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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Smith

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SUMMARY

- Requires a public utility serving more than 250,000 Ohio residents to file a rate case with the Public Utilities Commission (PUCO) at least every four years beginning not later than four years after the bill's effective date, except as follows:
 - The public utility must file a rate case application four years after the date the PUCO order setting rates for the pending rate case becomes final, if the utility has a rate case pending with PUCO on the bill's effective date;
 - The public utility must file a rate case application not later than six months after the bill's effective date, if the public utility has not filed a rate case application during the ten-year period prior to the bill's effective date.
- Requires a public utility serving more than 250,000 Ohio residents that has not filed a rate case application during the ten-year period prior to the bill's effective date to complete operating statements of its last ten fiscal years as an exhibit to be filed with the utility's rate case application.

DETAILED ANALYSIS

Rate case filing period

The bill requires public utilities that serve more than 250,000 Ohio residents to file a rate case application under the Ohio utility ratemaking law at least every four years and specifies that the utilities must file the application not later than four years after the bill's effective date, except as described in Table 1 below.¹

¹ R.C. 4909.181(A), (B), and (C)(1).

“Public utility” definition in current utility law

Under Ohio utility law, a “public utility” (unless specifically excepted) includes any corporation, company, copartnership, person, or association that is an electric light company, gas company, natural gas company, water-works company, sewage disposal system company, pipe-line company, heating or cooling company, street railway company, suburban railroad company, interurban railroad company, telephone company, messenger company, and for-hire motor carrier. A public utility includes a public utility that operates its utility not for profit. However, the law excepts the following from being a public utility:

- An electric light company that operates its utility not for profit;
- A public utility that is owned or operated by a municipal corporation;
- A public utility, other than a telephone company, that is a cooperative, owned and operated exclusively by and solely for its customers;
- A railroad which owns, operates, manages, or controls a railroad or part of a railroad as a common carrier engaged in the transportation of passengers or property;
- Any provider, including a telephone company, regarding its provision of:
 - Advanced services (defined in federal law as high speed, switched, broadband, wireline telecommunications allowing users to send and receive voice, data, graphics, or video telecommunications using any technology);
 - Broadband service;
 - Information service;
 - Internet protocol-enabled service;
 - Telecommunications service;
 - A service or technology not available for commercial use on September 12, 2010, or earlier.²

Rate case filing requirement exceptions

The bill establishes a rate case application filing requirement that generally applies to public utilities, but it also includes two exceptions to that filing date requirement. The exceptions and the initial filing date after the bill’s effective date for those exceptions are listed in Table 1 below.

² R.C. 4905.02 and 4905.03, not in the bill; 47 Code of Federal Regulations 51.5, not in the bill.

Table 1		
	Description of application filing date exception	Initial filing date requirement following bill's effective date
General rate case application filing date requirement	N/A	At least every four years, beginning not later than four years after the bill's effective date.
Exception #1 ³	The public utility has a rate case pending with PUCO on the bill's effective date.	The public utility must file a rate case application four years after the date the PUCO order setting rates for the pending rate case becomes final.
Exception #2 ⁴	The public utility has not filed a rate case application during the ten-year period prior to the bill's effective date.	The public utility must file an application not later than six months after the bill's effective date.

Rate case application operating statement exhibit

Under ongoing utility ratemaking law, a public utility that files an application for an increase in any rate, joint rate, toll, classification, charge, or rental must file, in duplicate, certain exhibits with the application. Among the exhibits that must be filed is a complete operating statement of the utility's last fiscal year.⁵ The bill revises the operating statement requirement for a public utility that serves more than 250,000 Ohio residents, if the public utility has not filed a rate case application during the ten-year period prior to the bill's effective date. A utility serving this number of Ohio residents must file complete operating statements of the utility's last ten fiscal years.⁶

The operating statement under continuing law and new ten-year fiscal requirement must show in detail all of the public utility's receipts, revenues, and incomes from all sources, all of its operating costs and other expenditures, and any analysis the public utility deems applicable to the matter referred to in the application.⁷

³ R.C. 4909.181(C)(2)(a).

⁴ R.C. 4909.181(C)(2)(b).

⁵ R.C. 4909.18(B)(1).

⁶ R.C. 4909.18(B)(2).

⁷ R.C. 4909.18(B)(3).

Public utilities serving over 250,000 Ohio residents

Some public utility customer totals are available in utility annual reports filed with PUCO. These reports are available on the “Search annual reports” page of the PUCO website.⁸ The table below lists customer totals gleaned from reports of PUCO-regulated electric and gas utilities that have more than 250,000 customers. The table includes the number of residential customers and the number of all customers as shown in the utility’s 2023 annual reports. Also included in the table are customer totals for the largest PUCO-regulated water company and sewage disposal system company.

Utility type	Utility Name	Average Number of All Ohio Customers per Month	Average Number of Ohio Residential Customers per Month
Electric	Cleveland Electric Illuminating Company	755,417	672,777
	Dayton Power & Light Company	536,317	474,755
	Duke Energy Ohio	746,993	677,771
	Ohio Edison Company	1,065,866	949,688
	Ohio Power Company	1,519,057	1,320,046
	The Toledo Edison Company	314,502	277,397

⁸ Public Utilities Commission, “Search annual reports,” available at: community.puco.ohio.gov, accessed on May 22, 2024.

⁹ Customer data for electric companies can be found in the “FERC Financial Report, FERC Form 1” required by the Federal Energy Regulatory Commission (FERC). The electric companies listed in the table filed this report with PUCO.

Utility type	Utility Name	Number of All Ohio Customers	Number of Ohio Residential Customers
Gas	Columbia Gas of Ohio	1,497,531	1,385,880
	Dominion East Ohio	1,216,016	1,129,869
	Duke Energy Ohio	455,615	425,515
	Vectren Energy Delivery of Ohio	333,165	308,622

Utility type	Utility Name	Number of All Ohio Customers	Number of Ohio Residential Customers
Water/Sewer	Aqua Ohio, Inc.	157,695	N/A
	Aqua Ohio Wastewater, Inc.	11,306	N/A

Possible clarity issue

Since the bill applies to public utilities serving more than 250,000 “residents of the state,” it will be necessary to determine who are “residents” to which the bill applies. The bill does not expressly exclude nonresidential customers, such as industrial or commercial customers, of Ohio-located public utilities.

Moreover, it is not clear whether the bill refers to *residential customers* or the number of *residents* at each individual customer account location. Although it is possible to determine how many customers a certain utility serves, it might be difficult to determine how many *residents* the utility serves for each utility’s customer accounts. It also might be difficult to determine if the bill applies to certain utilities with fewer than 250,000 customer accounts, but possibly two or more residents per account holder.

If the intention is to apply the bill to utilities serving more than 250,000 *customer accounts* or *residential customers*, an amendment may be needed to clarify the bill’s reference

¹⁰ The Schedule 33 report within the Dominion East Ohio Annual Report notes that customer totals reflect the average customer count during the period. The other gas companies’ Schedule 33 reports do not specify that customer counts are average customer counts.

to “residents of the state” in Revised Code sections 4909.18(B)(2) and 4909.181(B). If the bill is changed to clarify to what type of customer the bill applies, it also will be clear how to determine what public utilities (as defined above) meet the 250,000 or more threshold and are subject to the bill’s rate case application requirements.

HISTORY

Action	Date
Introduced	04-23-24
