sup>3</sup> R.C. 4933.29 (A) and (C).

<sup>4</sup> R.C. 4933.29(B).