



Ohio Revised Code

Section 4929.041 Regulatory exemption of investment in storage or gathering facilities.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) As used in this section, "regulatory exemption" means an exemption from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters.

(B) The public utilities commission, upon an application filed under section 4909.18 of the Revised Code by a natural gas company in substantial compliance with the policy specified in section 4929.02 of the Revised Code, shall grant a regulatory exemption, by order, for either or both of the following:

(1) Any investments in storage or gathering facilities placed into service on or after January 1, 2010, and also any service of the natural gas company related to those facilities;

(2) Any investments in gathering facilities placed into service before January 1, 2010, and also any service of the natural gas company related to those facilities.

(C)(1) A natural gas company requesting a regulatory exemption under division (B)(2) of this section shall identify in the application both of the following:

(a) The valuation of the investments to be exempted, as determined under division (A)(1) of section 4909.15 of the Revised Code, in the rate case proceeding that established the company's rates in effect at the time of the filing of the application requesting the regulatory exemption;

(b) The valuation of all nonexempt investments placed into service after the date certain used in the rate case proceeding described in division (C)(1)(a) of this section, excluding investments for which deferral or recovery is authorized under section 4909.18, 4929.05, or 4929.111 of the Revised Code.



(2) The commission shall compare the valuations identified in divisions (C)(1)(a) and (b) of this section.

(a) If the valuation identified in division (C)(1)(a) of this section exceeds the valuation identified in division (C)(1)(b) of this section, the commission shall, in addition to the adjustments needed to implement the regulatory exemption, reduce the gross annual revenues to which the utility is entitled under division (B) of section 4909.15 of the Revised Code by applying the rate of return, as determined under division (A)(2) of section 4909.15 of the Revised Code in the rate case proceeding in which the regulatory exemption is being sought, to the difference in the two valuations.

(b) If the valuation identified in division (C)(1)(a) of this section does not exceed the valuation identified in division (C)(1)(b) of this section, the commission shall make no adjustments beyond those needed to implement the regulatory exemption.

(3) If the company, after a regulatory exemption has been granted under division (B)(2) of this section, subsequently places into service investments that perform the function that had been provided by the exempt investments prior to the granting of the regulatory exemption, the company shall not be authorized to recover revenues related to the investments placed into service greater than those consistent with the value of the exempt assets as would be determined under division (A)(1) of section 4909.15 of the Revised Code in the company's next rate case.

(D)(1) Subject to division (E) of this section, a natural gas company subject to a regulatory exemption shall, to the maximum extent practicable, keep separate the company's operations, resources, and employees, and the associated books and records, involved in the provision or marketing of a company-provided service related to an investment exempted under the regulatory exemption from the operations, resources, and employees, and the associated books and records, involved in the provision or marketing of any company-provided service not exempted under the regulatory exemption or any other section of the Revised Code.

(2) An order granting regulatory exemption shall prescribe a functional separation plan for compliance with division (D)(1) of this section.



(E)(1) No natural gas company subject to a regulatory exemption may use the company's storage or gathering facilities associated with the regulatory exemption to provide a commodity sales service that is unregulated or subject to an exemption order issued under section 4929.04 of the Revised Code.

(2) Upon application to the commission by a natural gas company and upon a finding of good cause shown, the commission may, by order, waive the prohibition described in division (E)(1) of this section. The natural gas company shall bear the burden of proof that the waiver is just and reasonable, which shall constitute good cause.

(F) The commission shall have continuous jurisdiction to enforce any terms that it imposes in a regulatory exemption. Whenever the commission is of the opinion, after hearing had upon complaint or upon its own initiative or complaint, served as provided in section 4905.26 of the Revised Code, that a regulatory exemption has adversely affected the quality, adequacy, or sufficiency of service provided by the company subject to the regulatory exemption, the commission may alter, amend, or suspend the regulatory exemption.