

PUCO Assistance with Water and Wastewater Regulations

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Water Utility Specialist

Personal Bio

Pollution Control Inspector – 3 years

- Miami-Dade County, Florida
- Water and Wastewater State Delegated Programs

Environmental Specialist – 2 years

- Ohio EPA Division of Drinking and Ground Waters - Central Office
- Operations, Resiliency, and Operator Certification

Water Utility Specialist – 6 years

- Public Utilities Commission of Ohio (PUCO)
- Field Operations and Enforcement Division

Topics we'll cover...

- PUCO Overview
- Water Rules
- Rate Process
- Jurisdiction
- Updates
- Questions

Commissioners



John D. Williams, Commissioner

Term ends: April 10, 2028 John Williams was appointed to the commission by Governor Mike DeWine in



Jenifer French, Chair

Term ends: April 10, 2029 Jenifer French was appointed to the commission and named chair by Governor



Daniel R. Conway, Commissioner

Term ends: April 10, 2027 Daniel R. Conway was appointed to the Public Utilities Commission of Ohio



Dennis P. Deters, Commissioner

Term ends: April 10, 2026 Dennis P. Deters was appointed to the Public Utilities Commission of Ohio



Lawrence K. Friedeman, Commissioner

Term ends: April 10, 2025 Lawrence K. Friedeman was appointed to the Public Utilities Commission of

Our Mission

*To assure all residential and business consumers
access to adequate, safe, and reliable
utility services at fair prices,
while facilitating an environment
that provides competitive choices.*

Brief History of the PUCO

Office of the Commissioner of Railroads and Telegraphs

- **1867** - founded by the General Assembly
- Reported on the physical, financial, and operating conditions of railroad and telegraph companies
- **One commissioner** appointed by governor
- Initially a fact-finding agency

Railroad Commission

- **1906** – agency restructured as Railroad Commission.
- ***The Railroad Act*** – expanded agency to **three commissioners** with small staff
- Established authority to fix reasonable and non-discriminatory rates
- Permitted to formulate rules and regulations and exercise powers incidental to hearings

Public Service Commission

- **1911-** dealt with public concerns arising outside the limited field of railroads
- Jurisdiction extended to electric, gas, telephone, and **water companies**
- Given authority to value utilities and prescribe a **uniform system of accounts (USOA)** – standardized format for annual reports and other financial statements
- Could approve or deny issuance of corporate securities by the utility company

Public Utilities Commission of Ohio (PUCO)

1913 – Agency changed its name again and duties expanded to **motor bus lines**

1915 - Motor transportation of property added

- For-hire operators of trucks, tow trucks, and moving companies

1961 – Wastewater companies added

1983 – Agency **expands from three- to five-person commission**

- Commissioners appointed by the governor to serve staggered five-year terms
- List of nominees presented by the PUCO Nominating Council

Role of Today's PUCO

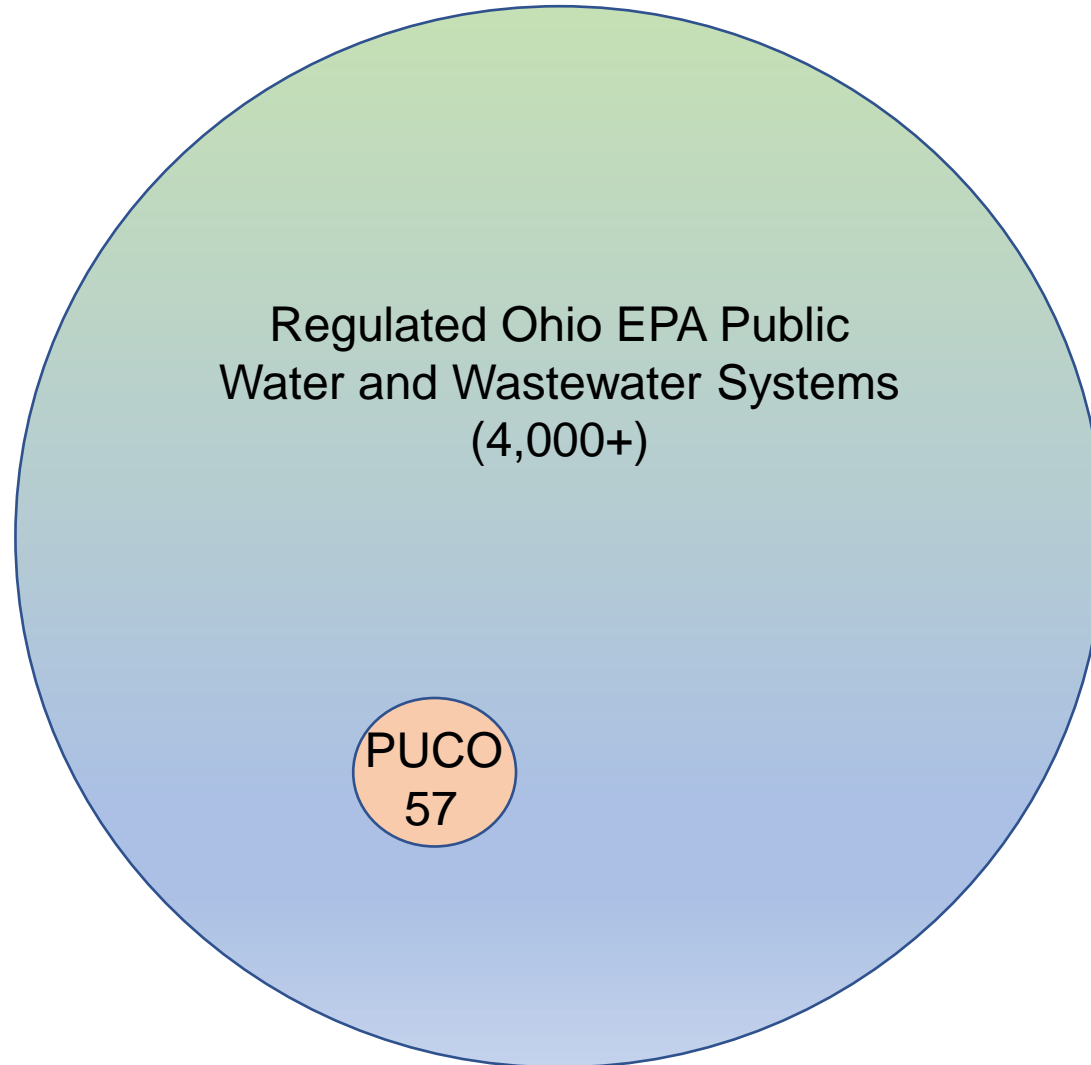
- Responsible for regulating public utility service and rates in Ohio, and ensuring that all consumers have access to **adequate, safe** and **reliable** utility services at **fair prices**
- Resolves formal complaints between utilities and residential or business customers
- Ensures service quality and safety for utility services
- Facilitates an environment that provides competitive choices
- Protects the rights of all consumers

PUCO Jurisdiction

- Affects nearly every household in Ohio.
- Investor-owned utilities:
 - Electric
 - Natural Gas
 - Landline Telephone
 - Rail and Trucking
 - Water and Wastewater
- Commercial Motor Carriers, Moving Companies and Transportation Network Companies
- Railroad Crossing Safety
- Employs staff of ~300 - engineers, attorneys, analysts, accountants, customer service representatives, HR professionals, auditors, investigators, IT specialists, technical and field staff, communication professionals and economists.



Water and Wastewater Shared Jurisdiction

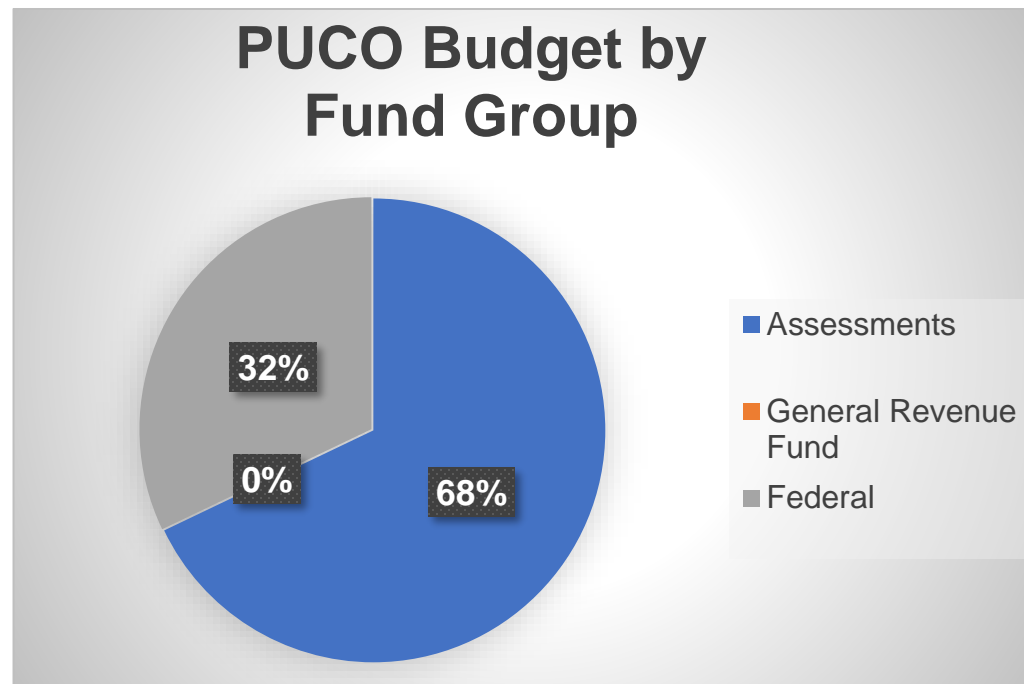


Areas the PUCO Does Not Regulate

- Cellular Telephone Service and Towers
- Internet Service
- Cable Service
- Propane and Fuel Oil
- **Municipal Utilities**
- **Cooperative Utilities**
 - owned and operated by its customers.
 - self-governing
 - can set its own rates
- Examples – Del-Co Water, some HOAs

PUCO Operations

- Annual Budget: FY 2024 - \$80.2M, FY 2025 - \$80.4M
- Self-supporting agency with no General Revenue Fund appropriation.
- Funding is derived through
 1. Assessments to utilities - All regulated utilities pay an assessment based on intrastate revenues.
 2. Fees generated by interstate and intrastate motor carrier registrations, and
 3. Federal assistance



PUCO Departments

- **Service Monitoring & Enforcement:** Call Center, Gas Pipeline Safety, Competitive Certification & Monitoring, Low Income Assistance Education
- **Rates & Analysis:** Corporate Oversight, Grid Modernization, Renewables & Energy Efficiency, Ohio Power Siting Board, Telecom
- **Federal Energy Advocate:** FERC & PJM Advocacy, Forecasting
- **Transportation:** Railroad Grade Crossings, Commercial Motor Vehicles
- **Legal:** Commission Entries & Orders, Ethics, Public Records, Staff Attorneys
- **Business Resources:** IT, Human Resources, Fiscal
- **Public Affairs:** Media Relations, Public Outreach, Chairman Presentations
- **Commission Offices:** Commissioners & Aides

Service Monitoring and Enforcement Department (SMED)

- PUCO ~300 employees
- SMED 50 employees - electric, telecommunications, natural gas pipelines, water and sewer
- Examines the quality of service provided by utility companies to ensure safe, dependable and quality services.
- Call Center - PUCO investigators answer and respond to thousands of customer complaints and requests for information each year through the PUCO Call Center.
- Inspect and monitor jurisdictional water company infrastructure and operations for compliance.

Ohio Administrative Code Chapter 4901:1-15

Rule 4901:1-15-10: Maintenance of plant and equipment

- Maintenance plan
- Engineering standards of construction
- O&M activities - flushing, valve exercising, hydrant inspections, tank inspection, manhole inspections, equipment inventory

Rule 4901:1-15-14: Records and reports

- Customer records and complaints
- Service, financial, operating, and maintenance records
- Operational records

<https://codes.ohio.gov/ohio-administrative-code/chapter-4901:1-15>

Steps in the Rule Review Process (7-9 months)

1. Effective rules are **reviewed every five years**.
 - Workshop – open to utility stakeholders and the public.
2. Proposed rules prepared for written comment.
3. Business Impact Analysis –assess adverse impact of rules on business
4. Commission Order – issued after all comments and replies have been considered
5. Rules filed with Joint Committee on Agency Rule Review (JCARR)
 - Consists of five State Representatives and five State Senators.
 - Review proposed new, amended, and rescinded rules from over 100 agencies to ensure they do not exceed the rule-making authority granted to them by the General Assembly. JCARR can make a recommendation to invalidate all or part of the rule
6. Effective date of rules established (i.e., June 28, 2023).

Jurisdictional Decisions

- The PUCO regulates investor-owned water and sewer utilities – most are operated by Aqua.
- In general, whether an entity is subject to PUCO jurisdiction is dependent on whether it satisfies the definition of a “public utility” in ORC Ch. 4905.
- **ORC 4905.3**
 - (G): A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;
 - (M) A sewage disposal system company, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within this state.

Exemptions -

- A public utility that is owned and operated exclusively by and solely for the utility’s consumers (e.g., Cooperatives, HOAs)
- A public utility owned or operated by any municipal corporation

Case Precedent

Complainants v. Shroyer Mobile Homes Park (1992)

- Manufactured home park with ~125 lots located in Delaware, OH
- Outside corporate limits of the City of Delaware
- Shroyer's purchases water from the City of Delaware
- Respondent says City charges 1.5 times normal rate for properties its serves outside city limits
- Shroyer's MHP begins metering customers and charging tenants based on water usage. Historically, water utility charges were included in rent payments
- Some tenants experienced a significant increase in charges and filed a formal complaint.

Primary question raised in the case was whether the Shroyer's MHP met the definition of a waterworks company.

Shroyer's MHP Argument

- Not a water-works company or, therefore, a public utility because it is not “engaged in the business of supplying water.”
- Instead, says that its primary business is operating as a manufactured home park that furnishes its tenants with water as a convenience.
- Claims MHP is a business governed by statutes and rules much akin to landlord-tenant law

Four Part Test -

1. Have the manufactured home park owners manifested an intent to be a public utility by availing themselves of special benefits available to public utilities such as accepting a grant of a franchised territory, a certificate of public convenience and necessity, the use of eminent domain, or use of the public right of way for utility purposes?
2. Are the water services available to the general public rather than just to tenants residing in the manufactured home park?
3. Is the provision of water services ancillary to the primary business of operating a manufactured home park?
4. If there is a separate charge made for water services, is that charge reasonable?

Commission Ruling

- **Found that Shroyer's MHP is not a public utility or a waterworks company** as defined in ORC Sections 4905.02 and 4903.03 (A)(8).
- Commissioners said Shroyer has “not held itself out to provide water service to any but the tenants.”
- Shroyer had not availed itself use of a public franchise, a public right of way, or the right of eminent domain in the construction and operation of its water system.
- The distribution of water was found to be ancillary to Shroyer's main business.
- Commissioners did not find Item Four to be meaningful in determining jurisdiction and said that jurisdiction must be established before a separate charge for water service is considered reasonable.

The Commission's Finding and Order dismissed the case and this ruling established case precedent for future jurisdictional decisions.

PUCO Rate Case Process



Application

A utility files an application for a rate increase, starting the 275-day countdown. Evidence and testimony is prepared by interested parties.



Review and report

PUCO staff reviews facts and issues raised in the application and prepares a staff report that serves as a recommendation to the commissioners.



Hearings

Local public hearings are scheduled to collect testimony by affected customers.

An evidentiary hearing is held to hear from expert witnesses.



Decision

The five commissioners review the case record and recommendation and issue a decision at a voting session through an opinion and order.



Rehearing

Parties to the case have 30 days to file an application for rehearing, essentially appealing the case to the commissioners.

Rate Case Process – Staff Report



Review and report

PUCO staff reviews facts and issues raised in the application and prepares a staff report that serves as a recommendation to the commissioners.

1. Annual site inspections of jurisdictional water and sewer plants
 - **44** water facilities
 - **13** wastewater facilities
 - Aqua Ohio operates the majority of investor-owned companies regulated by the PUCO.
2. Review of compliance documents
 - **PUCO:** inspection reports, operational reports, annual reports, photographs, water quality field tests
 - **Ohio EPA:** sanitary survey documents, compliance history, licenses and certificates, engineering plan reviews
 - Local health department reports
3. Review of complaints received by Call Center.

Ordinance Rates v. PUCO Rates

- Ordinance rates set by the local City Council or governing body.

FAQ: When should a company file a rate case?

Answer: When the customer rates no longer cover the cost of delivering reliable service.

- A company can generally file a rate case at any time and is not required to do so by Ohio law.
- Many smaller water utilities delay filing a rate case application until financial difficulties arise or violations begin to accumulate from years of deferred maintenance and asset deterioration.
- For smaller water companies, putting off applying for a rate increase eventually leads to problems down the road. In other cases, poor or incomplete financial record-keeping causes delays.
- Larger water companies typically have more resources to navigate the ratemaking process and a better understanding of when the appropriate time is to apply for an increase.

What if the utility invests in infrastructure improvements after the rate case and needs to cover associated costs?

Answer: The company should file a Service Increase Application (SIC)

- Adds a surcharge to the utility bill
- Tariff sets a limit on the number and nature of the surcharges, but generally customers won't see more than three surcharges at one time.
- Limit on how much the bill can be increase and capped between 3 – 4.25%.
- The mechanism allows the following:
 - Recovery between rate cases which should incentivize investment in the eligible capital improvement projects
 - smaller, more frequent increases also eliminate one large rate case increase, reducing potential for rate shock and the frequency of rate cases.

Commission Regulatory Updates

- **Amended Substitute House Bill 422 Implementation** – Utility Valuation Expert (UVE) List:
<https://puco.ohio.gov/utilities/water/resources/utility-valuation-expert-list-and-ohio-filing-guidance>
- Signed into law by Gov. Dewine in 2019
- Legislation provides a mechanism for the acquisition of municipal waterworks and sewage disposal system companies by certain larger nonmunicipal water-works or sewage disposal system companies.
- Process sets forth method to determine original cost of a water or sewer system during the acquisition process.
- Appraisal to be performed by three independent utility valuation experts.
- Three applications received to date (under review).

Updates cont.

HB 226 –

- Regards customer-owned water service line replacement cost recovery. The water company can now recover replacement costs of customer-owned lead service lines in the next rate case.

Water Service Area Online Application –

- Continues to be under development, public-facing
- Interactive map of jurisdictional water and sewer service areas
- **GIS Video Guide:** <https://www.youtube.com/watch?v=blv9F9tuol4>

Commissioner Reappointment –

-Commissioner Lawrence Friedeman is up for reappointment when his term ends April 10, 2025.

PUCO Call Center

~70,000 calls per year leading to 10,000 investigations.

Ways to contact the PUCO with a complaint:

1. **Call** the PUCO Call Center at (800) 686-PUCO (7826), 8 a.m. to 5 p.m., Monday through Friday.
2. **File a Complaint** (<https://puco.ohio.gov/help-center/file-a-complaint>)
 1. Live Chat
 2. Online Form
3. **Fax** your complaint to **(614) 752-8351**.
4. **Mail** your complaint to:

Public Utilities Commission of Ohio
Attn: CSD
180 E. Broad Street
Columbus, Ohio 43215-3793

Contact Information

Chad Wenger
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Public Utilities Commission of Ohio
Service Monitoring & Enforcement Department

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Questions?

Thank you