

Sub. S. B. No. 106

As Passed by the Senate

_____ moved to amend as follows:

In line 1 of the title, after "sections" insert "4909.042, 4909.15, 1
4909.173, 4909.174," 2

In line 3 of the title, after "stations" insert "and to make 3
corrections to provisions of Senate Bill 103 of the 136th General 4
Assembly" 5

In line 4, after "sections" insert "4909.042, 4909.15, 4909.173, 6
4909.174," 7

After line 5, insert: 8

"Sec. 4909.042. (A) With respect to an electric light, 9
natural gas, water-works, or sewage disposal system company that 10
chooses to file a forecasted test period under section 4909.18 11
of the Revised Code, the public utilities commission shall 12
prescribe the form and details of the valuation report of the 13
property of the company. Such report shall include all the kinds 14
and classes of property, with the value of each, owned, held, or 15
projected to be owned or held during the test period, by the 16
company for the service and convenience of the public. 17



(B) Such report shall contain the following facts in	18
detail:	19
(1) The original cost of each parcel of land owned in fee	20
and projected to be owned in fee and in use during the test	21
period, determined by the commission; and also a statement of	22
the conditions of acquisition, whether by direct purchase, by	23
donation, by exercise of the power of eminent domain, or	24
otherwise;	25
(2) The actual acquisition cost, not including periodic	26
rental fees, of rights-of-way, trailways, or other land rights	27
projected to be held during the test period, by virtue of	28
easements, leases, or other forms of grants of rights as to	29
usage;	30
(3) The original cost of all other kinds and classes of	31
property projected to be used and useful during the test period,	32
in the rendition of service to the public. Such original costs	33
of property, other than land owned in fee, shall be the cost, as	34
determined to be reasonable by the commission, to the person	35
that first dedicated or dedicates the property to the public use	36
and shall be set forth in property accounts and subaccounts as	37
prescribed by the commission;	38
(4) The cost of property constituting all or part of a	39
project projected to be leased to or used by the company during	40
the test period, under Chapter 165., 3706., 6121., or 6123. of	41
the Revised Code and not included under division (B) (3) of this	42
section exclusive of any interest directly or indirectly paid by	43
the company with respect thereto whether or not capitalized;	44
(5) In the discretion of the commission, the cost to a	45
company, in an amount determined to be reasonable by the	46

commission, of property constituting all or part of a project 47
projected to be leased to the company during the test period, 48
under a lease purchase agreement or a leaseback and not included 49
under division (B) (3) of this section exclusive of any interest 50
directly or indirectly paid by the company with respect thereto 51
whether or not capitalized; 52

(6) The cost of the replacement of water service lines 53
incurred by a water-works company under section 4909.173 of the 54
Revised Code and the water service line replacement 55
reimbursement amounts provided to customers under section 56
4909.174 of the Revised Code; 57

(7) The proper and adequate reserve for depreciation, as 58
determined to be reasonable by the commission; 59

~~(7)~~(8) Any sums of money or property that the company is 60
projected to receive during the test period, as total or partial 61
defrayal of the cost of its property; 62

~~(8)~~(9) The valuation of the property of the company, which 63
shall be the sum of the amounts contained in the report pursuant 64
to divisions (B) (1) to ~~(5)~~(6) of this section, less the sum of 65
the amounts contained in the report pursuant to divisions ~~(B) (6)~~ 66
(B) (7) and ~~(7)~~(8) of this section; 67

~~(9) The cost of the replacement of water service lines~~ 68
~~incurred by a water-works company under section 4909.173 of the~~ 69
~~Revised Code and the water service line replacement~~ 70
~~reimbursement amounts provided to customers under section~~ 71
~~4909.174 of the Revised Code.~~ 72

(C) The report shall show separately the property 73
projected to be used and useful to or held by the company during 74
the test period, and such other items as the commission 75

considers proper. The commission may require an additional 76
report showing the extent to which the property is projected to 77
be used and useful during the test period. Such reports shall be 78
filed in the office of the commission for the information of the 79
governor and the general assembly. 80

(D) Any financial information required to be submitted by 81
an electric light, natural gas, water-works, or sewage disposal 82
system company under this section shall be provided from the 83
company's full books. The commission shall ensure appropriate 84
protections against the disclosure of the company's trade 85
secrets or proprietary information. 86

Sec. 4909.15. (A) The public utilities commission, when 87
fixing and determining just and reasonable rates, fares, tolls, 88
rentals, and charges, shall determine: 89

(1) (a) With respect to a public utility that is an 90
electric light, natural gas, water-works, or sewage disposal 91
system company that chooses not to file a forecasted test period 92
under section 4909.18 of the Revised Code, the valuation as of 93
the date certain of the property of the public utility that is 94
used and useful or, with respect to a natural gas, water-works, 95
or sewage disposal system company that chooses not to file a 96
forecasted test period under section 4909.18 of the Revised 97
Code, is projected to be used and useful as of the date certain, 98
in rendering the public utility service for which rates are to 99
be fixed and determined. 100

(b) With respect to an electric light, natural gas, water- 101
works, or sewage disposal system company that chooses to file a 102
forecasted test period under section 4909.18 of the Revised 103
Code, the valuation of the property of the utility that is 104
projected to be used and useful during the forecasted test 105

period in rendering the public utility service for which rates 106
are to be fixed and determined. 107

(c) The valuation so determined under division (A) (1) of 108
this section for any public utility shall be the total value as 109
set forth in division ~~(B) (8)~~ (B) (9) of section 4909.042 of the 110
Revised Code and division (B) (9) of section 4909.05 of the 111
Revised Code, and a reasonable allowance for materials and 112
supplies and a reasonable allowance for cash working capital as 113
determined by the commission. 114

(2) A fair and reasonable rate of return to the utility on 115
the valuation as determined in division (A) (1) of this section; 116

(3) The dollar annual return to which the utility is 117
entitled by applying the fair and reasonable rate of return as 118
determined under division (A) (2) of this section to the 119
valuation of the utility determined under division (A) (1) of 120
this section; 121

(4) The cost to the utility of rendering the public 122
utility service for the test period used for the determination 123
under division (C) (1) of this section by the utility during the 124
test period. 125

Federal, state, and local taxes imposed on or measured by 126
net income may, in the discretion of the commission, be computed 127
by the normalization method of accounting, provided the utility 128
maintains accounting reserves that reflect differences between 129
taxes actually payable and taxes on a normalized basis, provided 130
that no determination as to the treatment in the rate-making 131
process of such taxes shall be made that will result in loss of 132
any tax depreciation or other tax benefit to which the utility 133
would otherwise be entitled, and further provided that such tax 134

benefit as redounds to the utility as a result of such a 135
computation may not be retained by the company, used to fund any 136
dividend or distribution, or utilized for any purpose other than 137
the defrayal of the operating expenses of the utility and the 138
defrayal of the expenses of the utility in connection with 139
construction work. 140

(B) The commission shall compute the gross annual revenues 141
to which the utility is entitled by adding the dollar amount of 142
return under division (A) (3) of this section to the cost, for 143
the test period used for the determination under division (C) (1) 144
of this section, of rendering the public utility service under 145
division (A) (4) of this section. 146

(C) (1) Except as provided in division (D) of this section, 147
the revenues and expenses of the utility shall be determined 148
during a test period as follows: 149

(a) Electric light, natural gas, water-works, and sewage 150
disposal companies may propose a forecasted test period. If the 151
company proposes a forecasted test period, the company shall 152
propose annual base rates for three consecutive twelve-month 153
periods in a single forecasted test period application. 154

During the first twelve-month period, the company shall 155
propose a reasonably forecasted rate base using a thirteen-month 156
average, revenues, and expenses for the first twelve months that 157
new base rates will be in effect. 158

During the second twelve-month period, the base rate 159
revenue requirement shall be adjusted for the return of, and 160
return on, incremental rate base additions approved by the 161
commission in the initial application. During the third twelve- 162
month period, the base rate revenue requirement shall be 163

adjusted for the return of and return on incremental rate base 164
additions approved by the commission in the initial application. 165

For each twelve-month period, forecasted plant investment, 166
forecasted revenues, and forecasted expenses versus actual 167
investment, actual revenues, and actual expenses shall be trued 168
up via a cost recovery mechanism approved by the commission. 169

Each true-up process shall include an adjustment to actual 170
for the rate of return that the company is authorized to earn on 171
the actual investments made. The company shall provide the 172
commission with actual financial information during the true-up 173
process to ensure accuracy. As part of the true-up process, the 174
commission shall include only rate base components that have 175
been found by the commission to be used and useful in rendering 176
public utility service. 177

At the end of the last test period, the company shall file 178
for a rate case under section 4909.18 of the Revised Code. 179

(b) All utilities, except for electric light, natural gas, 180
water-works, or sewage disposal system companies that choose to 181
file under division (C) (1) (a) of this section, shall propose a 182
test period that is any twelve-month period beginning not more 183
than six months prior to the date the application is filed and 184
ending not more than nine months subsequent to that date. 185

(2) For utilities filing under division (C) (1) (b) of this 186
section, the date certain shall be not later than the date of 187
filing, except that it shall be, for a natural gas, water-works, 188
or sewage disposal system company, not later than the end of the 189
test period. 190

(D) Utilities filing under division (C) (1) (b) of this 191
section may propose adjustments to the revenues and expenses for 192

any changes that are, during the test period or the twelve-month 193
period immediately following the test period, reasonably 194
expected to occur. The utility shall identify and quantify, 195
individually, any proposed adjustments. The commission shall 196
incorporate the proposed adjustments into the determination if 197
the adjustments are just and reasonable. 198

(E) When the commission is of the opinion, after hearing 199
and after making the determinations under divisions (A) and (B) 200
of this section, that any rate, fare, charge, toll, rental, 201
schedule, classification, or service, or any joint rate, fare, 202
charge, toll, rental, schedule, classification, or service 203
rendered, charged, demanded, exacted, or proposed to be 204
rendered, charged, demanded, or exacted, is, or will be, unjust, 205
unreasonable, unjustly discriminatory, unjustly preferential, or 206
in violation of law, that the service is, or will be, 207
inadequate, or that the maximum rates, charges, tolls, or 208
rentals chargeable by any such public utility are insufficient 209
to yield reasonable compensation for the service rendered, and 210
are unjust and unreasonable, the commission shall: 211

(1) With due regard among other things to the value of all 212
property of the public utility as determined under division (A) 213
(1) of this section, excluding from such value the value of any 214
franchise or right to own, operate, or enjoy the same in excess 215
of the amount, exclusive of any tax or annual charge, actually 216
paid to any political subdivision of the state or county, as the 217
consideration for the grant of such franchise or right, and 218
excluding any value added to such property by reason of a 219
monopoly or merger, with due regard in determining the dollar 220
annual return under division (A) (3) of this section to the 221
necessity of making reservation out of the income for surplus, 222
depreciation, and contingencies, and; 223

(2) With due regard to all such other matters as are	224
proper, according to the facts in each case,	225
(a) Including a fair and reasonable rate of return	226
determined by the commission with reference to a cost of debt	227
equal to the actual embedded cost of debt of such public	228
utility,	229
(b) But not including the portion of any periodic rental	230
or use payments representing that cost of property that is	231
included in the valuation report under divisions (B)(4) and (5)	232
of section 4909.042 of the Revised Code and divisions (B)(4) and	233
(5) of section 4909.05 of the Revised Code, fix and determine	234
the just and reasonable rate, fare, charge, toll, rental, or	235
service to be rendered, charged, demanded, exacted, or collected	236
for the performance or rendition of the service that will	237
provide the public utility the allowable gross annual revenues	238
under division (B) of this section, and order such just and	239
reasonable rate, fare, charge, toll, rental, or service to be	240
substituted for the existing one. After such determination and	241
order no change in the rate, fare, toll, charge, rental,	242
schedule, classification, or service shall be made, rendered,	243
charged, demanded, exacted, or changed by such public utility	244
without the order of the commission, and any other rate, fare,	245
toll, charge, rental, classification, or service is prohibited.	246
(F) Upon application of any person or any public utility,	247
and after notice to the parties in interest and opportunity to	248
be heard as provided in Chapters 4901., 4903., 4905., 4907.,	249
4909., 4921., and 4923. of the Revised Code for other hearings,	250
has been given, the commission may rescind, alter, or amend an	251
order fixing any rate, fare, toll, charge, rental,	252
classification, or service, or any other order made by the	253

commission. Certified copies of such orders shall be served and	254
take effect as provided for original orders.	255
Sec. 4909.173. (A) As used in this section and section	256
4909.174 of the Revised Code:	257
(1) "Customer-owned water service line" means the water	258
service line connected to the water-works company's water	259
service line at the curb of a customer's property.	260
(2) "Water-works company" means an entity defined under	261
division (G) of section 4905.03 of the Revised Code that is a	262
public utility under section 4905.02 of the Revised Code.	263
(B) A water-works company may do any of the following:	264
(1) Replace lead customer-owned water service lines	265
concurrently with a scheduled utility main replacement project,	266
an emergency replacement, or company-initiated lead water	267
service line replacement program;	268
(2) Replace lead customer-owned water service lines when	269
mandated or ordered to replace such lines by law or a state or	270
federal regulatory agency;	271
(3) Replace customer-owned water service lines of other	272
composition when mandated or ordered to replace such lines by	273
law or a state or federal regulatory agency.	274
(C) If a water-works company replaces customer-owned water	275
service lines under this section, then the company shall include	276
the cost of the replacement of the water service lines,	277
including the cost of replacement of both company side and	278
customer-owned water service lines and the cost to evaluate	279
customer-owned water service lines of unknown composition, in	280
the valuation report of the property of the company as required	281

under division ~~(B) (9)~~ (B) (6) of section 4909.042 the Revised Code 282
or division (B) (6) of section 4909.05 of the Revised Code, 283
whichever is applicable, for inclusion in a rate case under this 284
chapter. 285

(D) The water service customer who is responsible for the 286
customer-owned water service line that was replaced under this 287
section shall hold legal title to the replaced water service 288
line. 289

Sec. 4909.174. (A) A water-works company shall reimburse 290
a customer who replaces the customer's customer-owned water 291
service line, if both of the following occur: 292

(1) The company confirms that the customer-owned water 293
service line was composed of lead or other composition that was 294
mandated or ordered to be replaced by law or a state or federal 295
regulatory agency; 296

(2) The customer submits the reimbursement request to the 297
company not later than twelve months after the completion of the 298
water line replacement. 299

(B) A water-works company that provides a reimbursement to 300
a customer under this section shall include the reimbursement 301
amount in the valuation report of the property of the company as 302
required under division ~~(B) (9)~~ (B) (6) of section 4909.042 of the 303
Revised Code or (B) (6) of section 4909.05 of the Revised Code, 304
whichever is applicable, for inclusion in a rate case under this 305
chapter." 306

In line 488, after "sections" insert "4909.042, 4909.15, 4909.173, 307
4909.174," 308

The motion was _____ agreed to.

<u>SYNOPSIS</u>	309
Corrective amendment	310
R.C. 4909.042, 4909.15, 4909.173, and 4909.174	311
Corrects provisions of the recently enacted S.B. 103 of	312
the 136th General Assembly to ensure that the cost of	313
replacement water service lines and water service line	314
replacement reimbursement amounts under continuing law are	315
included within the valuation of the property of a utility that	316
chooses to file for a forecasted test period.	317