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## Substitute Bill Comparative Synopsis

**Sub. H.B. 317**

**134<sup>th</sup> General Assembly**

House Public Utilities

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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 (I_134_2489-1)	Latest Version (I_134_2489-2)
<b>Changes related to Ohio Supreme Court decisions</b>	
<b>Supreme Court decision deadline</b>	
Requires the Supreme Court to render a decision not later than 180 days after an appeal is filed, if any party files with the Court an appeal of a Public Utilities Commission (PUCO) order and specifies that the	No provision.

Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
deadline does not apply to an appeal of a Power Siting Board decision ( <i>R.C. 4903.131</i> ).	
<b>Refunds after Supreme Court decision</b>	
Requires all rates, fares, or other charges paid by customers to a public utility as part of a rider or tracking mechanism, rather than through base rates, that are later found unreasonable, unlawful, or improper by the Supreme Court to be refunded ( <i>R.C. 4905.321(A)</i> ).	Requires, instead, that all revenue collected from customers as part of a rider or rate mechanism, be refunded ( <i>R.C. 4905.321(A)</i> ).
<b>Ratemaking changes</b>	
<b>Electric light company rate case using a fully forecasted test period</b>	
No provision.	Makes several modifications to the ratemaking provisions of Ohio's utility law to provide special provisions for setting rates for electric light companies that choose to utilize a fully forecasted test period. The modifications include, among other things, a report of valuation and description of all the kinds and classes of property owned, held, or projected to be owned or held during the test period. Also included are new provisions governing revenues and expenses during the test period used to determine rates, as well as a true up rate mechanism. ( <i>R.C. 4905.491, 4909.04, 4909.041, 4909.042, 4909.05, 4909.052, 4909.06, 4909.15, 4909.156, and 4909.18.</i> )
<b>Construction work in progress</b>	
No provision.	Eliminates provisions permitting PUCO to include a reasonable allowance for construction work in progress in the property valuation in ratemaking ( <i>R.C. 4909.15(A)(1)(c)</i> ).

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<b>Notice of intent to file rate application</b>	
No provision.	Requires a public utility with more than 100,000 customers to notify PUCO of its intent to file a rate application not later than 90 days prior to filing the application. Provides requirements for the notice of intent, including, for example, the proposed utility property valuation, date certain, and test period. <i>(R.C. 4909.43(C).)</i>
<b>Additional requirements for rate application</b>	
No provision.	Establishes numerous additional requirements and related provisions for rate applications and proceedings applicable to public utilities including, for example, filing of work papers in electronic format, requirements for prefiled testimony, discovery limitations, and a single hearing requirement for witnesses filing direct or rebuttal testimony <i>(R.C. 4909.46).</i>
<b>Public notice of rate application</b>	
No provision.	Changes the newspaper notification requirements public utilities must meet when filing a rate application to require only publication of the notice on the website of a newspaper of general circulation throughout the territory in which the utility operates and is directly affected by the application. Requires PUCO to determine the notice format. <i>(R.C. 4909.18(A).)</i>
<b>Public hearing notice of rate application</b>	
No provision.	Changes the newspaper notification requirements PUCO must meet for all cases involving a rate application that increases rates to require only publication of the notice on the website of a newspaper of general circulation throughout the territory in which the utility

Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
	operates and is directly affected by the application. Requires PUCO to determine the notice format. <i>(R.C. 4903.083.)</i>
<b>Hearing notice requirements on rate application</b>	
No provision.	Eliminates the requirements that PUCO give written notice of a hearing on whether a rate application is just and reasonable to the utility and publish the notice in a newspaper in the affected area <i>(R.C. 4909.18)</i> .
<b>Exclusion of previously prudent investments from PUCO investigation</b>	
No provision.	Prohibits investments made by the applicant that have previously been deemed prudent from being included, for the purpose of establishing prudency, in PUCO rates application investigation <i>(R.C. 4909.19(B))</i> .
<b>PUCO staff report</b>	
No provision.	<p>Modifies existing law regarding the written report of the PUCO investigation by:</p> <ul style="list-style-type: none"> <li>▪ Requiring the report be filed not later than 150 days after the filing of the application, rather than within a reasonable time;</li> <li>▪ Specifying that the report must be made by PUCO staff, filed in the case, and include recommendations with all work papers in electronic format with all formulas intact;</li> <li>▪ Eliminating the requirement to send report copies by certified mail to the mayor of each affected municipality, and other persons PUCO deems interested.</li> </ul> <p><i>(R.C. 4909.19(B).)</i></p>

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<b>Time to proceed if no objections to the staff report</b>	
No provision.	Modifies existing law by requiring PUCO to proceed to a final hearing on the rate application when no objections to the staff report are made within 30 days of the filing, rather than 30 days after the filing <i>and mailing copies</i> of the report (R.C. 4909.19(C)(1)).
<b>Pre-hearing conference if objections to the staff report</b>	
No provision.	Repeals the requirement for PUCO to hold a prehearing conference when objections are filed in cases involving more than 100,000 customers (R.C. 4909.19(C)(1)).
<b>Filing testimony if objections to staff report</b>	
No provision.	<p>Requires the following if objections to the staff report are filed not later than 30 days after the filing of the report:</p> <ul style="list-style-type: none"> <li>▪ Any party that filed objections must file testimony in support of those objections not later than 45 days after the report's filing;</li> <li>▪ PUCO staff must file testimony supporting their recommendations not later than 75 days after filing the report;</li> <li>▪ The utility be permitted to file rebuttal testimony not later than 90 days after the report's filing.</li> </ul> <p>(R.C. 4909.19(C).)</p>

Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
<b>Time for testimonial hearing if objections filed</b>	
No provision.	Specifies that, if objections are filed within 30 days of the filing of the staff report, PUCO must set the matter for a hearing not later than 105 days after the report filing, rather than doing so “promptly” under current law ( <i>R.C. 4909.19(C) and (D)</i> ).
<b>Minimum notice for testimonial hearing</b>	
No provision.	Eliminates the requirement that PUCO provide ten days’ written notice of the time and place of taking testimony to all parties ( <i>R.C. 4909.19(D)</i> ).
<b>Filing complete record after taking testimony</b>	
No provision.	Eliminates the requirement that a full and complete record of testimony, noting objections and exceptions, and signed by the attorney examiner, be made and filed with PUCO after completing the taking of testimony ( <i>R.C. 4909.19(D)</i> ).
<b>Consideration of attorney examiner recommendation if objections filed</b>	
No provision.	Eliminates the requirement that a quorum of PUCO consider the recommended opinion and order of the attorney examiner in a public proceeding, with an oral explanation, before formally considering the application ( <i>R.C. 4909.19(D)</i> ).

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<b>Standard for PUCO order if objections filed</b>	
No provision.	Eliminates the requirement that PUCO make an order on the application if objections were filed as seems just and reasonable to PUCO ( <i>R.C. 4909.19(D)</i> ).
<b>Proposed increase temporarily in effect</b>	
No provision.	Modifies current law when PUCO fails to act on a rate application by providing that the proposed rates go into effect temporarily, without refund, until modified by PUCO, provided that the modified rates must apply prospectively, if PUCO does not issue an opinion and order on the matter after 365 days from the filing of the application ( <i>R.C. 4909.42</i> ).
<b>Rates in effect by operation of law</b>	
No provision.	Modifies current law to provide that, upon the failure of PUCO to issue an order on a rate application after 545 days, the application is considered approved as a matter of law ( <i>R.C. 4909.42</i> ).
<b>PUCO order timing limitations on rate application</b>	
No provision.	Eliminates the requirement that PUCO issue an order on whether a rate application is just and reasonable within six months of the filing of the application, following a hearing on the matter, when practicable ( <i>R.C. 4909.18</i> ).

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<b>Rate case application at least every five years</b>	
Requires an electric distribution utility (EDU) to file a rate case application not later than five years after the starting date of its first approved alternative regulation plan (ARP) (described below), and every five years thereafter ( <i>R.C. 4909.181</i> ).	Requires an EDU to file a rate case application not later than five years after the effective date of the bill, and at least every five years thereafter ( <i>R.C. 4909.181</i> ).
<b>Interim distribution mechanism (IDM)</b>	
No provision.	Establishes an application, and procedure for PUCO to determine whether to grant an application of, an electric light company to collect the revenue requirement associated with distribution infrastructure investments through an IDM. The IDM includes provisions governing how often an electric light company (ELC) may apply, how many IDMs may be in effect for an ELC at one time (three), standards governing PUCO decision-making, distribution-related infrastructure that may be included in an IDM, timing requirements for when PUCO must issue an order improving an IDM, excessive earnings limitations, notice to customers of authorized IDMs, and PUCO rules to carry out the IDM provisions of the bill. ( <i>R.C. 4909.173, 4909.174, 4909.175, 4909.177, and 4909.178.</i> )
<b>Alternative regulation plan (ARP)</b>	
Establishes requirements and procedures governing EDU application to, and approval by, PUCO for an ARP, which may include recovery mechanisms for distribution and transmission costs (including riders), energy-intensive customer programs, capital lease financing arrangements, and permission to use federal “Infrastructure Investment and Jobs Act” funds for distribution infrastructure. Provides	No provision.



Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
for excessive earnings determinations and prospective customer bill adjustments to pay back such earnings. <i>(R.C. 4928.143.)</i>	
<b>Carrying costs of regulatory assets and liabilities</b>	
No provision.	<p>Provides the following regarding utility carrying costs for regulatory assets and liabilities:</p> <ul style="list-style-type: none"> <li>▪ Requires PUCO to allow the accrual of carrying costs on PUCO-allowed regulatory assets and requires the accrual and collection of carrying charges until the regulatory assets and carrying costs are collected;</li> <li>▪ Requires the accrual of carrying costs on PUCO-required regulatory liabilities and requires the accrual of the carrying charges until the regulatory liabilities and carrying costs have been credited to customers.</li> </ul> <p><i>(R.C. 4905.131.)</i></p>
<b>Competitive retail electric service law changes</b>	
<b>Standard service offer (SSO) cost recovery</b>	
Requires the full and timely recovery through the SSO of all costs an EDU incurs to support or provide the SSO <i>(R.C. 4928.142(C))</i> .	Permits the full and timely recovery through the SSO of all costs an EDU incurs to support or provide the SSO <i>(R.C. 4928.142(C))</i> .
<b>Additional provisions authorized under an SSO</b>	
No provision.	Requires PUCO to authorize additional provisions in an SSO including annually reconciled transmission riders, energy intensive customer programs, lease financing arrangement, and economic development

Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
	costs related to transmission or distribution infrastructure projects <i>(R.C. 4928.143)</i> .
<b>Treatment of riders after electric security plan (ESP)</b>	
For an EDU that has an ESP that expires after the bill's effective date, requires any under- or over-collection of funds authorized for recovery by a rider under that ESP to be addressed in the EDU's first distribution rate case that occurs after the ESP's expiration <i>(R.C. 4928.1410)</i> .	For an EDU that has an ESP under which PUCO authorized riders, permits the EDU, to the extent the riders will cease to exist after the ESP's termination, to create necessary regulatory assets or liabilities, and carrying costs, for the resolution of any outstanding under- or over-collection of funds under the riders. The resolution of the regulatory assets or liabilities shall be addressed in the EDU's first rate case after the ESP's expiration. <i>(R.C. 4928.1410.)</i>
<b>Exception to prohibition against electric energy storage in wholesale market</b>	
No provision.	Permits an EDU to use electric energy storage to participate in the wholesale market when the system was obtained for distribution service only if all revenue derived from the participation, net of associated system costs, is solely applied to reduce the overall costs of the system to customers <i>(R.C. 4928.149)</i> .
<b>PUCO regulation re: electric governmental aggregation</b>	
Modifies the electric governmental aggregation law to specify that PUCO must consider the effect of large-scale governmental aggregation of nonbypassable generation charges that were established under an ESP or are established under an SSO and ARP after the bill's effective date <i>(R.C. 4928.20(K))</i> .	Repeals the requirements in the electric governmental regulation law that PUCO: (1) do an immediate review of its rules to determine if they encourage and promote large-scale governmental aggregation, and (2) consider the effect of large-scale government aggregation of nonbypassable generation charges established under an ESP <i>(R.C. 4928.20(K))</i> .

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<b>Agreement with qualifying transmission entities</b>	
No provision.	Permits an entity to own or control transmission facilities if that entity is a member of, contracts with and transfers functional control to one or more qualifying transmission entities that meet certain criteria, rather than requiring the entity to be a member of, and transfer control to, such an entity ( <i>R.C. 4928.12(A), (B), and (F)</i> ).
<b>PUCO retains authority over certain riders or rate mechanism</b>	
No provision.	Provides that nothing in the bill limits PUCO authority to implement, maintain, or modify riders or rate mechanisms that recover costs imposed on the utility by a governmental entity or that recover costs on which the utility earns no rate of return ( <i>R.C. 4928.147</i> ).
<b>Electric services company (ESC) financial capability guarantees</b>	
Requires an ESC to meet financial guarantee requirements to provide competitive retail electric service by posting a \$150,000 surety bond sufficient to protect customers and EDUs from default. Provides that the surety bond does not impact the ESC obligation to post collateral or issue other forms of surety to an EDU under the EDU's tariffs. ( <i>R.C. 4928.08(B)(2)</i> .)	Requires PUCO to establish rules requiring ESCs to maintain financial assurances sufficient to protect customers and EDUs from default and allowing EDUs to set reasonable security requirements in the EDU's tariffs to protect the EDU and its customers ( <i>R.C. 4928.08(B)(2)</i> ).
<b>Transition provisions re: ESPs with termination date</b>	
With respect to an ESP in effect on the bill's effective date, if the ESP has a specific termination date, the utility must continue that plan until the ESP's termination date ( <i>Section 4</i> ).	With respect to an ESP in effect on the bill's effective date, if the ESP terminates prior to June 1, 2024, then the EDU must continue the ESP until that date. But, if the ESP terminates after June 1, 2024, the EDU may continue the ESP until the ESP's termination date. ( <i>Section 4</i> .)

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<b>EDU definition and Federal Energy Regulatory Commission power agreement and energy storage system exclusion</b>	
<p>Changes the EDU definition to specify that an EDU is an electric utility that supplies at least retail electric distribution service and does not own or operate an electric generating facility, other than a legacy generation resource (LGR) or a mercantile customer-sited renewable energy resource (<i>R.C. 4928.01(A)(6)</i>).</p>	<p>Changes the EDU definition to specify that an EDU is an electric utility that supplies at least retail electric distribution service and does not own or operate an electric generating facility, other than through: (1) ownership of a mercantile customer-sited renewable energy resource, (2) participating in a power agreement approved by the federal energy regulatory commission related to a LGR, or (3) ownership of an energy storage system that is used for distribution reliability (<i>R.C. 4928.01(A)(6)</i>).</p>
<b>Consumer Price Index definition</b>	
<p>Removes an erroneous cross reference to section 101.27 of the Revised Code in the existing law renewable energy portfolio standards relating to the annual adjustment of compliance payments<sup>1</sup> and defines “consumer price index” in the competitive retail electric service law as “the consumer price index prepared by the United States Bureau of Labor Statistics (U.S. city average for urban wage earners and clerical workers: all items, 1982-1984=100), or, if that index is no longer published, a generally available comparable index.” (<i>R.C. 4928.01(A)(44) and 4928.64(C)(2)(b).</i>)</p>	<p>Eliminates the requirement that the annual adjustment of compliance payments under the renewable energy portfolio standards reflect changes in the Consumer Price Index (<i>R.C. 4928.64(C)(2)(b)</i>).</p>

<sup>1</sup> The cross reference to R.C. 101.27 that appears in R.C. 4928.64(C)(2)(b) does not include a definition of the term “consumer price index.”

Previous Version (I_134_2489-1)	Latest Version (I_134_2489-2)
<b>Competitive retail natural gas service changes</b>	
<b>Retail natural gas supplier financial capability guarantees</b>	
<p>Requires a retail natural gas supplier (RNGS) to provide a \$150,000 surety bond sufficient to protect customers and natural gas companies (NGCs) from default. Provides that the financial assurances and surety bond do not impact the RNGS obligation to post collateral or issue other forms of surety to a NGC under the NGC's tariffs. (R.C. 4929.20(A)(2).)</p>	<p>Requires PUCO to establish rules requiring RNGS to maintain financial assurances sufficient to protect customers and NGCs from default and allowing NGCs to set reasonable security requirements in the NGC's tariffs to protect the NGC and its customers (R.C. 4929.20(A)(2)).</p>
<b>General public utility law changes</b>	
<b>Federal Infrastructure Investment and Jobs Act</b>	
<p>Allows an EDU to file an application through a separate proceeding for PUCO approval of the funding under the federal "Infrastructure Investment and Jobs Act" to invest in distribution infrastructure to promote economic development in the EDU's service territory and provide benefits to the EDU's customers (R.C. 4905.322).</p>	<p>No provision.</p>
<b>Settlement inducement prohibition: definition of electric service</b>	
<p>Limits the definition of "electric service" to supplying or arranging to supply electricity to consumers in Ohio <i>from the point of generation to the point of consumption</i> (R.C. 4905.331(A)(2)).</p>	<p>No provision.</p>

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<b>Settlement inducement prohibition: resolution of complaint</b>	
No provision.	Permits PUCO, despite the settlement inducement prohibition, to approve a resolution of a utility service complaint proceeding ( <i>R.C. 4905.331(C)(4)</i> ).
<b>Two-for-one regulatory restriction exemption</b>	
Specifies that PUCO rules regarding competitive retail electric service and competitive retail natural gas service contract notices are not subject to Revised Code Section 121.95(F), the provision requiring state agencies to remove two or more existing regulatory restrictions if the agency adopts a new regulatory restriction ( <i>R.C. 4928.102(E) and 4929.221(E)</i> ).	Applies the exemption from the regulatory restriction law, including the two-for-one requirement, to all rules adopted by PUCO under the bill ( <i>R.C. 4909.178, 4928.08(F), 4928.102(E), 4928.20(L), 4929.20(E), and 4929.221(E)</i> ).