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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

### H.B. 201 of the 135<sup>th</sup> General Assembly

#### Senate Energy and Public Utilities

Rocky Hernandez, Attorney

#### Definition changes

- Changes the current law definition of “infrastructure development” to mean constructing, upgrading, extending, or any other investment in, or associated with, natural gas company (company) owned transmission or distribution facilities.
- Excepts from the definition of “infrastructure development” facilities for which investment is designed to provide natural gas service to a site or economic development project (EDP) supported by JobsOhio, any JobsOhio network or regional partner, or the Department of Development (DEV).
- Changes the current law definition of “infrastructure development costs” (ID costs) to mean costs associated with an investment in “infrastructure development” (defined above) to which either of the following apply:
  - The investment is for any deposit required by the company, as defined in the line-extension provision of the company’s tariff, less any contribution in aid of construction received from the owner or developer of the project.
  - The investment is designed to provide natural gas service to a site or EDP supported by JobsOhio, any JobsOhio network or regional partner, or DEV (this type of investment is specifically excluded from the “infrastructure development” definition).
- Provides that ID costs include all of the following:
  - Planning, development and construction costs, including costs incurred prior to the approval of an EDP by the public utilities commission (PUCO) under the bill;
  - Costs associated with establishing or upgrading any connections with any source of supply to serve an EDP, including interstate or intrastate pipelines, regardless of facilities ownership;
  - A return on all IDCs equal to the company’s return on equity authorized in the company’s most recently approved rate case under continuing law (in rate cases,

return on equity is usually a higher return than overall rate of return, and is usually a component used to calculate the overall rate of return, which is what Ohio law requires to be approved in rate cases).

(R.C. 4929.16(A) & B)).

## **Infrastructure development rider**

- With respect to an application for an infrastructure development rider (IDR) to recover prudently incurred ID costs of one or more EDPs, the bill does the following:
  - Prohibits PUCO from accepting an “application for ID costs” (instead of an IDR application) for an investment designed to provide natural gas service to a site or EDP supported by JobsOhio, any JobsOhio network or regional partner, or DEV, unless the company has obtained notification from one of those entities or the DEV Director that the EDP should be considered.
  - Prohibits PUCO from approving an EDP application that includes ID costs for an investment designed to provide natural gas service to a site or EDP supported by JobsOhio, any JobsOhio network or regional partner, or DEV filed beyond six years from the bill’s effective date.
  - Allows, notwithstanding the prohibition, recovery of ID costs for any approved EDP filed within six years of the bill’s effective date to continue until all costs eligible for recovery under the bill are recovered.

(R.C. 4929.161(C) & (D)).

## **Regulatory deferrals and carrying costs**

- Requires PUCO, upon request by a company, to approve a regulatory deferral, including carrying costs calculated as follows, for the IDR revenue requirement any year when approved customer charges exceed, or are expected to exceed, \$1.50 per customer:
  - At the company’s cost of long-term debt approved in its most-recent rate case;
  - If the company does not have a PUCO-approved cost of long-term debt, it must propose a rate for the carrying cost and can propose a rate or methodology for calculating carrying costs that differs from the company’s cost of long-term debt approved in its most recent rate case.
- Limits what may be considered a part of the cost contributing to the excess in customer charges to new costs from that year and excludes costs from previous years from contributing to that amount.
- Requires PUCO to permit the company to collect any deferred and unrecovered ID costs in the subsequent year and continuing thereafter, not to exceed five years, if the IDR rate does not exceed the \$1.50 per customer limit in continuing law.
- Specifies that once costs have been applied to an approved regulatory deferral, the costs remain as part of the deferral and may not be reallocated to a future deferral application.

- Requires PUCO to permit carrying costs to accrue until the entirety of the regulatory deferral and all carrying costs have been recovered, or until the deferral is terminated either by PUCO order, court order, or by the end date in the approved deferral.
- Permits PUCO to grant a deferral for any number of years up to five years, after PUCO approves the deferral.
- Prohibits any remaining unrecovered costs from being subject to a future deferral, a rate case, or other cost recovery mechanism after the deferral period granted by PUCO has ended.
- Permits PUCO to approve the collection of any ID costs that are not funded by a disbursement from the All Ohio Future Fund under continuing law or through another approved rider or rate mechanism under law governing rate case applications.
- Permits a company that is prohibited under the provisions described in the dot point immediately above from recovering ID costs for a particular site or project in an IDR to recover ID costs for other sites or EDPs under an investment designed to provide natural gas service to a site or EDP supported by JobsOhio, any JobsOhio network or regional partner, or DEV that do not satisfy the requirements in the dot point immediately above.

*(R.C. 4929.162(C) & (D)).*

### **EDP application**

- Permits a company to file an application with PUCO for approval of an EDP for which the company will incur ID costs.
- Removes the specification under current law that a company that has a project application for SiteOhio certification can also apply for an EDP.
- Specifies that applications for EDP approval must contain a description of certain items required under current law, but “to the extent applicable.”
- Specifies only that PUCO may approve an EDP that involves ID costs described as an investment for any deposit required by the company, as defined in the line-extension provision of the company’s tariff, less any contribution in aid of construction received from the EDP owner or developer, but only if the ID costs:
  - Exclude a return on all ID costs equal to the company’s return on equity authorized in the company’s most recently approved rate case under continuing law; and
  - Are projected to generate a return on investment that is less than the most recently authorized return on equity.

*(R.C. 4929.163(A), (C), and (D)).*

### **PUCO annual review**

- Requires PUCO to annually submit a report to the General Assembly, in accordance with continuing law, describing the following:

- The number of “applications for ID costs” (not applications for IDRs) and how many of those were approved;
- The amount approved for recovery through each company IDR and the total amount approved for recovery through all IDRs for all companies;
- The number of approved EDPs on which all construction has been completed;
- A list containing the construction status of all approved EDPs, including those that have not begun construction, or if construction has begun but not completed, a description of any structures on which construction has been completed.

*(R.C. 4929.165(B)).*