



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Maura McClelland

H.B. 589

131st General Assembly
(As Introduced)

Rep. Duffey

BILL SUMMARY

- Permits the Public Utilities Commission (PUCO) to adopt rules governing the practice of residential utility reselling.
- Gives the PUCO one year to adopt the rules governing residential utility reselling, and prohibits the practice in Ohio after that year if the PUCO does not adopt rules.
- Defines "residential utility reselling" as when a landlord, manufactured home park operator, or condominium unit owners association, including their agents, (called "proprietors") charges an occupant a distinct charge for utility service, separate from the standard monthly charge such as rent or the condominium-association fee.
- Applies to electric, natural-gas, water, and sewage-disposal service.
- Requires the PUCO's rules to include the following:
 - A prohibition against charging an occupant a distinct charge for any utility service provided to a common area;
 - Provisions for occupant protections that are at least as protective as protections that those occupants would have if they were direct utility customers;
 - Provisions governing enforcement of the rules, including penalties;
 - Provisions that seek to limit the amount of an occupant's utility charge to what the occupant would have paid as a direct utility customer.
- Allows proprietors to use a billing method based on a ratio or formula, and designates this as an exception to the provisions that seek to limit an occupant's utility charge to what the occupant would have paid as a direct utility customer.

- States that the bill does *not* prohibit the following practices:
 - A proprietor using submeters to determine the cost of utility service provided to common areas and factoring that cost into the standard monthly charge such as rent or the condominium-association fee;
 - A proprietor factoring the costs of all utility service provided to occupants, including common areas, into the standard monthly charge such as rent or the condominium-association fee;
 - A proprietor purchasing a component of utility service through a competitive provider at a rate that is different than the rate for that component under the proprietor's utility's standard service offer.
- States that the bill does not limit the authority of the PUCO, a municipality, or another local jurisdiction to prohibit or limit residential utility reselling.

CONTENT AND OPERATION

Rules governing residential utility reselling

The bill permits, but does not require, the Public Utilities Commission (PUCO) to adopt rules governing the practice of residential utility reselling. The bill gives the PUCO one year from the bill's effective date to adopt these rules. If it does not adopt any, the bill prohibits the practice of residential utility reselling in Ohio after that year.¹

Situations covered by "residential utility reselling"

The bill defines "residential utility reselling" as when a landlord, manufactured home park operator, or condominium unit owners association, including their agents (these entities are referred to as "proprietors") charges an occupant a distinct charge for utility service that is separate from the standard monthly charge such as rent or the condominium-association fee. The practice includes situations in which submeters are used as well as situations in which only a master meter – and no submeters – are used. The practice also includes situations in which the proprietor contracts with another entity to assist with billing or charging for utility service, as well as situations in which the proprietor does not receive assistance.

¹ R.C. 4941.03 and 4941.05.

Situations in which an occupant is a direct customer of a utility are *not* included; these situations would not be subject to the PUCO's rules.²

Utility services covered by the bill

The bill applies to electric, natural-gas, water, and sewage-disposal service.³

What the PUCO's rules must include

The bill requires the PUCO's rules to include all of the following:

- A prohibition against charging an occupant a distinct charge for any utility service provided to a "common area," which is defined as any area for which utility service is provided that is available for common use, or is habitually used by multiple occupants who do not cohabitate or a person who is neither an occupant nor an occupant's guest;
- Provisions for occupant protections that are the same or more protective than protections that those occupants would be entitled to if they were direct utility customers;
- Provisions governing enforcement of the rules, including penalties;
- Provisions that seek to limit the amount of an occupant's utility charge to what the occupant would have paid if the customer had been a direct utility customer. The bill does this by limiting the charge to what the customer would have paid if both of the following had been the case:
 - The occupant had been receiving utility service as a direct customer of the utility that provides service to the rental unit, manufactured home, or condominium, and had been charged "the residential rates, fees, and costs that are charged to other residential customers in the same service territory" by that utility;
 - The occupant had been charged for the occupant's use of utility service exclusive of common-area usage.
- Any other rules that the PUCO determines are appropriate.⁴

² R.C. 4941.01(F) and (G).

³ R.C. 4941.01(L).

⁴ R.C. 4941.01(A) and 4941.07.



Ratio or formula billing ("RUBS") permitted

The bill requires the PUCO's rules to allow proprietors to base an occupant's utility charge on a ratio or formula. This is commonly referred to as a ratio utility billing system, or "RUBS." The bill allows the ratio or formula to be based on the number of occupants, square footage, or other similar factors. The bill requires the rules to limit proprietors that use ratio or formula billing from charging in the aggregate, for all occupants who receive utility service through a single master meter, more than the total bill for that master meter.⁵

The bill recognizes that allowing ratio or formula billing could result in a single occupant being charged more than that occupant would have been charged as a direct utility customer. Therefore, the bill designates the allowance for ratio or formula billing as an exception to the provisions that seek to limit an occupant's utility charge to the amount that the occupant would have been charged as a direct utility customer.⁶

Practices *not* prohibited by the bill

The bill states that the following practices are *not* prohibited by the bill:

- A proprietor using a submeter or submeters to determine the cost of utility service provided to common areas and factoring that cost into the standard monthly charge such as rent or the condominium-association fee;
- A proprietor factoring the costs of all utility service provided to occupants, including common areas, into the standard monthly charge such as rent or the condominium-association fee;⁷
- A proprietor purchasing a component of utility service through a competitive provider at a rate that is different than the rate for that component under the proprietor's utility's standard service offer, as long as the proprietor is still compliant with the PUCO's rules.⁸ This effectively means that if the proprietor realizes savings from using a competitive provider, the proprietor may, but is not required to, pass those savings on to occupants – as long as each occupant's charge complies with the

⁵ R.C. 4941.08.

⁶ R.C. 4941.07(B).

⁷ R.C. 4941.09.

⁸ R.C. 4941.11.



provisions that seek to limit the charge to what the occupants would have been charged as direct utility customers. On the other hand, if the proprietor ends up paying more than "the residential rates, fees, and costs that are charged to other residential customers in the same service territory," the proprietor may have to absorb the excess.⁹

Other prohibitions or limits on residential utility reselling

The bill states that its provisions do not limit the authority of the PUCO, a municipality, or another local jurisdiction to prohibit or limit residential utility reselling.¹⁰

HISTORY

ACTION	DATE
Introduced	08-16-16

H0589-I-131.docx/emr

⁹ R.C. 4941.07(B).

¹⁰ R.C. 4941.13.

