

\_\_\_\_\_ moved to amend as follows:

- In line 1 of the title, after "727.01" insert ", 4928.17" 1
- In line 12 of the title, after "4926.03" insert ", 4926.04"; after "4926.05" insert ", 4926.06" 2  
3
- In line 13 of the title, delete ", 4926.08"; delete the second ",," 4
- In line 14 of the title, delete "4926.14"; after "4926.15" insert ", 4926.16"; delete ", 4926.22," 5  
6
- In line 15 of the title, delete "4926.25"; delete "4926.30" and insert "4926.29, 4926.31, 4926.311, 4926.33" 7  
8
- In line 16 of the title, delete ", 4926.40, 4926.41," 9
- In line 17 of the title, delete "4926.42"; delete "4926.45" and insert "4926.39"; delete "4926.47" and insert "4926.40, 4926.50, 4926.51, 4926.52, 4926.54, 4926.56, 4926.58, 4926.60, 4926.63, 4926.64, 4926.65, 4926.70, 4926.71, 4926.72, 4926.85, 4926.86, 4926.88, 4926.90, 4926.91, 4926.92, 4926.93, 4926.95" 10  
11  
12  
13  
14
- In line 28 of the title, delete "CodeCode" and insert "Code" 15
- In line 31 of the title, after "way," insert "to repeal sections 4926.01, 4926.03, "; delete ",," and insert "4926.04, 4926.05, 4926.06," 16  
17



4926.07, 4926.09, 4926.10, 4926.13, 4926.15, 4926.16, 4926.20, 4926.21, 18  
4926.26, 4926.27, 4926.29, 4926.31, 4926.33, 4926.35, 4926.36, 4926.37, 19  
4926.38, 4926.39, and 4926.40 of the Revised Code on the date that is 20  
three years after the act's effective date," 21

In line 33, after "727.01" insert ", 4928.17" 22

In line 42, after "4926.03" insert ", 4926.04"; after "4926.05" 23  
insert ", 4926.06"; delete ", 4926.08"; delete the second ", " 24

In line 43, delete "4926.14"; after "4926.15" insert ", 4926.16"; 25  
delete ", 4926.22, 4926.25" 26

In line 44, delete "4926.30" and insert "4926.29, 4926.31, 4926.311, 27  
4926.33"; delete ", 4926.40," 28

In line 45, delete "4926.41, 4926.42"; delete "4926.45" and insert 29  
"4926.39"; delete "4926.47" and insert "4926.40, 4926.50, 4926.51, 30  
4926.52, 4926.54, 4926.56, 4926.58, 4926.60, 4926.63, 4926.64, 4926.65, 31  
4926.70, 4926.71, 4926.72, 4926.85, 4926.86, 4926.88, 4926.90, 4926.91, 32  
4926.92, 4926.93, 4926.95" 33

In line 527, delete "this chapter" and insert "section 188.77 of the 34  
Revised Code" 35

In line 547, delete "this chapter" and insert "sections 188.01 to 36  
188.77 of the Revised Code" 37

In line 885, delete "this chapter" and insert "sections 188.01 to 38  
188.77 of the Revised Code" 39

In line 891, delete "this chapter" and insert "sections 188.01 to 40  
188.77 of the Revised Code" 41

In line 897, delete "this chapter" and insert "sections 188.01 to 42  
188.77 of the Revised Code" 43

In line 978, delete "chapter" and insert "section" 44

In line 982, delete "chapter" and insert "section" 45

After line 1231, insert: 46

"Sec. 4926.01. As used in sections 4926.01 to 4926.40 of 47  
the Revised Code: 48

(A) "Broadband facilitator" means an electric distribution 49  
utility that applies to construct, and constructs, broadband 50  
infrastructure to serve priority unserved areas but does not 51  
offer or provide broadband service to retail customers. 52

(B) "Broadband infrastructure" means any equipment, 53  
facilities, electronics, property, and technology deployments 54  
that are used for the purpose of providing access to and 55  
transmitting broadband service. 56

(C) (1) "Broadband provider" means an entity capable of 57  
providing broadband service that is one of the following: 58

(a) A video service provider as defined in section 1332.21 59  
of the Revised Code; 60

(b) A telecommunications service provider; 61

(c) A satellite broadcasting service provider; 62

(d) A wireless service provider as defined in section 63  
4927.01 of the Revised Code. 64

(2) "Broadband provider" excludes a governmental entity, 65  
quasi-governmental entity, an electric distribution utility, a 66  
broadband facilitator, and any affiliate of an electric 67  
distribution utility or a broadband facilitator. 68

(D) "Broadband service" means high-speed internet access 69

service capable of providing a minimum download speed of twenty- 70  
five megabits per second and a minimum upload speed of three 71  
megabits per second upstream. 72

(E) "Certified territory" has the same meaning as in 73  
section 4933.81 of the Revised Code. 74

(F) "Electric cooperative" and "electric distribution 75  
utility" have the same meanings as in section 4928.01 of the 76  
Revised Code. 77

(G) "Eligible project" means a project to offer or provide 78  
broadband service to retail customers in a priorityunserved 79  
area. 80

(H) "Last mile" means the portion of a physical broadband 81  
network, other than the broadband facilitator's broadband 82  
infrastructure, that connects an eligible project to the broader 83  
network used to provide broadband service. "Last mile" includes 84  
other network infrastructure such as pole attachments and make- 85  
ready work needed to provide broadband service to retail 86  
customers as part of an eligible project. 87

(I) "Last mile investment costs" means investment costs 88  
approved under section 4926.20 of the Revised Code for pole 89  
attachments and make-ready work. 90

(J) "Make-ready work" means, as determined by the nature 91  
of the work required, "make-ready," "complex make-ready," or 92  
"simple make-ready" as those terms are defined in 47 C.F.R. 93  
1.1402. 94

(K) "Net cost" means costs for broadband infrastructure, 95  
including, but not limited to, a carrying charge on capital 96  
investments that reflects a broadband facilitator's weighted 97

<u>average cost of capital, depreciation, amortization, accretion,</u>	98
<u>tax and expenses, plus operation and maintenance expenses, less</u>	99
<u>any income generated by leasing broadband infrastructure</u>	100
<u>constructed under sections 4926.01 to 4926.40 of the Revised</u>	101
<u>Code.</u>	102
<u>(L) "Priority unserved area" means an unserved area in one</u>	103
<u>of the thirty-two counties within the Appalachian region of Ohio</u>	104
<u>that ranks in the top four Ohio counties when considering the</u>	105
<u>number of unserved customers in the county, the cost per</u>	106
<u>customer of serving unserved areas in the county, and other</u>	107
<u>factors as specified in rules adopted by the public utilities</u>	108
<u>commission pursuant to section 4926.40 of the Revised Code.</u>	109
<u>(M) "Satellite broadcasting service" has the same meaning</u>	110
<u>as in section 5739.01 of the Revised Code.</u>	111
<u>(N) "Telecommunications service" has the same meaning as</u>	112
<u>in section 1332.21 of the Revised Code.</u>	113
<u>(O) "Unserved area" means any area of the state in which</u>	114
<u>internet access service capable of providing a minimum download</u>	115
<u>speed of ten megabits per second and a minimum upload speed of</u>	116
<u>one megabit per second is not available to potential retail</u>	117
<u>customers located in the area.</u>	118
<b><u>Sec. 4926.02. It is the public policy of the stateto:</u></b>	119
<u>(A) Facilitate the provision of broadband infrastructure</u>	120
<u>under just and reasonable rates, terms, and conditions;</u>	121
<u>(B) Facilitate the provision of broadband service in</u>	122
<u>priority unserved areas in the state;</u>	123
<u>(C) Provide access to broadband service to priority</u>	124
<u>unserved areas of the state by facilitating the construction of</u>	125

<u>broadband infrastructure;</u>	126
<u>(D) Not unduly favor or advantage any broadband provider.</u>	127
<b><u>Sec. 4926.03.</u></b> (A) <u>Subject to sections 4926.04 to 4926.40</u>	128
<u>of the Revised Code, a broadband facilitator may construct</u>	129
<u>broadband infrastructure in priority unserved areas that are</u>	130
<u>located inside of its certified territory or in the territory of</u>	131
<u>an electric cooperative or a municipal electric utility under an</u>	132
<u>agreement under section 4926.04 of the Revised Code.</u>	133
<u>(B) Nothing in sections 4926.01 to 4926.40 of the Revised</u>	134
<u>Code authorizes a broadband facilitator to construct, own, or</u>	135
<u>operate broadband infrastructure to provide broadband service to</u>	136
<u>retail customers or to provide services as an internet service</u>	137
<u>provider or telecommunications service provider.</u>	138
<b><u>Sec. 4926.04.</u></b> (A) <u>As part of its capacity as a broadband</u>	139
<u>facilitator, an electric distribution facility may enter into an</u>	140
<u>agreement with an electric cooperative or municipal electric</u>	141
<u>utility to construct broadband infrastructure in a priority</u>	142
<u>unserved area if the geographic area is served by the</u>	143
<u>cooperative or municipal electric utility and the geographic</u>	144
<u>area is adjacent to the electric distribution utility's</u>	145
<u>certified territory. An agreement pursuant to this section shall</u>	146
<u>be based on mutually accepted commercial terms and shall provide</u>	147
<u>for the full and timely recovery of the facilitator's net costs</u>	148
<u>associated with the construction of the infrastructure.</u>	149
<u>(B) A cooperative or municipal electric utility shall</u>	150
<u>provide compensation to the facilitator as specified in the</u>	151
<u>terms of the agreement.</u>	152
<u>(C) The electric distribution utility in its capacity as a</u>	153
<u>broadband facilitator shall file a copy of the agreement with</u>	154

the public utilities commission for review and approval as part 155  
of an application under section 4926.07 of the Revised Code. 156

**Sec. 4926.05.** A broadband facilitator shall establish a 157  
written policy for constructing broadband infrastructure 158  
pursuant to sections 4926.04 to 4926.40 of the Revised Code. The 159  
policy shall be available to the public and shall include the 160  
following: 161

(A) Procedures for executing agreements entered under 162  
section 4926.04 of the Revised Code; 163

(B) The method for the full and timely recovery of the 164  
facilitator's net costs associated with the construction of the 165  
infrastructure; 166

(C) Procedures for a nondiscriminatory competitive 167  
selection process to select a qualified broadband provider as 168  
part of the application process in sections 4926.10 and 4923.13 169  
of the Revised Code; 170

(D) A nondiscriminatory procedure for other providers to 171  
request interconnection access to the infrastructure; 172

(E) A list of any just and reasonable charges associated 173  
with granting or leasing interconnection access and the 174  
standards upon which those charges are calculated. 175

**Sec. 4926.06.** (A) A broadband facilitator that constructs 176  
broadband infrastructure pursuant to sections 4926.04 to 4926.40 177  
of the Revised Code shall establish a nondiscriminatory 178  
competitive selection process that at a minimum meets the 179  
following requirements: 180

(1) The facilitator shall submit a request for proposals 181  
to select at least one broadband provider capable of completing 182

<u>the last mile to an eligible project;</u>	183
<u>(2) If no providers respond to the request for proposals submitted under division (A) of this section, the facilitator may submit a second request for proposals that includes proposed funding for up to fifty per cent of the last mile investment associated with completing the last mile for an eligible project.</u>	184 185 186 187 188 189
<u>(3) A provider participating in the competitive selection process under this section demonstrates all of the following:</u>	190 191
<u>(a) Extensive experience, technical ability, and financial capability to successfully deploy broadband service in the priority unserved area;</u>	192 193 194
<u>(b) The length of time the provider has been providing broadband service in the state;</u>	195 196
<u>(c) The ability of the provider to leverage nearby or adjacent broadband infrastructure to facilitate the completion of the last mile of the eligible project.</u>	197 198 199
<u>(B) The public utilities commission shall review the competitive selection process as part of an application under section 4926.07 of the Revised Code. The commission shall confirm that the process was conducted prudently and achieved a reasonable competitive result.</u>	200 201 202 203 204
<b><u>Sec. 4926.07. (A) A broadband facilitator shall file an application with the public utilities commission for approval of broadband infrastructure construction before constructing the infrastructure in a priority unserved area of the facilitator's certified territory.</u></b>	205 206 207 208 209
<u>(B) A facilitator shall not file an application under this</u>	210

section unless the facilitator has selected at least one 211  
broadband provider to complete the last mile for the 212  
infrastructure described in the application. 213

**Sec. 4926.09.** An application filed under section 4926.07 214  
of the Revised Code shall be filed on a form prescribed by the 215  
public utilities commission. 216

**Sec. 4926.10.** An application filed by a broadband 217  
facilitator under section 4926.07 of the Revised Code shall 218  
include all of the following: 219

(A) The location and a detailed description of the 220  
priority unserved area in which the broadband infrastructure 221  
will be constructed; 222

(B) The number of new customers that are expected to have 223  
access to broadband service after the infrastructure is 224  
constructed; 225

(C) The incremental benefits , including any economic 226  
development benefits , that are attributable to the construction 227  
of the infrastructure; 228

(D) The estimated cost of the infrastructure; 229

(E) The estimated time to construct the infrastructure; 230

(F) Whether the application includes proposed funding for 231  
last mile investment pursuant to a competitive selection process 232  
for a broadband provider held under division (A)(2) of section 233  
4926.06 of the Revised Code; 234

(G) Any information the facilitator received from the 235  
provider selected under the competitive selection process 236  
pursuant to section 4926.06 of the Revised Code and any updates 237  
to that information. 238

(H) A copy of the agreement entered into by the 239  
facilitator and at least one provider following a competitive 240  
selection process held under section 4926.06 of the Revised Code 241  
and in which the provider commits to completing the last mile 242  
related to the eligible project and offering retail broadband 243  
service in the priority unserved area within eighteen months 244  
after the infrastructure is constructed; 245

(I) A copy of the facilitator's policy established under 246  
section 4926.05 of the Revised Code; 247

(J) A copy of any agreement entered into under section 248  
4926.04 of the Revised Code. 249

**Sec. 4926.13.** (A) The public utilities commission may 250  
approve an application filed under section 4926.07 of the 251  
Revised Code if, upon review of the application and determining 252  
the application is complete, the commission does all of the 253  
following: 254

(1) Finds that the area in which the broadband facilitator 255  
proposes to construct broadband infrastructure qualifies as a 256  
priority unserved area; 257

(2) Determines that the application is not in violation of 258  
section 4926.15 of the Revised Code; 259

(3) Finds, after reviewing the facilitator's estimated 260  
costs to construct the infrastructure, that the costs are just 261  
and reasonable; 262

(4) Finds, after reviewing the facilitator's estimated 263  
benefits or conducting its own review, that there are 264  
incremental benefits, including economic development benefits, 265  
attributable to the construction of the infrastructure; 266

(5) Finds that the infrastructure does not duplicate or overlap with infrastructure previously approved under this section. 267  
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(6) Finds that the infrastructure does not duplicate or overlap with federal funding under the connect America funds or the rural digital opportunity fund; 270  
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(7) Determines whether the facilitator's competitive selection process under section 4926.06 of the Revised Code was conducted prudently and achieved a reasonable, competitive result. 273  
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(B) An application approved under this section shall be in the form of an order of the commission, which order shall supersede any conflicting or otherwise applicable tariff or schedule for broadband infrastructure or last mile investments in a previous order. 277  
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(C) The commission shall deny the application if any of the following apply: 282  
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(1) The application is incomplete. 284

(2) The commission is unable to make the findings and determinations required under this section. 285  
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(3) The commission determines that the capital investment associated with the eligible project described in the application exceeds two million five hundred thousand dollars, provided that the capital investment does not include the facilitator's operation and maintenance expenses associated with the capital investment in the infrastructure, total future revenue requirement collections of the facilitator under section 4926.21 of the Revised Code, or last mile funding for a 287  
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broadband provider. 295

**Sec. 4926.15. –** 296

No broadband facilitator may construct broadband 297  
infrastructure in a geographic area in which a broadband 298  
provider has been awarded a program grant under the residential 299  
broadband expansion project under sections 188.40 to 188.44 of 300  
the Revised Code unless the provider that receives the program 301  
grant does not construct the project for which the program grant 302  
was awarded. 303

**Sec. 4926.16.** Within one hundred eighty days after a 304  
broadband facilitator submits an application to the public 305  
utilities commission under section 4926.07 of the Revised Code, 306  
the commission shall approve or deny the application. 307

**Sec. 4926.20.** (A) Except as provided in division (B) of 308  
this section and pursuant to an application approved under 309  
section 4926.13 of the Revised Code, the public utilities 310  
commission shall approve a rate mechanism that allows an 311  
electric distribution utility to fully and timely recover the 312  
following from its retail electric service customers: 313

(1) The net costs incurred by a broadband facilitator to 314  
construct, own, and maintain broadband infrastructure, which 315  
shall reflect a credit for any revenues recovered pursuant to an 316  
agreement under section 4926.04; 317

(2) Up to fifty per cent of any last mile investment costs 318  
as approved in the application. 319

(B) The commission shall not approve the rate mechanism 320  
described in division (A) of this section if the commission 321  
determines that the mechanism will result in a double recovery 322

of any costs by the electric distribution utility. If the 323  
commission disapproves a rate mechanism pursuant to this 324  
division, the commission may subsequently approve a revised rate 325  
mechanism if the the double recovery is cured. 326

**Sec. 4926.21. A rate mechanism approved by the public** 327  
**utilities commission under section 4926.20 of the Revised Code** 328  
**shall do the following:** 329

(A) Fully and timely recover net costs related to 330  
broadband infrastructure, if the costs are prudently incurred, 331  
which shall reflect a credit for any revenues recovered pursuant 332  
to an agreement under section 4926.04 of the Revised Code; 333

(B) Fully and timely recover last mile investment costs as 334  
specified by the commission; 335

(C) Fully and timely recover the costs described in 336  
divisions (A) and (B) of this section, authorize a monthly 337  
charge, including deferrals, that does not exceed one dollar per 338  
customer per month for residential customers and does not exceed 339  
five dollars and fifty cents per customer per month for 340  
nonresidential customers. 341

**Sec. 4926.26. An existing rate mechanism previously** 342  
**authorized by the public utilities commission may be used as the** 343  
**mechanism under section 4926.20 of the Revised Code, if the** 344  
**existing mechanism will continue to exist for the full term of** 345  
**the cost recovery for broadband infrastructure and any last mile** 346  
**investment costs. The commission shall determine whether the** 347  
**existing rate mechanism is suitable for the infrastructure cost** 348  
**recovery. A surcharge previously approved for an electric** 349  
**distribution utility under division (B) (2) (h) of section** 350  
**4928.143 of the Revised Code may be considered a suitable rate** 351

mechanism under this section. 352

**Sec. 4926.27.** If the public utilities commission, under 353  
section 4926.26 of the Revised Code, authorizes the use of an 354  
existing rate mechanism, and that mechanism subsequently expires 355  
or is terminated before the broadband infrastructure costs or 356  
last mile investment costs approved under section 4926.20 of the 357  
Revised Code, if any, are fully recovered, the commission, in a 358  
timely manner, shall establish a new rate mechanism under 359  
section 4926.20 of the Revised Code to ensure uninterrupted full 360  
and timely recovery of those approved infrastructure costs and 361  
last mile investment costs. 362

**Sec. 4926.29.** (A) The public utilities commission annually 363  
shall review and update the rates charged under a rate mechanism 364  
established under section 4926.20 of the Revised Code until an 365  
electric distribution utility's approved net costs and any 366  
approved last mile investment costs are fully recovered. 367

(B) In the annual rate review, the commission shall 368  
include the approved broadband infrastructure net costs and any 369  
approved last mile investment costs for the year under review. 370

**Sec. 4926.31.** Recovery of approved costs related to 371  
broadband infrastructure and any approved last mile investment 372  
costs under sections 4926.20 to 4926.29 of the Revised Code are 373  
not subject to Chapter 4909. of the Revised Code or the earnings 374  
test under division (F) of section 4928.143 of the Revised Code. 375

**Sec. 4926.311.** A broadband facilitator that constructs 376  
broadband infrastructure pursuant to an application approved 377  
under section 4926.13 of the Revised Code shall not, after the 378  
infrastructure is constructed, sell or transfer the 379  
infrastructure to an affiliate of an electric distribution 380

utility. 381

**Sec. 4926.33.** An electric distribution utility acting as a 382  
broadband facilitator with an application approved under section 383  
4926.13 of the Revised Code for an eligible project shall 384  
request or receive from a telecommunications service provider or 385  
a video service provider a reduced per pole rental rate, with 386  
the reduced rate to be determined by the public utilities 387  
commission, for attachments to any pole in a county where an 388  
eligible project is approved for a priority unserved area. The 389  
electric distribution utility acting as a facilitator shall 390  
fully and timely recover through an approved rate mechanism the 391  
revenue difference between the reduced pole rental tariff rate 392  
approved by the commission and the rate that would otherwise 393  
apply to such attachments, either in a pending or future rate 394  
proceeding under section 4909.18 of the Revised Code or another 395  
appropriate rate proceeding as determined by the commission. The 396  
electric distribution utility acting as a facilitator shall 397  
apply to the commission for any amendment to its pole attachment 398  
tariff necessary to implement this section. 399

**Sec. 4926.35.** A broadband provider may request 400  
interconnection access to broadband infrastructure constructed 401  
by a broadband facilitator pursuant to an application approved 402  
under section 4926.13 of the Revised Code. 403

**Sec. 4926.36.** (A) Not later than thirty days after receipt 404  
of a request for interconnection access to broadband 405  
infrastructure constructed pursuant to an application approved 406  
under section 4926.13 of the Revised Code, a broadband 407  
facilitator shall grant access to the broadband provider. Access 408  
may be granted only if the provider commits in writing to 409  
offering broadband service. In the agreement, the facilitator 410

may condition the provider's access based on either of the 411  
following: 412

(1) Infrastructure space availability; 413

(2) The provider's compliance with applicable engineering 414  
and construction standards and administrative procedures; 415

(B) A broadband facilitator that constructs broadband 416  
infrastructure pursuant to sections 4926.04 to 4926.40 of the 417  
Revised Code shall not charge any broadband provider for 418  
interconnecting with the broadband infrastructure for the 419  
purpose of either deploying last mile facilities to offer 420  
broadband service to unserved retail customers or transmitting 421  
the broadband service in the priority unserved area of an 422  
eligible project. 423

**Sec. 4926.37.** The thirty-day period described in section 424  
4926.36 of the Revised Code does not apply if a broadband 425  
facilitator, including the facilitator's representative or 426  
agent, has more than one hundred interconnection requests 427  
pending at the time that the request is made. 428

**Sec. 4926.38.** A broadband facilitator may suspend 429  
broadband interconnection access granted to a broadband provider 430  
that defaults on payment of the facilitator's charges. 431

**Sec. 4926.39.** A broadband provider shall not be 432  
responsible for costs of any kind, including pole replacement, 433  
transfer, or relocation or make-ready costs, if the broadband 434  
facilitator requests or requires payment for such costs in order 435  
to make room for or otherwise permit broadband infrastructure 436  
construction pursuant to an application approved under section 437  
4926.13 of the Revised Code. Any pole replaced in order to 438  
construct the broadband infrastructure shall remain the property 439

of the owner of the pole that was replaced. 440

**Sec. 4926.40.** Not later than one hundred twenty days after 441  
the effective date of this section, the public utilities 442  
commission shall adopt rules to implement sections 4926.01 to 443  
4926.40 of the Revised Code. " 444

In line 1232, delete "4926.01" and insert "4926.50"; delete "this  
chapter" and insert "sections 4926.50 to 4926.95 of the Revised Code" 445  
446

In line 1245, delete "means, as determined by the nature of" 447

Delete lines 1246 through 1248 and insert "has the same meaning as  
in section 4926.01 of the Revised Code." 448  
449

In line 1259, delete "4926.02" and insert "4926.51" 450

In line 1263, delete "4926.03" and insert "4926.52"; delete 451  
"4926.22" and insert "4926.72" 452

In line 1264, delete "4926.03" and insert "4926.52" 453

In line 1267, delete "4926.25" and insert "4926.77" 454

In line 1269, delete "4926.05" and insert "4926.54" 455

In line 1274, delete "4926.07" and insert "4926.56" 456

In line 1278, delete "4926.08" and insert "4926.58" 457

Delete lines 1287 through 1290 458

In line 1291, delete "4926.10" and insert "4926.60" 459

In line 1292, delete "4926.08" and insert "4926.58" 460

In line 1297, delete "4926.08" and insert "4926.58" 461

In line 1299, delete "4926.13" and insert "4926.63" 462

In line 1301, after the second "the" insert "public utilities" 463

In line 1309, delete "**4926.14**" and insert "**4926.64**" 464

In line 1317, delete "**4926.15**" and insert "**4926.65**"; delete "this chapter" and insert "sections 4926.50 to 4926.95 of the Revised Code" 465  
466

In line 1321, delete "**4926.20**" and insert "**4926.70**" 467

In line 1326, delete "**4926.21**" and insert "**4926.71**" 468

In line 1335, delete "**4926.22**" and insert "**4926.72**" 469

Delete lines 1343 through 1363 470

In line 1364, delete "**4926.35**" and insert "**4926.85**" 471

In line 1366, delete "under this chapter" and insert "with respect to sections 4926.50 to 4926.95 of the Revised Code" 472  
473

In line 1367, delete "**4926.36**" and insert "**4926.86**" 474

In line 1368, delete "under this" 475

In line 1369, delete "chapter" and insert "with respect to sections 4926.50 to 4926.95 of the Revised Code" 476  
477

In line 1370, delete "4926.35" and insert "4926.85" 478

Delete lines 1373 through 1376 479

In line 1377, delete "**4926.38**" and insert "**4926.88**" 480

In line 1378, delete "4926.45" and insert "4926.93" 481

In line 1379, delete "under this chapter" and insert "with respect to sections 4926.50 to 4926.95 of the Revised Code" 482  
483

In line 1393, delete "**4926.40**" and insert "**4926.90**"; delete "4926.35" and insert "4926.85" 484  
485

In line 1401, delete "**4926.41**" and insert "**4926.91**"; delete "4926.35" and insert "4926.85" 486  
487

In line 1406, delete "4926.42" and insert "4926.92"; delete 488  
"4926.35" and insert "4926.85" 489

In line 1412, delete "4926.45" and insert "4926.93" 490

In line 1413, delete "4926.35" and insert "4926.85" 491

In line 1422, delete "4926.03" and insert "4926.52"; delete 492  
"4926.22" and insert "4926.72" 493

In line 1434, delete "4926.47" and insert "4926.95" 494

In line 1435, delete "4926.35" and insert "4926.85"; delete 495  
"4926.45" and insert "4926.93" 496

After line 1436, insert: 497

**"Sec. 4928.17.** (A) Except as otherwise provided in 498  
sections 4928.142 or 4928.143 or 4928.31 to 4928.40 of the 499  
Revised Code and beginning on the starting date of competitive 500  
retail electric service, no electric utility shall engage in 501  
this state, either directly or through an affiliate, in the 502  
businesses of supplying a noncompetitive retail electric service 503  
and supplying a competitive retail electric service, or in the 504  
businesses of supplying a noncompetitive retail electric service 505  
and supplying a product or service other than retail electric 506  
service, unless the utility implements and operates under a 507  
corporate separation plan that is approved by the public 508  
utilities commission under this section, is consistent with the 509  
policy specified in section 4928.02 of the Revised Code, and 510  
achieves all of the following: 511

(1) The plan provides, at minimum, for the provision of 512  
the competitive retail electric service or the nonelectric 513  
product or service through a fully separated affiliate of the 514

utility, and the plan includes separate accounting requirements, 515  
the code of conduct as ordered by the commission pursuant to a 516  
rule it shall adopt under division (A) of section 4928.06 of the 517  
Revised Code, and such other measures as are necessary to 518  
effectuate the policy specified in section 4928.02 of the 519  
Revised Code. 520

(2) The plan satisfies the public interest in preventing 521  
unfair competitive advantage and preventing the abuse of market 522  
power. 523

(3) The plan is sufficient to ensure that the utility will 524  
not extend any undue preference or advantage to any affiliate, 525  
division, or part of its own business engaged in the business of 526  
supplying the competitive retail electric service or nonelectric 527  
product or service, including, but not limited to, utility 528  
resources such as trucks, tools, office equipment, office space, 529  
supplies, customer and marketing information, advertising, 530  
billing and mailing systems, personnel, and training, without 531  
compensation based upon fully loaded embedded costs charged to 532  
the affiliate; and to ensure that any such affiliate, division, 533  
or part will not receive undue preference or advantage from any 534  
affiliate, division, or part of the business engaged in business 535  
of supplying the noncompetitive retail electric service. No such 536  
utility, affiliate, division, or part shall extend such undue 537  
preference. Notwithstanding any other division of this section, 538  
a utility's obligation under division (A) (3) of this section 539  
shall be effective January 1, 2000. 540

(B) The commission may approve, modify and approve, or 541  
disapprove a corporate separation plan filed with the commission 542  
under division (A) of this section. As part of the code of 543  
conduct required under division (A) (1) of this section, the 544

commission shall adopt rules pursuant to division (A) of section 545  
4928.06 of the Revised Code regarding corporate separation and 546  
procedures for plan filing and approval. The rules shall include 547  
limitations on affiliate practices solely for the purpose of 548  
maintaining a separation of the affiliate's business from the 549  
business of the utility to prevent unfair competitive advantage 550  
by virtue of that relationship. The rules also shall include an 551  
opportunity for any person having a real and substantial 552  
interest in the corporate separation plan to file specific 553  
objections to the plan and propose specific responses to issues 554  
raised in the objections, which objections and responses the 555  
commission shall address in its final order. Prior to commission 556  
approval of the plan, the commission shall afford a hearing upon 557  
those aspects of the plan that the commission determines 558  
reasonably require a hearing. The commission may reject and 559  
require refiling of a substantially inadequate plan under this 560  
section. 561

(C) The commission shall issue an order approving or 562  
modifying and approving a corporate separation plan under this 563  
section, to be effective on the date specified in the order, 564  
only upon findings that the plan reasonably complies with the 565  
requirements of division (A) of this section and will provide 566  
for ongoing compliance with the policy specified in section 567  
4928.02 of the Revised Code. However, for good cause shown, the 568  
commission may issue an order approving or modifying and 569  
approving a corporate separation plan under this section that 570  
does not comply with division (A)(1) of this section but 571  
complies with such functional separation requirements as the 572  
commission authorizes to apply for an interim period prescribed 573  
in the order, upon a finding that such alternative plan will 574  
provide for ongoing compliance with the policy specified in 575

section 4928.02 of the Revised Code. 576

(D) Any party may seek an amendment to a corporate 577  
separation plan approved under this section, and the commission, 578  
pursuant to a request from any party or on its own initiative, 579  
may order as it considers necessary the filing of an amended 580  
corporate separation plan to reflect changed circumstances. 581

(E) No electric distribution utility shall sell or 582  
transfer any generating asset it wholly or partly owns at any 583  
time without obtaining prior commission approval. 584

(F) Notwithstanding any other provision of this section, 585  
broadband infrastructure constructed under sections 4926.01 to 586  
4926.40 of the Revised Code shall qualify as noncompetitive 587  
retail electric service under division (B) of section 4928.01 of 588  
the Revised Code." 589

In line 2610, after "727.01" insert ", 4928.17" 590

After line 2654, insert: 591

**"Section 6.** That sections 4926.01, 4926.03, 4926.04, 592  
4926.05, 4926.06, 4926.07, 4926.09, 4926.10, 4926.13, 4926.15, 593  
4926.16, 4926.20, 4926.21, 4926.26, 4926.27, 4926.29, 4926.31, 594  
4926.33, 4926.35, 4926.36, 4926.37, 4926.38, 4926.39, and 595  
4926.40 of the Revised Code are hereby repealed, effective on 596  
the date that is three years after the effective date of this 597  
act. 598

**Section 7.** Any net costs or last mile investment costs 599  
that the Public Utilities Commission approves for recovery by an 600  
electric distribution utility under section 4926.20 of the 601  
Revised Code but that has not yet been recovered by the electric 602  
distribution utility as of the effective date of the repeal of 603

sections 4926.20 to 4926.31 of the Revised Code by this act may 604  
continue to be recovered according to the provisions of sections 605  
4926.20 to 4926.31 of the Revised Code as those sections existed 606  
before their repeal. 607

**Section 8.** (A) Not later than the date that is three and 608  
one-half years after the effective date of this act, each 609  
electric distribution utility that has had an application 610  
approved under section 4926.13 of the Revised Code shall file a 611  
report with the public utilities commission that includes all of 612  
the following: 613

(1) The number of applications the electric distribution 614  
utility filed with the public utilities commission pursuant to 615  
section 4926.07 of the Revised Code during the three-year period 616  
after the effective date of this act; 617

(2) A description identifying the priority unserved areas 618  
in the electric distribution utility's certified territory; 619

(3) A summary of each application approved by the public 620  
utilities commission under section 4926.13 of the Revised Code 621  
that includes a description of each priority unserved area, the 622  
construction status of the project, and the broadband 623  
facilitator's costs for the project; 624

(4) The number of broadband providers with which the 625  
broadband facilitator contracted to complete the last mile; 626

(5) The total net costs for the electric distribution 627  
utility as approved by the public utilities commission; 628

(6) The total last mile investment costs for the electric 629  
distribution utility as approved by the public utilities 630  
commission; 631

(7) The percentage of total net costs and last mile investment costs recovered through the rate mechanisms approved by the public utilities commission pursuant to section 4926.20 of the Revised Code;

(8) The number of new retail customers with access to broadband service at the time of the report as a result of the approved construction applications.

(B) (1) The commission shall submit the reports to the Speaker of the House of Representatives, the President of the Senate, and the standing committees of the House of Representatives and the Senate that primarily deal with broadband issues. The commission also shall submit the report to the Broadband Ohio Office and to the Broadband Expansion Program Authority to assist the Authority in its duties under section 188.08 of the Revised Code.

(2) To meet the requirements of division (B) (1) of this section, the commission may combine into one report the reports filed under this section by different electric distribution utilities provided that the electric distribution utility reports are included in their entirety."

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 652

**Broadband infrastructure construction and cost recovery** 653

**R.C. 4926.01 to 4926.40 and 4928.17** 654

Authorizes a broadband facilitator, an electric 655

distribution utility (EDU) that constructs broadband  
infrastructure in priority unserved areas, (unserved areas in  
one of the 32 counties within Ohio's Appalachian region that  
rank in the top four Ohio counties based on certain factors),  
but does not provide the service, under an agreement with an  
electric cooperative or municipal electric utility, to construct  
infrastructure in the priority unserved areas served by the  
cooperative or utility and to recover the facilitator's  
infrastructure costs.

Defines "broadband infrastructure" as any equipment,  
facilities, electronics, property, and technology deployments  
used for the purpose of providing access to and transmitting  
broadband service.

Defines "broadband service" as high-speed internet access  
service capable of providing a minimum download speed of 25  
megabits per second and a minimum upload speed of three megabits  
per second and that is not based on satellite transmissions and  
does not require a dial-up connection using a modem.

Defines "unserved area" as any area of Ohio in which  
internet access service capable of providing a minimum download  
speed of 10 megabits per second and a minimum upload speed of  
one megabit per second is not available to potential retail  
customers located in the area.

Requires a facilitator to apply to PUCO for approval to  
build infrastructure in the facilitator's certified territory  
and for PUCO approval of agreements with a cooperative or  
municipal electric utility.

Specifies that a facilitator must select a broadband  
provider through a competitive selection process that may

include a second request for proposals that offers proposed last 685  
mile funding, if no providers respond to the first request for 686  
proposals. 687

Requires PUCO to (1) approve a rate mechanism, or permit 688  
the use of an existing rate mechanism, for the EDU to recover 689  
from its retail customers the infrastructure costs and up to 50% 690  
of any last mile investment costs (approved costs for network 691  
infrastructure such as pole attachments and make-ready work) 692  
incurred by the facilitator and (2) review and update the 693  
mechanism annually. 694

Prohibits PUCO from approving a rate mechanism if (1) it 695  
finds that the rate mechanism would result in double recovery of 696  
an EDU's costs, but allows PUCO to subsequently approve a 697  
revised rate mechanism if the double recovery is cured or (2) it 698  
finds that capital investment associated with the project 699  
described in the application exceeds \$2.5 million provided that 700  
capital investment does not include operation and maintenance 701  
expenses, future revenue requirement collections, or last mile 702  
funding for a broadband provider. 703

Limits the rate mechanism charge to \$1.00 per customer per 704  
month for residential customers and \$5.50 per customer per month 705  
for nonresidential customers. 706

Permits broadband providers, in addition to the provider 707  
selected for the facilitator's application to PUCO, to request, 708  
and a facilitator to grant, interconnection access to the 709  
broadband infrastructure in order to provide broadband service. 710

Requires the PUCO to adopt rules to implement the 711  
broadband infrastructure construction and cost recovery 712  
provisions. 713