Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 142
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 142's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Dovilla and Fischer

Local Impact Statement Procedure Required: No

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Highlights

- The bill requires the Public Utilities Commission of Ohio (PUCO) to consider a public utility's capital structure when determining the rate of return as part of a rate case, which could lead to a change in utility costs for all ratepayers, including government agencies.
- The bill modifies the ratemaking process, inclusive of both traditional rate cases and alternative rate plans, for natural gas companies' cost recovery. This change may lead to an indirect fiscal impact in utility costs.

Detailed Analysis

The bill makes changes to Ohio law governing a traditional rate case for a natural gas company (NGC) by altering how the test period is established and providing for multiple dates certain for the financial information used in a rate case. A test year represents a 12-month period over which a utility calculates its revenues and costs to determine its customers' rates, which are subject to the Public Utilities Commission of Ohio's (PUCO) approval. Under current law, the test year is a hybrid of data from recent historical months and future forecasted periods. The bill permits an NGC to use a fully forecasted 12-month period for ratemaking purposes. It also exempts an NGC using this fully projected test year option from a provision in continuing law that requires utilities to recalculate rates or charges for differences between projected values of the utility's revenues, expenses, or property valuations and actual data after it becomes known. However, the bill does require PUCO to adjust the base rates of an NGC to reflect the actual property value of plant-in-service at the end of the test period.

The bill also expands the law governing alternative rate plans to include plans that recover certain costs and provide service to large load customers.

The bill requires PUCO to consider the capital structure when determining the rate of return for all public utilities.

Capital structure change and rate of return for public utilities

The bill provides, when PUCO is determining a fair and reasonable rate of return to a public utility as part of a rate case, for PUCO to also consider the public utility's capital structure, in addition to the valuation determined for public utility property.

According to PUCO, it has been the Commission's long-standing practice to utilize the cost of capital and capital structure approved in the utility's last base rate case in subsequent alternative rate plan and rider cases.[1] Several years can elapse between a utility's base rate cases, and in some instances, the duration is more than a decade. If a utility's capital structure and associated costs change in the ensuing years, it is possible that the rate of return does not reflect current market conditions (i.e., appropriate return on equity as measured by industry peers and the utility's cost of debt). The Ohio Supreme Court noted that the current statutory scheme does not require the Commission to adopt a rate of return based on current market conditions in a recent decision.[2] The bill requires the fair and reasonable rate of return to be "based on the capital structure of the public utility" as of the date or dates certain, which is a reference to dates during or at the end of the utility's test period.

Fiscal effect

The bill could impact utility costs depending on how PUCO applies the new rate of return criteria. If PUCO's review results in a higher approved rate of return, all ratepayers, including government agencies that pay for utility services, may face increased utility costs. However, the provision has no direct fiscal impact on local governments.

Ratemaking changes for an NGC and alternative rate plans

The bill modifies the test period and date certain for NGCs applying to PUCO to establish distribution service rates. It allows NGCs to propose test periods within 12 to 24 months from the application filing date and requires PUCO's approval for such proposals. It permits multiple "dates certain" that vary depending on the test year selected by the NGC. It allows an NGC to adjust its base rates to reflect the plant-in-service in accordance with a certain schedule following each of the dates certain and provides for PUCO review and approval of the adjustments.

The bill allows NGCs to propose alternative rate plans to recover costs and capital expenditures using projected test periods. Additionally, the bill requires certain rate plans and recovery of costs for compliance with state and federal law, and it requires timely approval or deemed approval if PUCO does not act within set timeframes. It also defines a "large load customer" and establishes guidelines for alternative rate plans for the necessary infrastructure to execute commercial agreements between the NGC and a large load customer. Please refer to the LSC bill analysis for additional detail about provisions in the bill.

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[1] *In re Application of E. Ohio Gas Co.*, 173 Ohio St.3d 493, 2023-Ohio-3289.

[2] *In re Application of E. Ohio Gas Co.*, 173 Ohio St.3d 493, 2023-Ohio-3289.

Fiscal effect

State and local governments may see indirect changes in utility costs as a result of potential rate adjustments for utilities. These indirect effects should be limited because the bill requires the NGC to demonstrate to PUCO that its alternative rate plan "protects the company's non-large load customers from financial risk associated with initial infrastructure costs under any commercial agreement entered into under that plan to serve the large load customers."

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