

As Reported by the House Public Utilities Committee

125th General Assembly

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Sub. S. B. No. 44

Senators Robert Gardner, Blessing, Spada, Dann, Mumper, Prentiss

Representatives Olman, Hartnett, Hagan, Distel, Schmidt

A B I L L

To amend section 4909.171 and to enact section 1
4909.172 of the Revised Code to authorize, subject 2
to Public Utilities Commission approval, 3
cost-based rate adjustments for water supplied to 4
a waterworks utility by another waterworks 5
utility, rate adjustment authority for a sewage 6
disposal utility similar to the authority of a 7
waterworks utility, and infrastructure improvement 8
surcharges on waterworks or sewage disposal 9
utility rates to cover specified costs associated 10
with, and provide a return on, certain plant 11
investment. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4909.171 be amended and section 13
4909.172 of the Revised Code be enacted to read as follows: 14

Sec. 4909.171. (A) Any waterworks company ~~whose water supply~~ 15
~~is provided by a municipal corporation or other local governmental~~ 16
~~unit of this state whose rates are not subject to regulation by or~~ 17
any sewage disposal system company may submit an application to 18
the public utilities commission ~~shall request for~~ for an increase or 19

decrease in ~~rates when the~~ any rate or charge for, respectively, 20
water or sewage treatment, if both of the following conditions are 21
met: 22

(1) The water or sewage treatment is provided to the company 23
by either of the following: 24

(a) A municipal corporation or other local governmental unit 25
of this state whose rates are not subject to regulation by the 26
commission; 27

(b) Another waterworks company, or another sewage disposal 28
system company, that is a public utility and whose rates for the 29
water, or the sewage treatment, have been approved by the 30
commission pursuant to an application filed under section 4909.18 31
of the Revised Code. 32

(2) The change in rate or charge is based solely on a change 33
in the cost to the company of the water ~~imposed on the waterworks~~ 34
~~company by the municipal corporation or other governmental unit~~ 35
~~and, in such instance, sections or the sewage treatment.~~ 36

Sections 4909.18 and 4909.19 of the Revised Code do not apply 37
to any application filed under this section. ~~When the waterworks~~ 38
~~company requests a rate change, it shall file with the commission~~ 39
~~An application shall be accompanied by~~ evidence of the new rates 40
~~imposed by the municipal corporation or other governmental unit~~ 41
~~and charges charged the company by a provider described in~~ 42
~~division (A)(1)(a) or (b) of this section.~~ 43

(B) Pursuant to the filing of an application under division 44
(A) of this section by a waterworks company or a sewage disposal 45
system company, the commission shall approve appropriate ~~tariff~~ 46
~~revisions, without~~ in the schedule of the company filed under 47
~~section 4905.30 of the Revised Code, which revisions shall reflect~~ 48
~~solely the change in the cost to the company of the water or the~~ 49

sewage treatment, as specified in division (A) of this section and 50
no other cost, charge, or item, and shall not change in the 51
distribution of the revenue responsibility of the various classes 52
of the company's customers, which revisions shall become effective 53
immediately. 54

(C) An increase authorized pursuant to division (B) of this 55
section shall not be effective until ten days after the date the 56
waterworks company or the sewage disposal system company has 57
provided affected customers with notification of the increase, in 58
such form and by such method as the commission shall prescribe. 59

Sec. 4909.172. (A) A waterworks company, or a sewage disposal 60
system company, that is a public utility may file an application 61
with the public utilities commission for approval to collect an 62
infrastructure improvement surcharge, determined in accordance 63
with this section, from customers located in the company's 64
affected service areas and subject to affected schedules filed by 65
the company under section 4905.31 of the Revised Code. The 66
application shall be in such form and contain such information as 67
the commission prescribes. At the time of filing, the company 68
shall serve a copy of the application upon the chief executive of 69
each municipal corporation, the board of township trustees of each 70
township, and the board of county commissioners of each county in 71
which affected customers are located. A company for which a 72
surcharge is authorized under this section may file an application 73
for another such surcharge not sooner than twelve months after the 74
filing date of its most recent surcharge application. 75

(B) The commission shall provide an opportunity for the 76
filing of comments on an application filed under division (A) of 77
this section. After considering those comments, the commission may 78
authorize a surcharge for the company that is just and reasonable 79
and is sufficient, but does not exceed, the revenue requirement 80

necessary to do both of the following:

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(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;

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

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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.

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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.

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(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:

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(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

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presenting significant health or safety issues to then existing 112
customers; and main cleaning or relining; 113

(2) In the case of a sewage disposal system company, mains 114
and lift stations installed as part of a replacement project for 115
an existing facility; main extensions that resolve documented 116
sewage disposal problems presenting significant health or safety 117
issues to then existing customers; and main cleaning, inflow and 118
infiltration elimination, or relining; 119

(3) Unreimbursed capital expenditures made by the waterworks 120
company, or the sewage disposal system company, for waterworks, or 121
sewage disposal, facility relocation required by a governmental 122
entity due to a street or highway project; 123

(4) Minimum land or land rights acquired by the company as 124
necessary for any service line, equipment, or facility described 125
in divisions (A)(1) to (3) of this section. 126

(D) During the period that an authorized surcharge is in 127
effect, the commission, by order and on its own motion or upon 128
good cause shown, may reduce the amount of or terminate a 129
surcharge if it determines that the surcharge causes the company 130
to earn an excessive rate of return on its valuation under section 131
4909.15 of the Revised Code. 132

(E) An order issued by the commission deciding an application 133
by a waterworks company or a sewage disposal system company for an 134
increase in rates and charges pursuant to an application filed by 135
the company under section 4909.18 of the Revised Code shall 136
provide for the termination, as of the earlier of the effective 137
date of the increase or the date specified in division (F) of this 138
section, of any surcharges of the company authorized under this 139
section. 140

(F) All surcharges authorized under this section shall 141
terminate by operation of law not later than December 31, 2014. 142

(G) The company shall provide notice of any surcharge 143
authorized under this section to each affected customer with or on 144
the customer's first bill containing the surcharge. 145

(H) The commission may adopt such rules as it considers 146
necessary to carry out this section. 147

Section 2. That existing section 4909.171 of the Revised Code 148
is hereby repealed. 149