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Bill Analysis

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Version: As Passed by the House

Primary Sponsor: Rep. D. Thomas

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SUMMARY

Exemption from being a public utility

- Exempts from regulation as a public utility by the Public Utilities Commission (PUCO) both of the following:
 - A person, business, or other entity that, either on its own behalf or under a contract with a property owner, provides, constructs, or installs for customers submetered utility service;
 - Billing service for the resale of water service to a tenant or condominium based on metered consumption that is delivered at a point after water service is delivered to the public utility's metered point of delivery.
- Defines "submetered utility service" to be various services that are provided, constructed, or installed at a point after services provided by a public utility are delivered to the public utility's metered points of delivery at the customer's location, such as, for example, electric service and resale of electricity to a tenant's dwelling unit by a landlord or the landlord's agent that is based on metered consumption.

Public utility meter location prohibition

- Prohibits, except for reasons of safety or reliability:
 - A public utility from setting the location of, or refusing to relocate, its meters so that their location prevents a submetered utility service provider from providing, constructing, or installing submetered utility service, or prevents a billing service from providing water service resale billing service based on metered consumption, at a point after public utility service is delivered at that metered point of delivery.
 - PUCO from adopting any rule allowing such a public utility to locate, or refuse to relocate, its meters as described in the prohibition above.

Public utility personal property or equipment offer for sale

- Requires a public utility, except for reasons of safety or reliability, to offer to sell certain personal property or equipment to a utility customer at the property or equipment's fair market value if specified requirements are met.

Electric utility data reference tools

- Requires each electric utility to maintain up-to-date reference tools on the utility's website, or in another conspicuous and publicly accessible location, that permit automatic calculation of what the utility would charge its residential customers with a specific kilowatt-hour usage during any of the most recent 12 months.

OCC online billing assistance programs list

- Requires the Office of the Consumers' Counsel (OCC) to maintain a list of billing assistance programs on OCC's website that may be available to a tenant who receives submetered utility service.

Submetered utility service providers

Submetered electricity resale charge limit

- Prohibits a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit from charging the tenant more than the applicable residential customer standard service offer and all tariffed charges and riders.

Submetered utility service provider registration

- Requires a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit to register with PUCO every two years and comply with PUCO rules.
- Requires PUCO to adopt rules to implement the provider registration requirement by not later than one year after the bill's effective date.
- Allows PUCO to require the biennial registration of other submetered utility service providers that provide submetered utility service to residential end users and that any such providers comply with applicable registration requirements.
- Allows PUCO to charge submetered utility service providers a registration fee of not more than \$1,000 per initial and each subsequent biennial registration.
- Prohibits a submetered utility service provider from providing submetered utility service to an Ohio consumer without being registered, to the extent that such registration is required.

Interim compliance plans

- Requires a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with

more than 50 dwelling units to file an interim compliance plan for each property or community with more than 50 dwelling units at which submetered utility service is provided for PUCO approval until the adoption of compliance plan rules.

- Specifies interim compliance plan filing deadlines and requirements for PUCO to approve an interim compliance plan.
- Terminates an approved interim compliance plan upon PUCO approving a compliance plan for the same property or community.
- Requires PUCO to adopt interim compliance plan rules not more than 180 days after the bill's effective date.
- Prohibits a submetered utility service provider that must file an interim compliance plan from providing submetered utility service to Ohio customers without an interim compliance plan until compliance plan rules are adopted.

Compliance plans

- Requires a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with more than 50 dwelling units to file a compliance plan for PUCO approval for each property or community with more than 50 dwelling units at which submetered utility service is provided to tenants.
- Specifies compliance plan filing deadlines and requirements for PUCO to approve a compliance plan.
- Requires PUCO to adopt compliance plan rules not more than one year after the bill's effective date.
- Prohibits a submetered utility service provider that must file a compliance plan from providing submetered utility service to Ohio customers without a compliance plan.

Landlord submetered electric service lease language

- Requires a landlord of a property or community with more than 50 dwelling units that is not the submetered electric service provider to separately contribute to or attest to the language included, or to be included, in each tenant's lease relating to submetered electric service.

Other provider requirements

- Imposes various other requirements on a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit, such as, for example, compliance with existing law and rules regarding the disconnection of electric service by an electric light company.
- Requires PUCO to adopt rules to implement the other provider requirements by not later than one year after the bill's effective date.

Provider registration or plan evaluation by PUCO

- Requires PUCO to approve or issue a notice of deficiency relating to a submetered utility service provider registration application, interim compliance plan filing, or compliance plan filing not more than 30 days after receipt from a submetered utility service provider at a property or community with more than 50 dwelling units.
- Allows a provider that receives a notice of deficiency to submit an amended filing to PUCO within 30 days of receipt.
- Provides that a provider application or filing that is not approved or for which a notice of deficiency is not submitted within 90 days is approved by operation of law.

Rule requirements

- Requires rules adopted by PUCO to implement the bill's submetered utility service providers provisions to be reasonable and not confer any undue economic, competitive, or market advantage or preference upon any electric light company, submetered utility service provider, or competitive retail electric service provider.

Modification or waiver of certain requirements

- Allows PUCO to temporarily modify or waive, for a period not exceeding 60 days, various requirements imposed under the bill, such as, for example, requirements relating to submetered utility service provider registration and compliance plans.

PUCO investigation

- Requires PUCO to receive and use reasonable diligence to investigate reports or information regarding a possible failure to comply with the bill's requirements.
- Requires PUCO to report its conclusions and review results to a tenant receiving submetered utility service within 180 days if the review is initiated by a report or information from the tenant.
- Allows a submetered utility service provider that fails to cooperate with PUCO's review in good faith be determined liable for violating the bill's requirements and be assessed a penalty.

Written complaint to PUCO

- Establishes a process for any person, firm, corporation, or PUCO to file a written complaint against a submetered utility service provider or landlord for violating or failing to comply with certain provisions of the bill.
- Allows PUCO to open a formal investigation of a written complaint, subject to a cure period of 60 days or longer at PUCO's discretion.
- Authorizes PUCO to assess penalties on the submetered utility service provider or landlord after notice and a reasonable opportunity for a hearing.

Penalties

- Grants a submetered utility service provider or landlord a 60-day cure period, or longer at PUCO’s discretion, and provides that if the violation or failure is cured during such period then the provider or landlord is not subject to the penalty.
- Creates various penalties for a submetered utility service provider that is found to have violated or failed to comply with the bill, such as, for example, a \$10,000 forfeiture if a provider resells electricity to tenants based on metered consumption at the tenant’s dwelling unit at a property or community with more than 50 dwelling units without an approved compliance plan.
- Provides for a submetered utility service provider or landlord to be barred from providing submetered utility service in Ohio for up to two years for a violation or failure to comply with the bill’s requirements.

Report to the General Assembly

- Requires PUCO to issue a report to the General Assembly containing certain information not later than two years after the effective date of rules required to be adopted by the bill.

Rental agreement disclosure of utility service resale

- Requires a landlord that resells or permits resale of utility service to tenants to: (1) disclose the nature of such utility service and all related charges and fees in its leases, and (2) comply with the applicable submetered utility service provisions of the bill.

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DETAILED ANALYSIS

Summary

The bill imposes various requirements regarding submetered utility service and submetered utility service providers.

The bill exempts entities providing (1) submetered utility service and (2) billing services for the resale of water service in certain instances from being classified as a “public utility” subject to Public Utilities Commission (PUCO) jurisdiction. The bill also imposes various requirements regarding submetered utility service and submetered utility service providers,

and imposes penalties on noncompliant submetered utility service providers and landlords. For example, the bill requires submetered utility service providers to register with PUCO.

Further, the bill requires a landlord that resells or permits resale of utility service to tenants to include the nature of such service and fees in the rental agreement.

Exemption from being a public utility

Ohio law describing the general powers of PUCO specifies what entities are “public utilities” subject to PUCO regulation and what entities *are not* public utilities and thus not subject to PUCO regulation. A person, business, or other entity that is not a public utility is exempt from PUCO regulation, including, for example, the utility ratemaking law and hearing procedures under the utility law. The bill exempts both of the following from being a public utility:

- A person, business, or other entity that, either on its own behalf or under contract with a property owner, provides, constructs, or installs for customers submetered utility service.
- Billing service for the resale of water service to a tenant’s dwelling unit by a landlord or the landlord’s agent, or to a condominium by a unit owners association of the association’s agent, that is based on metered consumption and that is delivered at a point after water service is delivered to the public utility’s metered point of delivery for that service at that location.¹

Definitions

As used in the bill:

- “Advanced energy resources” means, as provided in continuing law, any of several listed technologies, including, for example, any method or any modification or replacement of any property, process, device, structure, or equipment, that increases an electric generating facility’s generation output to the extent it is achieved without additional carbon dioxide emissions.
- “Submetered utility service” means any of the following, if provided, constructed, or installed at a point after services provided by a public utility are delivered to the public utility’s metered points of delivery at the customers’ location: (1) service or benefit from an advanced energy resource, (2) electric service, (3) billing service for advanced energy resource service or benefit and electric service, (4) electric vehicle (EV) charging, (5) resale of electricity to a tenant’s dwelling unit by a landlord or the landlord’s agent that is based on metered consumption, and (6) resale of electricity to a condominium by a unit owners association or the association’s agent that is based on metered consumption.

¹ R.C. 4905.02(A)(6)(a) and (7).

- “Submetered utility service provider” means generally, a person, business, or other entity that, either on its own behalf or under a contract with a property owner, provides, constructs, or installs for customers submetered utility service. But, in the case of resale of electricity to a tenant based on metered consumption at the tenant’s dwelling unit, the “submetered utility service provider” is the master meter account holder, or customer of record, with the public utility delivering service to the premises, except to the extent that such account holder or customer of record is a landlord who has assigned responsibility for compliance with some or all of the bill’s requirements to a third party by contract. The third party that assumed responsibility for compliance is the submetered utility service provider to the extent that the third party has assumed such responsibility.
- “Electric light company” under continuing law, means an entity engaged in the business of supplying electricity for light, heat, or power purposes to consumers in Ohio, including supplying electric transmission service for electricity delivered to consumers in Ohio, but excluding a regional transmission organization approved by the Federal Energy Regulatory Commission, a self-generator, or mercantile customer self-power system.
- “Electric utility” is defined, under continuing law, as an electric light company that has a certified territory and is engaged on a for-profit basis in the business of supplying at least a noncompetitive retail electric service in Ohio, excluding a municipal electric utility or a billing and collection agent.
- “Condominium” means a form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to the Condominium Property Law and under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.
- “Dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
- “Landlord” means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.
- “Public utility” means an electric light company, natural gas company, or water-works company that is regulated by PUCO.
- “Tenant” means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

- “Unit owners association” means the organization that administers the condominium property and that consists of all the owners of units in a condominium property.²

Public utility meter location prohibition

Except for reasons of safety or reliability, the bill prohibits a public utility from setting the location of, or refusing to relocate, any of its meters so that the meter’s location prevents either of the following:

- A submetered utility service provider from providing, constructing, or installing submetered utility service at a point after the public utility service is delivered to the utility’s metered point of delivery at that location;
- A water service resale billing service for a tenant or condominium that is based on metered consumption from providing the billing service at a point after the service is delivered to the utility’s metered point of delivery for that service at that location.

Additionally, except for reasons of safety or reliability, PUCO is prohibited from adopting any rule that permits a public utility to set the location of, or refuse to relocate, any of its meters so that the meter’s location prevents a submetered utility service provider or water service resale billing service as described above.³

Public utility personal property or equipment offer for sale

The bill requires a public utility, except for reasons of safety or reliability, to offer to sell personal property or equipment to a utility customer for any purpose, including for providing submetered utility service and to ensure certainty of ownership of the personal property or equipment following the change in service, if the customer requests an alteration in the location, character, or metering of the customer’s service from the utility where the alteration would render the personal property or equipment as no longer used and useful in providing utility service to the customer’s property if the both of the following are met:

- The personal property or equipment is located exclusively within the boundaries of the customer’s real property;
- The personal property or equipment was used exclusively to provide utility service to the property.

The utility is required to price the personal property or equipment offered for sale to a customer at its fair market value, as the value of such property or equipment would be represented in a ratemaking proceeding before PUCO. The utility must record the proceeds from such a sale as a regulatory liability.

² R.C. 4905.02(A)(6)(b) and (C), 4911.22(A), 4933.51(A) to (C), (E), (G), and (H), and 5321.04(C); R.C. 4905.03, 4928.01, 5311.01(K) and (DD), and 5321.01(A), (B), and (F), not in the bill.

³ R.C. 4933.52.

“Fair market value” is defined by the bill as a value determined by considering the age, condition, price of similar assets of the same age and use in the market, and recent sale prices and expert appraisals.⁴

Electric utility data reference tools

Under the bill, each electric utility must maintain up-to-date reference tools on the utility’s website, or in another conspicuous and publicly accessible location, that permit automatic calculation of what the utility would charge its residential customers with a specific kilowatt-hour usage during any of the most recent 12 months.⁵

OCC online billing assistance programs list

The Office of the Consumers’ Counsel (OCC) is required by the bill to maintain a list of billing assistance programs on OCC’s website that may be available to a tenant who receives submetered utility service.⁶

Submetered utility service providers

Submetered electricity resale charge limit

The bill prohibits a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant’s dwelling unit from charging the tenant more than the bill for the standard service offer (SSO) and all tariffed charges and riders that the electric light company in whose certified territory the dwelling unit is located would charge its residential customers for electric service.

Continuing law requires each electric distribution utility to provide consumers within its certified territory an SSO of all competitive retail electric services necessary to maintain essential electric service, including a firm supply of electric generation service.⁷

Submetered utility service provider registration

Required registration for certain electric resale providers

A submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant’s dwelling unit is required by the bill to register with PUCO every two years and comply with PUCO rules. The registration is limited to including only: (1) the provider’s name, (2) the provider’s business address, (3) the provider’s telephone number, (4) the provider’s regulatory contact, (5) type of services offered by the provider, and (6) evidence of the managerial, financial, and technical capabilities to offer such services.

⁴ R.C. 4933.51(D) and 4933.53.

⁵ R.C. 4933.54.

⁶ R.C. 4911.22(B).

⁷ R.C. 4933.55; R.C. 4928.141, not in the bill.

PUCO must adopt rules to implement the provider registration requirement by not later than one year after the bill's effective date.⁸

PUCO may require registration for other providers

The bill allows PUCO to require the biennial registration of submetered utility service providers that provide submetered utility service to residential end users other than providers that resell electricity to a tenant based on metered consumption at the tenant's dwelling unit, and that any such providers comply with applicable registration requirements.⁹

Registration fee

PUCO is permitted to charge submetered utility service providers a registration processing fee of not more than \$1,000 per initial and each subsequent biennial registration. Any collected registration fees must be used by PUCO to pay costs associated with implementing the bill.¹⁰

No submetered utility service without registration

A submetered utility service provider is prohibited from providing submetered utility service to an Ohio customer without being registered with PUCO to the extent that such registration is required, unless the registration requirement is waived (see "**Modification or waiver of certain requirements**" below).¹¹

Interim compliance plans

Interim compliance plan filing requirement

Under the bill, prior to the effective date of rules to implement the "**Compliance plans**" below, a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with more than 50 dwelling units must file an interim compliance plan for each property or community with more than 50 dwelling units at which submetered utility service is provided to tenants for PUCO approval.

The interim compliance plan must be filed by either of the following dates, whichever¹² is later: (1) not more than 90 days after PUCO adopts rules to implement the interim

⁸ R.C. 4933.56(A) and 4933.59(A).

⁹ R.C. 4933.59(C).

¹⁰ R.C. 4933.59(E).

¹¹ R.C. 4933.62(A).

¹² The bill says that the interim compliance plan must be filed "by either of the following dates, whichever is later. . ." with one of those dates being "[p]rior to the date that the provider initiates providing. . . , *whichever is later.*" The second reference to "whichever is later" appears unnecessary. A technical amendment may be needed to correct this.

compliance plan requirement, or (2) prior to the date that the provider initiates providing submetered utility service at the property or community.¹³

Interim compliance plan approval

PUCO must approve an interim compliance plan filing that does all of the following:

- Includes the provider's name, business address, telephone number, regulatory contact, and the type of services offered by the provider at the community or property;
- Describes the methods by which the provider intends to ensure that any bills to tenants at the property or community comply with the pricing requirements for the resale of electricity (see "**Submetered electricity resale charge limit**" above);
- Describes how the provider intends to comply with the electric service disconnection standards imposed by the bill (see "**Other provider requirements**" below);
- If more than one submetered utility service provider provides submetered utility service at a single property or community with more than 50 dwelling units, or if more than one party is responsible for the compliance plan items described above, sets forth the responsibilities of each provider for each of the interim compliance plan items.¹⁴

Interim compliance plan termination

The provider must adhere to the PUCO-approved interim compliance plan, unless otherwise directed by PUCO, until the plan is terminated.

An interim compliance plan continues until terminated by law or it is terminated by PUCO. An approved interim compliance plan terminates upon PUCO approving a compliance plan for the same property or community.¹⁵

Interim compliance plan filing requirement termination

The requirement to file an interim compliance plan terminates upon the effective date of rules to implement **Compliance plan rules**.¹⁶

Interim compliance plan rules

PUCO must adopt rules to implement the interim compliance plan requirement not more than 180 days after the bill's effective date.¹⁷

¹³ R.C. 4933.57(A).

¹⁴ R.C. 4933.57(B).

¹⁵ R.C. 4933.57(C) and (D).

¹⁶ R.C. 4933.57(E).

¹⁷ R.C. 4933.59(B).

Prohibition regarding interim compliance plans

Beginning 120 days after the effective date of the rules implementing the interim compliance plan requirement and ending on the effective date of rules implementing the **Compliance plans**, a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with more than 50 dwelling units cannot provide a submetered utility service to an Ohio consumer without an approved interim compliance plan.¹⁸

Compliance plans

Compliance plan filing requirement

The bill requires a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with more than 50 dwelling units to file a compliance plan for PUCO approval for each property or community with more than 50 dwelling units at which submetered utility service is provided to tenants.

The compliance plan must be filed by either of the following dates, whichever is later: (1) not more than 90 days after PUCO adopts rules to implement the compliance plan law, or (2) prior to the date that the provider initiates providing submetered utility service at the property or community.¹⁹

Compliance plan approval

PUCO must approve a compliance plan filing that does all of the following:

- Describes the means by which the provider will ensure compliance with the bill's "**Submetered utility service provider registration**" and "**Other provider requirements**" provisions, and PUCO rules at the property or community, as applicable;
- Includes the provider's name, business address, telephone number, regulatory contact, and the type of services offered by the provider at the community or property;
- Describes the methods by which the provider intends to ensure that any bills to tenants at the property or community comply with the pricing requirements for the resale of electricity (see "**Submetered electricity resale charge limit**" above);
- Describes how the provider intends to comply with the electric service disconnection standards imposed by the bill (see "**Other provider requirements**" below);
- Includes a copy of the language included, or to be included, in each tenant's lease relating to submetered electric service in compliance with the bill's "**Landlord**

¹⁸ R.C. 4933.62(B).

¹⁹ R.C. 4933.58(A).

submetered electric service lease language” and “Rental agreement disclosure of utility service resale” requirements;

- For submetered utility service provided or intended to be provided to a qualified low-income building, discloses any utility assistance programs available to tenants or condominium owners of which the applicant is aware as of the date the application is submitted;
- If more than one submetered utility service provider provides submetered utility service at a single property or community with more than 50 dwelling units, or if more than one party is responsible for the compliance plan items, sets forth the responsibilities of each provider for each of the above compliance plan items;
- Discloses the standard communication format used by the provider or landlord to provide information to tenants;
- Provide a description of the alternative payment plan required by the bill (see “**Other provider requirements**” below).

“Qualified low-income building” is defined in federal law as any building which both: (1) is part of a qualified low-income housing project at all times during the period beginning on the first day in the compliance period on which such building is part of such a project and ending on the last day of the compliance period with respect to such building, and (2) certain amendments made by the Tax Reform Act of 1986 apply.²⁰

Compliance plan adherence and updates

The submetered utility service provider must adhere to the approved compliance plan unless otherwise directed by PUCO. The compliance plan must be updated from time to time upon any material change to the information contained.²¹

Compliance plan rules

Rules must be adopted to implement the compliance plan requirement not later than one year after the bill’s effective date.²²

Prohibition regarding compliance plans

Beginning 120 days after the effective date of the rules implementing the compliance plan requirement, a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant’s dwelling unit at a property or community with more than 50 dwelling units cannot provide a submetered utility service to an Ohio consumer

²⁰ R.C. 4933.51(F) and 4933.58(B); R.C. 175.16, not in the bill; 26 United States Code 42(c)(2).

²¹ R.C. 4933.58(D) and (E).

²² R.C. 4933.59(A).

without an approved compliance plan, unless the compliance plan requirement is waived (see **“Modification or waiver of certain requirements”** below).²³

Landlord submetered electric service lease language

To the extent that a landlord of a property or community with more than 50 dwelling units is not the submetered utility service provider, the bill requires the landlord to separately contribute to or attest to the language included, or to be included, in each tenant’s lease relating to submetered electric service (see **“Rental agreement disclosure of utility service resale”** below).²⁴

Other provider requirements

A submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant’s dwelling unit must also do all of the following under the bill:

- At a minimum, comply with the current law and rules regarding the disconnection of electric service that are applicable to electric light companies. Current law regarding the disconnection of electric service applicable to electric light companies, for example, imposes various procedures before terminating electric service to a residential customer, such as reasonable notice and a reasonable opportunity to dispute the reasons for termination.
- Provide a separate disclosure and a report of historic monthly usage and corresponding billed amounts for metered electricity to each tenant’s dwelling unit for the proceeding 12 months, if applicable, to its tenants solely for purposes of complying with the **“Submetered electricity resale charge limit”** described above.
- Disclose its process and procedures for the disconnection of electric service to its tenants.
- Provide notice of the list of billing assistance programs required under **“OCC online billing assistance programs list”** discussed above to a tenant that receives submetered utility service from the provider at both of the following times: (1) upon the tenant’s request for submetered utility service bill assistance, and (2) at least annually in the standard communication format used by the provider or landlord to provide information to tenants.
- Offer an alternative payment plan option to a tenant that receives submetered utility service from the provider.
- Accept a payment from the Home Energy Assistance Program (HEAP) when the account holder qualifies for such program.

²³ R.C. 4933.62(C).

²⁴ R.C. 4933.58(C).

- Ensure that each bill issued by the provider for submetered utility service complies with all of the following:
 - Lists each charge or fee for such service in a separate and distinct manner that allows the tenants to understand each charge or fee;
 - Lists each common area charge or fee, including each common area charge or fee for central systems air conditioning, heating, and hot water, in a separate and distinct manner that allows the tenant to understand each common area charge or fee;
 - Clearly states the tenant’s actual or estimated electricity usage in kilowatt hours, or other standard measure, in a manner that allows the tenant to effectively use the **“Electric utility data reference tools”** described above.

PUCO must adopt rules to implement the above provider requirements by not later than one year after the bill’s effective date.²⁵

Provider registration or plan evaluation by PUCO

Under the bill, PUCO must approve or issue a notice of deficiency relating to a submetered utility service provider registration application, interim compliance plan filing, or compliance plan filing not more than 30 days after receipt from a submetered utility service provider at a property or community with more than 50 dwelling units. PUCO must approve the registration application, interim compliance plan filing, or compliance plan filing if all applicable requirements are met (see **“Submetered utility service provider registration,”** **“Interim compliance plans,”** and **“Compliance plans”** above).

If a provider’s application or filing does not comply with some or all applicable requirements, then PUCO must notify the provider by using a notice of deficiency setting forth the manner of noncompliance in terms sufficiently specific to permit the provider to remedy the noncompliance. Upon a provider’s amendment of an application or filing following a notice of deficiency, PUCO must approve or deny the amended filing within 30 days of receipt. If PUCO denies a provider’s amended application or filing, it must notify the provider of the reason for denial.

Any application or filing not approved or for which a notice of deficiency is not submitted within 90 days of receipt is approved by operation of law.²⁶

Rule requirements

The bill requires any rules adopted by PUCO that are described in **“Submetered utility service providers,”** including any requirements regarding classifications, procedures, terms, and conditions, to be reasonable and not confer any undue economic,

²⁵ R.C. 4933.56(B) to (H) and 4933.59(A); R.C. 4933.121 to 4933.123, not in the bill.

²⁶ R.C. 4933.60.

competitive, or market advantage or preference upon any electric light company, submetered utility service provider, or competitive retail electric service provider.²⁷

Modification or waiver of certain requirements

The bill allows PUCO to temporarily modify or waive, for a period not exceeding 60 days, any or all of the requirements described by “**Submetered utility service provider registration**,” “**Compliance plans**,” “**Other provider requirements**,” and “**Rule requirements**” discussed above to account for: (1) changes in technology or law, or (2) for the emergence of factors or circumstances affecting a party’s compliance with those requirements, which factors are beyond the party’s control, or which could not be reasonably anticipated by that party.²⁸

PUCO investigation

The bill requires PUCO to receive and use reasonable diligence to investigate any reports or information regarding a possible failure to comply with, or a violation of, the requirements described in “**Submetered utility service providers**” above. PUCO is authorized to review any of the following in response to any such reports or information received:

- A submetered utility service provider’s or landlord’s relevant billing practices;
- A submetered utility service provider’s or landlord’s billing history;
- A submetered utility service provider’s or landlord’s leases;
- Any other relevant documentation and information PUCO deems appropriate.

Any portion of materials reviewed by PUCO as part of its investigation that contain personally identifiable information, including banking or information which could be used to commit identity theft, must be treated as confidential.

If a review is initiated resulting from a report or information from a tenant receiving submetered utility service, PUCO must report its conclusions and results of the review to the tenant not more than 180 days after receiving the report or information.

Any submetered utility service provider that fails to cooperate with a review in good faith may, at PUCO’s discretion, be deemed liable for violating the “**Submetered utility service providers**” provisions and assessed a penalty (see “**Penalties**” below).²⁹

Written complaint to PUCO

Any person, firm, or corporation, or PUCO on its own initiative, may file a written complaint against either of the following:

²⁷ R.C. 4933.59(D).

²⁸ R.C. 4933.61.

²⁹ R.C. 4933.63.

- Any submetered utility service provider for a failure to comply with, or a violation of, the **“Submetered utility service providers”** requirements;
- Any landlord who is not a submetered utility service provider for a failure to comply with the **“Landlord submetered electric service lease language”** requirements.

If it appears that reasonable grounds for complaint are stated after a preliminary investigation, PUCO must provide notice of probable noncompliance to the submetered utility service provider or landlord and grant the recipient 60 days (or longer at PUCO’s discretion) to cure the noncompliance. If the notice recipient does not cure the noncompliance during the cure period, PUCO may open a formal investigation of the complaint.

After a formal investigation, PUCO may provide reasonable notice and opportunity for a hearing to the provider or landlord subject to the investigation. After such notice and opportunity for a hearing, if PUCO determines by a preponderance of the evidence that the provider or landlord committed a violation or failure to comply, it may issue an order to assess penalties prescribed by the bill (see **“Penalties”** below). The parties to a formal investigation are entitled to be heard, represented by counsel, and to have a process to enforce the attendance of witnesses.

The bill specifies that nothing in the above written complaint and investigation provisions prohibit a provider or landlord from resolving any failure to comply with, or a violation of, the **“Submetered utility service providers”** requirements prior to PUCO action.³⁰

Penalties

Cure period

The bill’s penalties that are described below are subject to a 60-day cure period (or longer at PUCO’s discretion) for the submetered utility service provider or landlord, as applicable, to cure the violation or failure to comply. If the violation or failure to comply is cured within the cure period, then the provider or landlord is not subject to the assessed penalties.³¹

Submetered utility service provider penalties

The bill allows PUCO to impose any or all of the following penalties on a submetered utility service provider after reasonable notice and opportunity for a hearing (see **“Written complaint to PUCO”** above), or if the provider does not to cooperate with a PUCO investigation in good faith (see **“PUCO investigation”** above):

³⁰ R.C. 4933.64.

³¹ R.C. 4933.65(B) and 4933.66(B).

- A forfeiture of not more than \$100 for each violation or compliance failure per impacted dwelling unit, with each day of the violation or failure being a separate violation or failure for each violation or failure;
- A forfeiture of \$10,000 if the provider resells electricity to a tenant based on metered consumption at the tenant's dwelling unit at a property or community with more than 50 dwelling units without an approved compliance plan (which may be in addition to the forfeiture described above);
- Revoking, vacating, or nullifying the provider's registration and the issuance of an order and entry in PUCO's journal barring such provider from providing submetered utility service in Ohio for not more than two years.

Forfeitures are to be recovered by action prosecuted by the Attorney General, when directed by PUCO, in the name of the state and may be brought in the court of common pleas of any county where the provider who committed the violation or failed to comply is located. All forfeitures are cumulative, and an action for recovery of one does not bar the recovery of another. Forfeitures collected must be credited to the General Revenue Fund.³²

Landlord penalty

PUCO is permitted, after reasonable notice and opportunity for a hearing (see "**Written complaint to PUCO**" above), to enter an order in its journal barring, for not more than two years, the provision of submetered utility service to the property or community of a landlord for failing to comply with the "**Landlord submetered electric service lease language**" requirement.³³

Report to the General Assembly

PUCO must submit a report to the General Assembly, not later than two years after adopting rules to implement the submetered utility service provider registration and compliance plan requirements, that contains all of the following information:

- The number of submetered utility service providers registered with PUCO;
- The name of each submetered utility service provider registered with PUCO;
- The name and address of each property or community served by a submetered utility service provider;
- The number of dwelling units at each property or community served by a submetered utility service provider;

³² R.C. 4933.65(A) and (C).

³³ R.C. 4933.66.

- The number of complaints received by PUCO on a monthly basis from residential customers regarding the customer's submetered utility service where PUCO determined that a violation by a submetered utility service provider occurred.³⁴

Regulatory restriction reduction exemption

The bill exempts rules adopted by PUCO to implement the bill, from the regulatory restriction limitation in current law.³⁵

Rental agreement disclosure of utility service resale

The bill adds that a landlord who is a party to a rental agreement must, if the landlord, by itself or with the assistance of a submetered utility service provider, resells or permits resale of utility service to tenants must: (1) disclose in its leases with tenants the nature of such utility service and all related charges and fees, including any common area charges or fees, and (2) comply with the applicable submetered utility service provisions of the bill. Existing law imposes various requirements on landlords who are a party to a rental agreement, such as, for example, making all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition.³⁶

HISTORY

Action	Date
Introduced	03-12-25
Reported, H. Energy	03-10-26
Passed House (74-23)	03-18-26

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³⁴ R.C. 4933.68.

³⁵ R.C. 4933.59(F); R.C. 121.95 to 121.953, not in the bill.

³⁶ R.C. 5321.04(A)(2) and (11).