



Office of the Ohio Consumers' Counsel

Before Ohio Senate Energy and Public Utilities Committee

Opponent Testimony on House Bill 364 (Charges to Consumers for Water Utility Ratemaking)

**By
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Hello Chair McColley, Vice-Chair Schuring, Ranking Minority Member Martin, and Committee members. I hope you and your colleagues are well. My name is Mike Haugh. I am testifying on behalf of the Office of the Ohio Consumers' Counsel. OCC is the state's representative for millions of Ohio residential utility consumers.

Consumers' Counsel Weston and I thank you and the bill sponsor (Representative Patton) for this opportunity to present opponent testimony on House Bill 364 (H.B.364). We appreciated that we had the opportunity to meet with the bill sponsor.

House Bill 364 relates to PUCO ratemaking that affects the monthly water and wastewater bills charged to Ohio consumers by monopoly water utilities. The bill would expand and extend the use of riders (add-on charges) by regulated water and wastewater utilities.

You may have heard of riders related to electric security plans that were allowed in the 2008 energy law. Single-issue riders are exceptions to the traditional ratemaking principle that all the plant, expenses and profits of a utility should be considered together in a rate case. Riders allow for cherry-picking of charges to add to consumers' bills, instead of the rate-case approach where all cost and profits, whether increased or decreased, are considered. Also, single-issue riders for increased plant expenditures can result in consumers being denied the benefit of a utility's operational cost savings associated with replacing old plant.

The legislature previously allowed this rider for water utilities and wastewater utilities to charge consumers for plant costs without filing a general rate case. This rider is known as the System Improvement Charge, in Revised Code 4909.172. Up to three riders are allowed for each of water service and wastewater service, for a total of up to six riders for consumers receiving water and wastewater services.

House Bill 364 will expand the system improvement charge rider allowing additional plant (and charges to consumers). The bill would allow the System Improvement Charge to include upgrades and improvements to plant (Lines 92-97), whereas current law limits charge to plant replacements. The current law's limitation of the rider charges to plant replacement at least provides some balance and protection for consumers. The bill is upending that balance. It is further encroaching on the use of traditional or general rate cases for ratemaking. With respect to traditional rate cases, we appreciated the opportunity to negotiate and reach a settlement with Aqua earlier this year in its 2021 rate case.

Another example is that the current law has a targeted approach to the specific utility investments that can be included in the riders. But the bill provides a broader list of investments that can be included in the rider and charged to consumers. This is too broad of a brush to give utilities with this rider. (Lines 62-79) Again, the current law at least provides some balance between utilities and consumers regarding the System Improvement Charge. That measure of balance for consumers should not be undone.

Also of concern is that the bill will limit the PUCO's decision timeline (lines 92-115) on the rider. That means the PUCO Staff, the Consumers' Counsel and any other parties could be limited in their analysis of a utility's proposal – analysis that is needed for consumer protection. Ratemaking is complex. It can require time-consuming analysis by the PUCO and stakeholders who are dependent on obtaining information from utilities. And this happens while other time-competing utility cases are being heard at the PUCO.

For example, the bill would allow a water utility to implement a rider increase after 180 days without PUCO approval, albeit subject to refund. (Lines 92-115) Here again, the bill is undoing some balance for consumers that exists in current law. And creating this timeline would increase the disparity that consumers have between the timeline for cases they can initiate (known as complaint cases) and timelines for some cases the utilities initiate. The complaint case that OCC can initiate has no timeline for a PUCO resolution. For example, in 2015, OCC filed a complaint (Case 15-1588) to protect Duke consumers from disconnections. The PUCO waited two and a half years to make a ruling, and then dismissed the case without a hearing. Thus, the bill should also include a timeline of 275 days for a PUCO ruling on consumer complaints, unless the consumer complainant agrees to an extension.

Please note that the legislature has already given ratemaking flexibility to monopoly water utilities. Here is a list of the legislation that favored water utilities:

- Senate Bill 44 (2004): This bill created the System Improvement Charge. This allowed water utilities to increase charges to consumers for plant additions outside of a traditional rate case.

- Sub House Bill 379 (2013): This bill raised the limits on the System Improvement Charge and expanded the type of plant that could be included in the rider. Also, the bill allowed water utilities to choose a future date for the valuation of plant investment (date certain) for some ratemaking. This use of projected data in a rate case helps the utility obtain charges for new plant sooner than previously allowed, which already provides the utility some of the benefit that is used to justify a rider.
- House Bill 422 (2019): This bill allowed water utilities to choose how to value assets when acquiring another water utility.

Through these various legislations, water utilities already have been given flexibility in charges to consumers.

Another addition to the bill on line 134 is the extension of these riders until 2036, 11 years beyond the current law. The original law in 2004 had a sunset provision in the law. It was extended in HB379 and now once again in this bill. It is time to allow the sunset to occur and terminate the System Improvement Charge on December 31, 2025. We recommend an extension of no more than three years for the sunset of the riders.

Finally, many Ohioans (including at-risk populations and communities) have been challenged by inflation and significant increases in energy prices. At this time, efforts should be made to limit charges instead of creating more flexibility for increasing charges to consumers for essential monopoly utility services.

Thank you for your consideration.