

As Reported by the House Public Utilities Committee

129th General Assembly

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Sub. H. B. No. 379

Representative Blessing

Cosponsors: Representatives Beck, Stebelton

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A B I L L

To amend sections 4909.05, 4909.06, 4909.07, 4909.08, 1
4909.15, 4909.156, 4909.172, 4909.18, 4909.191, 2
and 4909.42 of the Revised Code to permit, for 3
water-works and sewage disposal system companies, 4
certain rate-calculation adjustments, to make 5
changes regarding water and sewer infrastructure 6
improvement surcharges, and to alter language 7
regarding utility requirements for when rate 8
increases may take effect in the absence of 9
administrative action. 10

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

Section 1. That sections 4909.05, 4909.06, 4909.07, 4909.08, 11
4909.15, 4909.156, 4909.172, 4909.18, 4909.191, and 4909.42 of the 12
Revised Code be amended to read as follows: 13

Sec. 4909.05. As used in this section: 14

(A) A "lease purchase agreement" is an agreement pursuant to 15
which a public utility leasing property is required to make rental 16
payments for the term of the agreement and either the utility is 17
granted the right to purchase the property upon the completion of 18
the term of the agreement and upon the payment of an additional 19

fixed sum of money or title to the property vests in the utility 20
upon the making of the final rental payment. 21

(B) A "leaseback" is the sale or transfer of property by a 22
public utility to another person contemporaneously followed by the 23
leasing of the property to the public utility on a long-term 24
basis. 25

(C) The public utilities commission shall prescribe the form 26
and details of the valuation report of the property of each public 27
utility or railroad in the state. Such report shall include all 28
the kinds and classes of property, with the value of each, owned, 29
held, or, with respect to a natural gas, water-works, or sewage 30
disposal system company, projected to be owned or held as of the 31
date certain, by each public utility or railroad used and useful, 32
or, with respect to a natural gas, water-works, or sewage disposal 33
system company, projected to be used and useful as of the date 34
certain, for the service and convenience of the public. Such 35
report shall contain the following facts in detail: 36

(1) The original cost of each parcel of land owned in fee and 37
in use, or, with respect to a natural gas, water-works, or sewage 38
disposal system company, projected to be owned in fee and in use 39
as of the date certain, determined by the commission; and also a 40
statement of the conditions of acquisition, whether by direct 41
purchase, by donation, by exercise of the power of eminent domain, 42
or otherwise; 43

(2) The actual acquisition cost, not including periodic 44
rental fees, of rights-of-way, trailways, or other land rights 45
held, or, with respect to a natural gas, water-works, or sewage 46
disposal system company, projected to be held as of the date 47
certain, by virtue of easements, leases, or other forms of grants 48
of rights as to usage; 49

(3) The original cost of all other kinds and classes of 50

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; 83

(6) The proper and adequate reserve for depreciation, as 84
determined to be reasonable by the commission; 85

(7) Any sums of money or property that the company may have 86
received, or, with respect to a natural gas, water-works, or 87
sewage disposal system company, is projected to receive as of the 88
date certain, as total or partial defrayal of the cost of its 89
property; 90

(8) The valuation of the property of the company, which shall 91
be the sum of the amounts contained in the report pursuant to 92
divisions (C)(1) to (5) of this section, less the sum of the 93
amounts contained in the report pursuant to divisions (C)(6) and 94
(7) of this section. 95

The report shall show separately the property used and useful 96
to such public utility or railroad in the furnishing of the 97
service to the public, the property held by such public utility or 98
railroad for other purposes, and the property projected to be used 99
and useful to or held by a natural gas, water-works, or sewage 100
disposal system company as of the date certain, and such other 101
items as the commission considers proper. The commission may 102
require an additional report showing the extent to which the 103
property is used and useful, or, with respect to a natural gas, 104
water-works, or sewage disposal system company, projected to be 105
used and useful as of the date certain. Such reports shall be 106
filed in the office of the commission for the information of the 107
governor and the general assembly. 108

Sec. 4909.06. The investigation and report required by 109
section 4909.05 of the Revised Code shall show, when the public 110
utilities commission deems it necessary, the amounts, dates, and 111
rates of interest of all bonds outstanding against each public 112
utility or railroad, the property upon which such bonds are a 113

lien, the amounts paid for them, and, the original capital stock 114
and the moneys received by any such public utility or railroad by 115
reason of any issue of stock, bonds, or other securities. Such 116
report shall also show the net and gross receipts of such public 117
utility or railroad and the method by which moneys were expended 118
or paid out and the purpose of such payments. The commission may 119
prescribe the procedure to be followed in making the investigation 120
and valuation, the form in which the results of the ascertainment 121
of the value of each public utility or railroad shall be 122
submitted, and the classifications of the elements that constitute 123
the ascertained value. Such investigation shall also show the 124
value of the property of every public utility or railroad as a 125
whole, and if such property is in more than one county, the value 126
of its property in each of such counties. 127

"Valuation" and "value," as used in this section, may 128
include, with respect to a natural gas, water-works, or sewage 129
disposal system company, projected valuation and value as of the 130
date certain, if applicable because of a future date certain under 131
section 4909.15 of the Revised Code. 132

Sec. 4909.07. The public utilities commission, during the 133
making of the valuation provided for in sections 4909.04 to 134
4909.13, ~~inclusive,~~ of the Revised Code, and after its completion, 135
shall in like manner keep itself informed through its engineers, 136
experts, and other assistants of all extensions, improvements, or 137
other changes in the condition and value of the property of all 138
public utilities or railroads and shall ascertain the value of 139
such extensions, improvements, and changes. The commission shall, 140
as is required for the proper regulation of such public utilities 141
or railroads, revise and correct its valuations of property, 142
showing such revisions and corrections as a whole and as to each 143
county. Such revisions and corrections shall be filed in the same 144
manner as original reports. 145

"Valuation" and "value," as used in this section, may 146
include, with respect to a natural gas, water-works, or sewage 147
disposal system company, projected valuation and value as of the 148
date certain, if applicable because of a future date certain under 149
section 4909.15 of the Revised Code. 150

Sec. 4909.08. When the public utilities commission has 151
completed the valuation of the property of any public utility or 152
railroad and before such valuation becomes final, it shall give 153
notice by registered letter to such public utility or railroad, 154
and if a substantial portion of said public utility or railroad is 155
situated in a municipal corporation, then to the mayor of such 156
municipal corporation, stating the valuations placed upon the 157
several kinds and classes of property of such public utility or 158
railroad and upon the property as a whole and give such further 159
notice by publication or otherwise as it shall deem necessary to 160
apprise the public of such valuation. If, within thirty days after 161
such notification, no protest has been filed with the commission, 162
such valuation becomes final. If notice of protest has been filed 163
by any public utility or railroad, the commission shall fix a time 164
for hearing such protest and shall consider at such hearing any 165
matter material thereto presented by such public utility, 166
railroad, or municipal corporation, in support of its protest or 167
by any representative of the public against such protest. If, 168
after the hearing of any protest of any valuation so fixed, the 169
commission is of the opinion that its inventory is incomplete or 170
inaccurate or that its valuation is incorrect, it shall make such 171
changes as are necessary and shall issue an order making such 172
corrected valuations final. A final valuation by the commission 173
and all classifications made for the ascertainment of such 174
valuations shall be public and are prima-facie evidence relative 175
to the value of the property. 176

"Valuation" and "value," as used in this section, may 177

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 209
this division, not including such allowance for construction work 210
in progress. 211

Where the commission permits an allowance for construction 212
work in progress, the dollar value of the project or portion 213
thereof included in the valuation as construction work in progress 214
shall not be included in the valuation as plant in service until 215
such time as the total revenue effect of the construction work in 216
progress allowance is offset by the total revenue effect of the 217
plant in service exclusion. Carrying charges calculated in a 218
manner similar to allowance for funds used during construction 219
shall accrue on that portion of the project in service but not 220
reflected in rates as plant in service, and such accrued carrying 221
charges shall be included in the valuation of the property at the 222
conclusion of the offset period for purposes of division (C)(8) of 223
section 4909.05 of the Revised Code. 224

From and after April 10, 1985, no allowance for construction 225
work in progress as it relates to a particular construction 226
project shall be reflected in rates for a period exceeding 227
forty-eight consecutive months commencing on the date the initial 228
rates reflecting such allowance become effective, except as 229
otherwise provided in this division. 230

The applicable maximum period in rates for an allowance for 231
construction work in progress as it relates to a particular 232
construction project shall be tolled if, and to the extent, a 233
delay in the in-service date of the project is caused by the 234
action or inaction of any federal, state, county, or municipal 235
agency having jurisdiction, where such action or inaction relates 236
to a change in a rule, standard, or approval of such agency, and 237
where such action or inaction is not the result of the failure of 238
the utility to reasonably endeavor to comply with any rule, 239
standard, or approval prior to such change. 240

In the event that such period expires before the project goes 241
into service, the commission shall exclude, from the date of 242
expiration, the allowance for the project as construction work in 243
progress from rates, except that the commission may extend the 244
expiration date up to twelve months for good cause shown. 245

In the event that a utility has permanently canceled, 246
abandoned, or terminated construction of a project for which it 247
was previously permitted a construction work in progress 248
allowance, the commission immediately shall exclude the allowance 249
for the project from the valuation. 250

In the event that a construction work in progress project 251
previously included in the valuation is removed from the valuation 252
pursuant to this division, any revenues collected by the utility 253
from its customers after April 10, 1985, that resulted from such 254
prior inclusion shall be offset against future revenues over the 255
same period of time as the project was included in the valuation 256
as construction work in progress. The total revenue effect of such 257
offset shall not exceed the total revenues previously collected. 258

In no event shall the total revenue effect of any offset or 259
offsets provided under division (A)(1) of this section exceed the 260
total revenue effect of any construction work in progress 261
allowance. 262

(2) A fair and reasonable rate of return to the utility on 263
the valuation as determined in division (A)(1) of this section; 264

(3) The dollar annual return to which the utility is entitled 265
by applying the fair and reasonable rate of return as determined 266
under division (A)(2) of this section to the valuation of the 267
utility determined under division (A)(1) of this section; 268

(4) The cost to the utility of rendering the public utility 269
service for the test period used for the determination under 270
division (C)(1) of this section, less the total of any interest on 271

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 304
section 5727.391 of the Revised Code. 305

(B) The commission shall compute the gross annual revenues to 306
which the utility is entitled by adding the dollar amount of 307
return under division (A)(3) of this section to the cost, for the 308
test period used for the determination under division (C)(1) of 309
this section, of rendering the public utility service under 310
division (A)(4) of this section. 311

(C)(1) Except as provided in division (D) of this section, 312
the revenues and expenses of the utility shall be determined 313
during a test period. The utility may propose a test period for 314
this determination that is any twelve-month period beginning not 315
more than six months prior to the date the application is filed 316
and ending not more than nine months subsequent to that date. The 317
test period for determining revenues and expenses of the utility 318
shall be the test period proposed by the utility, unless otherwise 319
ordered by the commission. 320

(2) The date certain shall be not later than the date of 321
filing, except that it shall be, for a natural gas, water-works, 322
or sewage disposal system company, not later than the end of the 323
test period. 324

(D) A natural gas, water-works, or sewage disposal system 325
company may propose adjustments to the revenues and expenses to be 326
determined under division (C)(1) of this section for any changes 327
that are, during the test period or the twelve-month period 328
immediately following the test period, reasonably expected to 329
occur. The natural gas, water-works, or sewage disposal system 330
company shall identify and quantify, individually, any proposed 331
adjustments. The commission shall incorporate the proposed 332
adjustments into the determination if the adjustments are just and 333
reasonable. 334

(E) When the commission is of the opinion, after hearing and 335
after making the determinations under divisions (A) and (B) of 336
this section, that any rate, fare, charge, toll, rental, schedule, 337
classification, or service, or any joint rate, fare, charge, toll, 338
rental, schedule, classification, or service rendered, charged, 339
demanded, exacted, or proposed to be rendered, charged, demanded, 340
or exacted, is, or will be, unjust, unreasonable, unjustly 341
discriminatory, unjustly preferential, or in violation of law, 342
that the service is, or will be, inadequate, or that the maximum 343
rates, charges, tolls, or rentals chargeable by any such public 344
utility are insufficient to yield reasonable compensation for the 345
service rendered, and are unjust and unreasonable, the commission 346
shall: 347

(1) With due regard among other things to the value of all 348
property of the public utility actually used and useful for the 349
convenience of the public as determined under division (A)(1) of 350
this section, excluding from such value the value of any franchise 351
or right to own, operate, or enjoy the same in excess of the 352
amount, exclusive of any tax or annual charge, actually paid to 353
any political subdivision of the state or county, as the 354
consideration for the grant of such franchise or right, and 355
excluding any value added to such property by reason of a monopoly 356
or merger, with due regard in determining the dollar annual return 357
under division (A)(3) of this section to the necessity of making 358
reservation out of the income for surplus, depreciation, and 359
contingencies, and; 360

(2) With due regard to all such other matters as are proper, 361
according to the facts in each case, 362

(a) Including a fair and reasonable rate of return determined 363
by the commission with reference to a cost of debt equal to the 364
actual embedded cost of debt of such public utility, 365

(b) But not including the portion of any periodic rental or 366

use payments representing that cost of property that is included 367
in the valuation report under divisions (C)(4) and (5) of section 368
4909.05 of the Revised Code, fix and determine the just and 369
reasonable rate, fare, charge, toll, rental, or service to be 370
rendered, charged, demanded, exacted, or collected for the 371
performance or rendition of the service that will provide the 372
public utility the allowable gross annual revenues under division 373
(B) of this section, and order such just and reasonable rate, 374
fare, charge, toll, rental, or service to be substituted for the 375
existing one. After such determination and order no change in the 376
rate, fare, toll, charge, rental, schedule, classification, or 377
service shall be made, rendered, charged, demanded, exacted, or 378
changed by such public utility without the order of the 379
commission, and any other rate, fare, toll, charge, rental, 380
classification, or service is prohibited. 381

(F) Upon application of any person or any public utility, and 382
after notice to the parties in interest and opportunity to be 383
heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 384
4921., and 4923. of the Revised Code for other hearings, has been 385
given, the commission may rescind, alter, or amend an order fixing 386
any rate, fare, toll, charge, rental, classification, or service, 387
or any other order made by the commission. Certified copies of 388
such orders shall be served and take effect as provided for 389
original orders. 390

Sec. 4909.156. In fixing the just, reasonable, and 391
compensatory rates, joint rates, tolls, classifications, charges, 392
or rentals to be observed and charged for service by any public 393
utility, the public utilities commission shall, in action upon an 394
application filed pursuant to section 4909.18 of the Revised Code, 395
require a public utility to file a report showing the 396
proportionate amounts of the valuation of the property of the 397
utility, as determined under section 4909.05 ~~ex~~ of the Revised 398

Code, and the proportionate amounts of the revenues and expenses 399
of the utility that are proposed to be considered as attributable 400
to the service area involved in the application. 401

"Valuation," as used in this section, may include, with 402
respect to a natural gas, water-works, or sewage disposal system 403
company, projected valuation as of the date certain, if applicable 404
because of a future date certain under section 4909.15 of the 405
Revised Code. 406

Sec. 4909.172. (A) A waterworks company, or a sewage disposal 407
system company, that is a public utility may file an application 408
with the public utilities commission for approval to collect an 409
infrastructure improvement surcharge, determined in accordance 410
with this section, from customers located in the company's 411
affected service areas and subject to affected schedules filed by 412
the company under section ~~4905.31~~ 4905.32 of the Revised Code. The 413
application shall be in such form and contain such information as 414
the commission prescribes. At the time of filing, the company 415
shall serve a copy of the application upon the chief executive of 416
each municipal corporation, the board of township trustees of each 417
township, and the board of county commissioners of each county in 418
which affected customers are located. A company for which a an 419
infrastructure improvement surcharge is authorized under this 420
section may file an application for another such surcharge not 421
sooner than twelve months after the filing date of its most recent 422
infrastructure improvement surcharge application. 423

(B) The commission shall provide an opportunity for the 424
filing of comments on an application filed under division (A) of 425
this section. After considering those comments, the commission may 426
authorize a an infrastructure improvement surcharge for the 427
company that is just and reasonable and is sufficient, but does 428
not exceed, the revenue requirement necessary to do both of the 429

following: 430

(1) Cover such infrastructure plant costs of the company as 431
are described in division (C) of this section, incurred after 432
March 1, 2003, and before the date of filing, and not already 433
reflected in the affected schedules filed by the company under 434
section ~~4905.31~~ 4905.32 of the Revised Code; 435

(2) Provide a fair and reasonable rate of return on the 436
filing date valuation of that particular infrastructure plant. 437

~~The~~ Each infrastructure improvement surcharge chargeable to 438
each affected customer class within any single tariff of the 439
company shall not exceed three per cent, for a sewage disposal 440
system company, and four and one quarter per cent, for a 441
waterworks company, of the rates and charges applicable to the 442
class and for the tariff in effect on the date the application was 443
filed and, as to the allowed percentage increase, shall be uniform 444
for each such class. The commission shall not authorize a company 445
to have more than three infrastructure improvement surcharges for 446
any single company tariff in effect at any time. 447

Additionally, the commission shall not authorize a an 448
infrastructure improvement surcharge under this section if it 449
determines that the surcharge causes the company to earn an 450
excessive rate of return on its valuation under section 4909.15 of 451
the Revised Code. 452

(C) For purposes of this section, a company's costs of 453
infrastructure plant may include depreciation expenses. Such 454
infrastructure plant ~~shall exclude any improvement providing the~~ 455
~~company with additional revenue other than any minimal revenue~~ 456
~~associated with the elimination of a dead end, and may consist~~ 457
~~only~~ of the following capital improvements that the commission 458
determines are used and useful in rendering public utility 459
service: 460

(1) In the case of a waterworks company, replacement of 461
existing plant including chemical feed systems, filters, pumps, 462
motors, plant generators, meters, service lines ~~for, and~~ hydrants, 463
mains, and valves ~~installed as a part of, a replacement project~~ 464
~~for an existing facility;~~ main extensions that eliminate dead 465
ends to resolve documented water supply problems presenting 466
significant health or safety issues to then existing customers; 467
and main cleaning or relining; 468

(2) In the case of a sewage disposal system company, 469
replacement of existing infrastructure including chemical feed 470
systems, filters, pumps, motors, sludge-handling equipment, plant 471
generators, mains and lift stations ~~installed as part of a~~ 472
~~replacement project for an existing facility;~~ main extensions 473
that resolve documented sewage disposal problems presenting 474
significant health or safety issues to then existing customers; 475
and main cleaning, inflow and infiltration elimination, or 476
relining; 477

(3) Unreimbursed capital expenditures made by the waterworks 478
company, or the sewage disposal system company, for waterworks, or 479
sewage disposal, facility relocation required by a governmental 480
entity due to a street or highway project; 481

(4) Minimum land or landrights acquired by the company as 482
necessary for any service line, equipment, or facility described 483
in divisions ~~(A)~~(C)(1) to (3) of this section. 484

(D) During the period that an authorized infrastructure 485
improvement surcharge is in effect, the commission, by order and 486
on its own motion or upon good cause shown, may reduce the amount 487
of or terminate a an infrastructure improvement surcharge if it 488
determines that the surcharge causes the company to earn an 489
excessive rate of return on its valuation under section 4909.15 of 490
the Revised Code. 491

(E) An order issued by the commission deciding an application 492
by a waterworks company or a sewage disposal system company for an 493
increase in rates and charges pursuant to an application filed by 494
the company under section 4909.18 of the Revised Code shall 495
provide for the termination, as of the earlier of the effective 496
date of the increase or the date specified in division (F) of this 497
section, of any infrastructure improvement surcharges of the 498
company authorized under this section. 499

(F) All surcharges authorized under this section shall 500
terminate by operation of law not later than December 31, ~~2014~~ 501
2025. 502

(G) The company shall provide notice of any infrastructure 503
improvement surcharge authorized under this section to each 504
affected customer with or on the customer's first bill containing 505
the surcharge. 506

(H) The commission may adopt such rules as it considers 507
necessary to carry out this section. 508

Sec. 4909.18. Any public utility desiring to establish any 509
rate, joint rate, toll, classification, charge, or rental, or to 510
modify, amend, change, increase, or reduce any existing rate, 511
joint rate, toll, classification, charge, or rental, or any 512
regulation or practice affecting the same, shall file a written 513
application with the public utilities commission. Except for 514
actions under section 4909.16 of the Revised Code, no public 515
utility may issue the notice of intent to file an application 516
pursuant to division (B) of section 4909.43 of the Revised Code to 517
increase any existing rate, joint rate, toll, classification, 518
charge, or rental, until a final order under this section has been 519
issued by the commission on any pending prior application to 520
increase the same rate, joint rate, toll, classification, charge, 521
or rental or until two hundred seventy-five days after filing such 522

application, whichever is sooner. Such application shall be 523
verified by the president or a vice-president and the secretary or 524
treasurer of the applicant. Such application shall contain a 525
schedule of the existing rate, joint rate, toll, classification, 526
charge, or rental, or regulation or practice affecting the same, a 527
schedule of the modification amendment, change, increase, or 528
reduction sought to be established, and a statement of the facts 529
and grounds upon which such application is based. If such 530
application proposes a new service or the use of new equipment, or 531
proposes the establishment or amendment of a regulation, the 532
application shall fully describe the new service or equipment, or 533
the regulation proposed to be established or amended, and shall 534
explain how the proposed service or equipment differs from 535
services or equipment presently offered or in use, or how the 536
regulation proposed to be established or amended differs from 537
regulations presently in effect. The application shall provide 538
such additional information as the commission may require in its 539
discretion. If the commission determines that such application is 540
not for an increase in any rate, joint rate, toll, classification, 541
charge, or rental, the commission may permit the filing of the 542
schedule proposed in the application and fix the time when such 543
schedule shall take effect. If it appears to the commission that 544
the proposals in the application may be unjust or unreasonable, 545
the commission shall set the matter for hearing and shall give 546
notice of such hearing by sending written notice of the date set 547
for the hearing to the public utility and publishing notice of the 548
hearing one time in a newspaper of general circulation in each 549
county in the service area affected by the application. At such 550
hearing, the burden of proof to show that the proposals in the 551
application are just and reasonable shall be upon the public 552
utility. After such hearing, the commission shall, where 553
practicable, issue an appropriate order within six months from the 554
date the application was filed. 555

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 586
adjustments to revenues and expenses and the actual revenues and 587
expenses associated with the incorporated adjustments. 588

(B) If the commission incorporated projected value or 589
valuation of property into the commission's determination under 590
division (A)(1) of section 4909.15 of the Revised Code, the 591
natural gas, water-works, or sewage disposal system company shall, 592
not later than ninety days after data for the actual value or 593
valuation as of the date certain becomes known, submit to the 594
commission proposed rate or charge adjustments that provide for 595
the recalculation of rates or charges, reflective of 596
customer-class responsibility, corresponding to the differences, 597
if any, between the projected value or valuation incorporated into 598
the commission's determination and the actual value or valuation 599
as of the date certain. 600

(C) The commission shall review the proposed rate or charge 601
adjustments submitted under divisions (A) and (B) of this section. 602
The review shall not include a hearing unless the commission finds 603
that the proposed rate or charge adjustments may be unreasonable, 604
in which case the commission may, in its discretion, schedule the 605
matter for a hearing. 606

(D) The commission shall issue, not later than one hundred 607
fifty days after the date that any proposed rate or charge 608
adjustments are submitted under division (A) or (B) of this 609
section, a final order on the proposed rate or charge adjustments. 610
Any rate or charge adjustments authorized under this division 611
shall be limited to amounts that are not greater than those 612
consistent with the proposed adjustments to revenues and expenses 613
that were incorporated into the commission's determination under 614
division (D) of section 4909.15 of the Revised Code, and not 615
greater than those consistent with the incorporated projected 616

value or valuation. In no event shall rate or charge adjustments 617
authorized under this division be upward. 618

After the commission has issued such a final order, the 619
natural gas, water-works, or sewage disposal system company, if 620
applicable, shall submit to the commission proposed reconciliation 621
adjustments that refund to customers the difference between the 622
actual revenues collected by the natural gas, water-works, or 623
sewage disposal system company, under the rates and charges 624
determined by the commission under section 4909.15 of the Revised 625
Code, and the rates or charges recalculated under the adjustments 626
authorized under this division. The reconciliation adjustments 627
shall be effective for a twelve-month period. 628

(E) The reconciliation adjustments ordered under division (D) 629
of this section may be subject to a final reconciliation by the 630
commission. Any such final reconciliation shall occur after the 631
twelve-month period described in division (D) of this section. 632

Sec. 4909.42. If the proceeding on an application filed with 633
the public utilities commission under section 4909.18 of the 634
Revised Code by any public utility requesting an increase on any 635
rate, joint rate, toll, classification, charge, or rental or 636
requesting a change in a regulation or practice affecting the same 637
has not been concluded and an order entered pursuant to section 638
4909.19 of the Revised Code at the expiration of two hundred 639
seventy-five days from the date of filing the application, an 640
increase not to exceed the proposed increase shall go into effect 641
upon the filing of ~~an undertaking~~ a bond or a letter of credit by 642
the public utility. The ~~undertaking~~ bond or letter of credit shall 643
be filed with the commission and shall be payable to the state for 644
the use and benefit of the customers affected by the proposed 645
increase or change. 646

~~The undertaking~~ An affidavit attached to the bond or letter 647

of credit must be signed by two of the officers of the utility, 648
under oath, and must contain a promise on behalf of the utility to 649
refund any amounts collected by the utility over the rate, joint 650
rate, toll, classification, charge, or rental, as determined in 651
the final order of the commission. All refunds shall include 652
interest at the rate stated in section 1343.03 of the Revised 653
Code. The refund shall be in the form of a temporary reduction in 654
rates following the final order of the commission, and shall be 655
accomplished in such manner as shall be prescribed by the 656
commission in its final order. The commission shall exercise 657
continuing and exclusive jurisdiction over such refunds. 658

If the public utilities commission has not entered a final 659
order within five hundred forty-five days from the date of the 660
filing of an application for an increase in rates under section 661
4909.18 of the Revised Code, a public utility shall have no 662
obligation to make a refund of amounts collected after the five 663
hundred forty-fifth day which exceed the amounts authorized by the 664
commission's final order. 665

Nothing in this section shall be construed to mitigate any 666
duty of the commission to issue a final order under section 667
4909.19 of the Revised Code. 668

Section 2. That existing sections 4909.05, 4909.06, 4909.07, 669
4909.08, 4909.15, 4909.156, 4909.172, 4909.18, 4909.191, and 670
4909.42 of the Revised Code are hereby repealed. 671