

**As Introduced**

**129th General Assembly  
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**H. B. No. 95**

**Representative Stautberg**

**Cosponsors: Representatives Blessing, Uecker, Mecklenborg, Balderson,  
Hayes, Goodwin, Martin**

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**A B I L L**

To amend sections 4903.083, 4905.302, 4906.06, 1  
4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 2  
4909.156, 4909.17, 4909.18, 4909.19, 4928.18, 3  
4929.05, 4929.051, 4929.11, and 4935.04 and to 4  
enact section 4929.111 of the Revised Code to 5  
permit certain rate-calculation adjustments for 6  
natural gas companies, eliminate public notice 7  
requirements for rate cases, and, for natural gas 8  
companies, to make other regulatory changes 9  
concerning audits, alternative rate plans, and 10  
forecast reports, and allowing applications for 11  
natural gas company capital expenditure programs. 12

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

**Section 1.** That sections 4903.083, 4905.302, 4906.06, 13  
4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.17, 14  
4909.18, 4909.19, 4928.18, 4929.05, 4929.051, 4929.11, and 4935.04 15  
be amended and section 4929.111 of the Revised Code be enacted to 16  
read as follows: 17

**Sec. 4903.083.** For all cases involving applications for an 18

increase in rates pursuant to section 4909.18 of the Revised Code 19  
the public utilities commission shall hold public hearings in each 20  
municipal corporation in the affected service area having a 21  
population in excess of one hundred thousand persons, provided 22  
that, at least one public hearing shall be held in each affected 23  
service area. At least one such hearing shall be held after 5:00 24  
p.m. ~~Notice of such hearing shall be published by the public 25~~  
~~utilities commission once each week for two consecutive weeks in a 26~~  
~~newspaper of general circulation in the service area. Said notice 27~~  
~~shall state prominently the total amount of the revenue increase 28~~  
~~requested in the application for the increase and shall list a 29~~  
~~brief summary of the then known major issues in contention as set 30~~  
~~forth in the respective parties' and intervenor's objections to 31~~  
~~the staff report filed pursuant to section 4909.19 of the Revised 32~~  
~~Code. The public utilities commission shall determine a uniform 33~~  
~~format for the content of all notices required under this section. 34~~  
~~Defects in the content of said notice shall not affect the 35~~  
~~legality of notices published under this section provided the 36~~  
~~public utilities commission meets the substantial compliance 37~~  
~~provision of section 4905.09 of the Revised Code. 38~~

**Sec. 4905.302.** (A)(1) For the purpose of this section, the 39  
term "purchased gas adjustment clause" means: 40

(a) A provision in a schedule of a gas company or natural gas 41  
company that requires or allows the company to, without adherence 42  
to section 4909.18 ~~or 4909.19~~ of the Revised Code, adjust the 43  
rates that it charges to its customers in accordance with any 44  
fluctuation in the cost to the company of obtaining the gas that 45  
it sells, that has occurred since the time any order has been 46  
issued by the public utilities commission establishing rates for 47  
the company pertaining to those customers; 48

(b) A provision in an ordinance adopted pursuant to section 49

743.26 or 4909.34 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution, with respect to which a gas company or natural gas company is required or allowed to adjust the rates it charges under such an ordinance in accordance with any fluctuation in the cost to the company of obtaining the gas that it sells, that has occurred since the time of the adoption of the ordinance.

(2) For the purpose of this section, the term "special purchase" means any purchase of interstate natural gas, any purchase of ~~liquefied~~ liquefied natural gas, and any purchase of synthetic natural gas from any source developed after the effective date of this section, April 27, 1976, provided that this purchase be of less than one hundred twenty days duration and the price for this purchase is not regulated by the federal power commission. For the purpose of this division, the expansion or enlargement of a synthetic natural gas plant existing at such date shall be considered a source so developed.

(3) For the purpose of this section, the term "residential customer" means urban, suburban, and rural patrons of gas companies and natural gas companies insofar as their needs for gas are limited to their residence. Such term includes those patrons whose rates have been set under an ordinance adopted pursuant to sections 743.26 and 4909.34 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

(4) For the purposes of this section, the term "customer choice program" means a program of a natural gas company under which customers may choose a natural gas supplier other than the natural gas company.

(B) A purchased gas adjustment clause may not allow, and no such clause may be interpreted to allow, a gas company or natural gas company that has obtained an order from the public utilities commission permitting the company to curtail the service of any customer or class of customers other than residential customers,

such order being based on the company's inability to secure a 82  
sufficient quantity of natural gas, to distribute the cost of any 83  
special purchase made subsequent to the effective date of such 84  
order, to the extent that such purchase decreases the level of 85  
curtailment of any such customer or class of customers, to any 86  
class of customers of the company that was not curtailed, to any 87  
class of residential customers of the company, or to any class of 88  
customers of the company whose level of curtailment was not 89  
decreased and whose consumption increased as a result of, or in 90  
connection with, the special purchase. 91

(C)(1) The commission shall promulgate a purchased gas 92  
adjustment rule, consistent with this section, that establishes a 93  
uniform purchased gas adjustment clause to be included in the 94  
schedule of gas companies and natural gas companies subject to the 95  
jurisdiction of the public utilities commission and that 96  
establishes investigative procedures and proceedings including, 97  
but not limited to, periodic reports, audits, and hearings. 98

(2) Unless otherwise ordered by the commission for good cause 99  
shown and except as provided in division (D) of this section: 100

(a) The commission's staff shall conduct any audit or other 101  
investigation of a natural gas company having fifteen thousand or 102  
fewer customers in this state that may be required under the 103  
purchased gas adjustment rule. 104

(b) Except as provided in section 4905.10 of the Revised 105  
Code, the commission shall not impose upon such company any fee, 106  
expense, or cost of such audit or other investigation or any 107  
related hearing under this section. 108

(3) Unless otherwise ordered by the commission for good cause 109  
shown either by an interested party or by the commission on its 110  
own motion, no natural gas company having fifteen thousand or 111  
fewer customers in this state shall be subject under the purchased 112

gas adjustment rule to any audit or other investigation or any 113  
related hearing, other than a financial audit or, as necessary, 114  
any hearing related to a financial audit. 115

(4) In issuing an order under division (C)(2) or (3) of this 116  
section, the commission shall file a written opinion setting forth 117  
the reasons showing good cause under such division and the 118  
specific matters to be audited, investigated, or subjected to 119  
hearing. Nothing in division (C)(2) or (3) of this section 120  
relieves such a natural gas company from the duty to file such 121  
information as the commission may require under the rule for the 122  
purpose of showing that a company has charged its customers 123  
accurately for the cost of gas obtained. 124

(D) Neither of the following shall be subject to any audit or 125  
other investigation or any related hearing under division (C) of 126  
this section: 127

(1) A natural gas company that does not sell natural gas 128  
under a purchased gas adjustment clause; 129

(2) A natural gas company that has a customer choice program 130  
under which thirty per cent or more of the natural gas company's 131  
residential customers obtain natural gas. 132

(E) Nothing in this section or any other provision of law 133  
shall be construed to mean that the commission, in the event of 134  
any cost distribution allowed under this section, may issue an 135  
order pursuant to which the prudent and reasonable cost of gas to 136  
a gas company or natural gas company of any special purchase may 137  
not be recovered by the company. For the purpose of this division, 138  
such cost of gas neither includes any applicable franchise taxes 139  
nor the ordinary losses of gas experienced by the company in the 140  
process of transmission and distribution. 141

~~(E)~~(F) The commission shall not at any time prevent or 142  
restrain such costs as are distributable under this section from 143

being so distributed, unless the commission has reason to believe 144  
that an arithmetic or accounting inaccuracy exists with respect to 145  
such a distribution or that the company has not accurately 146  
represented the amount of the cost of a special purchase, or has 147  
followed imprudent or unreasonable procurement policies and 148  
practices, has made errors in the estimation of cubic feet sold, 149  
or has employed such other practices, policies, or factors as the 150  
commission considers inappropriate. 151

~~(F)~~(G) The cost of natural gas under this section shall not 152  
include any cost recovered by a natural gas company pursuant to 153  
section 4929.25 of the Revised Code. 154

**Sec. 4906.06.** (A) An applicant for a certificate shall file 155  
with the office of the chairperson of the power siting board an 156  
application, in such form as the board prescribes, containing the 157  
following information: 158

(1) A description of the location and of the major utility 159  
facility; 160

(2) A summary of any studies that have been made by or for 161  
the applicant of the environmental impact of the facility; 162

(3) A statement explaining the need for the facility; 163

(4) A statement of the reasons why the proposed location is 164  
best suited for the facility; 165

(5) ~~A~~ If applicable, a statement of how the facility fits 166  
into the applicant's forecast contained in the report submitted 167  
under section 4935.04 of the Revised Code; 168

(6) Such other information as the applicant may consider 169  
relevant or as the board by rule or order may require. Copies of 170  
the studies referred to in division (A)(2) of this section shall 171  
be filed with the office of the chairperson, if ordered, and shall 172  
be available for public inspection. 173

The application shall be filed not less than one year nor 174  
more than five years prior to the planned date of commencement of 175  
construction. Either period may be waived by the board for good 176  
cause shown. 177

(B) Each application shall be accompanied by proof of service 178  
of a copy of such application on the chief executive officer of 179  
each municipal corporation and county, and the head of each public 180  
agency charged with the duty of protecting the environment or of 181  
planning land use, in the area in which any portion of such 182  
facility is to be located. 183

(C) Each applicant within fifteen days after the date of the 184  
filing of the application shall give public notice to persons 185  
residing in the municipal corporations and counties entitled to 186  
receive notice under division (B) of this section, by the 187  
publication of a summary of the application in newspapers of 188  
general circulation in such area. Proof of such publication shall 189  
be filed with the office of the chairperson. 190

(D) Inadvertent failure of service on, or notice to, any of 191  
the persons identified in divisions (B) and (C) of this section 192  
may be cured pursuant to orders of the board designed to afford 193  
them adequate notice to enable them to participate effectively in 194  
the proceeding. In addition, the board, after filing, may require 195  
the applicant to serve notice of the application or copies thereof 196  
or both upon such other persons, and file proof thereof, as the 197  
board considers appropriate. 198

(E) An application for an amendment of a certificate shall be 199  
in such form and contain such information as the board prescribes. 200  
Notice of such an application shall be given as required in 201  
divisions (B) and (C) of this section. 202

(F) Each application for certificate or an amendment shall be 203  
accompanied by the application fee prescribed by board rule. All 204

application fees, supplemental application fees, and other fees 205  
collected by the board shall be deposited in the state treasury to 206  
the credit of the power siting board fund, which is hereby 207  
created. The chairperson shall administer and authorize 208  
expenditures from the fund for any of the purposes of this 209  
chapter. If the chairperson determines that moneys credited to the 210  
fund from an applicant's fee are not sufficient to pay the board's 211  
expenses associated with its review of the application, the 212  
chairperson shall request the approval of the controlling board to 213  
assess a supplemental application fee upon an applicant to pay 214  
anticipated additional expenses associated with the board's review 215  
of the application or an amendment to an application. If the 216  
chairperson finds that an application fee exceeds the amount 217  
needed to pay the board's expenses for review of the application, 218  
the chairperson shall cause a refund of the excess amount to be 219  
issued to the applicant from the fund. 220

**Sec. 4909.05.** As used in this section: 221

(A) A "lease purchase agreement" is an agreement pursuant to 222  
which a public utility leasing property is required to make rental 223  
payments for the term of the agreement and either the utility is 224  
granted the right to purchase the property upon the completion of 225  
the term of the agreement and upon the payment of an additional 226  
fixed sum of money or title to the property vests in the utility 227  
upon the making of the final rental payment. 228

(B) A "leaseback" is the sale or transfer of property by a 229  
public utility to another person contemporaneously followed by the 230  
leasing of the property to the public utility on a long-term 231  
basis. 232

(C) The public utilities commission shall prescribe the form 233  
and details of the valuation report of the property of each public 234  
utility or railroad in the state. Such report shall include all 235

the kinds and classes of property, with the value of each, owned 236  
~~or, held, or, with respect to a natural gas company, projected to~~ 237  
be owned or held at the date certain, by each public utility or 238  
railroad used and useful, or, with respect to a natural gas 239  
company, projected to be used and useful at the date certain, for 240  
the service and convenience of the public. Such report shall 241  
contain the following facts in detail: 242

~~(C)~~(1) The original cost of each parcel of land owned in fee 243  
and in use, or, with respect to a natural gas company, projected 244  
to be owned in fee and in use, at the date certain determined by 245  
the commission; and also a statement of the conditions of 246  
acquisition, whether by direct purchase, by donation, by exercise 247  
of the power of eminent domain, or otherwise; 248

~~(D)~~(2) The actual acquisition cost, not including periodic 249  
rental fees, of rights-of-way, trailways, or other land rights 250  
held, or, with respect to a natural gas company, projected to be 251  
held at the date certain, by virtue of easements, leases, or other 252  
forms of grants of rights as to usage; 253

~~(E)~~(3) The original cost of all other kinds and classes of 254  
property used and useful, or, with respect to a natural gas 255  
company, projected to be used and useful at the date certain, in 256  
the rendition of service to the public. Such original costs of 257  
property, other than land owned in fee, shall be the cost, as 258  
determined to be reasonable by the commission, to the person that 259  
first dedicated or dedicates the property to the public use and 260  
shall be set forth in property accounts and subaccounts as 261  
prescribed by the commission. To the extent that the costs of 262  
property comprising a coal research and development facility, as 263  
defined in section 1555.01 of the Revised Code, or a coal 264  
development project, as defined in section 1551.30 of the Revised 265  
Code, have been allowed for recovery as Ohio coal research and 266  
development costs under section 4905.304 of the Revised Code, none 267

of those costs shall be included as a cost of property under this 268  
division. 269

~~(F)~~(4) The cost of property constituting all or part of a 270  
project leased to or used by the utility, or, with respect to a 271  
natural gas company, projected to be leased to or used by the 272  
utility at the date certain, under Chapter 165., 3706., 6121., or 273  
6123. of the Revised Code and not included under division 274  
~~(E)~~(C)(3) of this section exclusive of any interest directly or 275  
indirectly paid by the utility with respect thereto whether or not 276  
capitalized; 277

~~(G)~~(5) In the discretion of the commission, the cost to a 278  
utility, in an amount determined to be reasonable by the 279  
commission, of property constituting all or part of a project 280  
leased to the utility, or, with respect to a natural gas company, 281  
projected to be leased to the utility at the date certain, under a 282  
lease purchase agreement or a leaseback and not included under 283  
division ~~(E)~~(C)(3) of this section exclusive of any interest 284  
directly or indirectly paid by the utility with respect thereto 285  
whether or not capitalized; 286

~~(H)~~(6) The proper and adequate reserve for depreciation, as 287  
determined to be reasonable by the commission; 288

~~(I)~~(7) Any sums of money or property that the company may 289  
have received, or, with respect to a natural gas company, is 290  
projected to receive, on or before the date certain, as total or 291  
partial defrayal of the cost of its property; 292

~~(J)~~(8) The valuation of the property of the company, which 293  
shall be the sum of the amounts contained in the report pursuant 294  
to divisions (C), ~~(D)~~, ~~(E)~~, ~~(F)~~, and ~~(G)~~(1) to (5) of this 295  
section, less the sum of the amounts contained in the report 296  
pursuant to divisions ~~(H)~~(C)(6) and ~~(I)~~(7) of this section. 297

The report shall show separately the property used and useful 298

to such public utility or railroad in the furnishing of the 299  
service to the public, ~~and~~ the property held by such public 300  
utility or railroad for other purposes, and the property projected 301  
to be used and useful to or held by a natural gas company, and 302  
such other items as the commission considers proper. The 303  
commission may require an additional report showing the extent to 304  
which the property is used and useful, or, with respect to a 305  
natural gas company, projected to be used and useful at the date 306  
certain. Such reports shall be filed in the office of the 307  
commission for the information of the governor and the general 308  
assembly. 309

**Sec. 4909.06.** The investigation and report required by 310  
section 4909.05 of the Revised Code shall show, when the public 311  
utilities commission deems it necessary, the amounts, dates, and 312  
rates of interest of all bonds outstanding against each public 313  
utility or railroad, the property upon which such bonds are a 314  
lien, the amounts paid for them, and, the original capital stock 315  
and the moneys received by any such public utility or railroad by 316  
reason of any issue of stock, bonds, or other securities. Such 317  
report shall also show the net and gross receipts of such public 318  
utility or railroad and the method by which moneys were expended 319  
or paid out and the purpose of such payments. The commission may 320  
prescribe the procedure to be followed in making the investigation 321  
and valuation, the form in which the results of the ascertainment 322  
of the value of each public utility or railroad shall be 323  
submitted, and the classifications of the elements that constitute 324  
the ascertained value. Such investigation shall also show the 325  
value of the property of every public utility or railroad as a 326  
whole, and if such property is in more than one county, the value 327  
of its property in each of such counties. 328

"Valuation" and "value," as used in this section, may include 329  
projected valuation and value, if applicable, because of a future 330

date certain under section 4909.15 of the Revised Code. 331

**Sec. 4909.07.** The public utilities commission, during the 332  
making of the valuation provided for in sections 4909.04 to 333  
4909.13, inclusive, of the Revised Code, and after its completion, 334  
shall in like manner keep itself informed through its engineers, 335  
experts, and other assistants of all extensions, improvements, or 336  
other changes in the condition and value of the property of all 337  
public utilities or railroads and shall ascertain the value of 338  
such extensions, improvements, and changes. The commission shall, 339  
as is required for the proper regulation of such public utilities 340  
or railroads, revise and correct its valuations of property, 341  
showing such revisions and corrections as a whole and as to each 342  
county. Such revisions and corrections shall be filed in the same 343  
manner as original reports. 344

"Valuation" and "value," as used in this section, may include 345  
projected valuation and value, if applicable, because of a future 346  
date certain under section 4909.15 of the Revised Code. 347

**Sec. 4909.08.** When the public utilities commission has 348  
completed the valuation of the property of any public utility or 349  
railroad and before such valuation becomes final, it shall give 350  
notice by registered letter to such public utility or railroad, 351  
and if a substantial portion of said public utility or railroad is 352  
situated in a municipal corporation, then to the mayor of such 353  
municipal corporation, stating the valuations placed upon the 354  
several kinds and classes of property of such public utility or 355  
railroad and upon the property as a whole and give such further 356  
notice by publication or otherwise as it shall deem necessary to 357  
~~appraise~~ apprise the public of such valuation. If, within thirty 358  
days after such notification, no protest has been filed with the 359  
commission, such valuation becomes final. If notice of protest has 360  
been filed by any public utility or railroad, the commission shall 361

fix a time for hearing such protest and shall consider at such 362  
hearing any matter material thereto presented by such public 363  
utility, railroad, or municipal corporation, in support of its 364  
protest or by any representative of the public against such 365  
protest. If, after the hearing of any protest of any valuation so 366  
fixed, the commission is of the opinion that its inventory is 367  
incomplete or inaccurate or that its valuation is incorrect, it 368  
shall make such changes as are necessary and shall issue an order 369  
making such corrected valuations final. A final valuation by the 370  
commission and all classifications made for the ascertainment of 371  
such valuations shall be public and are prima-facie evidence 372  
relative to the value of the property. 373

"Valuation" and "value," as used in this section, may include 374  
projected valuation and value, if applicable, because of a future 375  
date certain under section 4909.15 of the Revised Code. 376

**Sec. 4909.15.** (A) The public utilities commission, when 377  
fixing and determining just and reasonable rates, fares, tolls, 378  
rentals, and charges, shall determine: 379

(1) The valuation as of the date certain of the property of 380  
the public utility used and useful in rendering the public utility 381  
service for which rates are to be fixed and determined. The 382  
valuation so determined shall be the total value as set forth in 383  
division ~~(J)~~(C)(8) of section 4909.05 of the Revised Code, and a 384  
reasonable allowance for materials and supplies and cash working 385  
capital, as determined by the commission. 386

The commission, in its discretion, may include in the 387  
valuation a reasonable allowance for construction work in progress 388  
but, in no event, may such an allowance be made by the commission 389  
until it has determined that the particular construction project 390  
is at least seventy-five per cent complete. 391

In determining the percentage completion of a particular 392

construction project, the commission shall consider, among other 393  
relevant criteria, the per cent of time elapsed in construction; 394  
the per cent of construction funds, excluding allowance for funds 395  
used during construction, expended, or obligated to such 396  
construction funds budgeted where all such funds are adjusted to 397  
reflect current purchasing power; and any physical inspection 398  
performed by or on behalf of any party, including the commission's 399  
staff. 400

A reasonable allowance for construction work in progress 401  
shall not exceed ten per cent of the total valuation as stated in 402  
this division, not including such allowance for construction work 403  
in progress. 404

Where the commission permits an allowance for construction 405  
work in progress, the dollar value of the project or portion 406  
thereof included in the valuation as construction work in progress 407  
shall not be included in the valuation as plant in service until 408  
such time as the total revenue effect of the construction work in 409  
progress allowance is offset by the total revenue effect of the 410  
plant in service exclusion. Carrying charges calculated in a 411  
manner similar to allowance for funds used during construction 412  
shall accrue on that portion of the project in service but not 413  
reflected in rates as plant in service, and such accrued carrying 414  
charges shall be included in the valuation of the property at the 415  
conclusion of the offset period for purposes of division ~~(J)~~(C)(8) 416  
of section 4909.05 of the Revised Code. 417

From and after April 10, 1985, no allowance for construction 418  
work in progress as it relates to a particular construction 419  
project shall be reflected in rates for a period exceeding 420  
forty-eight consecutive months commencing on the date the initial 421  
rates reflecting such allowance become effective, except as 422  
otherwise provided in this division. 423

The applicable maximum period in rates for an allowance for 424

construction work in progress as it relates to a particular 425  
construction project shall be tolled if, and to the extent, a 426  
delay in the in-service date of the project is caused by the 427  
action or inaction of any federal, state, county, or municipal 428  
agency having jurisdiction, where such action or inaction relates 429  
to a change in a rule, standard, or approval of such agency, and 430  
where such action or inaction is not the result of the failure of 431  
the utility to reasonably endeavor to comply with any rule, 432  
standard, or approval prior to such change. 433

In the event that such period expires before the project goes 434  
into service, the commission shall exclude, from the date of 435  
expiration, the allowance for the project as construction work in 436  
progress from rates, except that the commission may extend the 437  
expiration date up to twelve months for good cause shown. 438

In the event that a utility has permanently canceled, 439  
abandoned, or terminated construction of a project for which it 440  
was previously permitted a construction work in progress 441  
allowance, the commission immediately shall exclude the allowance 442  
for the project from the valuation. 443

In the event that a construction work in progress project 444  
previously included in the valuation is removed from the valuation 445  
pursuant to this division, any revenues collected by the utility 446  
from its customers after April 10, 1985, that resulted from such 447  
prior inclusion shall be offset against future revenues over the 448  
same period of time as the project was included in the valuation 449  
as construction work in progress. The total revenue effect of such 450  
offset shall not exceed the total revenues previously collected. 451

In no event shall the total revenue effect of any offset or 452  
offsets provided under division (A)(1) of this section exceed the 453  
total revenue effect of any construction work in progress 454  
allowance. 455

(2) A fair and reasonable rate of return to the utility on 456  
the valuation as determined in division (A)(1) of this section; 457

(3) The dollar annual return to which the utility is entitled 458  
by applying the fair and reasonable rate of return as determined 459  
under division (A)(2) of this section to the valuation of the 460  
utility determined under division (A)(1) of this section; 461

(4) The cost to the utility of rendering the public utility 462  
service for the test period less the total of any interest on cash 463  
or credit refunds paid, pursuant to section 4909.42 of the Revised 464  
Code, by the utility during the test period. 465

(a) Federal, state, and local taxes imposed on or measured by 466  
net income may, in the discretion of the commission, be computed 467  
by the normalization method of accounting, provided the utility 468  
maintains accounting reserves that reflect differences between 469  
taxes actually payable and taxes on a normalized basis, provided 470  
that no determination as to the treatment in the rate-making 471  
process of such taxes shall be made that will result in loss of 472  
any tax depreciation or other tax benefit to which the utility 473  
would otherwise be entitled, and further provided that such tax 474  
benefit as redounds to the utility as a result of such a 475  
computation may not be retained by the company, used to fund any 476  
dividend or distribution, or utilized for any purpose other than 477  
the defrayal of the operating expenses of the utility and the 478  
defrayal of the expenses of the utility in connection with 479  
construction work. 480

(b) The amount of any tax credits granted to an electric 481  
light company under section 5727.391 of the Revised Code for Ohio 482  
coal burned prior to January 1, 2000, shall not be retained by the 483  
company, used to fund any dividend or distribution, or utilized 484  
for any purposes other than the defrayal of the allowable 485  
operating expenses of the company and the defrayal of the 486  
allowable expenses of the company in connection with the 487

installation, acquisition, construction, or use of a compliance 488  
facility. The amount of the tax credits granted to an electric 489  
light company under that section for Ohio coal burned prior to 490  
January 1, 2000, shall be returned to its customers within three 491  
years after initially claiming the credit through an offset to the 492  
company's rates or fuel component, as determined by the 493  
commission, as set forth in schedules filed by the company under 494  
section 4905.30 of the Revised Code. As used in division 495  
(A)(4)~~(e)~~(b) of this section, "compliance facility" has the same 496  
meaning as in section 5727.391 of the Revised Code. 497

(B) The commission shall compute the gross annual revenues to 498  
which the utility is entitled by adding the dollar amount of 499  
return under division (A)(3) of this section to the cost of 500  
rendering the public utility service for the test period under 501  
division (A)(4) of this section. 502

(C) The test period, unless otherwise ordered by the 503  
commission, shall be the twelve-month period beginning six months 504  
prior to the date the application is filed and ending six months 505  
subsequent to that date. In no event shall the test period end 506  
more than nine months subsequent to the date the application is 507  
filed. The Except as provided in division (D) of this section, the 508  
revenues and expenses of the utility shall be determined during 509  
the test period. The date certain shall be not later than the date 510  
of filing, except that it shall be, for a natural gas company, not 511  
later than the last day of the test period. 512

(D) A natural gas company may propose adjustments to the 513  
revenues and expenses to be determined under division (C) of this 514  
section for any changes that are, during the test period or the 515  
twelve-month period immediately following the test period, 516  
reasonably expected to occur. The natural gas company shall 517  
identify and quantify, individually, any proposed adjustments. The 518  
commission shall incorporate the proposed adjustments into the 519

determination if the adjustments are reasonable. 520

(E) When the commission is of the opinion, after hearing and 521  
after making the determinations under divisions (A) and (B) of 522  
this section, that any rate, fare, charge, toll, rental, schedule, 523  
classification, or service, or any joint rate, fare, charge, toll, 524  
rental, schedule, classification, or service rendered, charged, 525  
demanded, exacted, or proposed to be rendered, charged, demanded, 526  
or exacted, is, or will be, unjust, unreasonable, unjustly 527  
discriminatory, unjustly preferential, or in violation of law, 528  
that the service is, or will be, inadequate, or that the maximum 529  
rates, charges, tolls, or rentals chargeable by any such public 530  
utility are insufficient to yield reasonable compensation for the 531  
service rendered, and are unjust and unreasonable, the commission 532  
shall: 533

(1) With due regard among other things to the value of all 534  
property of the public utility actually used and useful for the 535  
convenience of the public as determined under division (A)(1) of 536  
this section, excluding from such value the value of any franchise 537  
or right to own, operate, or enjoy the same in excess of the 538  
amount, exclusive of any tax or annual charge, actually paid to 539  
any political subdivision of the state or county, as the 540  
consideration for the grant of such franchise or right, and 541  
excluding any value added to such property by reason of a monopoly 542  
or merger, with due regard in determining the dollar annual return 543  
under division (A)(3) of this section to the necessity of making 544  
reservation out of the income for surplus, depreciation, and 545  
contingencies, and; 546

(2) With due regard to all such other matters as are proper, 547  
according to the facts in each case, 548

(a) Including a fair and reasonable rate of return determined 549  
by the commission with reference to a cost of debt equal to the 550  
actual embedded cost of debt of such public utility, 551

(b) But not including the portion of any periodic rental or 552  
use payments representing that cost of property that is included 553  
in the valuation report under divisions ~~(F)~~(C)(4) and ~~(G)~~(5) of 554  
section 4909.05 of the Revised Code, fix and determine the just 555  
and reasonable rate, fare, charge, toll, rental, or service to be 556  
rendered, charged, demanded, exacted, or collected for the 557  
performance or rendition of the service that will provide the 558  
public utility the allowable gross annual revenues under division 559  
(B) of this section, and order such just and reasonable rate, 560  
fare, charge, toll, rental, or service to be substituted for the 561  
existing one. After such determination and order no change in the 562  
rate, fare, toll, charge, rental, schedule, classification, or 563  
service shall be made, rendered, charged, demanded, exacted, or 564  
changed by such public utility without the order of the 565  
commission, and any other rate, fare, toll, charge, rental, 566  
classification, or service is prohibited. 567

~~(E)~~(F) Upon application of any person or any public utility, 568  
and after notice to the parties in interest and opportunity to be 569  
heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 570  
4921., and 4923. of the Revised Code for other hearings, has been 571  
given, the commission may rescind, alter, or amend an order fixing 572  
any rate, fare, toll, charge, rental, classification, or service, 573  
or any other order made by the commission. Certified copies of 574  
such orders shall be served and take effect as provided for 575  
original orders. 576

**Sec. 4909.156.** In fixing the just, reasonable, and 577  
compensatory rates, joint rates, tolls, classifications, charges, 578  
or rentals to be observed and charged for service by any public 579  
utility, the public utilities commission shall, in action upon an 580  
application filed pursuant to section 4909.18 of the Revised Code, 581  
require a public utility to file a report showing the 582  
proportionate amounts of the valuation of the property of the 583

utility, as determined under section 4909.05 or the Revised Code, 584  
and the proportionate amounts of the revenues and expenses of the 585  
utility that are proposed to be considered as attributable to the 586  
service area involved in the application. 587

"Valuation," as used in this section, may include projected 588  
valuation, if applicable, because of a future date certain under 589  
section 4909.15 of the Revised Code. 590

**Sec. 4909.17.** No rate, joint rate, toll, classification, 591  
charge, or rental, no change in any rate, joint rate, toll, 592  
classification, charge, or rental, and no regulation or practice 593  
affecting any rate, joint rate, toll, classification, charge, or 594  
rental of a public utility shall become effective until the public 595  
utilities commission, by order, determines it to be just and 596  
reasonable, except as provided in this section and sections 597  
4909.18 ~~and~~, 4909.19, 4929.05, 4929.11, and 4929.111 of the 598  
Revised Code. Such sections do not apply to any rate, joint rate, 599  
toll, classification, charge, or rental, or any regulation or 600  
practice affecting the same, of railroads, street and electric 601  
railways, motor transportation companies, and pipe line companies. 602

**Sec. 4909.18.** Any public utility desiring to establish any 603  
rate, joint rate, toll, classification, charge, or rental, or to 604  
modify, amend, change, increase, or reduce any existing rate, 605  
joint rate, toll, classification, charge, or rental, or any 606  
regulation or practice affecting the same, shall file a written 607  
application with the public utilities commission. Except for 608  
actions under section 4909.16 of the Revised Code, no public 609  
utility may issue the notice of intent to file an application 610  
pursuant to division (B) of section 4909.43 of the Revised Code to 611  
increase any existing rate, joint rate, toll, classification, 612  
charge, or rental, until a final order under this section has been 613  
issued by the commission on any pending prior application to 614

increase the same rate, joint rate, toll, classification, charge, 615  
or rental or until two hundred seventy-five days after filing such 616  
application, whichever is sooner. Such application shall be 617  
verified by the president or a vice-president and the secretary or 618  
treasurer of the applicant. Such application shall contain a 619  
schedule of the existing rate, joint rate, toll, classification, 620  
charge, or rental, or regulation or practice affecting the same, a 621  
schedule of the modification amendment, change, increase, or 622  
reduction sought to be established, and a statement of the facts 623  
and grounds upon which such application is based. If such 624  
application proposes a new service or the use of new equipment, or 625  
proposes the establishment or amendment of a regulation, the 626  
application shall fully describe the new service or equipment, or 627  
the regulation proposed to be established or amended, and shall 628  
explain how the proposed service or equipment differs from 629  
services or equipment presently offered or in use, or how the 630  
regulation proposed to be established or amended differs from 631  
regulations presently in effect. The application shall provide 632  
such additional information as the commission may require in its 633  
discretion. If the commission determines that such application is 634  
not for an increase in any rate, joint rate, toll, classification, 635  
charge, or rental, the commission may permit the filing of the 636  
schedule proposed in the application and fix the time when such 637  
schedule shall take effect. If it appears to the commission that 638  
the proposals in the application may be unjust or unreasonable, 639  
the commission shall set the matter for hearing and shall give 640  
notice of such hearing by sending written notice of the date set 641  
for the hearing to the public utility and publishing notice of the 642  
hearing one time in a newspaper of general circulation in each 643  
county in the service area affected by the application. At such 644  
hearing, the burden of proof to show that the proposals in the 645  
application are just and reasonable shall be upon the public 646  
utility. After such hearing, the commission shall, where 647

practicable, issue an appropriate order within six months from the 648  
date the application was filed. 649

If the commission determines that said application is for an 650  
increase in any rate, joint rate, toll, classification, charge, or 651  
rental there shall also, unless otherwise ordered by the 652  
commission, be filed with the application in duplicate the 653  
following exhibits: 654

(A) A report of its property used and useful in rendering the 655  
service referred to in such application, as provided in section 656  
4909.05 of the Revised Code; 657

(B) A complete operating statement of its last fiscal year, 658  
showing in detail all its receipts, revenues, and incomes from all 659  
sources, all of its operating costs and other expenditures, and 660  
any analysis such public utility deems applicable to the matter 661  
referred to in said application; 662

(C) A statement of the income and expense anticipated under 663  
the application filed; 664

(D) A statement of financial condition summarizing assets, 665  
liabilities, and net worth; 666

~~(E) A proposed notice for newspaper publication fully 667  
disclosing the substance of the application. The notice shall 668  
prominently state that any person, firm, corporation, or 669  
association may file, pursuant to section 4909.19 of the Revised 670  
Code, an objection to such increase which may allege that such 671  
application contains proposals that are unjust and discriminatory 672  
or unreasonable. The notice shall further include the average 673  
percentage increase in rate that a representative industrial, 674  
commercial, and residential customer will bear should the increase 675  
be granted in full; 676~~

~~(F) Such other information as the commission may require in 677  
its discretion. 678~~

**Sec. 4909.19.** Upon the filing of any application for increase 679  
provided for by section 4909.18 of the Revised Code ~~the public~~ 680  
~~utility shall forthwith publish the substance and prayer of such~~ 681  
~~application, in a form approved by the public utilities~~ 682  
~~commission, once a week for three consecutive weeks in a newspaper~~ 683  
~~published and in general circulation throughout the territory in~~ 684  
~~which such public utility operates and affected by the matters~~ 685  
~~referred to in said application, and the public utilities~~ 686  
commission shall at once cause an investigation to be made of the 687  
facts set forth in said application and the exhibits attached 688  
thereto, and of the matters connected therewith. Within a 689  
reasonable time as determined by the commission after the filing 690  
of such application, a written report shall be made and filed with 691  
the commission, a copy of which shall be sent by certified mail to 692  
the applicant, the mayor of any municipal corporation affected by 693  
the application, and to such other persons as the commission deems 694  
interested. If no objection to such report is made by any party 695  
interested within thirty days after such filing and the mailing of 696  
copies thereof, the commission shall fix a date within ten days 697  
for the final hearing upon said application, giving notice thereof 698  
to all parties interested. At such hearing the commission shall 699  
consider the matters set forth in said application and make such 700  
order respecting the prayer thereof as to it seems just and 701  
reasonable. 702

If objections are filed with the commission, the commission 703  
shall cause a pre-hearing conference to be held between all 704  
parties, intervenors, and the commission staff in all cases 705  
involving more than one hundred thousand customers. 706

If objections are filed with the commission within thirty 707  
days after the filing of such report, the application shall be 708  
promptly set down for hearing of testimony before the commission 709  
or be forthwith referred to an attorney examiner designated by the 710

commission to take all the testimony with respect to the 711  
application and objections which may be offered by any interested 712  
party. The commission shall also fix the time and place to take 713  
testimony giving ten days' written notice of such time and place 714  
to all parties. The taking of testimony shall commence on the date 715  
fixed in said notice and shall continue from day to day until 716  
completed. The attorney examiner may, upon good cause shown, grant 717  
continuances for not more than three days, excluding Saturdays, 718  
Sundays, and holidays. The commission may grant continuances for a 719  
longer period than three days upon its order for good cause shown. 720  
At any hearing involving rates or charges sought to be increased, 721  
the burden of proof to show that the increased rates or charges 722  
are just and reasonable shall be on the public utility. 723

When the taking of testimony is completed, a full and 724  
complete record of such testimony noting all objections made and 725  
exceptions taken by any party or counsel, shall be made, signed by 726  
the attorney examiner, and filed with the commission. Prior to the 727  
formal consideration of the application by the commission and the 728  
rendition of any order respecting the prayer of the application, a 729  
quorum of the commission shall consider the recommended opinion 730  
and order of the attorney examiner, in an open, formal, public 731  
proceeding in which an overview and explanation is presented 732  
orally. Thereafter, the commission shall make such order 733  
respecting the prayer of such application as seems just and 734  
reasonable to it. 735

In all proceedings before the commission in which the taking 736  
of testimony is required, except when heard by the commission, 737  
attorney examiners shall be assigned by the commission to take 738  
such testimony and fix the time and place therefor, and such 739  
testimony shall be taken in the manner prescribed in this section. 740  
All testimony shall be under oath or affirmation and taken down 741  
and transcribed by a reporter and made a part of the record in the 742

case. The commission may hear the testimony or any part thereof in 743  
any case without having the same referred to an attorney examiner 744  
and may take additional testimony. Testimony shall be taken and a 745  
record made in accordance with such general rules as the 746  
commission prescribes and subject to such special instructions in 747  
any proceedings as it, by order, directs. 748

**Sec. 4928.18.** (A) Notwithstanding division ~~(D)~~(E)(2)(a) of 749  
section 4909.15 of the Revised Code, nothing in this chapter 750  
prevents the public utilities commission from exercising its 751  
authority under Title XLIX of the Revised Code to protect 752  
customers of retail electric service supplied by an electric 753  
utility from any adverse effect of the utility's provision of a 754  
product or service other than retail electric service. 755

(B) The commission has jurisdiction under section 4905.26 of 756  
the Revised Code, upon complaint of any person or upon complaint 757  
or initiative of the commission on or after the starting date of 758  
competitive retail electric service, to determine whether an 759  
electric utility or its affiliate has violated any provision of 760  
section 4928.17 of the Revised Code or an order issued or rule 761  
adopted under that section. For this purpose, the commission may 762  
examine such books, accounts, or other records kept by an electric 763  
utility or its affiliate as may relate to the businesses for which 764  
corporate separation is required under section 4928.17 of the 765  
Revised Code, and may investigate such utility or affiliate 766  
operations as may relate to those businesses and investigate the 767  
interrelationship of those operations. Any such examination or 768  
investigation by the commission shall be governed by Chapter 4903. 769  
of the Revised Code. 770

(C) In addition to any remedies otherwise provided by law, 771  
the commission, regarding a determination of a violation pursuant 772  
to division (B) of this section, may do any of the following: 773

(1) Issue an order directing the utility or affiliate to comply;	774 775
(2) Modify an order as the commission finds reasonable and appropriate and order the utility or affiliate to comply with the modified order;	776 777 778
(3) Suspend or abrogate an order, in whole or in part;	779
(4) Issue an order that the utility or affiliate pay restitution to any person injured by the violation or failure to comply;	780 781 782
(D) In addition to any remedies otherwise provided by law, the commission, regarding a determination of a violation pursuant to division (B) of this section and commensurate with the severity of the violation, the source of the violation, any pattern of violations, or any monetary damages caused by the violation, may do either of the following:	783 784 785 786 787 788
(1) Impose a forfeiture on the utility or affiliate of up to twenty-five thousand dollars per day per violation. The recovery and deposit of any such forfeiture shall be subject to sections 4905.57 and 4905.59 of the Revised Code.	789 790 791 792
(2) Regarding a violation by an electric utility relating to a corporate separation plan involving competitive retail electric service, suspend or abrogate all or part of an order, to the extent it is in effect, authorizing an opportunity for the utility to receive transition revenues under a transition plan approved by the commission under section 4928.33 of the Revised Code.	793 794 795 796 797 798
Corporate separation under this section does not prohibit the common use of employee benefit plans, facilities, equipment, or employees, subject to proper accounting and the code of conduct ordered by the commission as provided in division (A)(1) of this section.	799 800 801 802 803

(E) Section 4905.61 of the Revised Code applies in the case 804  
of any violation of section 4928.17 of the Revised Code or of any 805  
rule adopted or order issued under that section. 806

**Sec. 4929.05.** (A) ~~As part of an application filed pursuant to~~ 807  
~~section 4909.18 of the Revised Code, a~~ A natural gas company may 808  
request approval of an alternative rate plan by filing an 809  
application under section 4909.18 of the Revised Code, regardless 810  
of whether the application is for an increase in rates. After 811  
~~notice, investigation, and hearing, and after determining just and~~ 812  
~~reasonable rates and charges for the natural gas company pursuant~~ 813  
~~to section 4909.15 of the Revised Code,~~ the public utilities 814  
commission shall authorize the applicant to implement an 815  
alternative rate plan if the natural gas company has made a 816  
showing and the commission finds that both of the following 817  
conditions are met: 818

(1) The natural gas company is in compliance with section 819  
4905.35 of the Revised Code and is in substantial compliance with 820  
the policy of this state specified in section 4929.02 of the 821  
Revised Code; 822

(2) The natural gas company is expected to continue to be in 823  
substantial compliance with the policy of this state specified in 824  
section 4929.02 of the Revised Code after implementation of the 825  
alternative rate plan. 826

(B) The applicant shall have the burden of proof under this 827  
section. 828

~~(C) No request may be made under this section prior to one~~ 829  
~~hundred eighty days after the effective date of this section.~~ 830

**Sec. 4929.051.** (A) An alternative rate plan filed by a 831  
natural gas company under section 4929.05 of the Revised Code and 832  
proposing to initiate or continue a revenue decoupling mechanism 833

~~may~~ shall be considered an application not for an increase in 834  
rates if the rates, joint rates, tolls, classifications, charges, 835  
or rentals are based upon the billing determinants and revenue 836  
requirement authorized by the public utilities commission in the 837  
company's most recent rate case proceeding and the plan also 838  
establishes, continues, or expands an energy efficiency or energy 839  
conservation program. 840

(B) An alternative rate plan filed by a natural gas company 841  
under section 4929.05 of the Revised Code and seeking 842  
authorization to continue a previously approved alternative rate 843  
plan shall be considered an application not for an increase in 844  
rates. 845

**Sec. 4929.11.** ~~Nothing in the Revised Code prohibits~~ (A) Upon 846  
an application filed under this section, and the public utilities 847  
commission may allow<sup>7</sup> any automatic adjustment mechanism or device 848  
in a natural gas company's rate schedules that allows a natural 849  
gas company's rates or charges for a regulated service or goods to 850  
fluctuate automatically in accordance with changes in a specified 851  
cost or costs. 852

(B) Upon an application filed under section 4909.18 or 853  
4929.05 of the Revised Code, the commission may allow any 854  
automatic adjustment mechanism or device as described in division 855  
(A) of this section. 856

**Sec. 4929.111.** (A) A natural gas company may file an 857  
application with the public utilities commission under section 858  
4909.18, 4929.05, or 4929.11 of the Revised Code to implement a 859  
capital expenditure program for any of the following: 860

(1) Any infrastructure expansion, infrastructure improvement, 861  
or infrastructure replacement program; 862

(2) Any program to install, upgrade, or replace information 863

technology systems; 864

(3) Any program reasonably necessary to comply with any 865  
rules, regulations, or orders of the commission or other 866  
governmental entity having jurisdiction. 867

(B) If the commission finds that the capital expenditure 868  
program is consistent with the natural gas company's obligation 869  
under section 4905.22 of the Revised Code to furnish necessary and 870  
adequate services and facilities, the commission shall approve the 871  
application. 872

(C) In approving an application under division (B) of this 873  
section, the commission shall authorize the natural gas company to 874  
defer, for subsequent recovery in an application that the natural 875  
gas company may file under section 4909.18, 4929.05, or 4929.11 of 876  
the Revised Code, both of the following: 877

(1) A regulatory asset for the post-in-service carrying costs 878  
on that portion of the assets of the capital expenditure program 879  
that are placed in service but not reflected in rates as plant in 880  
service; 881

(2) A regulatory asset for the incremental depreciation 882  
directly attributable to the capital expenditure program and the 883  
property tax expense directly attributable to the capital 884  
expenditure program. 885

(D) The natural gas company may make any accounting accruals, 886  
necessary to establish the regulatory assets authorized under 887  
division (C) of this section, in addition to any allowance for 888  
funds used during construction. 889

(E)(1) Any accrual for recovery under division (C) of this 890  
section shall be calculated in accordance with the system of 891  
accounts established by the commission under section 4905.13 of 892  
the Revised Code. 893

(2) The natural gas company shall calculate the 894  
post-in-service carrying costs, described in division (C)(1) of 895  
this section, for every investment in an asset of the capital 896  
expenditure program. This calculation shall be based on the cost 897  
of long-term debt incurred by the natural gas company. 898

(F) Any accruals for recovery under division (C) of this 899  
section shall commence when the assets of the capital expenditure 900  
program are placed in service and shall cease when rates 901  
reflecting the cost of those assets are effective. 902

**Sec. 4935.04.** (A) As used in this chapter: 903

(1) "Major electric utility facility" means: 904

~~(a) An an electric transmission line and associated~~ 905  
facilities of a design capacity of one hundred twenty-five 906  
kilovolts or more: 907

~~(b) A gas or natural gas transmission line and associated~~ 908  
facilities designed for, or capable of, transporting gas or 909  
natural gas at pressures in excess of one hundred twenty five 910  
pounds per square inch. 911

"Major electric utility facility" does not include ~~electric,~~ 912  
~~gas, or natural gas distributing lines and gas or natural gas~~ 913  
~~gathering lines and associated facilities as defined by the public~~ 914  
~~utilities commission;~~ facilities owned or operated by industrial 915  
firms, persons, or institutions that produce or transmit ~~gas or~~ 916  
~~natural gas, or~~ electricity primarily for their own use or as a 917  
byproduct of their operations; ~~gas or natural gas transmission~~ 918  
~~lines and associated facilities over which an agency of the United~~ 919  
~~States has certificate jurisdiction;~~ facilities owned or operated 920  
~~by a person furnishing gas or natural gas directly to fifteen~~ 921  
~~thousand or fewer customers within this state.~~ 922

(2) "Person" has the meaning set forth in section 4906.01 of 923

the Revised Code. 924

(B) Each person owning or operating a gas or natural gas 925  
transmission line and associated facilities within this state over 926  
which an agency of the United States has certificate jurisdiction 927  
shall furnish to the commission a copy of the energy information 928  
filed by the person with that agency of the United States. 929

(C) Each person owning or operating a major electric utility 930  
facility within this state, ~~or furnishing gas, natural gas, or~~ 931  
~~electricity directly to more than fifteen thousand customers~~ 932  
~~within this state~~ annually shall furnish a report to the 933  
commission for its review. The report shall be termed the 934  
long-term forecast report and shall contain: 935

(1) A year-by-year, ten-year forecast of annual energy 936  
demand, peak load, reserves, and a general description of the 937  
resource plan to meet demand; 938

(2) A range of projected loads during the period; 939

(3) A description of major electric utility facilities 940  
planned to be added or taken out of service in the next ten years, 941  
including, to the extent the information is available, prospective 942  
sites for transmission line locations; 943

~~(4) For gas and natural gas, a projection of anticipated 944  
supply, supply prices, and sources of supply over the forecast 945  
period; 946~~

~~(5) A description of proposed changes in the transmission 947  
system planned for the next five years; 948~~

~~(6)~~(5) A month-by-month forecast of both energy demand and 949  
peak load ~~for electric utilities, and gas sendout for gas and~~ 950  
~~natural gas utilities,~~ for the next two years. The report shall 951  
describe the major electric utility facilities that, in the 952  
judgment of such person, will be required to supply system demands 953

during the forecast period. The report ~~from a gas or natural gas~~ 954  
~~utility shall cover the ten and five year periods next succeeding~~ 955  
~~the date of the report, and the report from an electric utility~~ 956  
shall cover the twenty-, ten-, and five-year periods next 957  
succeeding the date of the report. Each report shall be made 958  
available to the public and furnished upon request to municipal 959  
corporations and governmental agencies charged with the duty of 960  
protecting the environment or of planning land use. The report 961  
shall be in such form and shall contain such information as may be 962  
prescribed by the commission. 963

~~Each person not owning or operating a major utility facility~~ 964  
~~within this state and serving fifteen thousand or fewer gas or~~ 965  
~~natural gas, or electric customers within this state shall furnish~~ 966  
~~such information as the commission requires.~~ 967

(D) The commission shall: 968

(1) Review and comment on the reports filed under division 969  
(C) of this section, and make the information contained in the 970  
reports readily available to the public and other interested 971  
government agencies; 972

(2) Compile and publish each year the general locations of 973  
proposed and existing transmission line routes within its 974  
jurisdiction as identified in the reports filed under division (C) 975  
of this section, identifying the general location of such sites 976  
and routes and the approximate year when construction is expected 977  
to commence, and to make such information readily available to the 978  
public, to each newspaper of daily or weekly circulation within 979  
the area affected by the proposed site and route, and to 980  
interested federal, state, and local agencies; 981

(3) Hold a public hearing: 982

(a) ~~On the first long term forecast report filed after~~ 983  
~~January 11, 1983;~~ 984

~~(b)~~ At least once in every five years, on the latest report furnished by any person subject to this section;

~~(e)~~(b) On the latest report furnished by any person subject to this section if the report contains a substantial change from the preceding report furnished by that person. "Substantial change" includes, but is not limited to:

(i) A change in forecasted peak loads or energy consumption over the forecast period of greater than an average of one-half of one per cent per year;

(ii) Demonstration of good cause to the commission by an interested party.

The commission shall fix a time for the hearing, which shall be not later than ninety days after the report is filed, and publish notice of the date, time of day, and location of the hearing in a newspaper of general circulation in each county in which the person furnishing the report has or intends to locate a major electric utility facility and will provide service during the period covered by the report. The notice shall be published not less than fifteen nor more than thirty days before the hearing and shall state the matters to be considered.

Absent a showing of good cause, the commission shall not hold hearings under division (D)(3) of this section with respect to persons who, as the primary purpose of their business, furnish ~~gas or natural gas, or~~ electricity directly to fifteen thousand or fewer customers within this state solely for direct consumption by those customers.

(4) Require such information from persons subject to its jurisdiction as necessary to assist in the conduct of hearings and any investigation or studies it may undertake;

(5) Conduct any studies or investigations that are necessary or appropriate to carry out its responsibilities under this

section. 1016

(E)(1) The scope of the hearing held under division (D)(3) of 1017  
this section shall be limited to issues relating to forecasting. 1018  
The power siting board, the office of consumers' counsel, and all 1019  
other persons having an interest in the proceedings shall be 1020  
afforded the opportunity to be heard and to be represented by 1021  
counsel. The commission may adjourn the hearing from time to time. 1022

(2) The hearing shall include, but not be limited to, a 1023  
review of: 1024

(a) The projected loads and energy requirements for each year 1025  
of the period; 1026

(b) The estimated installed capacity and supplies to meet the 1027  
projected load requirements. 1028

(F) Based upon the report furnished pursuant to division (C) 1029  
of this section and the hearing record, the commission, within 1030  
ninety days from the close of the record in the hearing, shall 1031  
determine if: 1032

(1) All information relating to current activities, 1033  
facilities agreements, and published energy policies of the state 1034  
has been completely and accurately represented; 1035

(2) The load requirements are based on substantially accurate 1036  
historical information and adequate methodology; 1037

(3) The forecasting methods consider the relationships 1038  
between price and energy consumption; 1039

(4) The report identifies and projects reductions in energy 1040  
demands due to energy conservation measures in the industrial, 1041  
commercial, residential, transportation, and energy production 1042  
sectors in the service area; 1043

(5) Utility company forecasts of loads and resources are 1044  
reasonable in relation to population growth estimates made by 1045

state and federal agencies, transportation, and economic 1046  
development plans and forecasts, and make recommendations where 1047  
possible for necessary and reasonable alternatives to meet 1048  
forecasted electric power demand; 1049

(6) The report considers plans for expansion of the regional 1050  
power grid and the planned facilities of other utilities in the 1051  
state; 1052

(7) All assumptions made in the forecast are reasonable and 1053  
adequately documented. 1054

(G) The commission shall adopt rules under section 111.15 of 1055  
the Revised Code to establish criteria for evaluating the 1056  
long-term forecasts of needs for ~~gas and~~ electric transmission 1057  
service, to conduct hearings held under this section, to establish 1058  
reasonable fees to defray the direct cost of the hearings and the 1059  
review process, and such other rules as are necessary and 1060  
convenient to implement this section. 1061

(H) The hearing record produced under this section and the 1062  
determinations of the commission shall be introduced into evidence 1063  
and shall be considered in determining the basis of need for power 1064  
siting board deliberations under division (A)(1) of section 1065  
4906.10 of the Revised Code. The hearing record produced under 1066  
this section shall be introduced into evidence and shall be 1067  
considered by the public utilities commission in its initiation of 1068  
programs, examinations, and findings under section 4905.70 of the 1069  
Revised Code, and shall be considered in the commission's 1070  
determinations with respect to the establishment of just and 1071  
reasonable rates under section 4909.15 of the Revised Code and 1072  
financing utility facilities and authorizing issuance of all 1073  
securities under sections 4905.40, 4905.401, 4905.41, and 4905.42 1074  
of the Revised Code. The forecast findings also shall serve as the 1075  
basis for all other energy planning and development activities of 1076  
the state government where electric ~~and gas~~ data ~~are~~ is required. 1077

(I)(1) No court other than the supreme court shall have power 1078  
to review, suspend, or delay any determination made by the 1079  
commission under this section, or enjoin, restrain, or interfere 1080  
with the commission in the performance of official duties. A writ 1081  
of mandamus shall not be issued against the commission by any 1082  
court other than the supreme court. 1083

(2) A final determination made by the commission shall be 1084  
reversed, vacated, or modified by the supreme court on appeal, if, 1085  
upon consideration of the record, such court is of the opinion 1086  
that such determination was unreasonable or unlawful. 1087

The proceeding to obtain such reversal, vacation, or 1088  
modification shall be by notice of appeal, filed with the 1089  
commission by any party to the proceeding before it, against the 1090  
commission, setting forth the determination appealed from and 1091  
errors complained of. The notice of appeal shall be served, unless 1092  
waived, upon the commission by leaving a copy at the office of the 1093  
chairperson of the commission at Columbus. The court may permit an 1094  
interested party to intervene by cross-appeal. 1095

(3) No proceeding to reverse, vacate, or modify a 1096  
determination of the commission is commenced unless the notice of 1097  
appeal is filed within sixty days after the date of the 1098  
determination. 1099

**Section 2.** That existing sections 4903.083, 4905.302, 1100  
4906.06, 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 1101  
4909.17, 4909.18, 4909.19, 4928.18, 4929.05, 4929.051, 4929.11, 1102  
and 4935.04 of the Revised Code are hereby repealed. 1103