

AN ACT

To amend section 4909.171 and to enact section 4909.172 of the Revised Code to authorize, subject to Public Utilities Commission approval, cost-based rate adjustments for water supplied to a waterworks utility by another waterworks utility, rate adjustment authority for a sewage disposal utility similar to the authority of a waterworks utility, and infrastructure improvement surcharges on waterworks or sewage disposal utility rates to cover specified costs associated with, and provide a return on, certain plant investment.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4909.171 be amended and section 4909.172 of the Revised Code be enacted to read as follows:

Sec. 4909.171. (A) Any waterworks company whose water supply is provided by a municipal corporation or other local governmental unit of this state whose rates are not subject to regulation by or any sewage disposal system company may submit an application to the public utilities commission shall request for an increase or decrease in rates when the any rate or charge for, respectively, water or sewage treatment, if both of the following conditions are met:

(1) The water or sewage treatment is provided to the company by either of the following:

(a) A municipal corporation or other local governmental unit of this state whose rates are not subject to regulation by the commission;

(b) Another waterworks company, or another sewage disposal system company, that is a public utility and whose rates for the water, or the sewage treatment, have been approved by the commission pursuant to an application filed under section 4909.18 of the Revised Code.

(2) The change in rate or charge is based solely on a change in the cost to the company of the water imposed on the waterworks company by the

~~municipal corporation or other governmental unit and, in such instance, sections or the sewage treatment.~~

~~Sections 4909.18 and 4909.19 of the Revised Code do not apply to any application filed under this section. When the waterworks company requests a rate change, it shall file with the commission. An application shall be accompanied by evidence of the new rates imposed by the municipal corporation or other governmental unit and charges charged the company by a provider described in division (A)(1)(a) or (b) of this section.~~

~~(B) Pursuant to the filing of an application under division (A) of this section by a waterworks company or a sewage disposal system company, the commission shall approve appropriate tariff revisions, without in the schedule of the company filed under section 4905.30 of the Revised Code, which revisions shall reflect solely the change in the cost to the company of the water or the sewage treatment, as specified in division (A) of this section and no other cost, charge, or item, and shall not change in the distribution of the revenue responsibility of the various classes of the company's customers, which revisions shall become effective immediately.~~

~~(C) An increase authorized pursuant to division (B) of this section shall not be effective until forty-five days after the date the waterworks company or the sewage disposal system company has provided affected customers with notification of the increase, in such form and by such method as the commission shall prescribe.~~

~~Sec. 4909.172. (A) A waterworks company, or a sewage disposal system company, that is a public utility may file an application with the public utilities commission for approval to collect an infrastructure improvement surcharge, determined in accordance with this section, from customers located in the company's affected service areas and subject to affected schedules filed by the company under section 4905.31 of the Revised Code. The application shall be in such form and contain such information as the commission prescribes. At the time of filing, the company shall serve a copy of the application upon the chief executive of each municipal corporation, the board of township trustees of each township, and the board of county commissioners of each county in which affected customers are located. A company for which a surcharge is authorized under this section may file an application for another such surcharge not sooner than twelve months after the filing date of its most recent surcharge application.~~

~~(B) The commission shall provide an opportunity for the filing of comments on an application filed under division (A) of this section. After considering those comments, the commission may authorize a surcharge for~~

the company that is just and reasonable and is sufficient, but does not exceed, the revenue requirement necessary to do both of the following:

(1) Cover such infrastructure plant costs of the company as are described in division (C) of this section, incurred after March 1, 2003, and before the date of filing, and not already reflected in the affected schedules filed by the company under section 4905.31 of the Revised Code;

(2) Provide a fair and reasonable rate of return on the filing date valuation of that particular infrastructure plant.

The surcharge chargeable to each affected customer class of the company shall not exceed three per cent of the rates and charges applicable to the class and in effect on the date the application was filed and, as to the allowed percentage increase, shall be uniform for each such class. The commission shall not authorize a company to have more than three surcharges in effect at any time.

Additionally, the commission shall not authorize a surcharge under this section if it determines that the surcharge causes the company to earn an excessive rate of return on its valuation under section 4909.15 of the Revised Code.

(C) For purposes of this section, a company's costs of infrastructure plant may include depreciation expenses. Such infrastructure plant shall exclude any improvement providing the company with additional revenue other than any minimal revenue associated with the elimination of a dead end, and may consist only of the following capital improvements that the commission determines are used and useful in rendering public utility service:

(1) In the case of a waterworks company, service lines for, and hydrants, mains, and valves installed as a part of, a replacement project for an existing facility; main extensions that eliminate dead ends to resolve documented water supply problems presenting significant health or safety issues to then existing customers; and main cleaning or relining;

(2) In the case of a sewage disposal system company, mains and lift stations installed as part of a replacement project for an existing facility; main extensions that resolve documented sewage disposal problems presenting significant health or safety issues to then existing customers; and main cleaning, inflow and infiltration elimination, or relining;

(3) Unreimbursed capital expenditures made by the waterworks company, or the sewage disposal system company, for waterworks, or sewage disposal, facility relocation required by a governmental entity due to a street or highway project;

(4) Minimum land or land rights acquired by the company as necessary

for any service line, equipment, or facility described in divisions (A)(1) to (3) of this section.

(D) During the period that an authorized surcharge is in effect, the commission, by order and on its own motion or upon good cause shown, may reduce the amount of or terminate a surcharge if it determines that the surcharge causes the company to earn an excessive rate of return on its valuation under section 4909.15 of the Revised Code.

(E) An order issued by the commission deciding an application by a waterworks company or a sewage disposal system company for an increase in rates and charges pursuant to an application filed by the company under section 4909.18 of the Revised Code shall provide for the termination, as of the earlier of the effective date of the increase or the date specified in division (F) of this section, of any surcharges of the company authorized under this section.

(F) All surcharges authorized under this section shall terminate by operation of law not later than December 31, 2014.

(G) The company shall provide notice of any surcharge authorized under this section to each affected customer with or on the customer's first bill containing the surcharge.

(H) The commission may adopt such rules as it considers necessary to carry out this section.

SECTION 2. That existing section 4909.171 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 44

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____