

As Pending in the House Public Utilities Committee

127th General Assembly

Regular Session

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Sub. S. B. No. 221

Senator Schuler

(By Request)

**Cosponsors: Senators Jacobson, Harris, Fedor, Bocchieri, Miller, R., Morano,
Mumper, Niehaus, Padgett, Roberts, Wilson, Spada**

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A B I L L

To amend sections 1315.28, 4928.01, 4928.02, 4928.05, 1
4928.09, 4928.12, 4928.14, 4928.17, 4928.61, 2
4928.67, 4929.01, and 4929.02; to enact sections 3
9.835, 4928.141, 4928.142, 4928.143, 4928.144, 4
4928.145, 4928.24, 4928.241, 4928.621, 4928.64, 5
4928.65, 4928.66, 4928.68, and 4929.051; and to 6
repeal sections 4928.41, 4928.42, 4928.431, and 7
4928.44 of the Revised Code to revise state energy 8
policy to address electric service price 9
regulation, establish alternative energy 10
benchmarks for electric distribution utilities and 11
electric services companies, provide for the use 12
of renewable energy credits, establish energy 13
efficiency standards for electric distribution 14
utilities, require greenhouse gas emission 15
reporting and carbon control planning for 16
utility-owned generating facilities, authorize 17
energy price risk management contracts, authorize 18
the phasing-in of the rates of any public utility, 19
and authorize for natural gas utilities revenue 20
decoupling related to energy conservation and 21

efficiency. 22
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1315.28, 4928.01, 4928.02, 4928.05, 24
4928.09, 4928.12, 4928.14, 4928.17, 4928.61, 4928.67, 4929.01, and 25
4929.02 be amended and sections 9.835, 4928.141, 4928.142, 26
4928.143, 4928.144, 4928.145, 4928.24, 4928.241, 4928.621, 27
4928.64, 4928.65, 4928.66, 4928.68, and 4929.051 of the Revised 28
Code be enacted to read as follows: 29

Sec. 9.835. (A) As used in this section: 30

(1) "Energy price risk management contract" means a contract 31
that mitigates for the term of the contract the price volatility 32
of energy sources, including, but not limited to, natural gas, 33
gasoline, oil, and diesel fuel, and that is a budgetary and 34
financial tool only and not a contract for the procurement of an 35
energy source. 36

(2) "Political subdivision" means a county, city, village, 37
township, park district, or school district. 38

(3) "State entity" means the general assembly, the supreme 39
court, the court of claims, the office of an elected state 40
officer, or a department, bureau, board, office, commission, 41
agency, institution, or other instrumentality of this state 42
established by the constitution or laws of this state for the 43
exercise of any function of state government, but excludes a 44
political subdivision, an institution of higher education, the 45
public employees retirement system, the Ohio police and fire 46
pension fund, the state teachers retirement system, the school 47
employees retirement system, the state highway patrol retirement 48
system, or the city of Cincinnati retirement system. 49

(4) "State official" means the elected or appointed official, 50
or that person's designee, charged with the management of a state 51
entity. 52

(B) If it determines that doing so is in the best interest of 53
the state entity or the political subdivision, and subject to, 54
respectively, state or local appropriation to pay amounts due, a 55
state official or the legislative authority of a political 56
subdivision may enter into an energy price risk management 57
contract. The term of the contract shall not extend beyond the end 58
of the fiscal year in which the contract is entered into. Money 59
received pursuant to such a contract entered into by a state 60
official shall be deposited to the credit of the general revenue 61
fund of this state, and, unless otherwise provided by ordinance or 62
resolution enacted or adopted by the legislative authority of a 63
political subdivision authorizing any such contract, money 64
received under the contract shall be deposited to the credit of 65
the general fund of the political subdivision. 66

Sec. 1315.28. (A)(1) No check-cashing business shall 67
knowingly make any incorrect statement of a material fact or omit 68
to state a material fact in any application made, investigation 69
conducted, or hearing held pursuant to sections 1315.22 to 1315.24 70
of the Revised Code. 71

(2) No check-cashing business shall engage in the business of 72
paying any utility bill on behalf of, at the request of, or as an 73
agent of any person or engage in the business of making a loan if 74
the loan is for the sole purpose of paying a utility bill. The 75
check-cashing business shall display in a conspicuous place a sign 76
that prominently and clearly states "Ohio law prohibits this 77
business paying utility bills for its customers or making a loan 78
solely for the purpose of a customer paying a utility bill (O.R.C. 79
1315.28(A)(2))." 80

(B) No person shall:	81
(1) Obstruct or refuse to permit any lawful investigation by the superintendent of financial institutions, a person acting on behalf of an agency of the state or a political subdivision, or a law enforcement officer;	82 83 84 85
(2) Fail to comply with division (A) of section 1315.22 of the Revised Code;	86 87
(3) Violate or participate in the violation of sections 1315.21 to 1315.28 of the Revised Code or the rules adopted thereunder.	88 89 90
(C) Any person that knowingly violates any provision of sections 1315.21 to 1315.28 of the Revised Code shall forfeit to the injured party an amount equal to twice the actual damages suffered by the injured party by reason of the violation.	91 92 93 94
Sec. 4928.01. (A) As used in this chapter:	95
(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.	96 97 98 99 100 101 102 103 104 105 106
(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 under section	107 108 109 110

4928.08 of the Revised Code, to the extent that the agent is under 111
contract with such utility, company, cooperative, or aggregator 112
solely to provide billing and collection for retail electric 113
service on behalf of the utility company, cooperative, or 114
aggregator. 115

(3) "Certified territory" means the certified territory 116
established for an electric supplier under sections 4933.81 to 117
4933.90 of the Revised Code as ~~amended by Sub. S.B. No. 3 of the~~ 118
~~123rd general assembly.~~ 119

(4) "Competitive retail electric service" means a component 120
of retail electric service that is competitive as provided under 121
division (B) of this section. 122

(5) "Electric cooperative" means a not-for-profit electric 123
light company that both is or has been financed in whole or in 124
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 125
7 U.S.C. 901, and owns or operates facilities in this state to 126
generate, transmit, or distribute electricity, or a not-for-profit 127
successor of such company. 128

(6) "Electric distribution utility" means an electric utility 129
that supplies at least retail electric distribution service. 130

(7) "Electric light company" has the same meaning as in 131
section 4905.03 of the Revised Code and includes an electric 132
services company, but excludes any self-generator to the extent it 133
consumes electricity it so produces or to the extent it sells for 134
resale electricity it so produces. 135

(8) "Electric load center" has the same meaning as in section 136
4933.81 of the Revised Code. 137

(9) "Electric services company" means an electric light 138
company that is engaged on a for-profit or not-for-profit basis in 139
the business of supplying or arranging for the supply of only a 140
competitive retail electric service in this state. "Electric 141

services company" includes a power marketer, power broker, 142
aggregator, or independent power producer but excludes an electric 143
cooperative, municipal electric utility, governmental aggregator, 144
or billing and collection agent. 145

(10) "Electric supplier" has the same meaning as in section 146
4933.81 of the Revised Code. 147

(11) "Electric utility" means an electric light company that 148
has a certified territory and is engaged on a for-profit basis 149
either in the business of supplying a noncompetitive retail 150
electric service in this state or in the businesses of supplying 151
both a noncompetitive and a competitive retail electric service in 152
this state. "Electric utility" excludes a municipal electric 153
utility or a billing and collection agent. 154

(12) "Firm electric service" means electric service other 155
than nonfirm electric service. 156

(13) "Governmental aggregator" means a legislative authority 157
of a municipal corporation, a board of township trustees, or a 158
board of county commissioners acting as an aggregator for the 159
provision of a competitive retail electric service under authority 160
conferred under section 4928.20 of the Revised Code. 161

(14) A person acts "knowingly," regardless of the person's 162
purpose, when the person is aware that the person's conduct will 163
probably cause a certain result or will probably be of a certain 164
nature. A person has knowledge of circumstances when the person is 165
aware that such circumstances probably exist. 166

(15) "Level of funding for low-income customer energy 167
efficiency programs provided through electric utility rates" means 168
the level of funds specifically included in an electric utility's 169
rates on October 5, 1999, pursuant to an order of the public 170
utilities commission issued under Chapter 4905. or 4909. of the 171
Revised Code and in effect on October 4, 1999, for the purpose of 172

improving the energy efficiency of housing for the utility's 173
low-income customers. The term excludes the level of any such 174
funds committed to a specific nonprofit organization or 175
organizations pursuant to a stipulation or contract. 176

(16) "Low-income customer assistance programs" means the 177
percentage of income payment plan program, the home energy 178
assistance program, the home weatherization assistance program, 179
and the targeted energy efficiency and weatherization program. 180

(17) "Market development period" for an electric utility 181
means the period of time beginning on the starting date of 182
competitive retail electric service and ending on the applicable 183
date for that utility as specified in section 4928.40 of the 184
Revised Code, irrespective of whether the utility applies to 185
receive transition revenues under this chapter. 186

(18) "Market power" means the ability to impose on customers 187
a sustained price for a product or service above the price that 188
would prevail in a competitive market. 189

(19) "Mercantile commercial customer" means a commercial or 190
industrial customer if the electricity consumed is for 191
nonresidential use and the customer consumes more than seven 192
hundred thousand kilowatt hours per year or is part of a national 193
account involving multiple facilities in one or more states. 194

(20) "Municipal electric utility" means a municipal 195
corporation that owns or operates facilities to generate, 196
transmit, or distribute electricity. 197

(21) "Noncompetitive retail electric service" means a 198
component of retail electric service that is noncompetitive as 199
provided under division (B) of this section. 200

(22) "Nonfirm electric service" means electric service 201
provided pursuant to a schedule filed under section 4905.30 of the 202
Revised Code or pursuant to an arrangement under section 4905.31 203

of the Revised Code, which schedule or arrangement includes 204
conditions that may require the customer to curtail or interrupt 205
electric usage during nonemergency circumstances upon notification 206
by an electric utility. 207

(23) "Percentage of income payment plan arrears" means funds 208
eligible for collection through the percentage of income payment 209
plan rider, but uncollected as of July 1, 2000. 210

(24) "Person" has the same meaning as in section 1.59 of the 211
Revised Code. 212

(25) "Advanced energy project" means any technologies, 213
products, activities, or management practices or strategies that 214
facilitate the generation or use of electricity and that reduce or 215
support the reduction of energy consumption or support the 216
production of clean, renewable energy for industrial, 217
distribution, commercial, institutional, governmental, research, 218
not-for-profit, or residential energy users. ~~Such energy includes,~~ 219
including, but ~~is~~ not limited to, ~~wind power; geothermal energy;~~ 220
~~solar thermal energy; and energy produced by micro turbines in~~ 221
~~distributed generation applications with high electric~~ 222
~~efficiencies, by combined heat and power applications, by fuel~~ 223
~~cells powered by hydrogen derived from wind, solar, biomass,~~ 224
~~hydroelectric, landfill gas, or geothermal sources, or by solar~~ 225
~~electric generation, landfill gas, or hydroelectric generation~~ 226
advanced energy resources and renewable energy resources. 227
"Advanced energy project" also includes any project described in 228
division (A), (B), or (C) of section 4928.621 of the Revised Code. 229

(26) "Regulatory assets" means the unamortized net regulatory 230
assets that are capitalized or deferred on the regulatory books of 231
the electric utility, pursuant to an order or practice of the 232
public utilities commission or pursuant to generally accepted 233
accounting principles as a result of a prior commission 234
rate-making decision, and that would otherwise have been charged 235

to expense as incurred or would not have been capitalized or 236
otherwise deferred for future regulatory consideration absent 237
commission action. "Regulatory assets" includes, but is not 238
limited to, all deferred demand-side management costs; all 239
deferred percentage of income payment plan arrears; 240
post-in-service capitalized charges and assets recognized in 241
connection with statement of financial accounting standards no. 242
109 (receivables from customers for income taxes); future nuclear 243
decommissioning costs and fuel disposal costs as those costs have 244
been determined by the commission in the electric utility's most 245
recent rate or accounting application proceeding addressing such 246
costs; the undepreciated costs of safety and radiation control 247
equipment on nuclear generating plants owned or leased by an 248
electric utility; and fuel costs currently deferred pursuant to 249
the terms of one or more settlement agreements approved by the 250
commission. 251

(27) "Retail electric service" means any service involved in 252
supplying or arranging for the supply of electricity to ultimate 253
consumers in this state, from the point of generation to the point 254
of consumption. For the purposes of this chapter, retail electric 255
service includes one or more of the following "service 256
components": generation service, aggregation service, power 257
marketing service, power brokerage service, transmission service, 258
distribution service, ancillary service, metering service, and 259
billing and collection service. 260

~~(28) "Small electric generation facility" means an electric 261
generation plant and associated facilities designed for, or 262
capable of, operation at a capacity of less than two megawatts. 263~~

~~(29)~~(28) "Starting date of competitive retail electric 264
service" means January 1, 2001, ~~except as provided in division (C)~~ 265
~~of this section.~~ 266

~~(30)~~(29) "Customer-generator" means a user of a net metering 267

system. 268

~~(31)~~(30) "Net metering" means measuring the difference in an 269
applicable billing period between the electricity supplied by an 270
electric service provider and the electricity generated by a 271
customer-generator that is fed back to the electric service 272
provider. 273

~~(32)~~(31) "Net metering system" means a facility for the 274
production of electrical energy that does all of the following: 275

(a) Uses as its fuel either solar, wind, biomass, landfill 276
gas, or hydropower, or uses a microturbine or a fuel cell; 277

(b) Is located on a customer-generator's premises; 278

(c) Operates in parallel with the electric utility's 279
transmission and distribution facilities; 280

(d) Is intended primarily to offset part or all of the 281
customer-generator's requirements for electricity. 282

~~(33)~~(32) "Self-generator" means an entity in this state that 283
owns an electric generation facility that produces electricity 284
primarily for the owner's consumption and that may provide any 285
such excess electricity to retail electric service providers, 286
whether the facility is installed or operated by the owner or by 287
an agent under a contract. 288

(33) "Rate plan" means the standard service offer in effect 289
on the effective date of the amendment of this section by S.B. 221 290
of the 127th general assembly. 291

(34) "Advanced energy resource" means both of the following: 292

(a) Any method or any modification or replacement of any 293
property, process, device, structure, or equipment that increases 294
the generation output of an electric generating facility in this 295
state to the extent such efficiency is achieved without additional 296
carbon dioxide emissions by that facility and that consists of any 297

<u>of the following:</u>	298
<u>(i) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously, primarily to meet the energy needs of the customer's facilities;</u>	299 300 301
<u>(ii) Clean coal technology, integrated combined cycle coal gasification technology, and any 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;</u>	302 303 304 305 306 307 308 309 310
<u>(iii) 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;</u>	311 312 313 314
<u>(iv) 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.</u>	315 316 317 318
<u>(b) Demand-side management and any energy efficiency improvement.</u>	319 320
<u>(35) "Hydropower" means energy produced by a hydroelectric generating facility that is located at a dam on a river within or bordering this state or an adjoining state and meets all of the following standards:</u>	321 322 323 324
<u>(a) 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.</u>	325 326 327 328

(b) 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.

(c) 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 catadromus fish.

(d) 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.

(e) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(f) 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.

(g) 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; and the facility provides access to water to the public without fee or charge.

(h) The facility is not recommended for removal by any 360
federal agency or agency of any state. 361

(36) "Renewable energy resource" means solar photovoltaic or 362
solar thermal energy, wind energy, hydropower, geothermal energy, 363
fuel derived from solid wastes, as defined in section 3734.01 of 364
the Revised Code, through fractionation, biological decomposition, 365
or other process that does not principally involve combustion, 366
biomass energy, biologically derived methane gas, or energy 367
derived from nontreated by-products of the pulping process or wood 368
manufacturing process, including bark, wood chips, sawdust, and 369
lignin in spent pulping liquors. "Renewable energy resources" 370
includes, but is not limited to, any fuel cell used in the 371
generation of electricity, including, but not limited to, a proton 372
exchange membrane fuel cell, phosphoric acid fuel cell, molten 373
carbonate fuel cell, or solid oxide fuel cell; wind turbine 374
located in the state's territorial waters of Lake Erie; storage 375
facility that will promote the better utilization of renewable 376
energy resources that primarily operates off peak; or distributed 377
generation system used by a customer to generate electricity from 378
any such energy. 379

(B) For the purposes of this chapter, a retail electric 380
service component shall be deemed a competitive retail electric 381
service if the service component is competitive pursuant to a 382
declaration by a provision of the Revised Code or pursuant to an 383
order of the public utilities commission authorized under division 384
(A) of section 4928.04 of the Revised Code. Otherwise, the service 385
component shall be deemed a noncompetitive retail electric 386
service. 387

~~(C) Prior to January 1, 2001, and after application by an~~ 388
~~electric utility, notice, and an opportunity to be heard, the~~ 389
~~public utilities commission may issue an order delaying the~~ 390
~~January 1, 2001, starting date of competitive retail electric~~ 391

~~service for the electric utility for a specified number of days 392
not to exceed six months, but only for extreme technical 393
conditions precluding the start of competitive retail electric 394
service on January 1, 2001. 395~~

Sec. 4928.02. It is the policy of this state to do the 396
following throughout this state ~~beginning on the starting date of 397
competitive retail electric service: 398~~

(A) Ensure the availability to consumers of adequate, 399
reliable, safe, efficient, nondiscriminatory, and reasonably 400
priced retail electric service; 401

(B) Ensure the availability of unbundled and comparable 402
retail electric service that provides consumers with the supplier, 403
price, terms, conditions, and quality options they elect to meet 404
their respective needs; 405

(C) Ensure diversity of electricity supplies and suppliers, 406
by giving consumers effective choices over the selection of those 407
supplies and suppliers and by encouraging the development of 408
distributed and small generation facilities; 409

(D) Encourage innovation and market access for cost-effective 410
supply- and demand-side retail electric service including, but not 411
limited to, demand-side management, time-differentiated pricing, 412
and implementation of advanced metering infrastructure; 413

(E) Encourage cost-effective and efficient access to 414
information regarding the operation of the transmission and 415
distribution systems of electric utilities in order to promote 416
both effective customer choice of retail electric service and the 417
development of performance standards and targets for service 418
quality for all consumers, including annual achievement reports 419
written in plain language; 420

(F) Ensure that an electric utility's transmission and 421

distribution systems are available to a customer-generator or 422
owner of distributed generation, so that the customer-generator or 423
owner can market and deliver the electricity it produces; 424

(G) Recognize the continuing emergence of competitive 425
electricity markets through the development and implementation of 426
flexible regulatory treatment; 427

~~(G)~~(H) Ensure effective competition in the provision of 428
retail electric service by avoiding anticompetitive subsidies 429
flowing from a noncompetitive retail electric service to a 430
competitive retail electric service or to a product or service 431
other than retail electric service, and vice versa, including by 432
prohibiting the recovery of any generation-related costs through 433
distribution or transmission rates; 434

~~(H)~~(I) Ensure retail electric service consumers protection 435
against unreasonable sales practices, market deficiencies, and 436
market power; 437

~~(I)~~(J) Provide coherent, transparent means of giving 438
appropriate incentives to technologies that can adapt successfully 439
to potential environmental mandates; 440

(K) Encourage implementation of distributed generation across 441
customer classes through regular review and updating of 442
administrative rules governing critical issues such as, but not 443
limited to, interconnection standards, standby charges, and net 444
metering; 445

(L) Protect at-risk populations, including, but not limited 446
to, when considering the implementation of any new alternative 447
energy resource; 448

(M) Encourage the education of small business owners in this 449
state regarding the use of, and encourage the use of, energy 450
efficiency programs and alternative energy resources in their 451
businesses; 452

(N) Facilitate the state's effectiveness in the global 453
economy. 454

In carrying out this policy, the commission shall consider 455
rules as they apply to the costs of electric distribution 456
infrastructure, including, but not limited to, line extensions, 457
for the purpose of development in this state. 458

Sec. 4928.05. (A)(1) On and after the starting date of 459
competitive retail electric service, a competitive retail electric 460
service supplied by an electric utility or electric services 461
company shall not be subject to supervision and regulation by a 462
municipal corporation under Chapter 743. of the Revised Code or by 463
the public utilities commission under Chapters 4901. to 4909., 464
4933., 4935., and 4963. of the Revised Code, except ~~section~~ 465
sections 4905.10, division (B) of section 4905.33, and sections 466
4905.35, 4909.50, and 4933.81 to 4933.90; except sections 4905.06, 467
4935.03, 4963.40, and 4963.41 of the Revised Code only to the 468
extent related to service reliability and public safety; and 469
except as otherwise provided in this chapter. The commission's 470
authority to enforce those excepted provisions with respect to a 471
competitive retail electric service shall be such authority as is 472
provided for their enforcement under Chapters 4901. to 4909., 473
4933., 4935., and 4963. of the Revised Code and this chapter. 474

475
On and after the starting date of competitive retail electric 476
service, a competitive retail electric service supplied by an 477
electric cooperative shall not be subject to supervision and 478
regulation by the commission under Chapters 4901. to 4909., 4933., 479
4935., and 4963. of the Revised Code, except as otherwise 480
expressly provided in sections 4928.01 to 4928.10 and 4928.16 of 481
the Revised Code. 482

(2) On and after the starting date of competitive retail 483

electric service, a noncompetitive retail electric service 484
supplied by an electric utility shall be subject to supervision 485
and regulation by the commission under Chapters 4901. to 4909., 486
4933., 4935., and 4963. of the Revised Code and this chapter, to 487
the extent that authority is not preempted by federal law. The 488
commission's authority to enforce those provisions with respect to 489
a noncompetitive retail electric service shall be the authority 490
provided under those chapters and this chapter, to the extent the 491
authority is not preempted by federal law. Notwithstanding 492
Chapters 4905. and 4909. of the Revised Code, commission authority 493
under this chapter shall include the authority to provide, through 494
a reconcilable rider on an electric distribution utility's 495
distribution rates, for the recovery of all transmission and 496
transmission-related costs, including ancillary and congestion 497
costs, imposed on or charged to the utility by the federal energy 498
regulatory commission or a regional transmission organization, 499
independent transmission operator, or similar organization 500
approved by the federal energy regulatory commission. 501

The commission shall exercise its jurisdiction with respect 502
to the delivery of electricity by an electric utility in this 503
state on or after the starting date of competitive retail electric 504
service so as to ensure that no aspect of the delivery of 505
electricity by the utility to consumers in this state that 506
consists of a noncompetitive retail electric service is 507
unregulated. 508

On and after that starting date, a noncompetitive retail 509
electric service supplied by an electric cooperative shall not be 510
subject to supervision and regulation by the commission under 511
Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised 512
Code, except sections 4933.81 to 4933.90 and 4935.03 of the 513
Revised Code. The commission's authority to enforce those excepted 514
sections with respect to a noncompetitive retail electric service 515

of an electric cooperative shall be such authority as is provided 516
for their enforcement under Chapters 4933. and 4935. of the 517
Revised Code. 518

(B) Nothing in this chapter affects the authority of the 519
commission under Title XLIX of the Revised Code to regulate an 520
electric light company in this state or an electric service 521
supplied in this state prior to the starting date of competitive 522
retail electric service. 523

(C)(1) No electric utility shall enter into a schedule or 524
arrangement under, or in the nature of a schedule or arrangement 525
under, section 4905.31 of the Revised Code. 526

(2) Notwithstanding division (C)(1) of this section, a 527
state-chartered elementary, middle, or high school or a public or 528
not-for-profit hospital may apply for commission approval of such 529
a schedule or arrangement. The commission may approve the schedule 530
or arrangement if it finds the schedule or arrangement is in the 531
public interest and, accordingly, may order the utility to effect 532
the schedule or arrangement. The process for approval shall be 533
open and transparent, with the terms and conditions of the 534
schedule or arrangement available on the commission's web site. 535

Sec. 4928.09. (A)(1) No person shall operate in this state as 536
an electric utility, an electric services company, ~~or~~ a billing 537
and collection agent, or a regional transmission organization 538
approved by the federal energy regulatory commission and having 539
the responsibility for maintaining reliability in all or part of 540
this state on and after the starting date of competitive retail 541
electric service unless that person first does both of the 542
following: 543

(a) Consents irrevocably to the jurisdiction of the courts of 544
this state and service of process in this state, including, 545
without limitation, service of summonses and subpoenas, for any 546

civil or criminal proceeding arising out of or relating to such 547
operation, by providing that irrevocable consent in accordance 548
with division (A)(4) of this section; 549

(b) Designates an agent authorized to receive that service of 550
process in this state, by filing with the commission a document 551
designating that agent. 552

(2) No person shall continue to operate as such an electric 553
utility, electric services company, ~~or~~ billing and collection 554
agent, or regional transmission organization described in division 555
(A)(1) of this section unless that person continues to consent to 556
such jurisdiction and service of process in this state and 557
continues to designate an agent as provided under this division, 558
by refileing in accordance with division (A)(4) of this section the 559
appropriate documents filed under division (A)(1) of this section 560
or, as applicable, the appropriate amended documents filed under 561
division (A)(3) of this section. Such refileing shall occur during 562
the month of December of every fourth year after the initial 563
filing of a document under division (A)(1) of this section. 564

(3) If the address of the person filing a document under 565
division (A)(1) or (2) of this section changes, or if a person's 566
agent or the address of the agent changes, from that listed on the 567
most recently filed of such documents, the person shall file an 568
amended document containing the new information. 569

(4) The consent and designation required by divisions (A)(1) 570
to (3) of this section shall be in writing, on forms prescribed by 571
the public utilities commission. The original of each such 572
document or amended document shall be legible and shall be filed 573
with the commission, with a copy filed with the office of the 574
consumers' counsel and with the attorney general's office. 575

(B) A person who enters this state pursuant to a summons, 576
subpoena, or other form of process authorized by this section is 577

not subject to arrest or service of process, whether civil or 578
criminal, in connection with other matters that arose before the 579
person's entrance into this state pursuant to such summons, 580
subpoena, or other form of process. 581

(C) Divisions (A) and (B) of this section do not apply to any 582
of the following: 583

(1) A corporation incorporated under the laws of this state 584
that has appointed a statutory agent pursuant to section 1701.07 585
or 1702.06 of the Revised Code; 586

(2) A foreign corporation licensed to transact business in 587
this state that has appointed a designated agent pursuant to 588
section 1703.041 of the Revised Code; 589

(3) Any other person that is a resident of this state or that 590
files consent to service of process and designates a statutory 591
agent pursuant to other laws of this state. 592

Sec. 4928.12. (A) Except as otherwise provided in sections 593
4928.31 to 4928.40 of the Revised Code, no entity shall own or 594
control transmission facilities as defined under federal law and 595
located in this state on or after the starting date of competitive 596
retail electric service unless that entity is a member of, and 597
transfers control of those facilities to, one or more qualifying 598
transmission entities, as described in division (B) of this 599
section, that are operational. 600

(B) An entity that owns or controls transmission facilities 601
located in this state complies with division (A) of this section 602
if each transmission entity of which it is a member meets all of 603
the following specifications: 604

(1) The transmission entity is approved by the federal energy 605
regulatory commission. 606

(2) The transmission entity effects separate control of 607

transmission facilities from control of generation facilities. 608

(3) The transmission entity implements, to the extent 609
reasonably possible, policies and procedures designed to minimize 610
pancaked transmission rates within this state. 611

(4) The transmission entity improves service reliability 612
within this state. 613

(5) The transmission entity achieves the objectives of an 614
open and competitive electric generation marketplace, elimination 615
of barriers to market entry, and preclusion of control of 616
bottleneck electric transmission facilities in the provision of 617
retail electric service. 618

(6) The transmission entity is of sufficient scope or 619
otherwise operates to substantially increase economical supply 620
options for consumers. 621

(7) The governance structure or control of the transmission 622
entity is independent of the users of the transmission facilities, 623
and no member of its board of directors has an affiliation, with 624
such a user or with an affiliate of a user during the member's 625
tenure on the board, such as to unduly affect the transmission 626
entity's performance. For the purpose of division (B)(7) of this 627
section, a "user" is any entity or affiliate of that entity that 628
buys or sells electric energy in the transmission entity's region 629
or in a neighboring region. 630

(8) The transmission entity operates under policies that 631
promote positive performance designed to satisfy the electricity 632
requirements of customers. 633

(9) The transmission entity is capable of maintaining 634
real-time reliability of the electric transmission system, 635
ensuring comparable and nondiscriminatory transmission access and 636
necessary services, minimizing system congestion, and further 637
addressing real or potential transmission constraints. 638

(C) To the extent that a transmission entity under division 639
(A) of this section is authorized to build transmission 640
facilities, that transmission entity has the powers provided in 641
and is subject to sections 1723.01 to 1723.08 of the Revised Code. 642

(D) For the purpose of forming or participating in a regional 643
regulatory oversight body or mechanism developed for any 644
transmission entity under division (A) of this section that is of 645
regional scope and operates within this state: 646

(1) The ~~commission~~ federal energy advocate appointed under 647
section 4928.68 of the Revised Code shall make joint 648
investigations, hold joint hearings, within or outside this state, 649
and issue joint or concurrent orders in conjunction or concurrence 650
with any official or agency of any state or of the United States, 651
whether in the holding of those investigations or hearings, or in 652
the making of those orders, the ~~commission~~ federal energy advocate 653
is functioning under agreements or compacts between states, under 654
the concurrent power of states to regulate interstate commerce, as 655
an agency of the United States, or otherwise. The federal energy 656
advocate also shall represent this state with regard to all 657
matters that may come before a qualifying transmission entity or 658
before any federal agency or any court on all matters affecting 659
the price or availability of electricity in this state. 660

(2) The ~~commission~~ federal energy advocate, on behalf of this 661
state, shall negotiate and enter into agreements or compacts with 662
agencies of other states for cooperative regulatory efforts and 663
for the enforcement of the respective state laws regarding the 664
transmission entity. 665

(E) If a qualifying transmission entity is not operational as 666
contemplated in division (A) of this section, division (A)(13) of 667
section 4928.34 of the Revised Code, or division (G) of section 668
4928.35 of the Revised Code, the commission ~~by rule or order~~ shall 669
take such measures or impose such requirements on all for-profit 670

entities that own or control electric transmission facilities 671
located in this state as the ~~commission~~ federal energy advocate 672
determines necessary and proper to achieve independent, 673
nondiscriminatory operation of, and separate ownership and control 674
of, such electric transmission facilities on or after the starting 675
date of competitive retail electric service. 676

(F) Notwithstanding any other provision of this section and 677
upon request by any person including the federal energy advocate 678
or upon the initiative of the public utilities commission, the 679
commission by order may relieve any entity that owns or controls 680
electric transmission facilities in this state of its obligation 681
to comply with division (A) of this section, if the commission, 682
after notice and hearing, determines that that action will promote 683
the state policy specified in section 4928.02 of the Revised Code. 684

Sec. 4928.14. ~~(A) After its market development period, an~~ 685
~~electric distribution utility in this state shall provide~~ 686
~~consumers, on a comparable and nondiscriminatory basis within its~~ 687
~~certified territory, a market based standard service offer of all~~ 688
~~competitive retail electric services necessary to maintain~~ 689
~~essential electric service to consumers, including a firm supply~~ 690
~~of electric generation service. Such offer shall be filed with the~~ 691
~~public utilities commission under section 4909.18 of the Revised~~ 692
~~Code.~~ 693

~~(B) After that market development period, each electric~~ 694
~~distribution utility also shall offer customers within its~~ 695
~~certified territory an option to purchase competitive retail~~ 696
~~electric service the price of which is determined through a~~ 697
~~competitive bidding process. Prior to January 1, 2004, the~~ 698
~~commission shall adopt rules concerning the conduct of the~~ 699
~~competitive bidding process, including the information~~ 700
~~requirements necessary for customers to choose this option and the~~ 701

~~requirements to evaluate qualified bidders. The commission may 702
require that the competitive bidding process be reviewed by an 703
independent third party. No generation supplier shall be 704
prohibited from participating in the bidding process, provided 705
that any winning bidder shall be considered a certified supplier 706
for purposes of obligations to customers. At the election of the 707
electric distribution utility, and approval of the commission, the 708
competitive bidding option under this division may be used as the 709
market based standard offer required by division (A) of this 710
section. The commission may determine at any time that a 711
competitive bidding process is not required, if other means to 712
accomplish generally the same option for customers is readily 713
available in the market and a reasonable means for customer 714
participation is developed. 715~~

~~(C) After the market development period, the The failure of a 716
supplier to provide retail electric generation service to 717
customers within the certified territory of ~~the~~ an electric 718
distribution utility shall result in the supplier's customers, 719
after reasonable notice, defaulting to the utility's standard 720
service offer ~~filed under division (A) of this section~~ sections 721
4928.141, 4928.142, and 4928.143 of the Revised Code until the 722
customer chooses an alternative supplier. A supplier is deemed 723
under this ~~division~~ section to have failed to provide such service 724
if the commission finds, after reasonable notice and opportunity 725
for hearing, that any of the following conditions are met: 726~~

~~(1)(A) The supplier has defaulted on its contracts with 727
customers, is in receivership, or has filed for bankruptcy. 728~~

~~(2)(B) The supplier is no longer capable of providing the 729
service. 730~~

~~(3)(C) The supplier is unable to provide delivery to 731
transmission or distribution facilities for such period of time as 732
may be reasonably specified by commission rule adopted under 733~~

division (A) of section 4928.06 of the Revised Code. 734

~~(4)~~(D) The supplier's certification has been suspended, 735
conditionally rescinded, or rescinded under division (D) of 736
section 4928.08 of the Revised Code. 737

Sec. 4928.141. (A) Beginning January 1, 2009, an electric 738
distribution utility shall provide consumers, on a comparable and 739
nondiscriminatory basis within its certified territory, a 740
market-based standard service offer of all competitive retail 741
electric services necessary to maintain essential electric service 742
to consumers, including a firm supply of electric generation 743
service. To that end, the electric distribution utility shall 744
apply to the public utilities commission to establish the standard 745
service offer in accordance with section 4928.142 or 4928.143 of 746
the Revised Code and, at its discretion, may apply simultaneously 747
under both sections, except that the utility's first standard 748
service offer application at minimum shall include a filing under 749
section 4928.143 of the Revised Code. Only a standard service 750
offer authorized in accordance with section 4928.142 or 4928.143 751
of the Revised Code, shall serve as the utility's standard service 752
offer for the purpose of compliance with this section; and that 753
standard service offer shall serve as the utility's default 754
standard service offer for the purpose of section 4928.14 of the 755
Revised Code. However, pursuant to division (D) of section 756
4928.143 of the Revised Code, any rate plan that extends beyond 757
December 31, 2008, shall continue to be in effect for the subject 758
electric distribution utility for the duration of the plan's term. 759

(B) The commission shall set the time for hearing of a filing 761
under section 4928.142 or 4928.143 of the Revised Code, send 762
written notice of the hearing to the electric distribution 763
utility, and publish notice in a newspaper of general circulation 764

in each county in the utility's certified territory. The 765
commission shall adopt rules regarding filings under those 766
sections. 767

Sec. 4928.142. (A) For the purpose of complying with section 768
4928.141 of the Revised Code and subject to division (D) of this 769
section and, as applicable, subject to the rate plan requirement 770
of division (A) of section 4928.141 of the Revised Code, an 771
electric distribution utility may establish a standard service 772
offer price for retail electric generation service that is 773
delivered to the utility under a market-rate offer. 774

(1) The market-rate offer shall be determined through a 775
competitive bidding process that provides for all of the 776
following: 777

(a) Open, fair, and transparent competitive solicitation; 778

(b) Clear product definition; 779

(c) Standardized bid evaluation criteria; 780

(d) Oversight by an independent third party that shall design 781
the solicitation, administer the bidding, and ensure that the 782
criteria specified in division (A)(1)(a) to (c) of this section 783
are met; 784

(e) Evaluation of the submitted bids prior to the selection 785
of the least-cost bid winner or winners. 786

No generation supplier shall be prohibited from participating 787
in the bidding process. 788

(2) The public utilities commission shall modify rules, or 789
adopt new rules as necessary, concerning the conduct of the 790
competitive bidding process and the qualifications of bidders, 791
which rules shall foster supplier participation in the bidding 792
process and shall be consistent with the requirements of division 793
(A)(1) of this section. 794

(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. 795
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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 that all of the following requirements are met: 804
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(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. 809
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(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 the electric distribution utility otherwise establishes that 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. 814
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(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 scheduled for delivery beginning at least two years from the date of the publication and is updated on a regular basis. 822
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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 initiate its competitive bidding process. If the finding is negative as to one or more requirements, the commission in the order may 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 or the 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 twenty days after the filing date of those applications.

(C) Upon the completion of the competitive bidding process authorized by division (C) 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 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 are 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 859
result of or related to the competitive bidding process or to 860
procuring generation service to provide the standard service 861
offer, including the costs of energy and capacity and the costs of 862
all other products and services procured as a result of the 863
competitive bidding process, shall be timely recovered through the 864
standard service offer price, and, for that purpose, the 865
commission shall approve a reconciliation mechanism, other 866
recovery mechanism, or a combination of such mechanisms for the 867
utility. 868

(D) The first application filed under this section by an 869
electric distribution utility that, as of the effective date of 870
this section, directly owns, in whole or in part, operating 871
electric generating facilities that had been used and useful in 872
this state shall require that a portion of that's utility's 873
standard service offer load for the first five years of the market 874
rate offer be competitively bid under division (A) of this section 875
as follows: not less than ten per cent of the load in year one and 876
not less than twenty per cent in year two, thirty per cent in year 877
three, forty per cent in year four, and fifty per cent in year 878
five. Consistent with those percentages, the commission shall 879
determine the actual percentages for each year of years one 880
through five. The standard service offer price for retail electric 881
generation service under this first application shall be a 882
proportionate blend of the bid price and the generation service 883
price for the remaining standard service offer load, which latter 884
price shall be equal to the electric distribution utility's most 885
recent standard service offer price, adjusted, upward or downward, 886
as the commission determines reasonable, relative to the 887
jurisdictional portion of any known and measurable changes in one 888
or more of the following: 889

(1) The electric distribution utility's prudently incurred 890

cost of fuel used to produce electricity; 891

(2) Its prudently incurred purchased power costs; 892

(3) Its costs of satisfying the supply and demand portfolio 893
requirements of this state, including, but not limited to, 894
renewable energy resource and energy efficiency requirements; 895

(4) Its costs prudently incurred to comply with environmental 896
laws and regulations. 897

In making any adjustment to the most recent standard service 898
offer price on the basis of costs described in division (D)(4) of 899
this section, the commission shall consider the benefits that may 900
become available to the electric distribution utility as a result 901
of or in connection with the costs included in the adjustment, 902
including, but not limited to, the utility's receipt of emissions 903
credits or its receipt of tax benefits or of other benefits, and, 904
accordingly, the commission may impose such conditions on the 905
adjustment to ensure that any such benefits are properly aligned 906
with the associated cost responsibility. 907

Additionally, the commission may adjust the electric 908
distribution utility's most recent standard service offer price by 909
such just and reasonable amount that the commission determines 910
necessary to address any emergency that threatens the utility's 911
financial integrity or to ensure that the resulting revenue 912
available to the utility for providing the standard service offer 913
is not so inadequate as to result, directly or indirectly, in a 914
taking of property without compensation pursuant to Section 19 of 915
Article I, Ohio Constitution. The electric distribution utility 916
has the burden of demonstrating that any adjustment to its most 917
recent standard service offer price is proper in accordance with 918
this division. The commission's determination of the electric 919
distribution utility's most recent standard service offer price 920
shall exclude any previously authorized allowance for transition 921

costs with such exclusion being effective on and after the date 922
the allowance is scheduled to end under the utility's rate plan. 923

(E) Beginning in the second year of a blended price under 924
division (D) of this section and notwithstanding any other 925
requirement of this section, the commission may alter 926
prospectively the proportions specified in that division to 927
mitigate any effect of an abrupt change in the electric 928
distribution utility's standard service offer price that would 929
otherwise result in general or with respect to any rate group of 930
rate schedule but for such alteration. Any such alteration shall 931
be made not more often than annually, and the commission shall 932
not, by altering those proportions and in any event, cause the 933
duration of the blending period to exceed ten years as counted 934
from the effective date of the approved market rate offer. 935
Additionally, any such alteration shall be limited to an 936
alteration affecting the prospective proportions used during the 937
blending period and shall not affect any blending proportion 938
previously approved and applied by the commission under this 939
division. 940

(F) An electric distribution utility that has received 941
commission approval of its first application under division (C) of 942
this section shall not, nor ever shall be authorized or required 943
by the commission to, file an application under section 4928.143 944
of the Revised Code. 945

Sec. 4928.143. (A) For the purpose of complying with section 946
4928.141 of the Revised Code, an electric distribution utility may 947
file an application for public utilities commission approval of an 948
electric security plan as prescribed under division (B) of this 949
section. The utility may file that application prior to the 950
effective date of any rules the commission may adopt for the 951
purpose of this section, and, as the commission determines 952

necessary, the utility immediately shall conform its filing to 953
those rules upon their taking effect. 954

(B) Notwithstanding any other provision of Title XLIX of the 955
Revised Code to the contrary except division (D) of this section: 956

(1) An electric security plan shall include provisions 957
relating to the supply and pricing of electric generation service. 958
In addition, if the proposed electric security plan has a term 959
longer than three years, it shall include provisions in the plan 960
to permit the public utilities commission to test the plan 961
pursuant to division (E) of this section and any transitional 962
conditions that should be adopted by the commission if the 963
commission terminates the plan as authorized under that division. 964

(2) The plan may provide for or include, without limitation, 965
any of the following: 966

(a) Automatic recovery of the electric distribution utility's 967
costs of fuel used to generate the electricity supplied under the 968
offer; purchased power supplied under the offer, including the 969
cost of energy and capacity, and including purchased power 970
acquired from an affiliate; emission allowances; and federally 971
mandated carbon or energy taxes; 972

(b) A reasonable allowance for construction work in progress 973
for any of the electric distribution utility's cost of 974
constructing an electric generating facility or for an 975
environmental expenditure for any electric generating facility of 976
the electric distribution utility, provided the cost is incurred 977
or the expenditure occurs on or after January 1, 2009. Any such 978
allowance shall be subject to the construction work in progress 979
allowance limitations of division (A) of section 4909.15 of the 980
Revised Code, except that the commission may authorize such an 981
allowance upon the incurrence of the cost or occurrence of the 982
expenditure. No such allowance for generating facility 983

construction shall be authorized, however, unless the commission 984
first determines in the proceeding that there is need for the 985
facility based on resource planning projections submitted by the 986
electric distribution utility. Further, no such allowance shall be 987
authorized unless the facility's construction was sourced through 988
a competitive bid process, regarding which process the commission 989
may adopt rules. An allowance approved under division (B)(2)(b) of 990
this section shall be established as a nonbypassable surcharge for 991
the life of the facility. 992

(c) The establishment of a nonbypassable surcharge for the 993
life of an electric generating facility that is owned or operated 994
by the electric distribution utility, was sourced through a 995
competitive bid process subject to any such rules as the 996
commission adopts under division (B)(2)(b) of this section, and is 997
newly used and useful on or after January 1, 2009, which surcharge 998
shall cover all costs of the utility specified in the application, 999
excluding costs recovered through a surcharge under division 1000
(B)(2)(b) of this section. However, no surcharge shall be 1001
authorized unless the commission first determines in the 1002
proceeding that there is need for the facility based on resource 1003
planning projections submitted by the electric distribution 1004
utility. Additionally, if a surcharge is authorized for a facility 1005
pursuant to plan approval under division (D) of this section and 1006
as a condition of the continuation of the surcharge, the electric 1007
distribution utility shall dedicate to Ohio consumers for the life 1008
of the facility all the electricity generated by that facility. 1009

(d) Terms, conditions, or charges relating to limitations on 1011
customer shopping for retail electric generation service, 1012
bypassability, back-up or supplemental power service; default 1013
service, carrying costs, amortization periods, and accounting or 1014
deferrals, including future recovery of such deferrals, as would 1015

have the effect of stabilizing or providing certainty regarding 1016
retail electric service; 1017

(e) Automatic increases or decreases in any component of the 1018
standard service offer price; 1019

(f) Provisions for the electric distribution utility to 1020
securitize any phase-in, inclusive of carrying charges, of the 1021
utility's standard service offer price, which phase-in is 1022
authorized pursuant to section 4909.50 of the Revised Code; and 1023
provisions for the recovery of the utility's cost of 1024
securitization. If the commission's order includes such a 1025
phase-in, the order also shall provide for the creation of 1026
regulatory assets pursuant to generally accepted accounting 1027
principles, by authorizing the deferral of incurred costs equal to 1028
the amount not collected, plus carrying charges on that amount. 1029
Further, the order shall authorize the collection of those 1030
deferrals through a nonbypassable surcharge on the utility's 1031
rates. 1032

(g) Provisions relating to transmission, ancillary, 1033
congestion, or any related service required for the standard 1034
service offer, including provisions for the recovery of any cost 1035
of such service that the electric distribution utility incurs on 1036
or after that date pursuant to the standard service offer; 1037

(h) Provisions regarding the utility's distribution service, 1038
including, without limitation and notwithstanding any provision of 1039
Title XLIX of the Revised Code to the contrary, provisions 1040
regarding single issue ratemaking, a revenue decoupling mechanism 1041
or any other incentive ratemaking, and provisions regarding 1042
distribution infrastructure and modernization incentives for the 1043
electric distribution utility. The latter may include a long-term 1044
energy delivery infrastructure modernization plan for that utility 1045
or any plan providing for the utility's recovery of costs, 1046
including lost revenue, shared savings, and avoided costs, and a 1047

just and reasonable rate of return on such infrastructure 1048
modernization. 1049

(i) Provisions under which the electric distribution utility 1050
may implement economic development, job retention, and energy 1051
efficiency programs, which provisions may allocate program costs 1052
across all classes of customers of the utility and those of 1053
electric distribution utilities in the same holding company 1054
system. 1055

(C)(1) The burden of proof in the proceeding shall be on the 1056
electric distribution utility. Subject to division (D) of this 1057
section, the commission shall issue an order under this division 1058
not later than one hundred twenty days after the application's 1059
filing date. The commission by order shall approve or modify and 1060
approve an application filed under division (A) of this section if 1061
it finds that the electric security plan so approved, including 1062
its pricing and all other terms and conditions, including any 1063
deferrals and any future recovery of deferrals, is favorable in 1064
the aggregate as compared to the expected results that would 1065
otherwise apply. Additionally, if the commission so approves an 1066
application that contains a surcharge under division (B)(2)(b) or 1067
(c) of this section, the commission shall ensure that the benefits 1068
derived for any purpose for which the surcharge is established are 1069
reserved and made available to those that bear the surcharge. 1070
Otherwise, the commission by order shall disapprove the 1071
application. 1072

(2)(a) If the commission modifies and approves an application 1073
under division (C)(1) of this section, the electric distribution 1074
utility may withdraw the application, thereby terminating it, and 1075
may file a new standard service offer under this section or a 1076
standard service offer under section 4928.142 of the Revised Code 1077

(b) If the utility terminates an application pursuant to 1078
division (C)(2)(a) of this section or if the commission 1079

disapproves an application under division (C)(1) of this section, 1080
the commission shall issue such order as is necessary to continue 1081
the utility's most recent standard service offer, along with any 1082
expected increases or decreases in fuel costs from those contained 1083
in that offer, until a subsequent offer is authorized pursuant to 1084
this section or section 4928.142 of the Revised Code, 1085
respectively. 1086

(D) Regarding the rate plan requirement of division (A) of 1087
section 4928.141 of the Revised Code, if an electric distribution 1088
utility that has a rate plan that extends beyond December 31, 1089
2008, files an application under this section for the purpose of 1090
its compliance with division (A) of section 4928.141 of the 1091
Revised Code, that rate plan and its terms and conditions are 1092
hereby incorporated into its proposed electric security plan and 1093
shall continue in effect until the date scheduled under the rate 1094
plan for its expiration, and that portion of the electric security 1095
plan shall not be subject to commission approval or disapproval 1096
under division (C) of this section. However, that utility may 1097
include in its electric security plan under this section, and the 1098
commission may approve, modify and approve, or disapprove subject 1099
to division (C) of this section, provisions for the incremental 1100
recovery or the deferral of any costs that are not being recovered 1101
under the rate plan and that the utility incurs during that 1102
continuation period to comply with section 4928.141, division (B) 1103
of section 4928.64, or division (A) of section 4928.66 of the 1104
Revised Code. 1105

(E) If an electric security plan approved under division (C) 1106
of this section, except one withdrawn by the utility as authorized 1107
under that division, has a term, exclusive of phase-ins or 1108
deferrals, that exceeds three years from the effective date of the 1109
plan, the commission shall test the plan in the fourth year, and 1110
if applicable, every fourth year thereafter, to determine whether 1111

the plan, including its then-existing pricing and all other terms 1112
and conditions, including any deferrals and any future recovery of 1113
deferrals, continues to be favorable in the aggregate and duaring 1114
the remaining term of the plan as compared to the expected results 1115
that would otherwise apply. If the test results are in the 1116
negative, the commission may terminate the electric security plan, 1117
but not until it shall have provided interested parties with 1118
notice and an opportunity to be heard. The commission may impose 1119
such conditions on the plan's termination as it considers 1120
reasonable and necessary to accommodate the transition from an 1121
approved plan to the more advantageous alternative. In the event 1122
of an electric security plan's termination pursuant to this 1123
division, the commission shall permit the continued deferral and 1124
phase-in of any amounts that occurred prior to that termination 1125
and the recovery of those amounts as contemplated under that 1126
electric security plan. 1127

Sec. 4928.144. The public utilities commission by order may 1128
authorize any just and reasonable phase-in of any electric 1129
distribution utility rate or price established under sections 1130
4928.141 to 4928.143 of the Revised Code, and inclusive of 1131
carrying charges, as the commission considers necessary to ensure 1132
rate or price stability for consumers. If the commission's order 1133
includes such a phase-in, the order shall also provide for the 1134
creation of regulatory assets, by authorizing the deferral of 1135
incurred costs equal to the amount not collected, plus carrying 1136
charges on that amount. Further, the order shall authorize the 1137
collection of those deferrals through a nonbypassable surcharge on 1138
the electric distribution utility's rates. 1139

Sec. 4928.145. Nothing in sections 4928.141 to 4928.144 of 1141
the Revised Code precludes or prohibits an electric distribution 1142

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utility providing competitive retail electric service to electric 1143
load centers within the certified territory of another such 1144
utility. 1145

Sec. 4928.17. (A) Except as otherwise provided in sections 1146
4928.31 to 4928.40 of the Revised Code and beginning on the 1147
starting date of competitive retail electric service, no electric 1148
utility shall engage in this state, either directly or through an 1149
affiliate, in the businesses of supplying a noncompetitive retail 1150
electric service and supplying a competitive retail electric 1151
service, or in the businesses of supplying a noncompetitive retail 1152
electric service and supplying a product or service other than 1153
retail electric service, unless the utility implements and 1154
operates under a corporate separation plan that is approved by the 1155
public utilities commission under this section, is consistent with 1156
the policy specified in section 4928.02 of the Revised Code, and 1157
achieves all of the following: 1158

(1) The plan provides, at minimum, for the provision of the 1159
competitive retail electric service or the nonelectric product or 1160
service through a fully separated affiliate of the utility, and 1161
the plan includes separate accounting requirements, the code of 1162
conduct as ordered by the commission pursuant to a rule it shall 1163
adopt under division (A) of section 4928.06 of the Revised Code, 1164
and such other measures as are necessary to effectuate the policy 1165
specified in section 4928.02 of the Revised Code. 1166

(2) The plan satisfies the public interest in preventing 1167
unfair competitive advantage and preventing the abuse of market 1168
power. 1169

(3) The plan is sufficient to ensure that the utility will 1170
not extend any undue preference or advantage to any affiliate, 1171
division, or part of its own business engaged in the business of 1172

supplying the competitive retail electric service or nonelectric 1173
product or service, including, but not limited to, utility 1174
resources such as trucks, tools, office equipment, office space, 1175
supplies, customer and marketing information, advertising, billing 1176
and mailing systems, personnel, and training, without compensation 1177
based upon fully loaded embedded costs charged to the affiliate; 1178
and to ensure that any such affiliate, division, or part will not 1179
receive undue preference or advantage from any affiliate, 1180
division, or part of the business engaged in business of supplying 1181
the noncompetitive retail electric service. No such utility, 1182
affiliate, division, or part shall extend such undue preference. 1183
Notwithstanding any other division of this section, a utility's 1184
obligation under division (A)(3) of this section shall be 1185
effective January 1, 2000. 1186

(B) The commission may approve, modify and approve, or 1187
disapprove a corporate separation plan filed with the commission 1188
under division (A) of this section. As part of the code of conduct 1189
required under division (A)(1) of this section, the commission 1190
shall adopt rules pursuant to division (A) of section 4928.06 of 1191
the Revised Code regarding corporate separation and procedures for 1192
plan filing and approval. The rules shall include limitations on 1193
affiliate practices solely for the purpose of maintaining a 1194
separation of the affiliate's business from the business of the 1195
utility to prevent unfair competitive advantage by virtue of that 1196
relationship. The rules also shall include an opportunity for any 1197
person having a real and substantial interest in the corporate 1198
separation plan to file specific objections to the plan and 1199
propose specific responses to issues raised in the objections, 1200
which objections and responses the commission shall address in its 1201
final order. Prior to commission approval of the plan, the 1202
commission shall afford a hearing upon those aspects of the plan 1203
that the commission determines reasonably require a hearing. The 1204
commission may reject and require refiling of a substantially 1205

inadequate plan under this section. 1206

(C) The commission shall issue an order approving or 1207
modifying and approving a corporate separation plan under this 1208
section, to be effective on the date specified in the order, only 1209
upon findings that the plan reasonably complies with the 1210
requirements of division (A) of this section and will provide for 1211
ongoing compliance with the policy specified in section 4928.02 of 1212
the Revised Code. However, for good cause shown, the commission 1213
may issue an order approving or modifying and approving a 1214
corporate separation plan under this section that does not comply 1215
with division (A)(1) of this section but complies with such 1216
functional separation requirements as the commission authorizes to 1217
apply for an interim period prescribed in the order, upon a 1218
finding that such alternative plan will provide for ongoing 1219
compliance with the policy specified in section 4928.02 of the 1220
Revised Code. 1221

(D) Any party may seek an amendment to a corporate separation 1222
plan approved under this section, and the commission, pursuant to 1223
a request from any party or on its own initiative, may order as it 1224
considers necessary the filing of an amended corporate separation 1225
plan to reflect changed circumstances. 1226

(E) ~~Notwithstanding section 4905.20, 4905.21, 4905.46, or~~ 1227
~~4905.48 of the Revised Code, an (1) No electric utility may divest~~ 1228
~~itself of shall sell or transfer before the later of January 1,~~ 1229
~~2013, or the end of its first, approved market rate offer under~~ 1230
~~section 4928.142 of the Revised Code, any generating asset at any~~ 1231
~~time it wholly or partly owns, without obtaining prior~~ 1232
~~commission approval, subject to the provisions of Title XLIX of the Revised~~ 1233
~~Code relating to the transfer of transmission, distribution, or~~ 1234
~~ancillary service provided by such generating asset.~~ 1235

(2) No electric distribution utility shall sell or transfer 1237

without prior commission approval any generating asset for which a 1238
nonbypassable surcharge is in effect pursuant to division 1239
(B)(2)(c) of section 4928.143 of the Revised Code. 1240

Sec. 4928.24. (A) There is hereby created the office of the 1241
federal energy advocate, which shall be an independent division of 1242
the public utilities commission. 1243

(B) The federal energy advocate shall be appointed by the 1244
majority vote of the governor, the speaker of the house of 1245
representatives, and the president of the senate and shall hold 1246
office at their pleasure, except pursuant to such a majority vote. 1247

(1) No person shall be appointed federal energy advocate 1248
unless that person is admitted to the practice of law in this 1249
state and is qualified by knowledge and experience to practice in 1250
regulatory proceedings concerning the price and availability of 1251
electricity in this state. 1252

(2) None of the following shall be appointed federal energy 1253
advocate: a person in the employ of, or acting in an official 1254
capacity with, an electric distribution utility or with any public 1255
utility subject to regulation by the federal energy commission, a 1256
person who actively owns securities issued by any such utility, or 1257
a person who is a candidate for elective public office. If, 1258
subsequent to his or her appointment, the federal energy advocate 1259
becomes the owner of such securities or otherwise has a pecuniary 1260
interest in such a utility, the advocate shall divest that 1261
ownership or interest within a reasonable time or else the 1262
advocate's tenure shall be terminated. The federal energy advocate 1263
shall be treated as a commissioner for the purpose of section 1264
4901.24 of the Revised Code. 1265

(3) The federal energy advocate shall be a resident of this 1266
state and shall devote full time to the duties of advocate and 1267
that office. 1268

(C) Before entering upon the duties of office, the federal energy advocate shall subscribe to an oath of office, which shall be filed in the office of the secretary of state. 1269
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(D) The federal energy advocate shall be considered a state officer for the purpose of Section 24 of Article II, Ohio Constitution. 1272
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(E) The salary of the federal energy advocate shall be determined by majority vote of the governor, the speaker of the house of representatives, and the president of the senate and set within pay range 49 as set forth in section 124.152 of the Revised Code. 1275
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(F) The office of the federal energy advocate shall be located in the office of the public utilities commission, and the commission shall supply the office of the federal energy advocate and the advocate, at no charge, with all books, maps, charts, and such other items as may be necessary for carrying out this section and section 4928.241 of the Revised Code. For the purpose of carrying out the advocate's duties, the advocate shall have access to all books, contracts, records, documents, and papers in the possession of the commission at any time, subject to the same limitations on the use or distribution of the information that may apply to the commission. 1280
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(G) Notwithstanding any provision of Chapter 4117. of the Revised Code, the federal energy advocate may employ and fix the compensations of such experts, lawyers, engineers, economists, statisticians, accountants, investigators, and employees in fiduciary, supervisory, or policy-making positions as are necessary to carry out this section or section 4928.241 of the Revised Code or perform the powers and duties conferred or established for the advocate by law. These employees shall be in the unclassified civil service, shall not be considered public employees for the purposes of Chapter 4117. of the Revised Code, 1291
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and shall serve at the pleasure of the advocate. The advocate also 1301
may employ such clerical employees, including clerks and 1302
stenographers, as are similarly necessary. These clerical 1303
employees shall be in the classified civil service. All officers, 1304
lawyers, engineers, economists, statisticians, accountants, 1305
investigators, stenographers, clerks, and other employees of the 1306
office of the federal energy advocate and the office's expenses 1307
shall be paid from revenue obtained from all electric distribution 1308
utilities and electric services companies in this state based on 1309
assessments on each in such amount as the advocate shall 1310
determine, and the public utilities commission shall levy, to 1311
provide adequate funding for the office. That revenue shall be 1312
deposited to the credit of the federal energy advocate fund, which 1313
is hereby created in the state treasury, to be used by the office 1314
of the federal energy advocate and the advocate to carry out 1315
powers and duties conferred or established by law. 1316

(H) The federal energy advocate may contract for the services 1317
of technically qualified persons in the area of public utility 1318
matters to obtain assistance in carrying out the duties of the 1319
advocate. Any such person shall be paid from the federal energy 1320
advocate fund. 1321

(I) Nothing in this section or section 4928.12 or 4928.241 of 1322
the Revised Code alters the responsibility of the attorney general 1323
with regard to representing the commission in federal court or 1324
agency proceedings. 1325

Sec. 4928.241. (A) The federal energy advocate may sue or be 1326
sued and has the powers and duties conferred and established under 1327
this section and all necessary powers to carry out the advocate's 1328
duties under this chapter. 1329

(B) Without limitation because of enumeration, the federal 1330
energy advocate: 1331

(1) On behalf of this state for the purpose of promoting and protecting outcomes that serve the state policy specified in section 4928.02 of the Revised Code, may institute, intervene in, or otherwise participate in state, regional, and federal proceedings, whether before courts or administrative agencies or regional entities receiving authority from the federal government;

(2) Shall carry out the advocate's duties under section 4928.12 of the Revised Code;

(3) Shall promote coordination and consistency between the agencies and branches of government of this state with regard to this state's efforts to secure useful outcomes at the federal level on issues affecting the price and availability of electricity within this state;

(4) Shall work with the federal energy regulatory commission, other federal agencies, the market monitors of regional transmission organizations, and the regulatory authorities of other states to identify and remedy anticompetitive structures or conditions in the electric market, including, but not limited to, vertical and horizontal market power;

(5) Shall be responsible for monitoring the activities of the federal energy regulatory commission and other federal agencies for the purposes specified in this division;

(6) May seek comments and suggestions from the consumers' counsel, the chairperson of the public utilities commission, and other persons and may hold technical conferences or workshops to facilitate the federal energy advocate's efforts to advance such state policy or to otherwise educate members of the public regarding federal or regional actions;

(7) Shall have, on behalf of this state, the same rights of participation, notice, and opportunity to be heard and to request initiation of proceedings as those rights are available to a state

regulatory authority pursuant to federal law as they and pertain, 1363
directly or indirectly, to issues affecting the price or 1364
availability of electric service within this state; 1365

(8) May meet with and advise members of the Ohio 1366
congressional delegation for the purpose of promoting legislative 1367
and regulatory policy outcomes that serve the state policy 1368
specified in section 4928.02 of the Revised Code; 1369

(9) May, either directly or through the public utilities 1370
commission, exercise the same authority as the commission for the 1371
purpose of examining all books, contracts, records, documents, and 1372
papers of any electric distribution utility, and by subpoena duces 1373
tecum may compel the production thereof or of verified copies. 1374
Upon the request of the advocate, the commission shall compel the 1375
attendance of such witnesses as the advocate requires to give 1376
evidence at such an examination. The advocate's access to and use 1377
of any information obtained through the exercise of authority 1378
under division (B)(9) of this section shall be subject to the 1379
limitations that would apply had the commission conducted the 1380
examination. 1381

(C) The federal energy advocate shall examine the costs and 1382
benefits of the participation by entities that own or control 1383
electric transmission facilities, as defined under federal law and 1384
located in this state, in any regional transmission organization 1385
approved by the federal energy regulatory commission. Within one 1386
hundred eighty days after the effective date of the appointment of 1387
the first federal energy advocate, the advocate shall submit a 1388
public report to the public utilities commission with the 1389
advocate's finding regarding whether continued participation of 1390
those entities is the most effective and efficient means of 1391
advancing the state policy specified in section 4928.02 of the 1392
Revised Code. The report also shall include findings and 1393
recommendations based on the requirements in section 4928.12 of 1394

the Revised Code. 1395

Sec. 4928.61. (A) There is hereby established in the state 1396
treasury the advanced energy fund, into which shall be deposited 1397
all advanced energy revenues remitted to the director of 1398
development under division (B) of this section, for the exclusive 1399
purposes of funding the advanced energy program created under 1400
section 4928.62 of the Revised Code and paying the program's 1401
administrative costs. Interest on the fund shall be credited to 1402
the fund. 1403

(B) Advanced energy revenues shall include all of the 1404
following: 1405

(1) Revenues remitted to the director after collection by 1406
each electric distribution utility in this state of a temporary 1407
rider on retail electric distribution service rates as such rates 1408
are determined by the public utilities commission pursuant to this 1409
chapter. The rider shall be a uniform amount statewide, determined 1410
by the director of development, after consultation with the public 1411
benefits advisory board created by section 4928.58 of the Revised 1412
Code. The amount shall be determined by dividing an aggregate 1413
revenue target for a given year as determined by the director, 1414
after consultation with the advisory board, by the number of 1415
customers of electric distribution utilities in this state in the 1416
prior year. Such aggregate revenue target shall not exceed more 1417
than fifteen million dollars in any year through 2005 and shall 1418
not exceed more than five million dollars in any year after 2005. 1419
The rider shall be imposed beginning on the effective date of the 1420
amendment of this section by Sub. H.B. 251 of the 126th general 1421
assembly, January 4, 2007, and shall terminate at the end of ten 1422
years following the starting date of competitive retail electric 1423
service or until the advanced energy fund, including interest, 1424
reaches one hundred million dollars, whichever is first. 1425

(2) Revenues from payments, repayments, and collections under the advanced energy program and from program income;	1426 1427
(3) Revenues remitted to the director after collection by a municipal electric utility or electric cooperative in this state upon the utility's or cooperative's decision to participate in the advanced energy fund;	1428 1429 1430 1431
(4) <u>Revenues from renewable energy compliance payments as provided under division (C)(1) of section 4928.64 of the Revised Code;</u>	1432 1433 1434
(5) <u>Revenue from forfeitures under division (C) of section 4928.66 of the Revised Code;</u>	1435 1436
(6) Interest earnings on the advanced energy fund.	1437
(C)(1) Each electric distribution utility in this state shall remit to the director on a quarterly basis the revenues described in divisions (B)(1) and (2) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter.	1438 1439 1440 1441 1442
(2) Each participating electric cooperative and participating municipal electric utility shall remit to the director on a quarterly basis the revenues described in division (B)(3) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter. For the purpose of division (B)(3) of this section, the participation of an electric cooperative or municipal electric utility in the energy efficiency revolving loan program as it existed immediately prior to the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, <u>January 4, 2007</u> , does not constitute a decision to participate in the advanced energy fund under this section as so amended.	1443 1444 1445 1446 1447 1448 1449 1450 1451 1452 1453 1454
(3) All remittances under divisions (C)(1) and (2) of this section shall continue only until the end of ten years following	1455 1456

the starting date of competitive retail electric service or until 1457
the advanced energy fund, including interest, reaches one hundred 1458
million dollars, whichever is first. 1459

(D) Any moneys collected in rates for non-low-income customer 1460
energy efficiency programs, as of October 5, 1999, and not 1461
contributed to the energy efficiency revolving loan fund 1462
authorized under this section prior to the effective date of its 1463
amendment by Sub. H.B. 251 of the 126th general assembly, January 1464
4, 2007, shall be used to continue to fund cost-effective, 1465
residential energy efficiency programs, be contributed into the 1466
universal service fund as a supplement to that required under 1467
section 4928.53 of the Revised Code, or be returned to ratepayers 1468
in the form of a rate reduction at the option of the affected 1469
electric distribution utility. 1470

Sec. 4928.621. (A) Any Edison technology center in this state 1471
is eligible to apply for and receive assistance pursuant to 1472
section 4928.62 of the Revised Code for the purposes of creating 1473
an advanced energy manufacturing center in this state that will 1474
provide for the exchange of information and expertise regarding 1475
advanced energy, assisting with the design of advanced energy 1476
projects, developing workforce training programs for such 1477
projects, and encouraging investment in advanced energy 1478
manufacturing technologies for advanced energy products and 1479
investment in sustainable manufacturing operations that create 1480
high-paying jobs in this state. 1481

(B) A university or group of universities in this state that 1482
conducts research on any advanced energy resource as defined in 1483
section 4928.64 of the Revised Code is eligible to apply for and 1484
receive assistance pursuant to section 4928.62 of the Revised Code 1485
for the purpose of encouraging research in this state that is 1486
directed at innovation in or the refinement of those resources or 1487

for the purpose of educational outreach regarding those resources 1488
and, to that end, shall use that assistance to establish such a 1489
program of research or education outreach. Any such educational 1490
outreach shall be directed at an increase in, innovation 1491
regarding, or refinement of access by or of application or 1492
understanding of businesses and consumers in this state regarding, 1493
advanced energy resources. 1494

(C) Any independent group located in this state the express 1495
objective of which is to educate small businesses in this state 1496
regarding renewable energy resources and energy efficiency 1497
programs, or any small business located in this state electing to 1498
utilize an advanced energy project or participate in an energy 1499
efficiency program, is eligible to apply for and receive 1500
assistance pursuant to section 4928.62 of the Revised Code. 1501

(D) Nothing in this section shall be construed as limiting 1502
the eligibility of any qualifying entity to apply for or receive 1503
assistance pursuant to section 4928.62 of the Revised Code. 1504

Sec. 4928.64. (A)(1) As used in sections 4928.64 and 4928.65 1505
of the Revised Code, "alternative energy resource" means an 1506
advanced energy resource that is located in this state and has a 1507
placed-in-service date on or after January 1, 1998; a renewable 1508
energy resource that is located within this state, including a 1509
facility located at a dam on a river within or bordering this 1510
state or an adjoining state, and that has a placed-in-service date 1511
on or after January 1, 1998; or a mercantile customer-sited 1512
advance energy resource or renewable energy resource, whether new 1513
or existing, that the mercantile customer commits for integration 1514
into the electric distribution utility's demand-response, energy 1515
efficiency, or peak demand reduction programs as provided under 1516
division (B)(2)(b) of section 4928.66 of the Revised Code, 1517
including, but not limited to, any of the following: 1518

<u>(a) A resource that has the effect of improving the</u>	1519
<u>relationship between real and reactive power;</u>	1520
<u>(b) A resource that makes efficient use of waste heat or</u>	1521
<u>other thermal capabilities owned or controlled by a mercantile</u>	1522
<u>customer;</u>	1523
<u>(c) Storage technology that allows a mercantile customer more</u>	1524
<u>flexibility to modify its demand or load and usage</u>	1525
<u>characteristics.</u>	1526
<u>(d) Electric generation equipment owned or controlled by a</u>	1527
<u>mercantile customer that uses an advanced energy resource or</u>	1528
<u>renewable energy resource;</u>	1529
<u>(e) Any advanced energy resource or renewable energy resource</u>	1530
<u>of the mercantile customer that can be utilized effectively as</u>	1531
<u>part of any advanced energy resource plan of an electric</u>	1532
<u>distribution utility and would otherwise qualify as an alternative</u>	1533
<u>energy resource if it were utilized directly by an electric</u>	1534
<u>distribution utility.</u>	1535
<u>(2) For the purpose of this section and as it considers</u>	1536
<u>appropriate, the public utilities commission may classify any new</u>	1537
<u>technology as such an advanced energy resource or a renewable</u>	1538
<u>energy resource.</u>	1539
<u>(B) By 2025 and thereafter, an electric distribution utility</u>	1540
<u>shall provide from alternative energy resources, including, at its</u>	1541
<u>discretion, alternative energy resources obtained pursuant to an</u>	1542
<u>electricity supply contract, a portion of the electricity supply</u>	1543
<u>required for its standard service offer under section 4928.141 of</u>	1544
<u>the Revised Code, and an electric services company shall provide a</u>	1545
<u>portion of its electricity supply for retail consumers in this</u>	1546
<u>state from alternative energy resources, including, at its</u>	1547
<u>discretion, alternative energy resources obtained pursuant to an</u>	1548
<u>electricity supply contract. That portion shall equal twenty-five</u>	1549

per cent of the total number of kilowatt hours of electricity sold 1550
by the subject utility or company to any and all retail electric 1551
consumers whose electric load centers are served by that utility 1552
and are located within the utility's certified territory or, in 1553
the case of an electric services company, are served by the 1554
company and are located within this state. However, nothing in 1555
this section precludes a utility or company from providing a 1556
greater percentage. The baseline for a utility's or company's 1557
compliance with the alternative energy resource requirements of 1558
this section shall be the average of such total kilowatt hours it 1559
sold in the preceding three calendar years, except that the 1560
commission may reduce a utility's or company's baseline to adjust 1561
for new economic growth in the utility's certified territory or, 1562
in the case of an electric services company, in the company's 1563
service area in this state. 1564

Of the alternative energy resources implemented by the 1566
subject utility or company by 2025 and thereafter: 1567

(1) Half may be generated from advanced energy resources; 1568

(2) At least half shall be generated from renewable energy 1569
resources, including one per cent from solar energy resources, in 1570
accordance with the following benchmarks: 1571

<u>By end of year</u>	<u>Renewable energy</u>	<u>Solar energy</u>	
	<u>resources</u>	<u>resources</u>	
<u>2009</u>	<u>0.25%</u>	<u>.005%</u>	1573
<u>2010</u>	<u>0.50%</u>	<u>.025%</u>	1574
<u>2011</u>	<u>1%</u>	<u>.08%</u>	1575
<u>2012</u>	<u>1.5%</u>	<u>.15%</u>	1576
<u>2013</u>	<u>2%</u>	<u>.2%</u>	1577
<u>2014</u>	<u>2.5%</u>	<u>.25%</u>	1578
<u>2015</u>	<u>3.5%</u>	<u>.3%</u>	1579
<u>2016</u>	<u>4.5%</u>	<u>.35%</u>	1580

<u>2017</u>	<u>5.5%</u>	<u>.4%</u>	1581
<u>2018</u>	<u>6.5%</u>	<u>.45%</u>	1582
<u>2019</u>	<u>7.5%</u>	<u>.5%</u>	1583
<u>2020</u>	<u>8.5%</u>	<u>.6%</u>	1584
<u>2021</u>	<u>9.5%</u>	<u>.7%</u>	1585
<u>2022</u>	<u>10.5%</u>	<u>.8%</u>	1586
<u>2023</u>	<u>11.5%</u>	<u>.9%</u>	1587
<u>2024 and each calendar</u> <u>year thereafter</u>	<u>12.5%</u>	<u>1%</u>	1588

(3) At least one-half of the renewable energy resources 1589
implemented by the utility or company shall be met through 1590
facilities located in this state; the remainder shall be met with 1591
resources that can be shown to be deliverable into this state. 1592

(C)(1) The commission annually shall review an electric 1593
distribution utility's or electric services company's compliance 1594
with the most recent applicable benchmark under division (B)(2) of 1595
this section and, in the course of that review, shall identify any 1596
undercompliance or noncompliance of the utility or company that it 1597
determines is weather-related, related to equipment or resource 1598
shortages for advanced energy or renewable energy resources as 1599
applicable, or is otherwise outside the utility's or company's 1600
control. If the commission determines, after notice and 1601
opportunity for hearing, and based upon its findings in that 1602
review regarding avoidable undercompliance or noncompliance, that 1603
the utility or company has failed to comply with any such 1604
benchmark, the commission shall impose a renewable energy 1605
compliance payment on the utility or company. 1606

(a) The compliance payment pertaining to the solar energy 1607
resource benchmarks under division (B)(2) of this section shall be 1608
an amount per megawatt hour of undercompliance or noncompliance in 1609
the period under review, starting at four hundred fifty dollars 1610
for 2009, four hundred dollars for 2010 and 2011, and similarly 1611

reduced every two years thereafter through 2024 by fifty dollars, 1612
to a minimum of fifty dollars. 1613

(b) The compliance payment pertaining to the renewable energy 1614
resource benchmarks under division (B)(2) of this section shall 1615
equal the number of additional renewable energy credits that the 1616
electric distribution utility or electric services company would 1617
have needed to comply with the applicable benchmark in the period 1618
under review times an amount that shall begin at forty-five 1619
dollars and shall be adjusted annually by the commission to 1620
reflect any change in the consumer price index as defined in 1621
section 101.27 of the Revised Code, but shall not be less than 1622
forty-five dollars. 1623

(c) The compliance payment shall not be passed through by the 1624
electric distribution utility or electric services company to 1625
consumers. The compliance payment shall be remitted to the 1626
commission, for deposit to the credit of the advanced energy fund 1627
created under section 4928.61 of the Revised Code. Payment of the 1628
compliance payment shall be subject to such collection and 1629
enforcement procedures as apply to the collection of a forfeiture 1630
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 1631

(2) The commission shall establish a process to provide for 1633
at least an annual review of the alternative energy resource 1634
market in this state and in the service territories of the 1635
regional transmission organizations that manage transmission 1636
systems located in this state. The commission shall use the 1637
results of this study to identify any needed changes to the amount 1638
of the renewable energy compliance payment specified under 1639
divisions (C)(1)(a) and (b) of this section. Specifically, the 1640
commission may increase the amount to ensure that payment of 1641
compliance payments is not used to achieve compliance with this 1642
section in lieu of actually acquiring or realizing energy derived 1643

from renewable energy resources. However, if the commission finds 1644
that the amount of the compliance payment should be otherwise 1645
changed, the commission shall present this finding to the general 1646
assembly for legislative enactment. 1647

1648
(D)(1) The commission annually shall submit to the general 1649
assembly in accordance with section 101.68 of the Revised Code a 1650
report describing the compliance of electric distribution 1651
utilities and electric services companies with division (B) of 1652
this section and any strategy for utility and company compliance 1653
or for encouraging the use of alternative energy resources in 1654
supplying this state's electricity needs in a manner that 1655
considers available technology, costs, job creation, and economic 1656
impacts. The commission shall allow and consider public comments 1657
on the report prior to its submission to the general assembly. 1658
Nothing in the report shall be binding on any person, including 1659
any utility or company for the purpose of its compliance with any 1660
benchmark under division (B) of this section, or the enforcement 1661
of that provision under division (C) of this section. 1662

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(2) The governor, in consultation with the commission 1664
chairperson, shall appoint an alternative energy advisory 1665
committee. The committee shall examine available technology for 1666
and related timetables, goals, and costs of the alternative energy 1667
resource requirements under division (B) of this section and shall 1668
submit to the commission a semiannual report of its 1669
recommendations. 1670

(E) All costs incurred by an electric distribution utility in 1671
complying with the requirements of this section shall be 1672
bypassable by any consumer that has exercised choice of supplier 1673
under section 4928.03 of the Revised Code. 1674

Sec. 4928.65. An electric distribution utility or electric services company may use renewable energy credits any time in the five calendar years following the date of their purchase or acquisition from any entity, including a mercantile customer, for the purpose of complying with the renewable energy and solar energy resource requirements of division (B)(2) of section 4928.64 of the Revised Code. The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources. The rules also shall provide for this state a system of registering renewable energy credits by specifying which of any generally available registries shall be used for that purpose and not by creating a registry. Renewable energy credits obtained for the purpose of meeting Ohio, voluntary, green pricing programs shall not be counted toward that compliance.

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Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to at least three-tenths of one per cent of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state. The savings requirement, using such a three-year average, shall increase to an additional five-tenths of one per cent in 2010, seven-tenths of one per cent in 2011, eight-tenths of one per cent in 2012, nine-tenths of one per cent in 2013, one per cent from 2014 to 2018, and two per cent each year thereafter, achieving a cumulative, annual energy savings in excess of twenty-two per cent by the end of 2025.

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(b) Beginning in 2009, an electric distribution utility shall implement peak demand reduction programs designed to achieve a one

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per cent reduction in peak demand in 2009 and an additional 1706
seventy-five hundredths of one per cent reduction each year 1707
through 2018. In 2018, the standing committees in the house of 1708
representatives and the senate primarily dealing with energy 1709
issues shall make recommendations to the general assembly 1710
regarding future peak demand reduction targets. 1711

(2) For the purposes of divisions (A)(1)(a) and (b) of this 1712
section: 1713

(a) The baseline for energy savings under division (A)(1)(a) 1714
of this section shall be the average of the total kilowatt hours 1715
the electric distribution utility sold in the preceding three 1716
calendar years, and the baseline for a peak demand reduction under 1717
division (A)(1)(b) of this section shall be the average peak 1718
demand on the utility in the preceding three calendar years, 1719
except that the commission may reduce either baseline to adjust 1720
for new economic growth in the utility's certified territory. 1721

(b) Compliance with those divisions shall be measured by 1722
including the effects of all demand-response programs for 1723
mercantile customers of the subject electric distribution utility 1724
or electric services company and all such mercantile 1725
customer-sited energy efficiency and peak demand reduction 1726
programs, adjusted upward by the appropriate loss factors. Any 1727
mechanism designed to recover the cost of energy efficiency and 1728
peak demand reduction programs under divisions (A)(1)(a) and (b) 1729
of this section may exempt mercantile customers that commit their 1730
demand-response or other customer-sited capabilities, whether 1731
existing or new, for integration into the electric distribution 1732
utility's demand-response, energy efficiency, or peak demand 1733
reduction programs, if the commission determines that that 1734
exemption reasonably encourages such customers to commit those 1735
capabilities to those programs. If a mercantile customer makes 1736
such existing or new demand-response, energy efficiency, or peak 1737

demand reduction capability available to an electric distribution utility pursuant to division (A)(2)(b) of this section, the electric utility's baseline under division (A)(2)(a) of this section shall be adjusted to exclude the effects of all such demand-response, energy efficiency, or peak demand reduction programs that may have existed during the period used to establish the baseline. The baseline also shall be normalized for changes in numbers of customers, sales, weather, peak demand, and other appropriate factors so that the compliance measurement is not unduly influenced by factors outside the control of the electric distribution utility. 1738
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(c) Programs implemented by a utility may include demand-response programs, customer-sited programs, and transmission and distribution infrastructure improvements that reduce line losses. 1749
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(d) No programs or improvements described in division (A)(2)(c) of this section shall conflict with any statewide building code adopted by the board of building standards. 1753
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(B) In accordance with rules it shall adopt, the public utilities commission shall produce and docket at the commission an annual report containing the results of its verification of the annual levels of energy usage and peak demand reductions achieved by each electric distribution utility pursuant to division (A) of this section. A copy of the report shall be provided to the consumers' counsel. 1756
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(C) If the commission determines, after notice and opportunity for hearing and based upon its report under division (B) of this section, that an electric distribution utility has failed to comply with an energy usage or peak demand reduction required by division (A) of this section, the commission shall assess a forfeiture on the utility as provided under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, either in the 1763
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amount, per day per undercompliance or noncompliance, relative to 1770
the period of the report, equal to that prescribed for 1771
noncompliances under section 4905.54 of the Revised Code, or in an 1772
amount equal to the then existing market value of one renewable 1773
energy credit per megawatt hour of undercompliance or 1774
noncompliance. Revenue from any forfeiture assessed under this 1775
division shall be deposited to the credit of the advanced energy 1776
fund created under section 4928.61 of the Revised Code. 1777

(D) The commission may establish rules regarding the content 1778
of an application by an electric distribution utility for 1779
commission approval of a revenue decoupling mechanism under this 1780
division. Such an application shall not be considered an 1781
application to increase rates and may be included as part of a 1782
proposal to establish, continue, or expand energy efficiency or 1783
conservation programs. The commission by order may approve an 1784
application under this division if it determines both that the 1785
revenue decoupling mechanism provides for the recovery of revenue 1786
that otherwise may be foregone by the utility as a result of or in 1787
connection with the implementation by the electric distribution 1788
utility of any energy efficiency or energy conservation programs 1789
and reasonably aligns the interests of the utility and of its 1790
customers in favor of those programs. 1791

(E) The commission additionally shall adopt rules that 1792
require an electric distribution utility to provide a customer 1793
upon request with two years' consumption data in an accessible 1794
form. 1795

Sec. 4928.67. (A)(1) Beginning on the starting date of 1796
competitive retail electric service, a retail electric service 1797
provider in this state Except as provided in division (A)(2) of 1798
this section, an electric utility shall develop a standard 1799
contract or tariff providing for net energy metering-, subject to 1800

both of the following: 1801

(a) Any time that the total rated generating capacity used by 1802
customer-generators, exclusive of such capacity used by any 1803
hospital customer-generator that is a party to or subject to a 1804
contract or tariff under division (A)(2) of this section, is less 1805
than one per cent of the provider's utility's aggregate customer 1806
peak demand in this state, the provider utility shall make this 1807
contract or tariff available to customer-generators, upon request 1808
and on a first-come, first-served basis. The 1809

(b) The contract or tariff shall be identical in rate 1810
structure, all retail rate components, and any monthly charges, to 1811
the contract or tariff to which the same customer would be 1812
assigned if that customer were not a customer-generator. 1813
Transmission and distribution charges in the contract or tariff 1814
shall apply to the flow of electricity both to the customer and 1815
from the customer to the electric utility. 1816

(2) An electric utility shall also develop a separate 1817
standard contract or tariff providing for net energy metering for 1818
a hospital, as defined in section 3701.01 of the Revised Code, 1819
that is also a customer-generator, subject to all of the 1820
following: 1821

(a) No limitation, including that in division (A)(1)(a) of 1822
this section, shall apply regarding the availability of the 1823
contract or tariff to such hospital customer-generators. 1824

(b) The contract or tariff shall be based both upon the rate 1825
structure, rate components, and any charges to which the hospital 1826
would otherwise be assigned if the hospital were not a 1827
customer-generator and upon the market value of the 1828
customer-generated electricity at the time it is generated. 1829
Transmission and distribution charges in the contract or tariff 1830
shall apply to the flow of electricity both to the customer and 1831

from the customer to the electric utility. 1832

(c) The contract or tariff shall allow the hospital 1833
customer-generator to operate its electric generating facilities 1834
individually or collectively without any wattage limitation on 1835
size. 1836

~~(2)~~(B)(1) Net metering under this section shall be 1837
accomplished using a single meter capable of registering the flow 1838
of electricity in each direction. If its existing electrical meter 1839
is not capable of measuring the flow of electricity in two 1840
directions, the customer-generator shall be responsible for all 1841
expenses involved in purchasing and installing a meter that is 1842
capable of measuring electricity flow in two directions. 1843

~~(3)~~ ~~Such an~~ (2) The electric ~~service provider~~ utility, at its 1844
own expense and with the written consent of the 1845
customer-generator, may install one or more additional meters to 1846
monitor the flow of electricity in each direction. 1847

~~(B)~~(3) Consistent with the other provisions of this section, 1848
the measurement of net electricity supplied or generated shall be 1849
calculated in the following manner: 1850

~~(1)~~(a) The electric ~~service provider~~ utility shall measure 1851
the net electricity produced or consumed during the billing 1852
period, in accordance with normal metering practices. 1853

~~(2)~~(b) If the electricity supplied by the electric ~~service~~ 1854
~~provider~~ utility exceeds the electricity generated by the 1855
customer-generator and fed back to the ~~electric service provider~~ 1856
utility during the billing period, the customer-generator shall be 1857
billed for the net electricity supplied by the ~~electric service~~ 1858
~~provider~~ utility, in accordance with normal metering practices. If 1859
electricity is provided to the ~~electric service provider~~ utility, 1860
the credits for that electricity shall appear in the next billing 1861
cycle. 1862

~~(C)(1)(4)~~ A net metering system used by a customer-generator shall meet all applicable safety and performance standards established by the national electrical code, the institute of electrical and electronics engineers, and underwriters laboratories.

~~(2)(C)~~ The public utilities commission shall adopt rules relating to additional control and testing requirements for customer-generators ~~which~~ that the commission determines are necessary to protect public and worker safety and system reliability.

(D) An electric ~~service provider~~ utility shall not require a customer-generator whose net metering system meets the standards and requirements provided for in divisions (B)(4) and (C)(1) ~~and (D)~~ of this section to do any of the following:

- (1) Comply with additional safety or performance standards;
- (2) Perform or pay for additional tests;
- (3) Purchase additional liability insurance.

Sec. 4928.68. To the extent permitted by federal law, the public utilities commission shall adopt rules establishing greenhouse gas emission reporting requirements, including participation in the climate registry, and carbon control planning requirements for each electric generating facility that is located in this state, is owned or operated by a public utility that is subject to the commission's jurisdiction, and emits greenhouse gases, including facilities in operation on the effective date of this section.

Sec. 4929.01. As used in this chapter:

(A) "Alternative rate plan" means a method, alternate to the method of section 4909.15 of the Revised Code, for establishing

rates and charges, under which rates and charges may be 1892
established for a commodity sales service or ancillary service 1893
that is not exempt pursuant to section 4929.04 of the Revised Code 1894
or for a distribution service. Alternative rate plans may include, 1895
but are not limited to, methods that provide adequate and reliable 1896
natural gas services and goods in this state; minimize the costs 1897
and time expended in the regulatory process; tend to assess the 1898
costs of any natural gas service or goods to the entity, service, 1899
or goods that cause such costs to be incurred; afford rate 1900
stability; promote and reward efficiency, quality of service, or 1901
cost containment by a natural gas company; ~~or~~ provide sufficient 1902
flexibility and incentives to the natural gas industry to achieve 1903
high quality, technologically advanced, and readily available 1904
natural gas services and goods at just and reasonable rates and 1905
charges; or establish revenue decoupling mechanisms. Alternative 1906
rate plans also may include, but are not limited to, automatic 1907
adjustments based on a specified index or changes in a specified 1908
cost or costs. 1909

(B) "Ancillary service" means a service that is ancillary to 1910
the receipt or delivery of natural gas to consumers, including, 1911
but not limited to, storage, pooling, balancing, and transmission. 1912

(C) "Commodity sales service" means the sale of natural gas 1913
to consumers, exclusive of any distribution or ancillary service. 1914

(D) "Comparable service" means any regulated service or goods 1915
whose availability, quality, price, terms, and conditions are the 1916
same as or better than those of the services or goods that the 1917
natural gas company provides to a person with which it is 1918
affiliated or which it controls, or, as to any consumer, that the 1919
natural gas company offers to that consumer as part of a bundled 1920
service that includes both regulated and exempt services or goods. 1921

(E) "Consumer" means any person or association of persons 1922
purchasing, delivering, storing, or transporting, or seeking to 1923

purchase, deliver, store, or transport, natural gas, including 1924
industrial consumers, commercial consumers, and residential 1925
consumers, but not including natural gas companies. 1926

(F) "Distribution service" means the delivery of natural gas 1927
to a consumer at the consumer's facilities, by and through the 1928
instrumentalities and facilities of a natural gas company, 1929
regardless of the party having title to the natural gas. 1930

(G) "Natural gas company" means a natural gas company, as 1931
defined in section 4905.03 of the Revised Code, that is a public 1932
utility as defined in section 4905.02 of the Revised Code and 1933
excludes a retail natural gas supplier. 1934

(H) "Person," except as provided in division (N) of this 1935
section, has the same meaning as in section 1.59 of the Revised 1936
Code, and includes this state and any political subdivision, 1937
agency, or other instrumentality of this state and includes the 1938
United States and any agency or other instrumentality of the 1939
United States. 1940

(I) "Billing or collection agent" means a fully independent 1941
agent, not affiliated with or otherwise controlled by a retail 1942
natural gas supplier or governmental aggregator subject to 1943
certification under section 4929.20 of the Revised Code, to the 1944
extent that the agent is under contract with such supplier or 1945
aggregator solely to provide billing and collection for 1946
competitive retail natural gas service on behalf of the supplier 1947
or aggregator. 1948

(J) "Competitive retail natural gas service" means any retail 1949
natural gas service that may be competitively offered to consumers 1950
in this state as a result of revised schedules approved under 1951
division (C) of section 4929.29 of the Revised Code, a rule or 1952
order adopted or issued by the public utilities commission under 1953
Chapter 4905. of the Revised Code, or an exemption granted by the 1954

commission under sections 4929.04 to 4929.08 of the Revised Code. 1955

(K) "Governmental aggregator" means either of the following: 1956

(1) A legislative authority of a municipal corporation, a 1957
board of township trustees, or a board of county commissioners 1958
acting exclusively under section 4929.26 or 4929.27 of the Revised 1959
Code as an aggregator for the provision of competitive retail 1960
natural gas service; 1961

(2) A municipal corporation acting exclusively under Section 1962
4 of Article XVIII, Ohio Constitution, as an aggregator for the 1963
provision of competitive retail natural gas service. 1964

(L)(1) "Mercantile customer" means a customer that consumes, 1965
other than for residential use, more than five hundred thousand 1966
cubic feet of natural gas per year at a single location within 1967
this state or consumes natural gas, other than for residential 1968
use, as part of an undertaking having more than three locations 1969
within or outside of this state. "Mercantile customer" excludes a 1970
customer for which a declaration under division (L)(2) of this 1971
section is in effect pursuant to that division. 1972

(2) A not-for-profit customer that consumes, other than for 1973
residential use, more than five hundred thousand cubic feet of 1974
natural gas per year at a single location within this state or 1975
consumes natural gas, other than for residential use, as part of 1976
an undertaking having more than three locations within or outside 1977
this state may file a declaration under division (L)(2) of this 1978
section with the public utilities commission. The declaration 1979
shall take effect upon the date of filing, and by virtue of the 1980
declaration, the customer is not a mercantile customer for the 1981
purposes of this section and sections 4929.20 to 4929.29 of the 1982
Revised Code or the purposes of a governmental natural gas 1983
aggregation or arrangement or other contract entered into after 1984
the declaration's effective date for the supply or arranging of 1985

the supply of natural gas to the customer to a location within 1986
this state. The customer may file a rescission of the declaration 1987
with the commission at any time. The rescission shall not affect 1988
any governmental natural gas aggregation or arrangement or other 1989
contract entered into by the customer prior to the date of the 1990
filing of the rescission and shall have effect only with respect 1991
to any subsequent such aggregation or arrangement or other 1992
contract. The commission shall prescribe rules under section 1993
4929.10 of the Revised Code specifying the form of the declaration 1994
or a rescission and procedures by which a declaration or 1995
rescission may be filed. 1996

(M) "Retail natural gas service" means commodity sales 1997
service, ancillary service, natural gas aggregation service, 1998
natural gas marketing service, or natural gas brokerage service. 1999

(N) "Retail natural gas supplier" means any person, as 2000
defined in section 1.59 of the Revised Code, that is engaged on a 2001
for-profit or not-for-profit basis in the business of supplying or 2002
arranging for the supply of a competitive retail natural gas 2003
service to consumers in this state that are not mercantile 2004
customers. "Retail natural gas supplier" includes a marketer, 2005
broker, or aggregator, but excludes a natural gas company, a 2006
governmental aggregator as defined in division (K)(1) or (2) of 2007
this section, an entity described in division (B) or (C) of 2008
section 4905.02 of the Revised Code, or a billing or collection 2009
agent, and excludes a producer or gatherer of gas to the extent 2010
such producer or gatherer is not a natural gas company under 2011
section 4905.03 of the Revised Code. 2012

(O) "Revenue decoupling mechanism" means a rate design or 2013
other cost recovery mechanism that provides recovery of the fixed 2014
costs of service and a fair and reasonable rate of return, 2015
irrespective of system throughput or volumetric sales. 2016

Sec. 4929.02. (A) It is the policy of this state to,	2017
throughout this state:	2018
(1) Promote the availability to consumers of adequate,	2019
reliable, and reasonably priced natural gas services and goods;	2020
(2) Promote the availability of unbundled and comparable	2021
natural gas services and goods that provide wholesale and retail	2022
consumers with the supplier, price, terms, conditions, and quality	2023
options they elect to meet their respective needs;	2024
(3) Promote diversity of natural gas supplies and suppliers,	2025
by giving consumers effective choices over the selection of those	2026
supplies and suppliers;	2027
(4) Encourage innovation and market access for cost-effective	2028
supply- and demand-side natural gas services and goods;	2029
(5) Encourage cost-effective and efficient access to	2030
information regarding the operation of the distribution systems of	2031
natural gas companies in order to promote effective customer	2032
choice of natural gas services and goods;	2033
(6) Recognize the continuing emergence of competitive natural	2034
gas markets through the development and implementation of flexible	2035
regulatory treatment;	2036
(7) Promote an expeditious transition to the provision of	2037
natural gas services and goods in a manner that achieves effective	2038
competition and transactions between willing buyers and willing	2039
sellers to reduce or eliminate the need for regulation of natural	2040
gas services and goods under Chapters 4905. and 4909. of the	2041
Revised Code;	2042
(8) Promote effective competition in the provision of natural	2043
gas services and goods by avoiding subsidies flowing to or from	2044
regulated natural gas services and goods;	2045
(9) Ensure that the risks and rewards of a natural gas	2046

company's offering of nonjurisdictional and exempt services and 2047
goods do not affect the rates, prices, terms, or conditions of 2048
nonexempt, regulated services and goods of a natural gas company 2049
and do not affect the financial capability of a natural gas 2050
company to comply with the policy of this state specified in this 2051
section; 2052

(10) Facilitate the state's competitiveness in the global 2053
economy; 2054

(11) Facilitate additional choices for the supply of natural 2055
gas for residential consumers, including aggregation; 2056

(12) Promote an alignment of natural gas company interests 2057
with consumer interest in energy efficiency and energy 2058
conservation. 2059

(B) The public utilities commission and the office of the 2060
consumers' counsel shall follow the policy specified in this 2061
section in ~~carrying out~~ exercising their respective authorities 2062
relative to sections 4929.03 to 4929.30 of the Revised Code. 2063

(C) Nothing in Chapter 4929. of the Revised Code shall be 2064
construed to alter the public utilities commission's construction 2065
or application of division (A)(6) of section 4905.03 of the 2066
Revised Code. 2067

Sec. 4929.051. An alternative rate plan filed by a natural 2068
gas company under section 4929.05 of the Revised Code and 2069
proposing a revenue decoupling mechanism may be an application not 2070
for an increase in rates if the rates, joint rates, tolls, 2071
classifications, charges, or rentals are based upon the billing 2072
determinants and revenue requirement authorized by the public 2073
utilities commission in the company's most recent rate case 2074
proceeding and the plan also establishes, continues, or expands an 2075
energy efficiency or energy conservation program. 2076

Section 2. That existing sections 1315.28, 4928.01, 4928.02, 2077
4928.05, 4928.09, 4928.12, 4928.14, 4928.17, 4928.61, 4928.67, 2078
4929.01, and 4929.02 and sections 4928.41, 4928.42, 4928.431, and 2079
4928.44 of the Revised Code are hereby repealed. 2080

Section 3. Nothing in this act affects the legal validity or 2081
the force and effect of an electric distribution utility's rate 2082
plan, as defined in section 4928.01 of the Revised Code as amended 2083
by this act, or the plan's terms and conditions, including any 2084
provisions regarding cost recovery. 2085

Section 4. Section 4929.051 of the Revised Code, as enacted 2086
by this act, shall not be applied in favor of a claim or finding 2087
that an application described in that section but submitted to the 2088
Public Utilities Commission prior to the act's effective date is 2089
an application to increase rates. 2090