BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4928.01, 4928.04, 4928.05, 4928.06, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.18, 4928.20, 4928.23, 4928.231, 4928.232, 4928.31, 4928.34, 4928.35, 4928.542, and 4933.81 of the Revised Code be amended;
section 4928.04 (4928.041) be amended for the purpose of
adopting a new section number as indicated in parentheses; and
new section 4928.04 and sections 4903.191, 4928.28, 4928.281,
4928.29, and 4928.30 be enacted to read as follows:

Sec. 4903.191. Notwithstanding any provision of the
Revised Code to the contrary, all charges paid by customers to a
public utility that are later found to be unreasonable,
unlawful, imprudent, or otherwise improper by the public
utilities commission, the supreme court, or other authority
shall be promptly refunded to the customers who paid such
charges. The commission shall order such refunds in a manner
designed to allocate the refunds to customer classes in the same
proportion as the charges were originally collected.

Sec. 4928.01. (A) As used in this chapter:

(1) "Ancillary service" means any function necessary to
the provision of electric transmission or distribution service
to a retail customer and includes, but is not limited to,
scheduling, system control, and dispatch services; reactive
supply from generation resources and voltage control service;
reactive supply from transmission resources service; regulation
service; frequency response service; energy imbalance service;
operating reserve-spinning reserve service; operating reserve-
supplemental reserve service; load following; back-up supply
service; real-power loss replacement service; dynamic
scheduling; system black start capability; and network stability
service.

(2) "Billing and collection agent" means a fully
independent agent, not affiliated with or otherwise controlled
by an electric utility, electric services company, electric
cooperative, or governmental aggregator subject to certification
As Introduced

under section 4928.08 of the Revised Code, to the extent that
the agent is under contract with such utility, company,
cooperative, or aggregator solely to provide billing and
collection for retail electric service on behalf of the utility
compartment, cooperative, or aggregator.

(3) "Certified territory" means the certified territory
established for an electric supplier under sections 4933.81 to
4933.90 of the Revised Code.

(4) "Competitive retail electric service" means a
component of retail electric service that is competitive as
provided under division (B) of this section.

(5) "Electric cooperative" means a not-for-profit electric
light company that both is or has been financed in whole or in
1363, 7 U.S.C. 901, and owns or operates facilities in this
state to generate, transmit, or distribute electricity, or a
not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric
utility that supplies at least retail electric distribution
service.

(7) "Electric light company" has the same meaning as in
section 4905.03 of the Revised Code and includes an electric
services company, but excludes any self-generator to the extent
that it consumes electricity it so produces, sells that
electricity for resale, or obtains electricity from a generating
facility it hosts on its premises.

(8) "Electric load center" has the same meaning as in
section 4933.81 of the Revised Code.

(9) "Electric services company" means an electric light
company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis either in the business of supplying at least a noncompetitive retail electric service in this state or in the businesses of supplying both a noncompetitive and a competitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent.

(12) "Firm electric service" means electric service other than nonfirm electric service.

(13) "Governmental aggregator" means a legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners acting as an aggregator for the provision of a competitive retail electric service under authority conferred under section 4928.20 of the Revised Code.

(14) A person acts "knowingly," regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person
is aware that such circumstances probably exist.

(15) "Level of funding for low-income customer energy
efficiency programs provided through electric utility rates"
means the level of funds specifically included in an electric
utility’s rates on October 5, 1999, pursuant to an order of the
public utilities commission issued under Chapter 4905. or 4909.
of the Revised Code and in effect on October 4, 1999, for the
purpose of improving the energy efficiency of housing for the
utility’s low-income customers. The term excludes the level of
any such funds committed to a specific nonprofit organization or
organizations pursuant to a stipulation or contract.

(16) "Low-income customer assistance programs" means the
percentage of income payment plan program, the home energy
assistance program, the home weatherization assistance program,
and the targeted energy efficiency and weatherization program.

(17) "Market development period" for an electric utility
means the period of time beginning on the starting date of
competitive retail electric service and ending on the applicable
date for that utility as specified in section 4928.40 of the
Revised Code, irrespective of whether the utility applies to
receive transition revenues under this chapter.

(18) "Market power" means the ability to impose on
customers a sustained price for a product or service above the
price that would prevail in a competitive market.

(19) "Mercantile customer" means a commercial or
industrial customer if the electricity consumed is for
nonresidential use and the customer consumes more than seven
hundred thousand kilowatt hours per year or is part of a
national account involving multiple facilities in one or more
(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.

(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.

(22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code or pursuant to an arrangement under section 4905.31 of the Revised Code, which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.

(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.

(24) "Person" has the same meaning as in section 1.59 of the Revised Code.

(25) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users, including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" also includes any project described in division (A), (B), or (C) of
section 4928.621 of the Revised Code.

(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs currently deferred pursuant to the terms of one or more settlement agreements approved by the commission.

(27) "Retail electric service" means any service involved in supplying or arranging for the supply of electricity to ultimate consumers in this state, from the point of generation to the point of consumption. For the purposes of this chapter, retail electric service includes one or more of the following "service components": generation service, aggregation service, power marketing service, power brokerage service, transmission service, distribution service, ancillary service, metering
service, and billing and collection service.

(28) "Starting date of competitive retail electric service" means January 1, 2001.

(29) "Customer-generator" means a user of a net metering system.

(30) "Net metering" means measuring the difference in an applicable billing period between the electricity supplied by an electric service provider and the electricity generated by a customer-generator that is fed back to the electric service provider.

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;

(b) Is located on a customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities;

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract.

(33) "Rate plan" means the standard service offer in effect on the effective date of the amendment of this section by
(4) "Advanced energy resource" means any of the following:

(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(b) Any distributed generation system consisting of customer cogeneration technology;

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

(d) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;
(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(f) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM);

(g) Demand-side management and any energy efficiency improvement;

(h) Any new, retrofitted, refueled, or repowered generating facility located in Ohio, including a simple or combined-cycle natural gas generating facility or a generating facility that uses biomass, coal, modular nuclear, or any other fuel as its input;

(i) Any uprated capacity of an existing electric generating facility if the uprated capacity results from the deployment of advanced technology.

"Advanced energy resource" does not include a waste energy recovery system that is, or has been, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.

(35) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code.

(36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.
(37) (a) "Renewable energy resource" means any of the following:

(i) Solar photovoltaic or solar thermal energy;

(ii) Wind energy;

(iii) Power produced by a hydroelectric facility;

(iv) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;

(v) Geothermal energy;

(vi) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;

(vii) Biomass energy;

(viii) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;

(ix) Biologically derived methane gas;
(x) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;

(xi) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors.

"Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; waste energy recovery system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, except that a waste energy recovery system described in division (A)(38)(b) of this section may be included only if it was placed into service between January 1, 2002, and December 31, 2004; storage facility that will promote the better utilization of a renewable energy resource; or distributed generation system used by a customer to generate electricity from any such energy.

"Renewable energy resource" does not include a waste energy recovery system that is, or was, on or after January 1, 2012, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.

(b) As used in division (A)(37) of this section, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or
within or bordering an adjoining state and meets all of the following standards:

(i) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.

(ii) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(iii) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromous fish.

(iv) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.


(vi) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility
is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(vii) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended by resource agencies, to the extent they have jurisdiction over the facility; and the facility provides access to water to the public without fee or charge.

(viii) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.

(38) "Waste energy recovery system" means either of the following:

(a) A facility that generates electricity through the conversion of energy from either of the following:

(i) Exhaust heat from engines or manufacturing, industrial, commercial, or institutional sites, except for exhaust heat from a facility whose primary purpose is the generation of electricity;

(ii) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels.

(b) A facility at a state institution of higher education as defined in section 3345.011 of the Revised Code that recovers waste heat from electricity-producing engines or combustion.
turbines and that simultaneously uses the recovered heat to produce steam, provided that the facility was placed into service between January 1, 2002, and December 31, 2004.

(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering and automation of system functions.

(40) "Combined heat and power system" means the coproduction of electricity and useful thermal energy from the same fuel source designed to achieve thermal-efficiency levels of at least sixty per cent, with at least twenty per cent of the system's total useful energy in the form of thermal energy.

(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service.

Sec. 4928.04. (A) Except as provided in sections 4928.141 and 4928.142 of the Revised Code, no electric utility shall provide a competitive retail electric service in this state if that service was deemed competitive or otherwise legally classified as competitive prior to the effective date of this section.

(B) The standard service offer under section 4928.141 of the Revised Code shall continue to be provided to consumers in
this state by electric utilities.

Sec. 4928.04–4928.041. (A) The public utilities commission by order may declare that retail ancillary, metering, or billing and collection service supplied to consumers within the certified territory of an electric utility on or after the starting date of competitive retail electric service is a competitive retail electric service that the consumers may obtain from any supplier or suppliers subject to this chapter. The commission may issue such order, after investigation and public hearing, only if it first determines either of the following:

(1) There will be effective competition with respect to the service.

(2) The customers of the service have reasonably available alternatives.

The commission shall initiate a proceeding on or before March 31, 2003, on the question of the desirability, feasibility, and timing of any such competition.

(B) In carrying out division (A) of this section, the commission may prescribe different classifications, procedures, terms, or conditions for different electric utilities and for the retail electric services they provide that are declared competitive pursuant to that division, provided the classifications, procedures, terms, or conditions are reasonable and do not confer any undue economic, competitive, or market advantage or preference upon any electric utility.

Sec. 4928.05. (A)(1) On and after the starting date of competitive retail electric service, a competitive retail electric service supplied by an electric utility or electric
services company, or by an electric utility consistent with section 4928.141 of the Revised Code, shall not be subject to supervision and regulation by a municipal corporation under Chapter 743. of the Revised Code or by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except sections 4905.10 and 4905.31, division (B) of section 4905.33, and sections 4905.35 and 4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, and 4963.41 of the Revised Code only to the extent related to service reliability and public safety; and except as otherwise provided in this chapter. The commission's authority to enforce those excepted provisions with respect to a competitive retail electric service shall be such authority as is provided for their enforcement under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter. Nothing in this division shall be construed to limit the commission's authority under sections 4928.141 to, 4928.142, and 4928.144 of the Revised Code.

On and after the starting date of competitive retail electric service, a competitive retail electric service supplied by an electric cooperative shall not be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except as otherwise expressly provided in sections 4928.01 to 4928.10 and 4928.16 of the Revised Code.

(2) On and after the starting date of competitive retail electric service, a noncompetitive retail electric service supplied by an electric utility shall be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter, to the extent that authority is not preempted by
federal law. The commission's authority to enforce those provisions with respect to a noncompetitive retail electric service shall be the authority provided under those chapters and this chapter, to the extent the authority is not preempted by federal law. Notwithstanding Chapters 4905. and 4909. of the Revised Code, commission authority under this chapter shall include the authority to provide for the recovery, through a reconcilable rider on an electric distribution utility's distribution rates, of all transmission and transmission-related costs, including ancillary and congestion costs, imposed on or charged to the utility by the federal energy regulatory commission or a regional transmission organization, independent transmission operator, or similar organization approved by the federal energy regulatory commission.

(2) The commission shall exercise its jurisdiction with respect to the delivery of electricity by an electric utility in this state on or after the starting date of competitive retail electric service so as to ensure that no aspect of the delivery of electricity by the utility to consumers in this state that consists of a noncompetitive retail electric service is unregulated.

On and after that starting date, a noncompetitive retail electric service supplied by an electric cooperative shall not be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except sections 4933.81 to 4933.90 and 4935.03 of the Revised Code. The commission's authority to enforce those excepted sections with respect to a noncompetitive retail electric service of an electric cooperative shall be such authority as is provided for their enforcement under Chapters 4933. and 4935. of the Revised Code.
(B) Nothing in this chapter affects the authority of the commission under Title XLIX of the Revised Code to regulate an electric light company in this state or an electric service supplied in this state prior to the starting date of competitive retail electric service.

Sec. 4928.06. (A) Beginning on the starting date of competitive retail electric service, the public utilities commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated. To the extent necessary, the commission shall adopt rules to carry out this chapter. Initial rules necessary for the commencement of the competitive retail electric service under this chapter shall be adopted within one hundred eighty days after the effective date of this section. Except as otherwise provided in this chapter, the proceedings and orders of the commission under the chapter shall be subject to and governed by Chapter 4903. of the Revised Code.

(B) If the commission determines, on or after the starting date of competitive retail electric service, that there is a decline or loss of effective competition with respect to a competitive retail electric service of an electric utility, which service was declared competitive by commission order issued pursuant to division (A) of section 4928.04 of the Revised Code, the commission shall ensure that that service is provided at compensatory, fair, and nondiscriminatory prices and terms and conditions.

(C) In addition to its authority under section 4928.04 of the Revised Code and divisions (A) and (B) of this section, the commission, on an ongoing basis, shall monitor and evaluate the provision of retail electric service in this state.
for the purpose of discerning any noncompetitive retail electric service that should be available on a competitive basis or after the starting date of competitive retail electric service pursuant to a declaration in the Revised Code, and for the purpose of discerning any competitive retail electric service that is no longer subject to effective competition or after that date. Upon such evaluation, the commission periodically shall report its findings and any recommendations for legislation to the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation. Until 2008, the commission and the consumer's counsel also shall provide biennial reports to those standing committees, regarding the effectiveness of competition in the supply of competitive retail electric services in this state. In addition, until the end of all market development periods as determined by the commission under section 4928.40 of the Revised Code, those standing committees shall meet at least biennially to consider the effect on this state of electric service restructuring and to receive reports from the commission, consumers' counsel, and director of development.

(D) In determining, for purposes of division (B) or (C) of this section, whether there is effective competition in the provision of a retail electric service or reasonably available alternatives for that service, the commission shall consider factors including, but not limited to, all of the following:

(1) The number and size of alternative providers of that service;

(2) The extent to which the service is available from alternative suppliers in the relevant market;

(3) The ability of alternative suppliers to make
functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;

(4) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of suppliers of services.

The burden of proof shall be on any entity requesting, under division (B) or (C) of this section, a determination by the commission of the existence of or a lack of effective competition or reasonably available alternatives.

(E)(1) Beginning on the starting date of competitive retail electric service, the commission has authority under Chapters 4901. to 4909. of the Revised Code, and shall exercise that authority, to resolve abuses of market power by any electric utility that interfere with effective competition in the provision of retail electric service.

(2) In addition to the commission's authority under division (E)(1) of this section, the commission, beginning the first year after the market development period of a particular electric utility and after reasonable notice and opportunity for hearing, may take such measures within a transmission constrained area in the utility's certified territory as are necessary to ensure that retail electric generation service is provided at reasonable rates within that area. The commission may exercise this authority only upon findings that an electric utility is or has engaged in the abuse of market power and that that abuse is not adequately mitigated by rules and practices of any independent transmission entity controlling the transmission facilities. Any such measure shall be taken only to the extent necessary to protect customers in the area from the particular abuse of market power and to the extent the commission's
authority is not preempted by federal law. The measure shall remain in effect until the commission, after reasonable notice and opportunity for hearing, determines that the particular abuse of market power has been mitigated.

(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.

The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer.

Sec. 4928.14. The (A) Except as provided in division (C) of this section, the failure of a supplier to provide retail electric generation service to customers within the certified
territory of an electric distribution utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer under sections 4928.141, and 4928.142, and 4928.143 of the Revised Code until the customer chooses an alternative supplier. 

(B) A supplier is deemed under this section to have failed to provide such retail electric generation service if the commission finds, after reasonable notice and opportunity for hearing, that any of the following conditions are met:

(A)(1) The supplier has defaulted on its contracts with customers, is in receivership, or has filed for bankruptcy.

(B)(2) The supplier is no longer capable of providing the service.

(C)(3) The supplier is unable to provide delivery to transmission or distribution facilities for such period of time as may be reasonably specified by commission rule adopted under division (A) of section 4928.06 of the Revised Code.

(D)(4) The supplier's certification has been suspended, conditionally rescinded, or rescinded under division (D) of section 4928.08 of the Revised Code.

(C) If an electric distribution utility has an electric security plan that was approved under section 4928.143 of the Revised Code as that section existed prior to the amendments to this section by ...B... of the 132nd general assembly, the failure of a supplier to provide retail electric generation service to customers within the certified territory of that utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer under that electric security plan until the customer.
chooses an alternative supplier or until the utility's standard service offer is authorized under section 4928.142 of the Revised Code.

Sec. 4928.141. (A) Beginning January 1, 2009, an electric distribution utility shall provide consumers, on a comparable and nondiscriminatory basis within its certified territory, a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service. To that end, the electric distribution utility shall apply to the public utilities commission to establish the standard service offer in accordance with section 4928.142 or 4928.143 of the Revised Code and, at its discretion, may apply simultaneously under both sections, except that the utility's first standard service offer application at minimum shall include a filing under section 4928.143 of the Revised Code. Only Except as provided in division (A)(2) of this section, a standard service offer authorized in accordance with section 4928.142 or 4928.143 of the Revised Code shall serve as the utility's standard service offer for the purpose of compliance with this section and that standard service offer shall serve as the utility's default standard service offer for the purpose of section 4928.14 of the Revised Code. Notwithstanding the foregoing provision, the rate

(2) An electric distribution utility's electric security plan of an electric distribution utility that was approved under section 4928.143 of the Revised Code as that section existed prior to the amendments to this section by ...B... of the 132nd general assembly shall continue for the purpose of the utility's compliance with this division (A)(1) of this section until a standard service offer is first authorized under section
4928.142 or 4928.143 of the Revised Code, and, as applicable, pursuant to division (D) of section 4928.142 of the Revised Code, any rate. No electric security plan that extends approved after June 1, 2017, shall extend beyond December 31 June 1, 2008, shall continue to be in effect for the subject electric distribution utility for the duration of the plan's term 2020. A

(3) A standard service offer under section 4928.142 or 4928.143 of the Revised Code shall exclude any previously authorized allowances for transition costs, with such exclusion being effective on and after the date that the allowance is scheduled to end under the utility's electric security plan.

(B) The commission shall set the time for hearing of a filing under section 4928.142 or 4928.143 of the Revised Code, send written notice of the hearing to the electric distribution utility, and publish notice in a newspaper of general circulation in each county in the utility's certified territory. The commission shall adopt rules regarding filings under these sections that section.

Sec. 4928.142. (A) For the purpose of complying with section 4928.141 of the Revised Code and subject to division (D) of this section and, as applicable, subject to the rate plan requirements of division (A) of section 4928.141 of the Revised Code, an electric distribution utility may shall establish a standard service offer price for retail electric generation service that is delivered to the utility under a market-rate offer.

(1) The market-rate offer shall be determined through a competitive bidding process that provides for all of the following:
(a) Open, fair, and transparent competitive solicitation;

(b) Clear product definition;

(c) Standardized bid evaluation criteria;

(d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division (A)(1)(a) to (c) of this section are met;

(e) Evaluation of the submitted bids prior to the selection of the least-cost bid winner or winners.

No generation supplier shall be prohibited from participating in the bidding process.

(2) The public utilities commission shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process and shall be consistent with the requirements of division (A)(1) of this section.

(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A)(2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.

An application under this division shall detail the electric distribution utility's proposed compliance with the
requirements of division (A)(1) of this section and with commission rules under division (A)(2) of this section and demonstrate that all of the following requirements are met:

(1) The electric distribution utility or its transmission service affiliate belongs to at least one regional transmission organization that has been approved by the federal energy regulatory commission; or there otherwise is comparable and nondiscriminatory access to the electric transmission grid.

(2) Any such regional transmission organization has a market-monitor function and the ability to take actions to identify and mitigate market power or the electric distribution utility’s market conduct; or a similar market monitoring function exists with commensurate ability to identify and monitor market conditions and mitigate conduct associated with the exercise of market power.

(3) A published source of information is available publicly or through subscription that identifies pricing information for traded electricity on- and off-peak energy products that are contracts for delivery beginning at least two years from the date of the publication and is updated on a regular basis.

The commission shall initiate a proceeding and, within ninety days after the application's filing date, shall determine by order whether the electric distribution utility and its market-rate offer meet all of the foregoing requirements. If the finding is positive, the electric distribution utility may shall initiate its competitive bidding process. If the finding is negative as to one or more requirements, the commission in the order shall direct the electric distribution utility regarding how any deficiency may be remedied in a timely manner to the
commission's satisfaction; otherwise, the electric distribution utility shall withdraw the application. However, if such remedy is made and the subsequent finding is positive and also if the electric distribution utility made a simultaneous filing under this section and section 4928.143 of the Revised Code, the utility shall not initiate its competitive bid until at least one hundred fifty days after the filing date of those applications.

(C) Upon the completion of the competitive bidding process authorized by divisions (A) and (B) of this section, including for the purpose of division (D) of this section, the commission shall select the least-cost bid winner or winners of that process, and such selected bid or bids, as prescribed as retail rates by the commission, shall be the electric distribution utility's standard service offer unless the commission, by order issued before the third calendar day following the conclusion of the competitive bidding process for the market rate offer, determines that one or more of the following criteria were not met:

(1) Each portion of the bidding process was oversubscribed, such that the amount of supply bid upon was greater than the amount of the load bid out.

(2) There were four or more bidders.

(3) At least twenty-five per cent of the load is bid upon by one or more persons other than the electric distribution utility.

All costs incurred by the electric distribution utility as a result of or related to the competitive bidding process or to procuring generation service to provide the standard service
offer, including the costs of energy and capacity and the costs of all other products and services procured as a result of the competitive bidding process, shall be timely recovered through the standard service offer price, and, for that purpose, the commission shall approve a reconciliation mechanism, other recovery mechanism, or a combination of such mechanisms for the utility.

(D) The first application filed under this section by an electric distribution utility that, as of July 31, 2008, directly owns, in whole or in part, operating electric generating facilities that had been used and useful in this state shall require that a portion of that utility's standard service offer load for the first five years of the market rate offer be competitively bid under division (A) of this section as follows: ten per cent of the load in year one, not more than twenty per cent in year two, thirty per cent in year three, forty per cent in year four, and fifty per cent in year five. Consistent with these percentages, the commission shall determine the actual percentages for each year of years one through five. The standard service offer price for retail electric generation service under this first application shall be a proportionate blend of the bid price and the generation service price for the remaining standard service offer load, which latter price shall be equal to the electric distribution utility's most recent standard service offer price, adjusted upward or downward as the commission determines reasonable, relative to the jurisdictional portion of any known and measurable changes from the level of any one or more of the following costs as reflected in that most recent standard service offer price:

(1) The electric distribution utility's prudently incurred
cost of fuel used to produce electricity;

(2) Its prudently incurred purchased power costs;

(3) Its prudently incurred costs of satisfying the supply-
and demand portfolio requirements of this state, including, but-
not limited to, renewable energy resource and energy efficiency-
requirements;

(4) Its costs prudently incurred to comply with-
environmental laws and regulations, with consideration of the-
derating of any facility associated with those costs.

In making any adjustment to the most recent standard-
service offer price on the basis of costs described in division-
(D) of this section, the commission shall include the benefits-
that may become available to the electric distribution utility-
as a result of or in connection with the costs included in the-
adjustment, including, but not limited to, the utility's receipt-
of emissions credits or its receipt of tax benefits or of other-
benefits, and, accordingly, the commission may impose such-
conditions on the adjustment to ensure that any such benefits-
are properly aligned with the associated cost responsibility.
The commission shall also determine how such adjustments will-
 affect the electric distribution utility's return on common-
equity that may be achieved by those adjustments. The commission-
shall not apply its consideration of the return on common equity-
to reduce any adjustments authorized under this division unless-
the adjustments will cause the electric distribution utility to-
earn a return on common equity that is significantly in excess-
of the return on common equity that is earned by publicly traded-
companies, including utilities, that face comparable business-
and financial risk, with such adjustments for capital structure-
as may be appropriate. The burden of proof for demonstrating-
that significantly excessive earnings will not occur shall be on
the electric distribution utility.

Additionally, the commission may adjust the electric
distribution utility's most recent standard service offer price
by such just and reasonable amount that the commission
determines necessary to address any emergency that threatens the
utility's financial integrity or to ensure that the resulting
revenue available to the utility for providing the standard
service offer is not so inadequate as to result, directly or
indirectly, in a taking of property without compensation
pursuant to Section 19 of Article I, Ohio Constitution. The
electric distribution utility has the burden of demonstrating
that any adjustment to its most recent standard service offer
price is proper in accordance with this division.

(E) Beginning in the second year of a blended price under
division (D) of this section and notwithstanding any other
requirement of this section, the commission may alter
prospectively the proportions specified in that division to
mitigate any effect of an abrupt or significant change in the
electric distribution utility's standard service offer price
that would otherwise result in general or with respect to any
rate group or rate schedule but for such alteration. Any such
alteration shall be made not more often than annually, and the
commission shall not, by altering those proportions and in any
event, including because of the length of time, as authorized
under division (C) of this section, taken to approve the market
rate offer, cause the duration of the blending period to exceed
ten years as counted from the effective date of the approved
market rate offer. Additionally, any such alteration shall be
limited to an alteration affecting the prospective proportions
used during the blending period and shall not affect any
blending proportion previously approved and applied by the commission under this division.

(F) An electric distribution utility that has received commission approval of its first application under division (C) of this section shall not, nor ever shall be authorized or required by the commission to, file an application under section 4928.143 of the Revised Code.

Sec. 4928.144. The public utilities commission by order may authorize any just and reasonable phase-in of any electric distribution utility rate or price established under sections 4928.141 to 4928.143 and 4928.142 of the Revised Code, and inclusive of carrying charges, as the commission considers necessary to ensure rate or price stability for consumers. If the commission's order includes such a phase-in, the order also shall provide for the creation of regulatory assets pursuant to generally accepted accounting principles, by authorizing the deferral of incurred costs equal to the amount not collected, plus carrying charges on that amount. Further, the order shall authorize the collection of those deferrals through a nonbypassable surcharge on any such rate or price so established for the electric distribution utility by the commission.

Sec. 4928.17. (A) Except as otherwise provided in sections 4928.141, 4928.142 or 4928.143, or 4928.31 to 4928.40 of the Revised Code and beginning on the starting date of competitive retail electric service, no electric utility shall engage in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a competitive retail electric service, or in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric
service, unless the utility implements and operates under a corporate separation plan that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, and achieves all of the following:

(1) The plan provides, at minimum, for the provision of the competitive retail electric service or the nonelectric product or service through a fully separated affiliate of the utility, and the plan includes separate accounting requirements, the code of conduct as ordered by the commission pursuant to a rule it shall adopt under division (A) of section 4928.06 of the Revised Code, and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.

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

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

(B) The commission may approve, modify and approve, or disapprove a corporate separation plan filed with the commission under division (A) of this section. As part of the code of conduct required under division (A)(1) of this section, the commission shall adopt rules pursuant to division (A) of section 4928.06 of the Revised Code regarding corporate separation and procedures for plan filing and approval. The rules shall include limitations on affiliate practices solely for the purpose of maintaining a separation of the affiliate's business from the business of the utility to prevent unfair competitive advantage or abuse of market power by virtue of that relationship. The rules also shall include an opportunity for any person having a real and substantial interest in the corporate separation plan to file specific objections to the plan and propose specific responses to issues raised in the objections, which objections and responses the commission shall address in its final order. Prior to commission approval of the plan, the commission shall afford a hearing upon those aspects of the plan that the commission determines reasonably require a hearing. The commission may reject and require refiling of a substantially inadequate plan under this section.

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

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

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

Sec. 4928.18. (A) Notwithstanding division (E)(2)(a) of section 4909.15 of the Revised Code, nothing in this chapter prevents the public utilities commission from exercising its authority under Title XLIX of the Revised Code to protect customers of retail electric service supplied by an electric utility from any adverse effect of the utility's provision of a product or service other than retail electric service.

(B) The commission has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or upon complaint or initiative of the commission on or after the starting date of competitive retail electric service, to determine whether an electric utility or its affiliate has violated any provision of sections 4928.17 and 4928.29.
of the Revised Code or an order issued or rule adopted under that section. For this purpose, the commission may examine such books, accounts, or other records kept by an electric utility or its affiliate as may relate to the businesses for which corporate separation is required under sections 4928.17 and 4928.29 of the Revised Code, and may investigate such relevant utility or affiliate operations as may relate to those businesses and investigate the interrelationship of those operations. Any such examination or investigation by the commission shall be governed by Chapter 4903. of the Revised Code.

(C) In addition to any remedies otherwise provided by law, the commission, regarding a determination of a violation pursuant to division (B) of this section, may do any of the following:

(1) Issue an order directing the utility or affiliate to comply;

(2) Modify an order as the commission finds reasonable and appropriate and order the utility or affiliate to comply with the modified order;

(3) Suspend or abrogate an order, in whole or in part;

(4) Issue an order that the utility or affiliate pay restitution to any person injured by the violation or failure to comply.

(D) In addition to any remedies otherwise provided by law, the commission, regarding a determination of a violation pursuant to division (B) of this section and commensurate with the severity of the violation, the source of the violation, any pattern of violations, or any monetary damages caused by the
violation, may do either of the following:

(1) Impose a forfeiture on the utility or affiliate of up to twenty-five thousand dollars per day per violation. The recovery and deposit of any such forfeiture shall be subject to sections 4905.57 and 4905.59 of the Revised Code.

(2) Regarding a violation by an electric utility relating to a corporate separation plan involving competitive retail electric service, suspend or abrogate all or part of an order, to the extent it is in effect, authorizing an opportunity for the utility to receive transition revenues under a transition plan approved by the commission under section 4928.33 of the Revised Code.

Corporate separation under this section does not prohibit the common use of employee benefit plans, facilities, equipment, or employees, subject to proper accounting and the code of conduct ordered by the commission as provided in division (A)(1) of this section.

(E) Section 4905.61 of the Revised Code applies in the case of any violation of sections 4928.17 and 4928.29 of the Revised Code or of any rule adopted or order issued under that section.

Sec. 4928.20. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, on or after the starting date of competitive retail electric service, it may aggregate in accordance with this section the retail electrical loads located, respectively, within the municipal corporation, township, or unincorporated area of the county and, for that
purpose, may enter into service agreements to facilitate for those loads the sale and purchase of electricity. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For customers that are not mercantile customers, an ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior, affirmative consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this section. The aggregation of mercantile customers shall occur only with the prior, affirmative consent of each such person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this division, however, authorizes the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation of customers that are not mercantile customers will occur automatically as described in that division, the ordinance or resolution shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy
of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and
conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years, without paying a switching fee. Any such person that opts out before the commencement of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under section 4928.14 or division (D) of section 4928.35 of the Revised Code until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this
section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

(1) A customer that has opted out of the aggregation;

(2) A customer in contract with a certified electric services company;

(3) A customer that has a special contract with an electric distribution utility;

(4) A customer that is not located within the governmental aggregator's governmental boundaries;

(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.

(I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is
proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code. Nothing in this section shall result in less than the full and timely imposition, charging, collection, and adjustment by an electric distribution utility, its assignee, or any collection agent, of the phase-in-recovery charges authorized pursuant to a final financing order issued pursuant to sections 4928.23 to 4928.2318 of the Revised Code.

(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(d) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom competitive retail electric generation service is provided by another supplier under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to
serve that consumer plus any amount attributable to the
utility's cost of compliance with the renewable energy resource
provisions of section 4928.64 of the Revised Code to serve the
consumer. Such market price shall include, but not be limited
to, capacity and energy charges; all charges associated with the
provision of that power supply through the regional transmission
organization, including, but not limited to, transmission,
ancillary services, congestion, and settlement and
administrative charges; and all other costs incurred by the
utility that are associated with the procurement, provision, and
administration of that power supply, as such costs may be
approved by the commission. The period of time during which the
market price and renewable energy resource amount shall be so
assessed on the consumer shall be from the time the consumer so
returns to the electric distribution utility until the
expiration of the electric security plan. However, if that
period of time is expected to be more than two years, the
commission may reduce the time period to a period of not less
than two years.

(K) The commission shall adopt rules and issue orders in
proceedings under sections 4928.141 and 4928.142 of the Revised
Code to encourage and promote large-scale governmental
aggregation in this state. For that purpose, the commission
shall conduct an immediate review of any rules it has adopted
for the purpose of this section that are in effect on the
effective date of the amendment of this section by S.B. 221 of
the 127th general assembly, July 31, 2008. Further, within the
context of an electric security plan under section 4928.143 of
the Revised Code, the commission shall consider the effect
on large scale governmental aggregation of any nonbypassable
generation charges, however collected, that would be established
under that plan, except any nonbypassable generation charges that relate to any cost incurred by the electric distribution utility, to ensure that the deferral of which has been authorized by the commission prior to the effective date of application and the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008, resulting market rate offer shall not contain any rate, price, term, condition, or provision that would have an adverse effect on large-scale governmental aggregation in this state.

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of the Revised Code:

(A) "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other similar agreement or arrangement entered into in connection with the issuance of phase-in-recovery bonds that is designed to promote the credit quality and marketability of the bonds or to mitigate the risk of an increase in interest rates.

(B) "Assignee" means any person or entity to which an interest in phase-in-recovery property is sold, assigned, transferred, or conveyed, other than as security, and any successor to or subsequent assignee of such a person or entity.

(C) "Bond" includes debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership or other evidences of indebtedness or ownership that are issued by an electric distribution utility or an assignee under a final financing order, the proceeds of which are used directly or indirectly to recover, finance, or
refinance phase-in costs and financing costs, and that are
secured by or payable from revenues from phase-in-recovery
charges.

(D) "Bondholder" means any holder or owner of a phase-in-
recovery bond.

(E) "Financing costs" means any of the following:

1. Principal, interest, and redemption premiums that are
   payable on phase-in-recovery bonds;

2. Any payment required under an ancillary agreement;

3. Any amount required to fund or replenish a reserve
   account or another account established under any indenture,
   ancillary agreement, or other financing document relating to
   phase-in-recovery bonds;

4. Any costs of retiring or refunding any existing debt
   and equity securities of an electric distribution utility in
   connection with either the issuance of, or the use of proceeds
   from, phase-in-recovery bonds;

5. Any costs incurred by an electric distribution utility
   to obtain modifications of or amendments to any indenture,
   financing agreement, security agreement, or similar agreement or
   instrument relating to any existing secured or unsecured
   obligation of the electric distribution utility in connection
   with the issuance of phase-in-recovery bonds;

6. Any costs incurred by an electric distribution utility
   to obtain any consent, release, waiver, or approval from any
   holder of an obligation described in division (E)(5) of this
   section that are necessary to be incurred for the electric
   distribution utility to issue or cause the issuance of phase-in-
recovery bonds;

(7) Any taxes, franchise fees, or license fees imposed on phase-in-recovery revenues;

(8) Any costs related to issuing or servicing phase-in-recovery bonds or related to obtaining a financing order, including servicing fees and expenses, trustee fees and expenses, legal, accounting, or other professional fees and expenses, administrative fees, placement fees, underwriting fees, capitalized interest and equity, and rating-agency fees;

(9) Any other similar costs that the public utilities commission finds appropriate.

(F) "Financing order" means an order issued by the public utilities commission under section 4928.232 of the Revised Code that authorizes an electric distribution utility or an assignee to issue phase-in-recovery bonds and recover phase-in-recovery charges.

(G) "Final financing order" means a financing order that has become final and has taken effect as provided in section 4928.233 of the Revised Code.

(H) "Financing party" means either of the following:

(1) Any trustee, collateral agent, or other person acting for the benefit of any bondholder;

(2) Any party to an ancillary agreement, the rights and obligations of which relate to or depend upon the existence of phase-in-recovery property, the enforcement and priority of a security interest in phase-in-recovery property, the timely collection and payment of phase-in-recovery revenues, or a combination of these factors.
(I) "Financing statement" has the same meaning as in section 1309.102 of the Revised Code.

(J) "Phase-in costs" means costs, inclusive of carrying charges incurred before, on, or after the effective date of this section March 22, 2012, authorized by the commission before, on, or after the effective date of this section March 22, 2012, to be securitized or deferred as regulatory assets in proceedings under section 4909.18 of the Revised Code, sections 4928.141 to 4928.143, 4928.142, or 4928.144 of the Revised Code, or section 4928.14 of the Revised Code as it existed prior to July 31, 2008, or section 4928.143 of the Revised Code as it existed prior to the effective date of the amendments to this section by ...B... of the 132nd general assembly pursuant to a final order for which appeals have been exhausted. "Phase-in costs" excludes the following:

(1) With respect to any electric generating facility that, on and after the effective date of this section March 22, 2012, is owned, in whole or in part, by an electric distribution utility applying for a financing order under section 4928.231 of the Revised Code, costs that were authorized under division (B)(2)(b) or (c) of section 4928.143 of the Revised Code as that section existed prior to the effective date of the amendments to this section by ...B... of the 132nd general assembly;

(2) Costs incurred after the effective date of this section March 22, 2012, related to the ongoing operation of an electric generating facility, but not environmental clean-up or remediation costs incurred by an electric distribution utility because of its ownership or operation of an electric generating facility prior to the effective date of this section March 22, 2012, which such clean-up or remediation costs are imposed or
incurred pursuant to federal or state law, rules, or regulations and for which the commission approves or approved recovery in accordance with section 4909.18 of the Revised Code, sections 4928.141 to 4928.143, 4928.142, or 4928.144 of the Revised Code, or section 4928.14 of the Revised Code as it existed prior to July 31, 2008, or section 4928.143 of the Revised Code as it existed prior to the effective date of the amendments to this section by ...B... of the 132nd general assembly.

(K) "Phase-in-recovery property" means the property, rights, and interests of an electric distribution utility or an assignee under a final financing order, including the right to impose, charge, and collect the phase-in-recovery charges that shall be used to pay and secure the payment of phase-in-recovery bonds and financing costs, and including the right to obtain adjustments to those charges, and any revenues, receipts, collections, rights to payment, payments, moneys, claims, or other proceeds arising from the rights and interests created under the final financing order.

(L) "Phase-in-recovery revenues" means all revenues, receipts, collections, payments, moneys, claims, or other proceeds arising from phase-in-recovery property.

(M) "Successor" means, with respect to any entity, another entity that succeeds by operation of law to the rights and obligations of the first legal entity pursuant to any bankruptcy, reorganization, restructuring, or other insolvency proceeding, any merger, acquisition, or consolidation, or any sale or transfer of assets, regardless of whether any of these occur as a result of a restructuring of the electric power industry or otherwise.

Sec. 4928.231. (A) An electric distribution utility may
apply to the public utilities commission for a financing order that authorizes the following:

1. The issuance of phase-in-recovery bonds, in one or more series, to recover uncollected phase-in costs;

2. The imposition, charging, and collection of phase-in-recovery charges, in accordance with the adjustment mechanism approved by the commission under section 4928.232 of the Revised Code, and consistent with the commission's authority regarding governmental aggregation as provided in division (I) of section 4928.20 of the Revised Code, to recover both of the following:
   a. Uncollected phase-in costs;
   b. Financing costs.

3. The creation of phase-in-recovery property under the financing order.

B. The application shall include all of the following:

1. A description of the uncollected phase-in costs that the electric distribution utility seeks to recover through the issuance of phase-in-recovery bonds;

2. An estimate of the date each series of phase-in-recovery bonds are expected to be issued;

3. The expected term during which the phase-in costs associated with the issuance of each series of phase-in-recovery bonds are expected to be recovered;

4. An estimate of the financing costs, as described in section 4928.23 of the Revised Code, associated with the issuance of each series of phase-in-recovery bonds;

5. An estimate of the amount of phase-in-recovery charges
necessary to recover the phase-in costs and financing costs set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of phase-in-recovery bonds;

(6) For phase-in-recovery charges not subject to allocation according to an existing order, a proposed methodology for allocating phase-in-recovery charges among customer classes, including a proposed methodology for allocating such charges to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;

(7) A description of a proposed adjustment mechanism for use as described in division (A)(2) of this section;

(8) A description and valuation of how the issuance of the phase-in-recovery bonds, including financing costs, will both result in cost savings to customers and mitigate rate impacts to customers when compared to the use of other financing mechanisms or cost-recovery methods available to the electric distribution utility;

(9) Any other information required by the commission.

(C) The electric distribution utility may restate or incorporate by reference in the application any information required under division (B)(9) of this section that the electric distribution utility filed with the commission under section 4909.18 or sections 4928.141 to 4928.144 of the Revised Code or, section 4928.14 of the Revised Code as it existed prior to July 31, 2008, or section 4928.143 of the Revised Code as it existed prior to the amendments to this section by ...B... of the 132nd
Sec. 4928.232. (A) Proceedings before the public utilities commission on an application submitted by an electric distribution utility under section 4928.231 of the Revised Code shall be governed by Chapter 4903. of the Revised Code, but only to the extent that chapter is not inconsistent with this section or section 4928.233 of the Revised Code. Any party that participated in the proceeding in which phase-in costs were approved under section 4909.18 or sections 4928.141 to 4928.144 of the Revised Code or, section 4928.14 of the Revised Code as it existed prior to July 31, 2008, or section 4928.143 of the Revised Code as it existed prior to the amendments to this section by ...B... of the 132nd general assembly shall have standing to participate in proceedings under sections 4928.23 to 4928.2318 of the Revised Code.

(B) When reviewing an application for a financing order pursuant to sections 4928.23 to 4928.2318 of the Revised Code, the commission may hold such hearings, make such inquiries or investigations, and examine such witnesses, books, papers, documents, and contracts as the commission considers proper to carry out these sections. Within thirty days after the filing of an application under section 4928.231 of the Revised Code, the commission shall publish a schedule of the proceeding.

(C)(1) Not later than one hundred thirty-five days after the date the application is filed, the commission shall issue either a financing order, granting the application in whole or with modifications, or an order suspending or rejecting the application.

(2) If the commission suspends an application for a financing order, the commission shall notify the electric
distribution utility of the suspension and may direct the electric distribution utility to provide additional information as the commission considers necessary to evaluate the application. Not later than ninety days after the suspension, the commission shall issue either a financing order, granting the application in whole or with modifications, or an order rejecting the application.

(D)(1) The commission shall not issue a financing order under division (C) of this section unless the commission determines that the financing order is consistent with section 4928.02 of the Revised Code.

(2) Except as provided in division (D)(1) of this section, the commission shall issue a financing order under division (C) of this section if, at the time the financing order is issued, the commission finds that the issuance of the phase-in-recovery bonds and the phase-in-recovery charges authorized by the order results in, consistent with market conditions, both measurably enhancing cost savings to customers and mitigating rate impacts to customers as compared with traditional financing mechanisms or traditional cost-recovery methods available to the electric distribution utility or, if the commission previously approved a recovery method, as compared with that recovery method.

(E) The commission shall include all of the following in a financing order issued under division (C) of this section:

(1) A determination of the maximum amount and a description of the phase-in costs that may be recovered through phase-in-recovery bonds issued under the financing order;

(2) A description of phase-in-recovery property, the creation of which is authorized by the financing order;
(3) A description of the financing costs that may be recovered through phase-in-recovery charges and the period over which those costs may be recovered;

(4) For phase-in-recovery charges not subject to allocation according to an existing order, a description of the methodology and calculation for allocating phase-in-recovery charges among customer classes, including the allocation of such charges, if any, to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;

(5) A description of the adjustment mechanism for use in the imposition, charging, and collection of the phase-in-recovery charges;

(6) The maximum term of the phase-in-recovery bonds;

(7) Any other provision the commission considers appropriate to ensure the full and timely imposition, charging, collection, and adjustment, pursuant to an approved adjustment mechanism, of the phase-in-recovery charges described in divisions (E)(3) to (5) of this section.

(F) The commission may, in a financing order, afford the electric distribution utility flexibility in establishing the terms and conditions for the phase-in-recovery bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves, and the ability of the electric distribution utility, at its option, to effect a series of issuances of phase-in-recovery bonds and correlated assignments, sales, pledges, or other transfers of phase-in-recovery property. Any changes made under this section
to terms and conditions for the phase-in-recovery bonds shall be in conformance with the financing order.

(G) A financing order may provide that the creation of phase-in-recovery property shall be simultaneous with the sale of that property to an assignee as provided in the application and the pledge of the property to secure phase-in-recovery bonds.

(H) The commission shall, in a financing order, require that after the final terms of each issuance of phase-in-recovery bonds have been established, and prior to the issuance of those bonds, the electric distribution utility shall determine the resulting phase-in-recovery charges in accordance with the adjustment mechanism described in the financing order. These phase-in-recovery charges shall be final and effective upon the issuance of the phase-in-recovery bonds, without further commission action.

Sec. 4928.28. (A) Every electric utility shall file, not later than sixty days after the effective date of this section, a market power mitigation plan with the public utilities commission.

(B) The plan shall provide for any of the following, to be completed by December 31, 2018:

(1) The sale of generation assets owned and controlled by the utility or by an affiliated entity to a nonaffiliated entity;

(2) The exchange of generation assets with a nonaffiliated entity located in another state;

(3) The auction of generation capacity entitlements as part of a capacity auction;
(4) The sale of the right to capacity to a nonaffiliated entity for at least four years, beginning on January 1, 2019;

(5) Any reasonable method of mitigation for divestiture of generation assets.

(C) The plan shall be in a form prescribed by the commission and shall provide information that the commission finds reasonably necessary to evaluate the plan.

(D) The commission shall approve, modify, or reject the plan not later than one hundred days after the date that the plan is filed.

(E) In reaching its determination under division (D) of this section, the commission shall consider all of the following:

   (1) Whether the reasonable value of the generation assets is likely to be received on disposition;

   (2) The effect of the plan on the electric utility's federal income taxes;

   (3) The effect of the plan on current and potential competitors in the generation market;

   (4) Whether the plan is consistent with the public interest.

Sec. 4928.281. An electric utility with a market power mitigation plan approved under section 4928.28 of the Revised Code may request to amend its plan. On a showing of good cause, the public utilities commission may modify the plan.

Sec. 4928.29. Beginning on January 1, 2019, no electric utility and no entity affiliated with that utility may own and
control any installed generation capacity located in this state.

Sec. 4928.30. If an electric utility's market power mitigation plan is not approved before January 1, 2019, the public utilities commission may order the electric utility or, as applicable, an affiliated entity to auction generation capacity entitlements, subject to commission approval, until a plan is approved. The auction shall be held not later than sixty days after the date that the commission issues the order.

Sec. 4928.31. (A) Not later than ninety days after the effective date of this section, an electric utility supplying retail electric service in this state on that date shall file with the public utilities commission a plan for the utility's provision of retail electric service in this state during the market development period. This transition plan shall be in such form as the commission shall prescribe by rule adopted under division (A) of section 4928.06 of the Revised Code and shall include all of the following:

(1) A rate unbundling plan that specifies, consistent with divisions (A)(1) to (7) of section 4928.34 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code, the unbundles components for electric generation, transmission, and distribution service and such other unbundled service components as the commission requires, to be charged by the utility beginning on the starting date of competitive retail electric service and that includes information the commission requires to fix and determine those components;

(2) A corporate separation plan consistent with sections 4928.17 and 4928.29 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06.
of the Revised Code;

(3) Such plan or plans as the commission requires to address operational support systems and any other technical implementation issues pertaining to competitive retail electric service consistent with any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code;

(4) An employee assistance plan for providing severance, retraining, early retirement, retention, outplacement, and other assistance for the utility's employees whose employment is affected by electric industry restructuring under this chapter;

(5) A consumer education plan consistent with former section 4928.42 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

A transition plan under this section may include tariff terms and conditions to address reasonable requirements for changing suppliers, length of commitment by a customer for service, and such other matters as are necessary to accommodate electric restructuring. Additionally, a transition plan under this section may include an application for the opportunity to receive transition revenues as authorized under sections 4928.31 to 4928.40 of the Revised Code, which application shall be consistent with those sections and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code. The transition plan also may include a plan for the independent operation of the utility's transmission facilities consistent with section 4928.12 of the Revised Code, division (A)(13) of section 4928.34 of the Revised Code, and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.
The commission may reject and require refiling, in whole or in part, of any substantially inadequate transition plan.

(B) The electric utility shall provide public notice of its filing under division (A) of this section, in a form and manner that the commission shall prescribe by rule adopted under division (A) of section 4928.06 of the Revised Code. However, the adoption of rules regarding the public notice under this division, regarding the form of the transition plan under division (A) of this section, and regarding procedures for expedited discovery under division (A) of section 4928.32 of the Revised Code are not subject to division (D) of section 111.15 of the Revised Code.

Sec. 4928.34. (A) The public utilities commission shall not approve or prescribe a transition plan under division (A) or (B) of section 4928.33 of the Revised Code unless the commission first makes all of the following determinations:

(1) The unbundled components for the electric transmission component of retail electric service, as specified in the utility’s rate unbundling plan required by division (A)(1) of section 4928.31 of the Revised Code, equal the tariff rates determined by the federal energy regulatory commission that are in effect on the date of the approval of the transition plan under sections 4928.31 to 4928.40 of the Revised Code, as each such rate is determined applicable to each particular customer class and rate schedule by the commission. The unbundled transmission component shall include a sliding scale of charges under division (B) of section 4905.31 of the Revised Code to ensure that refunds determined or approved by the federal energy regulatory commission are flowed through to retail electric customers.
(2) The unbundled components for retail electric
distribution service in the rate unbundling plan equal the
difference between the costs attributable to the utility's
transmission and distribution rates and charges under its
schedule of rates and charges in effect on the effective date of
this section, based upon the record in the most recent rate
proceeding of the utility for which the utility's schedule was
established, and the tariff rates for electric transmission
service determined by the federal energy regulatory commission
as described in division (A)(1) of this section.

(3) All other unbundled components required by the
commission in the rate unbundling plan equal the costs
attributable to the particular service as reflected in the
utility's schedule of rates and charges in effect on the
effective date of this section.

(4) The unbundled components for retail electric
generation service in the rate unbundling plan equal the
residual amount remaining after the determination of the
transmission, distribution, and other unbundled components, and
after any adjustments necessary to reflect the effects of the
amendment of section 5727.111 of the Revised Code by Sub. S.B.
No. 3 of the 123rd general assembly.

(5) All unbundled components in the rate unbundling plan
have been adjusted to reflect any base rate reductions on file
with the commission and as scheduled to be in effect by December
31, 2005, under rate settlements in effect on the effective date
of this section. However, all earnings obligations,
restrictions, or caps imposed on an electric utility in a
commission order prior to the effective date of this section are
void.
(6) Subject to division (A)(5) of this section, the total of all unbundled components in the rate unbundling plan are capped and shall equal during the market development period, except as specifically provided in this chapter, the total of all rates and charges in effect under the applicable bundled schedule of the electric utility pursuant to section 4905.30 of the Revised Code in effect on the day before the effective date of this section, including the transition charge determined under section 4928.40 of the Revised Code, adjusted for any changes in the taxation of electric utilities and retail electric service under Sub. S.B. No. 3 of the 123rd General Assembly, the universal service rider authorized by section 4928.51 of the Revised Code, and the temporary rider authorized by section 4928.61 of the Revised Code. For the purpose of this division, the rate cap applicable to a customer receiving electric service pursuant to an arrangement approved by the commission under section 4905.31 of the Revised Code is, for the term of the arrangement, the total of all rates and charges in effect under the arrangement. For any rate schedule filed pursuant to section 4905.30 of the Revised Code or any arrangement subject to approval pursuant to section 4905.31 of the Revised Code, the initial tax-related adjustment to the rate cap required by this division shall be equal to the rate of taxation specified in section 5727.81 of the Revised Code and applicable to the schedule or arrangement. To the extent such total annual amount of the tax-related adjustment is greater than or less than the comparable amount of the total annual tax reduction experienced by the electric utility as a result of the provisions of Sub. S.B. No. 3 of the 123rd general assembly, such difference shall be addressed by the commission through accounting procedures, refunds, or an annual surcharge or credit to customers, or through other appropriate means, to avoid
placing the financial responsibility for the difference upon the
electric utility or its shareholders. Any adjustments in the
rate of taxation specified in section 5727.81 of the Revised
Code shall not occur without a corresponding adjustment
to the rate cap for each such rate schedule or arrangement. The
department of taxation shall advise the commission and self-
assessors under section 5727.81 of the Revised Code prior to the
effective date of any change in the rate of taxation specified
under that section, and the commission shall modify the rate cap
to reflect that adjustment so that the rate cap adjustment is
effective as of the effective date of the change in the rate of
taxation. This division shall be applied, to the extent
possible, to eliminate any increase in the price of electricity
for customers that otherwise may occur as a result of
establishing the taxes contemplated in section 5727.81 of the
Revised Code.

(7) The rate unbundling plan complies with any rules
adopted by the commission under division (A) of section 4928.06
of the Revised Code.

(8) The corporate separation plan required by division (A)
(2) of section 4928.31 of the Revised Code complies with section
sections 4928.17 and 4928.29 of the Revised Code and any rules
adopted by the commission under division (A) of section 4928.06
of the Revised Code.

(9) Any plan or plans the commission requires to address
operational support systems and any other technical
implementation issues pertaining to competitive retail electric
service comply with any rules adopted by the commission under
division (A) of section 4928.06 of the Revised Code.

(10) The employee assistance plan required by division (A)
(4) of section 4928.31 of the Revised Code sufficiently provides severance, retraining, early retirement, retention, outplacement, and other assistance for the utility's employees whose employment is affected by electric industry restructuring under this chapter.

(11) The consumer education plan required under division (A)(5) of section 4928.31 of the Revised Code complies with former section 4928.42 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.

(12) The transition revenues for which an electric utility is authorized a revenue opportunity under sections 4928.31 to 4928.40 of the Revised Code are the allowable transition costs of the utility as such costs are determined by the commission pursuant to section 4928.39 of the Revised Code, and the transition charges for the customer classes and rate schedules of the utility are the charges determined pursuant to section 4928.40 of the Revised Code.

(13) Any independent transmission plan included in the transition plan filed under section 4928.31 of the Revised Code reasonably complies with section 4928.12 of the Revised Code and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code, unless the commission, for good cause shown, authorizes the utility to defer compliance until an order is issued under division (G) of section 4928.35 of the Revised Code.

(14) The utility is in compliance with sections 4928.01 to 4928.11 of the Revised Code and any rules or orders of the commission adopted or issued under those sections.
(15) All unbundled components in the rate unbundling plan have been adjusted to reflect the elimination of the tax on gross receipts imposed by section 5727.30 of the Revised Code.

In addition, a transition plan approved by the commission under section 4928.33 of the Revised Code but not containing an approved independent transmission plan shall contain the express conditions that the utility will comply with an order issued under division (G) of section 4928.35 of the Revised Code.

(B) Subject to division (E) of section 4928.17 of the Revised Code, if the commission finds that any part of the transition plan would constitute an abandonment under sections 4905.20 and 4905.21 of the Revised Code, the commission shall not approve that part of the transition plan unless it makes the finding required for approval of an abandonment application under section 4905.21 of the Revised Code. Sections 4905.20 and 4905.21 of the Revised Code otherwise shall not apply to a transition plan under sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.35. (A) Upon approval of its transition plan under sections 4928.31 to 4928.40 of the Revised Code, an electric utility shall file in accordance with section 4905.30 of the Revised Code schedules containing the unbundled rate components set in the approved plan in accordance with section 4928.34 of the Revised Code. The schedules shall be in effect for the duration of the utility's market development period, shall be subject to the cap specified in division (A)(6) of section 4928.34 of the Revised Code, and shall not be adjusted during that period by the public utilities commission except as otherwise authorized by division (B) of this section or as otherwise authorized by federal law or except to reflect any...
change in tax law or tax regulation that has a material effect on the electric utility.

(B) Efforts shall be made to reach agreements with electric utilities in matters of litigation regarding property valuation issues. Irrespective of those efforts, the unbundled components for an electric utility's retail electric generation service and distribution service, as provided in division (A) of this section, are not subject to adjustment for the utility's market development period, except that the commission shall order an equitable reduction in those components for all customer classes to reflect any refund a utility receives as a result of the resolution of utility personal property tax valuation litigation that is resolved on or after the effective date of this section and not later than December 31, 2005. Immediately upon the issuance of that order, the electric utility shall file revised rate schedules under section 4909.18 of the Revised Code to effect the order.

(C) The schedule under division (A) of this section containing the unbundled distribution components shall provide that electric distribution service under the schedule will be available to all retail electric service customers in the electric utility's certified territory and their suppliers on a nondiscriminatory and comparable basis on and after the starting date of competitive retail electric service. The schedule also shall include an obligation to build distribution facilities when necessary to provide adequate distribution service, provided that a customer requesting that service may be required to pay all or part of the reasonable incremental cost of the new facilities, in accordance with rules, policy, precedents, or orders of the commission.
(D) During the market development period, an electric
distribution utility shall provide consumers on a comparable and
nondiscriminatory basis within its certified territory a
standard service offer of all competitive retail electric
services necessary to maintain essential electric service to
consumers, including a firm supply of electric generation
service priced in accordance with the schedule containing the
utility's unbundled generation service component. Immediately
upon approval of its transition plan, the utility shall file the
standard service offer with the commission under section 4909.18
of the Revised Code, during the market development period. The
failure of a supplier to deliver retail electric generation
service shall result in the supplier's customers, after
reasonable notice, defaulting to the utility's standard service
offer filed under this division until the customer chooses an
alternative supplier. A supplier is deemed under this section to
have failed to deliver such service if any of the conditions
specified in section 4928.14 of the Revised Code is met.

(E) An amendment of a corporate separation plan contained
in a transition plan approved by the commission under section
4928.33 of the Revised Code shall be filed and approved as a
corporate separation plan pursuant to sections 4928.17
and 4928.29 of the Revised Code.

(F) Any change to an electric utility's opportunity to
receive transition revenues under a transition plan approved in
accordance with section 4928.33 of the Revised Code shall be
authorized only as provided in sections 4928.31 to 4928.40 of
the Revised Code.

(G) The commission, by order, shall require each electric
utility whose approved transition plan did not include an
independent transmission plan as described in division (A)(13) of section 4928.34 of the Revised Code to be a member of, and transfer control of transmission facilities it owns or controls in this state to, one or more qualifying transmission entities, as described in division (B) of section 4928.12 of the Revised Code, that are planned to be operational on and after December 31, 2003. However, the commission may extend that date if, for reasons beyond the control of the utility, a qualifying transmission entity is not planned to be operational on that date. The commission's order may specify an earlier date on which the transmission entity or entities are planned to be operational if the commission considers it necessary to carry out the policy specified in section 4928.02 of the Revised Code or to encourage effective competition in retail electric service in this state.

Upon the issuance of the order, each such utility shall file with the commission a plan for such independent operation of the utility's transmission facilities consistent with this division. The commission may reject and require refiling of any substantially inadequate plan submitted under this division.

After reasonable notice and opportunity for hearing, the commission shall approve the plan upon a finding that the plan will result in the utility's compliance with the order, this division, and any rules adopted under division (A) of section 4928.06 of the Revised Code. The approved independent transmission plan shall be deemed a part of the utility's transition plan for purposes of sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.542. The winning bid or bids selected through the competitive procurement process established under section
4928.54 of the Revised Code shall meet all of the following requirements:

(A) Be designed to provide reliable competitive retail electric service to percentage of income payment plan program customers;

(B) Reduce the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer established under sections 4928.141, 4928.142, and 4928.143 of the Revised Code;

(C) Result in the best value for persons paying the universal service rider under section 4928.52 of the Revised Code.

Sec. 4933.81. As used in sections 4933.81 to 4933.90 of the Revised Code:

(A) "Electric supplier" means any electric light company as defined in section 4905.03 of the Revised Code, including electric light companies organized as nonprofit corporations, but not including municipal corporations or other units of local government that provide electric service.

(B) "Adequate facilities" means distribution lines or facilities having sufficient capacity to meet the maximum estimated electric service requirements of its existing customers and of any new customer occurring during the year following the commencement of permanent electric service, and to assure all such customers of reasonable continuity and quality of service. Distribution facilities and lines of an electric supplier shall be considered "adequate facilities" if such supplier offers to undertake to make its distribution facilities and lines meet such service requirements and, in the
determination of the public utilities commission, can do so
within a reasonable time.

(C) "Distribution line" means any electric line that is
being or has been used primarily to provide electric service
directly to electric load centers by the owner of such line.

(D) "Existing distribution line" means any distribution
line of an electric supplier which was in existence on January
1, 1977, or under construction on that date.

(E) "Electric load center" means all the electric-
consuming facilities of any type or character owned, occupied,
controlled, or used by a person at a single location, which
facilities have been, are, or will be connected to and served at
a metered point of delivery and to which electric service has
been, is, or will be rendered.

(F) "Electric service" means retail electric service
furnished to an electric load center for ultimate consumption,
but excludes furnishing electric power or energy at wholesale
for resale. In the case of a for-profit electric supplier—beginning on the starting date of competitive retail electric
service as defined in section 4928.01 of the Revised Code,
"electric service" also excludes a competitive retail electric
service. In the case of a not-for-profit electric supplier—beginning on that starting date, "electric service" also
excludes any service component of competitive retail electric
service that is specified in an irrevocable filing the electric
supplier makes with the public utilities commission for
informational purposes only to eliminate permanently its
certified territory under sections 4933.81 to 4933.90 of the
Revised Code as to that service component. The filing shall
specify the date on which such territory is so eliminated.
Notwithstanding division (B) of section 4928.01 of the Revised Code, such a service component may include retail ancillary, metering, or billing and collection service irrespective of whether that service component has or has not been declared competitive under section 4928.041 of the Revised Code. Upon receipt of the filing by the commission, the not-for-profit electric supplier's certified territory shall be eliminated permanently as to the service component specified in the filing as of the date specified in the filing. As used in this division, "competitive retail electric service" and "retail electric service" have the same meanings as in section 4928.01 of the Revised Code.

(G) "Certified territory" means a geographical area the boundaries of which have been established pursuant to sections 4933.81 to 4933.90 of the Revised Code within which an electric supplier is authorized and required to provide electric service.

(H) "Other unit of local government" means any governmental unit or body that may come into existence after July 12, 1978, with powers and authority similar to those of a municipal corporation, or that is created to replace or exercise the relevant powers of any one or more municipal corporations.

Section 2. That existing sections 4928.01, 4928.04, 4928.05, 4928.06, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.18, 4928.20, 4928.23, 4928.231, 4928.232, 4928.31, 4928.34, 4928.35, 4928.542, and 4933.81 and section 4928.143 of the Revised Code are hereby repealed.