

AN ACT

To amend sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.172, 4909.18, 4909.191, and 4909.42 of the Revised Code to permit, for water-works and sewage disposal system companies, certain rate-calculation adjustments, to make changes regarding water and sewer infrastructure improvement surcharges, and to alter language regarding utility requirements for when rate increases may take effect in the absence of administrative action.

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

SECTION 1. That sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.172, 4909.18, 4909.191, and 4909.42 of the Revised Code be amended to read as follows:

Sec. 4909.05. As used in this section:

(A) A "lease purchase agreement" is an agreement pursuant to which a public utility leasing property is required to make rental payments for the term of the agreement and either the utility is granted the right to purchase the property upon the completion of the term of the agreement and upon the payment of an additional fixed sum of money or title to the property vests in the utility upon the making of the final rental payment.

(B) A "leaseback" is the sale or transfer of property by a public utility to another person contemporaneously followed by the leasing of the property to the public utility on a long-term basis.

(C) The public utilities commission shall prescribe the form and details of the valuation report of the property of each public utility or railroad in the state. Such report shall include all the kinds and classes of property, with the value of each, owned, held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned or held as of the date certain, by each public utility or railroad used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, for the service and

convenience of the public. Such report shall contain the following facts in detail:

(1) The original cost of each parcel of land owned in fee and in use, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned in fee and in use as of the date certain, determined by the commission; and also a statement of the conditions of acquisition, whether by direct purchase, by donation, by exercise of the power of eminent domain, or otherwise;

(2) The actual acquisition cost, not including periodic rental fees, of rights-of-way, trailways, or other land rights held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be held as of the date certain, by virtue of easements, leases, or other forms of grants of rights as to usage;

(3) The original cost of all other kinds and classes of property used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, in the rendition of service to the public. Such original costs of property, other than land owned in fee, shall be the cost, as determined to be reasonable by the commission, to the person that first dedicated or dedicates the property to the public use and shall be set forth in property accounts and subaccounts as prescribed by the commission. To the extent that the costs of property comprising a coal research and development facility, as defined in section 1555.01 of the Revised Code, or a coal development project, as defined in section 1551.30 of the Revised Code, have been allowed for recovery as Ohio coal research and development costs under section 4905.304 of the Revised Code, none of those costs shall be included as a cost of property under this division.

(4) The cost of property constituting all or part of a project leased to or used by the utility, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be leased to or used by the utility as of the date certain, under Chapter 165., 3706., 6121., or 6123. of the Revised Code and not included under division (C)(3) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(5) In the discretion of the commission, the cost to a utility, in an amount determined to be reasonable by the commission, of property constituting all or part of a project leased to the utility, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be leased to the utility as of the date certain, under a lease purchase agreement or a leaseback and not included under division (C)(3) of this

section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(6) The proper and adequate reserve for depreciation, as determined to be reasonable by the commission;

(7) Any sums of money or property that the company may have received, or, with respect to a natural gas, water-works, or sewage disposal system company, is projected to receive as of the date certain, as total or partial defrayal of the cost of its property;

(8) The valuation of the property of the company, which shall be the sum of the amounts contained in the report pursuant to divisions (C)(1) to (5) of this section, less the sum of the amounts contained in the report pursuant to divisions (C)(6) and (7) of this section.

The report shall show separately the property used and useful to such public utility or railroad in the furnishing of the service to the public, the property held by such public utility or railroad for other purposes, and the property projected to be used and useful to or held by a natural gas, water-works, or sewage disposal system company as of the date certain, and such other items as the commission considers proper. The commission may require an additional report showing the extent to which the property is used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain. Such reports shall be filed in the office of the commission for the information of the governor and the general assembly.

Sec. 4909.06. The investigation and report required by section 4909.05 of the Revised Code shall show, when the public utilities commission deems it necessary, the amounts, dates, and rates of interest of all bonds outstanding against each public utility or railroad, the property upon which such bonds are a lien, the amounts paid for them, and, the original capital stock and the moneys received by any such public utility or railroad by reason of any issue of stock, bonds, or other securities. Such report shall also show the net and gross receipts of such public utility or railroad and the method by which moneys were expended or paid out and the purpose of such payments. The commission may prescribe the procedure to be followed in making the investigation and valuation, the form in which the results of the ascertainment of the value of each public utility or railroad shall be submitted, and the classifications of the elements that constitute the ascertained value. Such investigation shall also show the value of the property of every public utility or railroad as a whole, and if such property is in more than one county, the value of its property in each of such counties.

"Valuation" and "value," as used in this section, may include, with

respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date certain under section 4909.15 of the Revised Code.

Sec. 4909.07. The public utilities commission, during the making of the valuation provided for in sections 4909.04 to 4909.13, ~~inclusive~~, of the Revised Code, and after its completion, shall in like manner keep itself informed through its engineers, experts, and other assistants of all extensions, improvements, or other changes in the condition and value of the property of all public utilities or railroads and shall ascertain the value of such extensions, improvements, and changes. The commission shall, as is required for the proper regulation of such public utilities or railroads, revise and correct its valuations of property, showing such revisions and corrections as a whole and as to each county. Such revisions and corrections shall be filed in the same manner as original reports.

"Valuation" and "value," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date certain under section 4909.15 of the Revised Code.

Sec. 4909.08. When the public utilities commission has completed the valuation of the property of any public utility or railroad and before such valuation becomes final, it shall give notice by registered letter to such public utility or railroad, and if a substantial portion of said public utility or railroad is situated in a municipal corporation, then to the mayor of such municipal corporation, stating the valuations placed upon the several kinds and classes of property of such public utility or railroad and upon the property as a whole and give such further notice by publication or otherwise as it shall deem necessary to apprise the public of such valuation. If, within thirty days after such notification, no protest has been filed with the commission, such valuation becomes final. If notice of protest has been filed by any public utility or railroad, the commission shall fix a time for hearing such protest and shall consider at such hearing any matter material thereto presented by such public utility, railroad, or municipal corporation, in support of its protest or by any representative of the public against such protest. If, after the hearing of any protest of any valuation so fixed, the commission is of the opinion that its inventory is incomplete or inaccurate or that its valuation is incorrect, it shall make such changes as are necessary and shall issue an order making such corrected valuations final. A final valuation by the commission and all classifications made for the ascertainment of such valuations shall be public and are prima-facie evidence relative to the value of the property.

"Valuation" and "value," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date certain under section 4909.15 of the Revised Code.

Sec. 4909.15. (A) The public utilities commission, when fixing and determining just and reasonable rates, fares, tolls, rentals, and charges, shall determine:

(1) The valuation as of the date certain of the property of the public utility used and useful or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, in rendering the public utility service for which rates are to be fixed and determined. The valuation so determined shall be the total value as set forth in division (C)(8) of section 4909.05 of the Revised Code, and a reasonable allowance for materials and supplies and cash working capital as determined by the commission.

The commission, in its discretion, may include in the valuation a reasonable allowance for construction work in progress but, in no event, may such an allowance be made by the commission until it has determined that the particular construction project is at least seventy-five per cent complete.

In determining the percentage completion of a particular construction project, the commission shall consider, among other relevant criteria, the per cent of time elapsed in construction; the per cent of construction funds, excluding allowance for funds used during construction, expended, or obligated to such construction funds budgeted where all such funds are adjusted to reflect current purchasing power; and any physical inspection performed by or on behalf of any party, including the commission's staff.

A reasonable allowance for construction work in progress shall not exceed ten per cent of the total valuation as stated in this division, not including such allowance for construction work in progress.

Where the commission permits an allowance for construction work in progress, the dollar value of the project or portion thereof included in the valuation as construction work in progress shall not be included in the valuation as plant in service until such time as the total revenue effect of the construction work in progress allowance is offset by the total revenue effect of the plant in service exclusion. Carrying charges calculated in a manner similar to allowance for funds used during construction shall accrue on that portion of the project in service but not reflected in rates as plant in service, and such accrued carrying charges shall be included in the valuation of the property at the conclusion of the offset period for purposes of division

(C)(8) of section 4909.05 of the Revised Code.

From and after April 10, 1985, no allowance for construction work in progress as it relates to a particular construction project shall be reflected in rates for a period exceeding forty-eight consecutive months commencing on the date the initial rates reflecting such allowance become effective, except as otherwise provided in this division.

The applicable maximum period in rates for an allowance for construction work in progress as it relates to a particular construction project shall be tolled if, and to the extent, a delay in the in-service date of the project is caused by the action or inaction of any federal, state, county, or municipal agency having jurisdiction, where such action or inaction relates to a change in a rule, standard, or approval of such agency, and where such action or inaction is not the result of the failure of the utility to reasonably endeavor to comply with any rule, standard, or approval prior to such change.

In the event that such period expires before the project goes into service, the commission shall exclude, from the date of expiration, the allowance for the project as construction work in progress from rates, except that the commission may extend the expiration date up to twelve months for good cause shown.

In the event that a utility has permanently canceled, abandoned, or terminated construction of a project for which it was previously permitted a construction work in progress allowance, the commission immediately shall exclude the allowance for the project from the valuation.

In the event that a construction work in progress project previously included in the valuation is removed from the valuation pursuant to this division, any revenues collected by the utility from its customers after April 10, 1985, that resulted from such prior inclusion shall be offset against future revenues over the same period of time as the project was included in the valuation as construction work in progress. The total revenue effect of such offset shall not exceed the total revenues previously collected.

In no event shall the total revenue effect of any offset or offsets provided under division (A)(1) of this section exceed the total revenue effect of any construction work in progress allowance.

(2) A fair and reasonable rate of return to the utility on the valuation as determined in division (A)(1) of this section;

(3) The dollar annual return to which the utility is entitled by applying the fair and reasonable rate of return as determined under division (A)(2) of this section to the valuation of the utility determined under division (A)(1) of this section;

(4) The cost to the utility of rendering the public utility service for the test period used for the determination under division (C)(1) of this section, less the total of any interest on cash or credit refunds paid, pursuant to section 4909.42 of the Revised Code, by the utility during the test period.

(a) Federal, state, and local taxes imposed on or measured by net income may, in the discretion of the commission, be computed by the normalization method of accounting, provided the utility maintains accounting reserves that reflect differences between taxes actually payable and taxes on a normalized basis, provided that no determination as to the treatment in the rate-making process of such taxes shall be made that will result in loss of any tax depreciation or other tax benefit to which the utility would otherwise be entitled, and further provided that such tax benefit as redounds to the utility as a result of such a computation may not be retained by the company, used to fund any dividend or distribution, or utilized for any purpose other than the defrayal of the operating expenses of the utility and the defrayal of the expenses of the utility in connection with construction work.

(b) The amount of any tax credits granted to an electric light company under section 5727.391 of the Revised Code for Ohio coal burned prior to January 1, 2000, shall not be retained by the company, used to fund any dividend or distribution, or utilized for any purposes other than the defrayal of the allowable operating expenses of the company and the defrayal of the allowable expenses of the company in connection with the installation, acquisition, construction, or use of a compliance facility. The amount of the tax credits granted to an electric light company under that section for Ohio coal burned prior to January 1, 2000, shall be returned to its customers within three years after initially claiming the credit through an offset to the company's rates or fuel component, as determined by the commission, as set forth in schedules filed by the company under section 4905.30 of the Revised Code. As used in division (A)(4)(b) of this section, "compliance facility" has the same meaning as in section 5727.391 of the Revised Code.

(B) The commission shall compute the gross annual revenues to which the utility is entitled by adding the dollar amount of return under division (A)(3) of this section to the cost, for the test period used for the determination under division (C)(1) of this section, of rendering the public utility service under division (A)(4) of this section.

(C)(1) Except as provided in division (D) of this section, the revenues and expenses of the utility shall be determined during a test period. The utility may propose a test period for this determination that is any twelve-month period beginning not more than six months prior to the date

the application is filed and ending not more than nine months subsequent to that date. The test period for determining revenues and expenses of the utility shall be the test period proposed by the utility, unless otherwise ordered by the commission.

(2) The date certain shall be not later than the date of filing, except that it shall be, for a natural gas, water-works, or sewage disposal system company, not later than the end of the test period.

(D) A natural gas, water-works, or sewage disposal system company may propose adjustments to the revenues and expenses to be determined under division (C)(1) of this section for any changes that are, during the test period or the twelve-month period immediately following the test period, reasonably expected to occur. The natural gas, water-works, or sewage disposal system company shall identify and quantify, individually, any proposed adjustments. The commission shall incorporate the proposed adjustments into the determination if the adjustments are just and reasonable.

(E) When the commission is of the opinion, after hearing and after making the determinations under divisions (A) and (B) of this section, that any rate, fare, charge, toll, rental, schedule, classification, or service, or any joint rate, fare, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is, or will be, unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, that the service is, or will be, inadequate, or that the maximum rates, charges, tolls, or rentals chargeable by any such public utility are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the commission shall:

(1) With due regard among other things to the value of all property of the public utility actually used and useful for the convenience of the public as determined under division (A)(1) of this section, excluding from such value the value of any franchise or right to own, operate, or enjoy the same in excess of the amount, exclusive of any tax or annual charge, actually paid to any political subdivision of the state or county, as the consideration for the grant of such franchise or right, and excluding any value added to such property by reason of a monopoly or merger, with due regard in determining the dollar annual return under division (A)(3) of this section to the necessity of making reservation out of the income for surplus, depreciation, and contingencies, and;

(2) With due regard to all such other matters as are proper, according to the facts in each case,

(a) Including a fair and reasonable rate of return determined by the commission with reference to a cost of debt equal to the actual embedded cost of debt of such public utility,

(b) But not including the portion of any periodic rental or use payments representing that cost of property that is included in the valuation report under divisions (C)(4) and (5) of section 4909.05 of the Revised Code, fix and determine the just and reasonable rate, fare, charge, toll, rental, or service to be rendered, charged, demanded, exacted, or collected for the performance or rendition of the service that will provide the public utility the allowable gross annual revenues under division (B) of this section, and order such just and reasonable rate, fare, charge, toll, rental, or service to be substituted for the existing one. After such determination and order no change in the rate, fare, toll, charge, rental, schedule, classification, or service shall be made, rendered, charged, demanded, exacted, or changed by such public utility without the order of the commission, and any other rate, fare, toll, charge, rental, classification, or service is prohibited.

(F) Upon application of any person or any public utility, and after notice to the parties in interest and opportunity to be heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code for other hearings, has been given, the commission may rescind, alter, or amend an order fixing any rate, fare, toll, charge, rental, classification, or service, or any other order made by the commission. Certified copies of such orders shall be served and take effect as provided for original orders.

Sec. 4909.156. In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission shall, in action upon an application filed pursuant to section 4909.18 of the Revised Code, require a public utility to file a report showing the proportionate amounts of the valuation of the property of the utility, as determined under section 4909.05 ~~or~~ of the Revised Code, and the proportionate amounts of the revenues and expenses of the utility that are proposed to be considered as attributable to the service area involved in the application.

"Valuation," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation as of the date certain, if applicable because of a future date certain under section 4909.15 of the Revised Code.

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~~ 4905.32 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 an infrastructure improvement 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 infrastructure improvement 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 an infrastructure improvement 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~~ 4905.32 of the Revised Code;

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

~~The~~ Each infrastructure improvement surcharge chargeable to each affected customer class within any single tariff of the company shall not exceed three per cent, for a sewage disposal system company, and four and one quarter per cent, for a waterworks company, of the rates and charges applicable to the class and for the tariff 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 infrastructure improvement surcharges for any single company tariff in effect at any time.

Additionally, the commission shall not authorize a an infrastructure improvement 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, replacement of existing plant including chemical feed systems, filters, pumps, motors, plant generators, meters, 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, replacement of existing infrastructure including chemical feed systems, filters, pumps, motors, sludge-handling equipment, plant generators, 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)-(C)~~(1) to (3) of this section.

(D) During the period that an authorized infrastructure improvement 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~~ an infrastructure improvement 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 infrastructure improvement 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~~ 2025.

(G) The company shall provide notice of any infrastructure improvement 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.

Sec. 4909.18. Any public utility desiring to establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, shall file a written application with the public utilities commission. Except for actions under section 4909.16 of the Revised Code, no public utility may issue the notice of intent to file an application pursuant to division (B) of section 4909.43 of the Revised Code to increase any existing rate, joint rate, toll, classification, charge, or rental, until a final order under this section has been issued by the commission on any pending prior application to increase the same rate, joint rate, toll, classification, charge, or rental or until two hundred seventy-five days after filing such application, whichever is sooner. Such application shall be verified by the president or a vice-president and the secretary or treasurer of the applicant. Such application shall contain a schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice affecting the same, a schedule of the modification amendment, change, increase, or reduction sought to be established, and a statement of the facts and grounds upon which such application is based. If such application proposes a new service or the use of new equipment, or proposes the establishment or amendment of a regulation, the application shall fully describe the new service or equipment, or the regulation proposed to be established or amended, and shall explain how the proposed service or equipment differs from services or equipment presently offered or in use, or how the regulation proposed to be established or amended differs from regulations presently in effect. The application shall provide such additional information as the commission may require in its discretion. If the commission determines that such application is not for an increase in any rate, joint rate, toll, classification, charge, or rental, the commission may permit the filing of the schedule proposed in the application and fix the time when such schedule shall take effect. If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall give notice of such hearing by sending written notice of the date set for the hearing to the public utility and publishing notice of the hearing one time in a newspaper of general

circulation in each county in the service area affected by the application. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility. After such hearing, the commission shall, where practicable, issue an appropriate order within six months from the date the application was filed.

If the commission determines that said application is for an increase in any rate, joint rate, toll, classification, charge, or rental there shall also, unless otherwise ordered by the commission, be filed with the application in duplicate the following exhibits:

(A) A report of its property used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, in rendering the service referred to in such application, as provided in section 4909.05 of the Revised Code;

(B) A complete operating statement of its last fiscal year, showing in detail all its receipts, revenues, and incomes from all sources, all of its operating costs and other expenditures, and any analysis such public utility deems applicable to the matter referred to in said application;

(C) A statement of the income and expense anticipated under the application filed;

(D) A statement of financial condition summarizing assets, liabilities, and net worth;

(E) Such other information as the commission may require in its discretion.

Sec. 4909.191. (A) If the public utilities commission, under division (D) of section 4909.15 of the Revised Code, incorporated proposed adjustments to revenues and expenses into the commission's determination under that section, the natural gas, water-works, or sewage disposal system company shall, not later than ninety days after actual data for all of the incorporated adjustments becomes known, submit to the commission proposed rate or charge adjustments that provide for the recalculation of rates or charges, reflective of customer-class responsibility, corresponding to the differences, if any, between the incorporated adjustments to revenues and expenses and the actual revenues and expenses associated with the incorporated adjustments.

(B) If the commission incorporated projected value or valuation of property into the commission's determination under division (A)(1) of section 4909.15 of the Revised Code, the natural gas, water-works, or sewage disposal system company shall, not later than ninety days after data for the actual value or valuation as of the date certain becomes known, submit to the commission proposed rate or charge adjustments that provide

for the recalculation of rates or charges, reflective of customer-class responsibility, corresponding to the differences, if any, between the projected value or valuation incorporated into the commission's determination and the actual value or valuation as of the date certain.

(C) The commission shall review the proposed rate or charge adjustments submitted under divisions (A) and (B) of this section. The review shall not include a hearing unless the commission finds that the proposed rate or charge adjustments may be unreasonable, in which case the commission may, in its discretion, schedule the matter for a hearing.

(D) The commission shall issue, not later than one hundred fifty days after the date that any proposed rate or charge adjustments are submitted under division (A) or (B) of this section, a final order on the proposed rate or charge adjustments. Any rate or charge adjustments authorized under this division shall be limited to amounts that are not greater than those consistent with the proposed adjustments to revenues and expenses that were incorporated into the commission's determination under division (D) of section 4909.15 of the Revised Code, and not greater than those consistent with the incorporated projected value or valuation. In no event shall rate or charge adjustments authorized under this division be upward.

After the commission has issued such a final order, the natural gas, water-works, or sewage disposal system company, if applicable, shall submit to the commission proposed reconciliation adjustments that refund to customers the difference between the actual revenues collected by the natural gas, water-works, or sewage disposal system company, under the rates and charges determined by the commission under section 4909.15 of the Revised Code, and the rates or charges recalculated under the adjustments authorized under this division. The reconciliation adjustments shall be effective for a twelve-month period.

(E) The reconciliation adjustments ordered under division (D) of this section may be subject to a final reconciliation by the commission. Any such final reconciliation shall occur after the twelve-month period described in division (D) of this section.

Sec. 4909.42. If the proceeding on an application filed with the public utilities commission under section 4909.18 of the Revised Code by any public utility requesting an increase on any rate, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice affecting the same has not been concluded and an order entered pursuant to section 4909.19 of the Revised Code at the expiration of two hundred seventy-five days from the date of filing the application, an increase not to exceed the proposed increase shall go into effect upon the

filing of ~~an undertaking~~ a bond or a letter of credit by the public utility. The ~~undertaking bond or letter of credit~~ shall be filed with the commission and shall be payable to the state for the use and benefit of the customers affected by the proposed increase or change.

~~The undertaking~~ An affidavit attached to the bond or letter of credit must be signed by two of the officers of the utility, under oath, and must contain a promise on behalf of the utility to refund any amounts collected by the utility over the rate, joint rate, toll, classification, charge, or rental, as determined in the final order of the commission. All refunds shall include interest at the rate stated in section 1343.03 of the Revised Code. The refund shall be in the form of a temporary reduction in rates following the final order of the commission, and shall be accomplished in such manner as shall be prescribed by the commission in its final order. The commission shall exercise continuing and exclusive jurisdiction over such refunds.

If the public utilities commission has not entered a final order within five hundred forty-five days from the date of the filing of an application for an increase in rates under section 4909.18 of the Revised Code, a public utility shall have no obligation to make a refund of amounts collected after the five hundred forty-fifth day which exceed the amounts authorized by the commission's final order.

Nothing in this section shall be construed to mitigate any duty of the commission to issue a final order under section 4909.19 of the Revised Code.

SECTION 2. That existing sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.172, 4909.18, 4909.191, and 4909.42 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 379

129th G.A.

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.

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