



OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

Substitute Bill Comparative Synopsis

Sub. H.B. 173

136th General Assembly

House Energy

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_136_1183-1)
Resale of electricity to a condominium as behind-the-meter utility service	
No provision.	Includes resale of electricity to a condominium by a unit owners association or the association's agent that is based on metered consumption and is delivered at a point after the public utility's metered point of delivery as "behind-the-meter utility service" (<i>R.C. 4905.02(A)(6)(b)(vi)</i>).

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Entity providing natural gas or water billing service to a condominium is not a public utility	
No provision.	Exempts an entity that provides billing service for the resale of natural gas or water service to a condominium by a unit owners association or the association’s agent that is based on metered consumption and is delivered at a point after the public utility’s metered point of delivery from being a “public utility” (<i>R.C. 4905.02(A)(7)</i>).
Behind-the-meter utility service provider electricity resale specification	
No provision.	Specifies that the “behind-the-meter utility service provider,” in the case of resale of electricity to a tenant based on metered consumption at the tenant’s dwelling unit, is the master meter account holder or customer of record with the public utility, unless such holder or customer is a landlord who assigned responsibility for compliance with some or all of the bill’s requirements by contract to a third party, in which case the third party is the behind-the-meter utility service provider (<i>R.C. 4933.51(B)</i>).
Offer for sale of public utility personal property and equipment	
No provision.	Requires, except for reasons of safety or reliability, a public utility to offer to sell personal property or equipment to a utility customer if the customer requests an alteration in the location, character, or metering if the service and when certain requirements are met, which must be priced as the depreciated book value of the property or equipment, and with proceeds for a sale recorded as a regulatory liability (<i>R.C. 4933.53</i>).

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Electric utility data reference tools	
No provision.	Requires each electric utility to maintain up to date reference tools on its website or another publicly accessible location, which permit automatic calculation of residential customer charges (<i>R.C. 4933.54</i>).
Behind-the-meter electricity resale tenant price limit	
Prohibits a behind-the-meter 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 <i>standard service offer and all riders</i> (<i>R.C. 4933.54</i>).	Adds that the behind-the-meter utility service provider also cannot charge a tenant more than <i>all tariffed charges</i> (<i>R.C. 4933.55</i>).
Registration requirements	
Allows the Public Utilities Commission (PUCO) to adopt rules requiring the biennial registration of some or all types of behind-the-meter utility service providers in Ohio (<i>R.C. 4933.56(A)</i>).	Requires a behind-the-meter 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 allows PUCO to require the registration of other providers of behind-the-meter utility service to residential end users (<i>R.C. 4933.56(A)</i> and <i>4933.59(C)</i>).
Registration disclosures	
Requires the disclosure of the behind-the-meter utility service provider's name, business address, phone number, regulatory contact, the type of services offered by the provider in the registration process, and other disclosures required by PUCO (<i>R.C. 4933.56(A)</i>).	Adds that registration must also include evidence of the managerial, financial, and technical capabilities to offer behind-the-meter utility service, and provides that the specified registration disclosures are the only such disclosures required (<i>R.C. 4933.56(A)</i>).

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Rules cannot confer benefits on certain entities	
Requires rules <i>establishing registration</i> requirements to be reasonable and to not confer undue advantage or preference on any electric light company, behind-the-meter utility service provider, or competitive retail electric service provider (<i>R.C. 4933.56(B)</i>).	Applies the reasonableness and not conveying undue advantage or preference requirements to rules adopted to implement the bill's registration, disclosure, interim compliance plan, and compliance plan requirements (<i>R.C. 4933.59(D)</i>).
Registration fee	
Allows PUCO to charge behind-the-meter utility service providers a \$200 registration processing fee per biennial registration (<i>R.C. 4933.56(C)</i>).	Specifies that the \$200 fee is per initial and each subsequent biennial registration, and requires PUCO to use collected registration fees to pay costs related to implementing the bill (<i>R.C. 4933.59(E)</i>).
Disclosures for behind-the-meter utility service providers reselling electricity to tenants	
<i>Permits</i> PUCO to require a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption for the tenant's dwelling unit to (1) provide a separate disclosure for purposes of compliance with the bill's electricity resale price limit, and (2) disclose its process and procedures for disconnecting electric service (<i>R.C. 4933.59</i>).	<i>Requires</i> such disclosures, and adds a report of historic monthly usage and corresponding billed amounts for metered electricity to each dwelling unit for the preceding 12 months (<i>R.C. 4933.56(C) and (D)</i>).
Electric service disconnection compliance	
No provision.	Requires a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption to, at a minimum, comply with existing law and rules regarding electric services to electric light company customers (<i>R.C. 4933.56(B)</i>).

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Interim compliance plan	
No provision.	Requires, prior to the effective date of rules to adopt the bill's compliance plan provision, a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling to file an interim compliance plan with PUCO that meets certain requirements (<i>R.C. 4933.57</i>).
Compliance plan	
No provision.	Requires a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling to file a compliance plan with PUCO that meets certain requirements, such as, for example including a copy of the lease language relating to behind-the-meter electric service (see " Landlord rental agreement requirements " below) (<i>R.C. 4933.58</i>).
Landlord separate attestation to lease language in compliance plan	
No provision.	Requires a landlord who is not the behind-the-meter utility service provider that must file a compliance plan to separately contribute or attest to the language included in each tenant's lease relating to behind-the-meter electric service (<i>R.C. 4933.58(B)(5) and (C)</i>).
Rule deadlines	
No provision.	Requires PUCO to adopt the following rules by the following deadlines: <ul style="list-style-type: none"> ▪ Rules to implement the bill's registration, disclosure, and compliance plan requirements not more than one year after the bill's effective date;

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Registration and compliance plan review	
No provision.	Requires PUCO to do all of the following regarding a behind-the-meter utility service provider registration application, interim compliance plan filing, or compliance plan filing: <ul style="list-style-type: none"> ▪ Approve or deny the application or filing not more than 30 days after receipt, with a failure to meet this deadline meaning the application or filing is approved by operation of law; ▪ Approve the application or filing if it complies with all applicable requirements; ▪ If such application or filing is denied, notify the provider of the reason for denial (R.C. 4933.60).
PUCO authority to waive or modify requirements	
No provision.	Authorizes PUCO to modify or waive any or all of the bill’s registration, disclosure, or compliance plan requirements to account for changes in technology, law, or for other good cause shown (R.C. 4933.61).
Prohibitions	
Prohibits a behind-the-meter utility service provider from providing a behind-the-meter utility service to a consumer in Ohio without being registered with PUCO, <i>if such</i> registration is required (R.C. 4933.57).	Prohibits all of the following: <ul style="list-style-type: none"> ▪ Unless waived by PUCO, a behind-the-meter utility service provider from providing behind-the-meter utility service to a

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	<p>consumer without being registered with PUCO, <i>to the extent</i> such registration is required;</p> <ul style="list-style-type: none"> ▪ Beginning 120 days after the effective date of rules implementing interim compliance plans and ending on the effective date of rules implementing compliance plans, a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption providing a behind-the-meter utility service to a consumer without an approved interim compliance plan; ▪ Beginning 120 days after the effective date of rules regarding compliance plans, unless waived by PUCO, a behind-the-meter utility service provider that resells electricity to a tenant based on metered consumption providing a behind-the-meter utility service to a consumer without an approved compliance plan (<i>R.C. 4933.62</i>).
Reports of failure to comply	
No provision.	<p>Regarding reports or information regarding a possible failure to comply with the bill's electric resale pricing requirement, registration, disclosure, interim compliance plan, compliance plan, or associated rules:</p> <ul style="list-style-type: none"> ▪ Requires PUCO to receive and use reasonable diligence to investigate such reports or information; ▪ Allows PUCO to review certain materials in response to such a report or information, provided such materials must be treated as confidential;

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	<ul style="list-style-type: none"> ▪ If a review is initiated by a report or information from a tenant, requires PUCO to report its conclusions to the tenant not more than 90 days after receipt; ▪ Subjects a behind-the-meter utility service provider that fails to comply with such review in good faith to the bill's "Forfeitures" and "Registration cancellation" (see below) penalties (<i>R.C. 4933.63</i>).
Written complaints against behind-the-meter utility service providers	
Allows the filing of a written complaint against any behind-the-meter utility service provider for a failure to comply with the bill's registration or electric resale pricing requirements (<i>R.C. 4933.60(A)</i>).	Adds that a written complaint can also be filed against a behind-the-meter utility service provider for violating the bill's disclosure requirements, interim compliance plan requirements, compliance plan requirements, or any associated rules (<i>R.C. 4933.64(A)(1)</i>).
Written complaints against landlords	
No provision.	Allows the filing of a written complaint against a landlord who is not a behind-the-meter utility service provider for a failure to attest to language that must be included in a tenant's lease (see " Landlord separate attestation to lease language in compliance plan " above) (<i>R.C. 4933.64(A)(2)</i>).
Preliminary investigation of written complaint	
No provision.	Requires PUCO to promptly conduct a preliminary investigation of a written complaint against a behind-the-meter utility service provider or landlord (<i>R.C. 4933.64(B)</i>).

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Notice of probable noncompliance	
Requires PUCO to provide notice of probable noncompliance to a behind-the-meter utility service provider if it appears reasonable grounds for complaint are stated in the written complaint (<i>R.C. 4933.60(A)</i>).	Specifies that PUCO must provide notice of probable noncompliance <i>after the preliminary investigation</i> , and adds that the notice of probable noncompliance must also be provided to a landlord (<i>R.C. 4933.64(C)</i>).
Probable noncompliance cure period	
Requires PUCO to grant 60 days for the behind-the-meter utility service provider that was provided a notice of probable noncompliance to cure the noncompliance, and, if the provider fails to cure within that period, then allows PUCO to open an investigation (<i>R.C. 4933.60(A)</i>).	Regarding the probable noncompliance cure period: <ul style="list-style-type: none"> ▪ Applies the noncompliance cure period to landlords; ▪ Permits PUCO to extend the cure period longer than 60 days; ▪ If the noncompliance is not cured then allows PUCO to open a <i>formal</i> investigation of the complaint (<i>R.C. 4933.64(C)</i>).
Hearing after formal investigation	
No provision.	Permits PUCO, after a formal investigation, to provide reasonable notice and opportunity for a hearing to the provider or landlord subject to the investigation, and then allows PUCO to assess penalties if it determines there was a violation by a preponderance of the evidence (<i>R.C. 4933.64(D)</i>).
Forfeitures	
Imposes a forfeiture of up to \$100 for a behind-the-meter utility service provider that violates the bill’s registration and electric resale pricing requirements for each violation or compliance failure, unless the “Penalty cure period” (described below) is satisfied (<i>R.C. 4933.63</i>).	Allows PUCO to impose either or both of the following forfeitures on a behind-the-meter utility service provider that did not comply with the bill’s electric resale pricing, registration, disclosure, interim compliance plan, compliance plan, or related rule requirements, or did not comply with the “Reports of failure to comply” provision

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	<p>(discussed above) unless the “Penalty cure period” (described below) is satisfied:</p> <ul style="list-style-type: none"> ▪ A forfeiture of up to \$100 for each violation or compliance failure, with each day of a violation or compliance failure being a separate violation; ▪ A forfeiture of \$10,000 if the provider violated prohibition against providing behind-the-meter utility service without an approved compliance plan. <i>(R.C. 4933.65(A)(1) and (2).)</i>
Registration cancellation	
No provision.	Allows PUCO to revoke, vacate, or nullify a behind-the-meter utility service provider’s registration and enter an order in PUCO’s journal barring the provider from providing behind-the-meter utility service in Ohio for up to two years if the provider did not comply with the bill’s electric resale pricing, registration, disclosure, interim compliance plan, compliance plan, or related rule requirements <i>(R.C. 4933.65(A)(3)).</i>
Penalty cure period	
Provides that the forfeiture created by the bill is not imposed if the violation is cured within 60 days after receipt of notice related to the hearing <i>(R.C. 4933.63).</i>	Adds that the registration cancellation penalty also is not imposed if the violation is cured within the cure period, and permits PUCO to extend the duration of the cure period <i>(R.C. 4933.65(B)).</i>
Landlord penalty	
No provision.	Allows PUCO to enter an order in its journal prohibiting the provision of behind-the-meter utility service to the property or community of a landlord that failed to attest to language that must be included in a tenant’s lease (see “ Landlord separate attestation to lease language ”).

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	in compliance plan” above), unless such violation is cured within the cure period (60 days, or longer at PUCO’s discretion) <i>(R.C. 4933.66)</i>).
Landlord rental agreement requirements	
No provision.	Adds a requirement that a landlord who is a party to a rental agreement that resells or permits the resale of utility service to tenants must disclose the nature of such utility service and all related charges and fees in its leases <i>(R.C. 5321.04)</i> .