

**Before  
The Ohio House of Representatives  
Energy and Natural Resources Committee**

**Opponent Testimony on House Bill 685  
(Charging Natural Gas Consumers to Subsidize Infrastructure  
Development)**

**Jeff Jacobson, Strategic Insight Group**

**On Behalf of the  
Office of the Ohio Consumers' Counsel**

**December 13, 2022**

Hello Chair Stephens, Vice-Chair Stewart, Ranking Member Weinstein, and Committee members. I hope you and your colleagues are well.

Consumers' Counsel Weston and I thank you and the bill sponsors (Rep. Edwards and Rep. Cross) for this opportunity to present opponent testimony on House Bill 685.

This bill involves economic development, which of course can be a good thing. And the development of natural gas infrastructure can be helpful to deliver this plentiful Ohio natural resource to underserved areas of Ohio.

Having said that, a part of the bill enables gas utilities to collect subsidies through a rider, like a tax, from Ohio utility consumers at the PUCO. OCC recommends that this subsidy part of the bill be removed, for consumer protection. We also recommend that the legislature consider ways to encourage competition for infrastructure development. In this regard, we note that gas utilities in Ohio do not have exclusive franchises to operate in an area.

H.B. 685 would apparently double the rider (from \$1.50 per month to \$3.00 per month) that Ohio consumers could be made to pay for "infrastructure development," under Ohio Revised Code Section 4929.162. It is essentially a tax increase, through utility rates, for Ohio consumers and their families.

We understand that the infrastructure development, to be subsidized by consumers, relates to economic development. The intention is to make natural gas service available in areas of Ohio that may lack sufficiently developed natural gas infrastructure (Lines 47-49).

But for infrastructure development in this bill, the PUCO should not be allowed to disregard ratemaking principles that are designed to protect consumers. Unfortunately, the subsidy and related ratemaking parts of this bill override needed consumer protections.

Under current law, gas utility consumers may be charged up to \$1.50 per month for economic development projects, with a maximum of *one* infrastructure development rider per company. (R.C. 4929.162.) However, this bill appears to allow adding \$1.50 *per month* more in a rider. (Lines 1047-1049.)

The bill also continues the undermining of consumer protections in traditional ratemaking, such as in HB 6 (that is still subsidizing coal and solar power plants) and this session in HB 317 and HB 364. For example, the bill allows a utility to retain (instead of refund) unspent infrastructure funds that were collected from Ohio consumers. And it allows that retention of consumer funds while the utility is receiving yet another new infrastructure rider. (Lines 1066-1070.)

Essentially, consumers could be making the equivalent of a *loan* to utilities under the bill. But investors and financial institutions, not consumers, are supposed to be the source for such utility funding.

Another concern is that the bill is not only designed like a tax, but it is a *regressive* type of tax. It favors big business customers over consumers. (Lines 1051-1052.) That is contrary to fairness and equity in ratemaking. Some of the largest companies in Ohio (and in the country) would pay merely \$3.00 monthly for the subsidy, which is the same amount that residential consumers would pay. There is no scaling of the tax-like charge where big businesses should pay much more and residential consumers should pay much less than \$3.00 monthly.

Another example of the undermining of rate case principles that protect consumers is the bill will allow natural gas utilities to charge consumers for *excessive profits*. The bill allows utilities up to an excessive 12% “rate of return” on qualifying infrastructure development investments (Lines 1057-1060). This 12% rate of return on gas utility investment is much higher than the nationwide average return on equity (profit) of about 9.5% authorized for natural gas utilities in recent years.

More problematic, the bill would allow natural gas utilities to charge these excessive profits to consumers for infrastructure development projects that are not *used and useful* in the provision of utility service to consumers. (Lines 1057-1060.) The venerable used-and-useful consumer protection standard was recently the basis for the Ohio Supreme Court to overrule the PUCO in an appeal by OCC. There, the Court ruled that the PUCO should not have allowed Suburban Natural Gas to charge consumers for a pipeline extension that was not “useful” for their utility service.

Overall, the bill could cost Ohio gas consumers and their families up to nearly \$119 million yearly to subsidize utilities, double the current potential charge.

For the above (and other) reasons, we recommend that the Committee remove the subsidies to utilities, at consumer expense, and remove the related ratemaking from the bill. Thank you for your consideration at this time of soaring energy prices and inflation for Ohio consumers.