



The Montrose Group, LLC

May 21, 2018

The Honorable Bob Cupp
The Honorable Mike Duffey
Ohio House of Representatives
77 South High Street
Columbus, Ohio 43215

Dear Chairman Cupp and Representative Duffey:

Utility Management and Conservation Association (UMCA) is a trade association promoting energy conservation and personal accountability by supporting resident submetering, billing and utility management programs for electricity, gas, trash, water and sewer. Submetering companies do not specify and build public utility infrastructure, nor do they buy and resell utility services or mark-up public utility services for a profit. Rather, submetering companies contract with residential and commercial landlords to monitor, bill and collect for occupant utility usage and charge a competitively derived administrative fee for the services provided.

Columbus Dispatch articles have chronicled how two Columbus-based real estate developers have filled a void created by American Electric Power's construction delays by designing and building utility infrastructure for developers in exchange for long term submetering contracts, which permit the companies to mark-up the commodity utility services. Going against industry practice, these companies design and build utility infrastructure, charge above the actual cost for utility services, and act as the public utility in terms of customer service and service restoration, which has caused a myriad of problems.. Sub. HB 249 attempts to address the activities of these two Columbus developers, and I write today to request several amendment to Sub. HB 249 on behalf of UMCA.

1. Embrace existing UMCA submetering best practices. Currently and for over thirty years in Ohio, submetering companies have been operating by measuring, billing and collecting utility bills on behalf of the their landlord customers. Measuring actual usage promotes conservation and personal accountability by providing the occupant with a transparent bill and empowers occupants, if they so choose, to control their costs for these utility services. Traditional submetering companies appear to be providing "third-party billing service" under Sub. HB 249. But it is unclear if Sub. HB 249 requires companies providing "third-party billing service" to put utility service charges and administrative fees in the landlord's rent. Lines 64-66 clearly require any reasonable administrative fee to be part of rent or a condominium-association fee. This requirement undercuts the policy objectives of conservation and personal accountability and creates substantial operational challenges for the traditional submetering company. We suggest the following edits to remedy this flaw:

Section 4901.01(K) "Third-party billing service" means any person, corporation, or other entity who charges an occupant on behalf of a proprietor as follows:

(1) The amount for utility service as measured by a master meter, submeter or submeters, ratio, or formula, that does not exceed the actual cost to the proprietor for utility service provided to the occupant.



The Montrose Group, LLC

(2) A reasonable monthly administrative fee as part of the standard monthly charge, such as rent or condominium association fee.

2. Clarify that submetering of utility service using the actual cost plus and administrative fee is permitted in Ohio. The current version of the legislation assumes submetering using the actual cost plus an administrative fee is permitted, but we would suggest the legislation expressly state that this submetering model is permitted. We would suggest the following language:

Section 4941.021 A third-party billing service may charge the actual cost to the proprietor for utility service provided to the occupant plus a reasonable monthly administrative fee pursuant to this chapter, and such charges shall not be deemed to be a resale of public utility service.

3. Clarify the legislation limits the resale or billing of municipal and private water service to the actual cost plus an administrative fee. The current version of Sub. HB 249 is not clear that it limits municipal water sales to the actual cost, and we suggest the following changes:

Section 4941.01 (N) "Utility provider" means all of the following:

(1) An electric distribution utility as defined in section 4928.01 of the Revised Code;

(2) An electric light company, as defined in section 4905.03 of the Revised Code, that operates its utility not for profit, including an electric cooperative as defined in section 4928.01 of the Revised Code;

(3) A municipal electric utility;

(4) A natural gas company, as defined in section 4929.01 of the Revised Code;

(5) A water-works company, as defined in section 4905.03 of the Revised Code;

(6) A sewage disposal system company, as defined in section 4905.03 of the Revised Code;

(7) A municipal, township, co-operative or county water and sewer entity.

Section 4941.022 A residential utility reseller or third-party billing service charging consumers for water service provided by a municipal, township or county water or sewage disposal company or a water-works company or sewage disposal system company shall charge consumers an amount for utility service that does not exceed the actual cost to the proprietor for the water and sewer service provided to the occupant.

4. Clarify that Sub. HB 249 will be the law of Ohio that governs submetering. Sub. HB 249 should be the law that governs the residential utility reselling and third-party billing service industry in Ohio. We would suggest the following language:

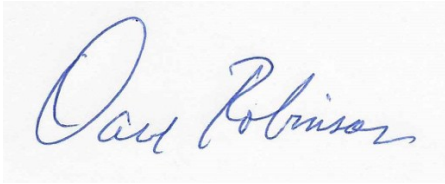
Sec. 4941.13. Nothing in this chapter limits the authority of the public utilities commission, a municipality, or another local jurisdiction to prohibit or limit residential utility reselling. The regulation of residential utility reselling and third-party billing service is a matter of general statewide interest that requires uniform statewide regulation, and this chapter constitutes a comprehensive plan with respect to all aspects of residential utility reselling and third-party billing service within this state.

Please let us know how we can provide any additional assistance.

Sincerely,



The Montrose Group, LLC



David J. Robinson, Principal, The Montrose Group, LLC