As Introduced

136th General Assembly
Regular Session **H. B. No. 142**
2025-2026

Representatives Dovilla, Fischer
Cosponsor: Representative Thomas, D.

To amend sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.155, 4909.156, 4909.18, 4909.191, 4909.42, 4928.18, and 4929.041 and to enact sections 4903.30, 4929.052, 4929.053, 4929.054, 4929.055, 4929.056, 4929.057, 4929.058, 4929.059, and 4929.0510 of the Revised Code to allow for alternative rate plans for natural gas companies to serve large load customers and to make changes to the process of valuating natural gas company property.

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

Section 1. That sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.155, 4909.156, 4909.18, 4909.191, 4909.42, 4928.18, and 4929.041 be amended and sections 4903.30, 4929.052, 4929.053, 4929.054, 4929.055, 4929.056, 4929.057, 4929.058, 4929.059, and 4929.0510 of the Revised Code be enacted to read as follows:

Sec. 4903.30. In any proceeding before the public utilities commission for which the public utility is the applicant or the subject of the proceeding, the commission shall consider a settlement to resolve some or all issues in the

proceeding only if the public utility is a signatory party to, or has filed a notice that it does not oppose, the settlement. The commission shall determine a settlement is reasonable and lawful only if the following criteria are met:

(A) The settlement was a product of serious bargaining among capable, knowledgeable parties.

(B) The settlement, as a package, benefits ratepayers and the public interest.

(C) The settlement package does not violate any important regulatory principle or practice.

Sec. 4909.05. As used in this section:

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

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

(C) The public utilities commission shall prescribe the form and details of the valuation report of the property of each public utility or railroad in the state. Such report shall include all the kinds and classes of property, with the value of each, owned, held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned or held as of the date certain or, as provided for in division

(E) of section 4909.15 of the Revised Code, as of the dates certain, by each public utility or railroad used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, for the service and convenience of the public. Such report shall contain the following facts in detail:

(1) The original cost of each parcel of land owned in fee and in use, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned in fee and in use as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, determined by the commission; and also a statement of the conditions of acquisition, whether by direct purchase, by donation, by exercise of the power of eminent domain, or otherwise;

(2) The actual acquisition cost, not including periodic rental fees, of rights-of-way, trailways, or other land rights held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be held as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, by virtue of easements, leases, or other forms of grants of rights as to usage;

(3) The original cost of all other kinds and classes of property used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the

dates certain, in the rendition of service to the public. Subject to section 4909.052 of the Revised Code, such original costs of property, other than land owned in fee, shall be the cost, as determined to be reasonable by the commission, to the person that first dedicated or dedicates the property to the public use and shall be set forth in property accounts and subaccounts as prescribed by the commission. To the extent that the costs of property comprising a coal research and development facility, as defined in section 1555.01 of the Revised Code, or a coal development project, as defined in section 1551.30 of the Revised Code, have been allowed for recovery as Ohio coal research and development costs under section 4905.304 of the Revised Code, none of those costs shall be included as a cost of property under this division.

(4) The cost of property constituting all or part of a project leased to or used by the utility, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be leased to or used by the utility as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, under Chapter 165., 3706., 6121., or 6123. of the Revised Code and not included under division (C)(3) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(5) In the discretion of the commission, the cost to a utility, in an amount determined to be reasonable by the commission, of property constituting all or part of a project leased to the utility, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be leased to the utility as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the

dates certain, under a lease purchase agreement or a leaseback and not included under division (C)(3) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(6) The cost of the replacement of water service lines incurred by a water-works company under section 4909.173 of the Revised Code and the water service line replacement reimbursement amounts provided to customers under section 4909.174 of the Revised Code;

(7) The proper and adequate reserve for depreciation, as determined to be reasonable by the commission;

(8) Any sums of money or property that the company may have received, or, with respect to a natural gas, water-works, or sewage disposal system company, is projected to receive as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, as total or partial defrayal of the cost of its property;

(9) The valuation of the property of the company, which shall be the sum of the amounts contained in the report pursuant to divisions (C)(1) to (6) of this section, less the sum of the amounts contained in the report pursuant to divisions (C)(7) and (8) of this section.

The report shall show separately the property used and useful to such public utility or railroad in the furnishing of the service to the public, the property held by such public utility or railroad for other purposes, and the property projected to be used and useful to or held by a natural gas, water-works, or sewage disposal system company as of the date certain or, as provided for in division (E) of section 4909.15

of the Revised Code, as of the dates certain, and such other items as the commission considers proper. The commission may require an additional report showing the extent to which the property is used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain. Such reports shall be filed in the office of the commission for the information of the governor and the general assembly.

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

"Valuation" and "value," as used in this section, may

include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date or dates certain under section 4909.15 of the Revised Code.

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

"Valuation" and "value," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date or dates certain under section 4909.15 of the Revised Code.

Sec. 4909.08. When the public utilities commission has completed the valuation of the property of any public utility or railroad and before such valuation becomes final, it shall give notice by registered letter to such public utility or railroad, and if a substantial portion of said public utility or railroad is situated in a municipal corporation, then to the mayor of such municipal corporation, stating the valuations placed upon the several kinds and classes of property of such public utility

or railroad and upon the property as a whole and give such further notice by publication or otherwise as it shall deem necessary to apprise the public of such valuation. If, within thirty days after such notification, no protest has been filed with the commission, such valuation becomes final. If notice of protest has been filed by any public utility or railroad, the commission shall fix a time for hearing such protest and shall consider at such hearing any matter material thereto presented by such public utility, railroad, or municipal corporation, in support of its protest or by any representative of the public against such protest. If, after the hearing of any protest of any valuation so fixed, the commission is of the opinion that its inventory is incomplete or inaccurate or that its valuation is incorrect, it shall make such changes as are necessary and shall issue an order making such corrected valuations final. A final valuation by the commission and all classifications made for the ascertainment of such valuations shall be public and are prima-facie evidence relative to the value of the property.

"Valuation" and "value," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation and value as of the date certain, if applicable because of a future date or dates certain under section 4909.15 of the Revised Code.

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

(1) The valuation as of the date certain of the property of the public utility used and useful or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain or, as

provided for in division (E) of this section, as of the dates certain, in rendering the public utility service for which rates are to be fixed and determined. The valuation so determined shall be the total value as set forth in division (C)(9) of section 4909.05 of the Revised Code, and a reasonable allowance for materials and supplies and cash working capital as determined by the commission.

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

In determining the percentage completion of a particular construction project, the commission shall consider, among other relevant criteria, the per cent of time elapsed in construction; the per cent of construction funds, excluding allowance for funds used during construction, expended, or obligated to such construction funds budgeted where all such funds are adjusted to reflect current purchasing power; and any physical inspection performed by or on behalf of any party, including the commission's staff.

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

Where the commission permits an allowance for construction work in progress, the dollar value of the project or portion thereof included in the valuation as construction work in progress shall not be included in the valuation as plant in service until such time as the total revenue effect of the

construction work in progress allowance is offset by the total revenue effect of the plant in service exclusion. Carrying charges calculated in a manner similar to allowance for funds used during construction shall accrue on that portion of the project in service but not reflected in rates as plant in service, and such accrued carrying charges shall be included in the valuation of the property at the conclusion of the offset period for purposes of division (C)(9) of section 4909.05 of the Revised Code.

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

The applicable maximum period in rates for an allowance for construction work in progress as it relates to a particular construction project shall be tolled if, and to the extent, a delay in the in-service date of the project is caused by the action or inaction of any federal, state, county, or municipal agency having jurisdiction, where such action or inaction relates to a change in a rule, standard, or approval of such agency, and where such action or inaction is not the result of the failure of the utility to reasonably endeavor to comply with any rule, standard, or approval prior to such change.

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

shown.

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

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

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

(2) A fair and reasonable rate of return to the utility on the valuation as determined in division (A)(1) of this section and based on the capital structure of the public utility as of the date certain or, as provided for in division (E) of this section, as of the dates certain;

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

(4) The cost to the utility of rendering the public utility service for the test period used for the determination under division (C)(1) of this section~~, less the total of any interest on cash or credit refunds paid, pursuant to section 4909.42 of the Revised Code,~~ by the utility during the test period.

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

(b) The amount of any tax credits granted to an electric light company under section 5727.391 of the Revised Code for Ohio coal burned prior to January 1, 2000, shall not be retained by the company, used to fund any dividend or distribution, or utilized for any purposes other than the defrayal of the allowable operating expenses of the company and the defrayal of the allowable expenses of the company in connection with the installation, acquisition, construction, or use of a compliance facility. The amount of the tax credits granted to an electric light company under that section for Ohio coal burned prior to

January 1, 2000, shall be returned to its customers within three years after initially claiming the credit through an offset to the company's rates or fuel component, as determined by the commission, as set forth in schedules filed by the company under section 4905.30 of the Revised Code. As used in division (A)(4)(b) of this section, "compliance facility" has the same meaning as in section 5727.391 of the Revised Code.

(B) The commission shall compute the gross annual revenues to which the utility is entitled by adding the dollar amount of return under division (A)(3) of this section to the cost, for the test period used for the determination under division (C)(1) of this section, of rendering the public utility service under division (A)(4) of this section.

(C)(1) Except as provided in ~~division~~ divisions (D) and (E) of this section, the revenues and expenses of the utility shall be determined during a test period. ~~The~~ Unless another period is permitted under division (E) of this section, the utility may propose a test period for this determination that is any twelve-month period beginning not more than six months prior to the date the application is filed and ending not more than nine months subsequent to that date. The test period for determining revenues and expenses of the utility shall be the test period proposed by the utility, unless ~~otherwise ordered by~~ the commission determines that the proposed test period does not comply with the requirements of divisions (C) to (E) of this section.

(2) ~~The~~ Except as provided for in division (E) of this section, the date certain shall be not later than the date of filing, except that it shall be, for a natural gas, water-works, or sewage disposal system company, not later than the end of the

test period.

(D) A natural gas, water-works, or sewage disposal system company may propose adjustments to the revenues and expenses to be determined under division (C)(1) of this section for any changes that are, during the test period or the twelve-month period immediately following the test period, reasonably expected to occur. The natural gas, water-works, or sewage disposal system company shall identify and quantify, individually, any proposed adjustments. The commission shall incorporate the proposed adjustments into the determination if the adjustments are just and reasonable.

(E) A natural gas company may propose, and the commission shall approve, a test period that is any twelve-month period beginning not earlier than twelve months prior to the date the application was filed and ending not later than twenty-four months from the date the application was filed. The commission shall review the reasonableness of any partially or fully forecasted test period.

(1) If the natural gas company proposes a test period that is not greater than twelve months from the filing date of the application, then the natural gas company may propose, and the commission shall approve, two dates certain as follows:

(a) The first date certain shall be during the test period, but not later than three months before the three hundred sixty-fifth day after the application is filed.

(b) The second date certain shall be not later than the end of the test period.

(2) If the company proposes a test period that is between twelve and twenty-four months from the filing date of the

application, then the company may propose, and the commission shall approve, three dates certain as follows:

(a) The first date certain shall be not later than three months before the three hundred sixty-fifth day after the application is filed.

(b) The second date certain shall be during the test period.

(c) The third date certain shall be not later than the end of the test period.

(F) If a natural gas company proposes a fully projected or partially projected test period, the company may place rates into effect with a final order from the commission made pursuant to section 4909.42 of the Revised Code. The company shall have the right to place the rates into effect with the first customer bills rendered after each commission order issued pursuant to division (E) of this section.

(G)(1) If a natural gas company proposes a test period as described in division (E)(1) of this section, then the company shall adjust its base rates to reflect the plant-in-service in accordance with the dates certain as follows:

(a) The first date certain shall be reflected in the rates put into effect in accordance with an order from the commission before the expiration of the three hundred sixty-fifth day after filing the application.

(b) With the second date certain base rate adjustment, the company shall have up to sixty days from the second date certain to file schedules reflecting the actual plant-in-service and actual capital structure of the natural gas company as of the second date certain. All other components to the setting of

rates, including the return on equity percentage set with the commission order reflecting the first date certain, shall remain unchanged with the second base rate adjustment.

(2) The commission shall have sixty days to review the filed schedules of incremental plant placed-in-service after the first date certain through the second date certain and to issue a final order determining the adjusted base rates reflecting the plant-in-service as of the second date certain.

(H)(1) If a natural gas company proposes a test period that is between twelve and twenty-four months from the filing date of the application, then the natural gas company shall adjust its base rates to reflect the plant-in-service in accordance with the dates certain as follows:

(a) The first and second dates certain shall be reflected in the same manner described in division (G)(1) of this section.

(b) With the third date certain base rate adjustment, the natural gas company shall have up to sixty days from the third date certain to file schedules reflecting the actual plant-in-service and actual capital structure of the natural gas company as of the third date certain. All other components to the setting of rates, including the return on equity percentage set with the commission order reflecting the first date certain, shall remain unchanged with the third base rate adjustment.

(2) The commission shall have sixty days to review the filed schedules of incremental plant placed-in-service after the second date certain through the third date certain and to issue a final order determining the adjusted base rates reflecting the plant-in-service as of the third date certain.

(I) If a natural gas company proposes a fully projected

test period, then the provisions of section 4909.191 of the Revised Code do not apply to that proceeding.

(J) The commission shall approve any motion, application, or request to waive any of its rules, if the rules do not conform with the legislative requirements of Chapter 4909. of the Revised Code. The commission also is exempt from section 121.95 of the Revised Code to adopt rules under divisions (E) to (J) of this section.

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

(1) With due regard among other things to the value of all property of the public utility actually used and useful for the convenience of the public as determined under division (A)(1) of this section, excluding from such value the value of any franchise or right to own, operate, or enjoy the same in excess of the amount, exclusive of any tax or annual charge, actually paid to any political subdivision of the state or county, as the consideration for the grant of such franchise or right, and excluding any value added to such property by reason of a

monopoly or merger, with due regard in determining the dollar annual return under division (A)(3) of this section to the necessity of making reservation out of the income for surplus, depreciation, and contingencies, and;

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

(a) Including a fair and reasonable rate of return determined by the commission, in accordance with division (A)(2) of this section, with reference to a cost of debt equal to the actual embedded cost of debt of such public utility,

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

~~(F)~~ (L) Upon application of any person or any public utility, and after notice to the parties in interest and opportunity to be heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code for

other hearings, has been given, the commission may rescind, alter, or amend an order fixing any rate, fare, toll, charge, rental, classification, or service, or any other order made by the commission. Certified copies of such orders shall be served and take effect as provided for original orders.

Sec. 4909.155. In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission may require the utility to file a report showing:

(A) The amounts, date of issuance, due date, terms, and rates of interest of all bonds and debentures outstanding against such utility;

(B) The face value of any outstanding preferred stock and the stated value of all outstanding common stock issued by such utility;

(C) The total amount of money received by such utility from the issue of debt and equity securities that are outstanding as of a date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain to be chosen by the commission.

Sec. 4909.156. In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission shall, in action upon an application filed pursuant to section 4909.18 of the Revised Code, require a public utility to file a report showing the proportionate amounts of the valuation of the property of the utility, as determined under section 4909.05 of

the Revised Code, and the proportionate amounts of the revenues and expenses of the utility that are proposed to be considered as attributable to the service area involved in the application.

"Valuation," as used in this section, may include, with respect to a natural gas, water-works, or sewage disposal system company, projected valuation as of the date certain, if applicable because of a future date or dates certain under section 4909.15 of the Revised Code.

Sec. 4909.18. Any public utility desiring to establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, shall file a written application with the public utilities commission. Except for actions under section 4909.16 of the Revised Code, no public utility may issue the notice of intent to file an application pursuant to division (B) of section 4909.43 of the Revised Code to increase any existing rate, joint rate, toll, classification, charge, or rental, until a final order under this section has been issued by the commission on any pending prior application to increase the same rate, joint rate, toll, classification, charge, or rental or until two hundred seventy-five days after filing such application, whichever is sooner. Such application shall be verified by the president or a vice-president and the secretary or treasurer of the applicant. Such application shall contain a schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice affecting the same, a schedule of the modification amendment, change, increase, or reduction sought to be established, and a statement of the facts and grounds upon which such application is based. If such application proposes a new service or the use

of new equipment, or proposes the establishment or amendment of a regulation, the application shall fully describe the new service or equipment, or the regulation proposed to be established or amended, and shall explain how the proposed service or equipment differs from services or equipment presently offered or in use, or how the regulation proposed to be established or amended differs from regulations presently in effect. The application shall provide such additional information as the commission may require in its discretion. If the commission determines that such application is not for an increase in any rate, joint rate, toll, classification, charge, or rental, the commission may permit the filing of the schedule proposed in the application and fix the time when such schedule shall take effect. If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall give notice of such hearing by sending written notice of the date set for the hearing to the public utility and publishing notice of the hearing one time in a newspaper of general circulation in each county in the service area affected by the application. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility. After such hearing, the commission shall, where practicable, issue an appropriate order within six months from the date the application was filed.

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

(A) A report of its property used and useful, or, with

respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain, in rendering the service referred to in such application, as provided in section 4909.05 of the Revised Code;

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

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

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

(E) Such other information as the commission may require in its discretion.

Sec. 4909.191. (A) If the public utilities commission, under division (D) of section 4909.15 of the Revised Code, incorporated proposed adjustments to revenues and expenses into the commission's determination under that section, the natural gas, water-works, or sewage disposal system company shall, not later than ninety days after actual data for all of the incorporated adjustments becomes known, submit to the commission proposed rate or charge adjustments that provide for the recalculation of rates or charges, reflective of customer-class responsibility, corresponding to the differences, if any, between the incorporated adjustments to revenues and expenses and the actual revenues and expenses associated with the

incorporated adjustments.

(B) If the commission incorporated projected value or valuation of property into the commission's determination under division (A)(1) of section 4909.15 of the Revised Code, the natural gas, water-works, or sewage disposal system company shall, not later than ninety days after data for the actual value or valuation as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain becomes known, submit to the commission proposed rate or charge adjustments that provide for the recalculation of rates or charges, reflective of customer-class responsibility, corresponding to the differences, if any, between the projected value or valuation incorporated into the commission's determination and the actual value or valuation as of the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, as of the dates certain.

(C) The commission shall review the proposed rate or charge adjustments submitted under divisions (A) and (B) of this section. The review shall not include a hearing unless the commission finds that the proposed rate or charge adjustments may be unreasonable, in which case the commission may, in its discretion, schedule the matter for a hearing.

(D) The commission shall issue, not later than one hundred fifty days after the date that any proposed rate or charge adjustments are submitted under division (A) or (B) of this section, a final order on the proposed rate or charge adjustments. Any rate or charge adjustments authorized under this division shall be limited to amounts that are not greater than those consistent with the proposed adjustments to revenues and expenses that were incorporated into the commission's

determination under division (D) of section 4909.15 of the Revised Code, and not greater than those consistent with the incorporated projected value or valuation. In no event shall rate or charge adjustments authorized under this division be upward.

After the commission has issued such a final order, the natural gas, water-works, or sewage disposal system company, if applicable, shall submit to the commission proposed reconciliation adjustments that refund to customers the difference between the actual revenues collected by the natural gas, water-works, or sewage disposal system company, under the rates and charges determined by the commission under section 4909.15 of the Revised Code, and the rates or charges recalculated under the adjustments authorized under this division. The reconciliation adjustments shall be effective for a twelve-month period.

(E) The reconciliation adjustments ordered under division (D) of this section may be subject to a final reconciliation by the commission. Any such final reconciliation shall occur after the twelve-month period described in division (D) of this section.

Sec. 4909.42. ~~If the proceeding on an application filed with the public utilities commission under section 4909.18 of the Revised Code by any public utility requesting an increase on any rate, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice affecting the same has not been concluded and an order entered pursuant to section 4909.19 of the Revised Code at the expiration of two hundred seventy-five days from the date of filing the application, an increase not to exceed the proposed increase~~

~~shall go into effect upon the filing of a bond or a letter of credit by the public utility. The bond or letter of credit shall be filed with the commission and shall be payable to the state for the use and benefit of the customers affected by the proposed increase or change.~~

~~An affidavit attached to the bond or letter of credit must be signed by two of the officers of the utility, under oath, and must contain a promise on behalf of the utility to refund any amounts collected by the utility over the rate, joint rate, toll, classification, charge, or rental, as determined in the final order of the commission. All refunds shall include interest at the rate stated in section 1343.03 of the Revised Code. The refund shall be in the form of a temporary reduction in rates following the final order of the commission, and shall be accomplished in such manner as shall be prescribed by the commission in its final order. The commission shall exercise continuing and exclusive jurisdiction over such refunds.~~

(A) If the public utilities commission has not entered a final order within ~~five~~ three hundred ~~forty-five~~ sixty-five days from the date of the filing of an application for an increase in rates under section 4909.18 of the Revised Code, a public utility shall place the rates into effect with the first customer bills rendered after the three hundred sixty-fifth day and the public utility shall have no obligation to make a refund of amounts collected ~~after the five hundred forty-fifth day which exceed the amounts authorized by the commission's final order~~, and the public utility's application is deemed approved as a matter of law.

(B) Nothing in this section shall be construed to~~—~~ ~~mitigate~~:

(1) Mitigate any duty of the commission to issue a final order under section 4909.19 of the Revised Code;

(2) Limit a natural gas company from adjusting its rates pursuant to divisions (G) and (H) of section 4909.15 of the Revised Code.

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

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

(C) In addition to any remedies otherwise provided by law, the commission, regarding a determination of a violation

pursuant to division (B) of this section, may do any of the following:

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

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

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

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

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

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

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

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

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

Sec. 4929.041. (A) As used in this section, "regulatory exemption" means an exemption from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters.

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

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

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

(C)(1) A natural gas company requesting a regulatory exemption under division (B)(2) of this section shall identify

in the application both of the following:

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

(b) The valuation of all nonexempt investments placed into service after the date certain or, as provided for in division (E) of section 4909.15 of the Revised Code, after the dates certain used in the rate case proceeding described in division (C)(1)(a) of this section, excluding investments for which deferral or recovery is authorized under section 4909.18, 4929.05, or 4929.111 of the Revised Code.

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

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

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

exemption.

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

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

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

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

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

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

Sec. 4929.052. (A) For any alternative rate plan involving the recovery of specified costs and capital expenditures, a natural gas company may propose, and the commission shall approve, the use of a fully projected or partially projected test period for the annual rider rate adjustment applications. The fully or partially projected test period may be up to two years from the date of the annual rider rate adjustment application. If the natural gas company proposes a fully or partially projected test period for an annual rider rate adjustment proceeding, the natural gas company shall true up that forecasted test period to reflect its actual expenditures in the subsequent annual rider rate adjustment proceeding.

(B) In lieu of a fully or partially projected test period, a natural gas company may propose, and the commission shall approve, a revenue requirement that includes construction work

in progress.

Sec. 4929.053. (A) An alternative rate plan that proposes to recover any reasonable costs or expenditures to comply with federal or state statutes, rules, regulations, requirements, or mandates, including, but not limited to, costs that have been incurred or will be required to be incurred due to an existing or reasonably anticipated rule, policy, or other mandate by the pipeline hazardous materials safety administration, the department of transportation, the federal energy regulatory commission, the environmental protection agency, or any other federal or state agency or authority, shall be approved by the public utilities commission. A natural gas company that proposes an alternative rate plan pursuant to this section may propose an initial rider rate of zero dollars, and such application shall not be considered an application for an increase in rates.

(B) In any proceeding in which a natural gas company seeks to approve an alternative rate plan or to adjust any rider amount pursuant to an alternative rate plan approved under division (A) of this section, the commission shall not limit the rider recovery of any reasonable costs or capital expenditures, which have been incurred or will be required to be incurred, to comply with federal or state statutes, rules, regulations, requirements, or mandates.

(C) If, in any such proceeding, the commission does not issue an order within three hundred sixty-five days from the date of the natural gas company's filing, the company's application is deemed approved by operation of law and shall not be subject to rehearing or appeal.

Sec. 4929.054. (A) As used in sections 4929.054 to 4929.058 of the Revised Code, "large load customer" means a

customer that a natural gas company projected or anticipated to consume, or actually consumed, in a prior, current, or future twelve-month period, more than one million two hundred thousand Mcf of natural gas.

(B) A natural gas company that has applied for, or already has approved for, an infrastructure development rider pursuant to section 4929.161 of the Revised Code may file an application to the public utilities commission for an alternative rate plan to serve large load customers.

(C) An alternative rate plan established under division (B) of this section must support commercial agreements entered into between the natural gas company and a large load customer.

Sec. 4929.055. An alternative rate plan proposed by a natural gas company pursuant to section 4929.054 of the Revised Code shall be approved by the public utilities commission if the natural gas company meets its burden of proof in a proceeding before the commission that the alternative rate plan does the following:

(A) Protects the company's non-large load customers from financial risk associated with initial infrastructure costs under any commercial agreement entered into under that plan to serve the large load customers;

(B) Provides any commercial agreement entered into under the plan shall require a credit to the annual infrastructure development rider rate charged by the natural gas company pursuant to section 4929.162 of the Revised Code, which will be the cost, as determined by the natural gas company, of the large load customer's use of the natural gas company infrastructure in service at the time the commercial agreement is executed;

(C) Supports economic development in the state by serving the large load customer, which is proven by a letter of support by an economic development entity, as defined in division (C)(4) of section 4929.163 of the Revised Code.

Sec. 4929.056. Any payment received from a large load customer pursuant to a commercial agreement under an alternative rate plan approved under section 4929.055 of the Revised Code shall not be considered revenue in any proceeding held pursuant to Chapter 4909. of the Revised Code.

Sec. 4929.057. An alternative rate plan application filed pursuant to section 4929.054 of the Revised Code shall not be considered an application for an increase in rates.

Sec. 4929.058. (A) A natural gas company shall file a commercial agreement with a large load customer entered into pursuant to a proposed or approved alternative rate plan under sections 4929.054 and 4929.055 of the Revised Code with the public utilities commission.

(B) A commercial agreement described in division (A) of this section shall be deemed automatically approved unless the commission determines within forty-five days from the date of the filing that the commercial agreement is inconsistent with the requirements of section 4929.055 of the Revised Code.

(C) A natural gas company may propose, and the public utilities commission shall approve, without modification, the following set forth in a commercial agreement:

(1) Any negotiated terms that differ from the rates or terms of service approved in the company's most recent rate case proceeding under section 4909.18 of the Revised Code;

(2) Recovery of construction work in progress for any

amounts incurred to serve the large load customers.

Sec. 4929.059. If the public utilities commission does not issue an order within ninety days from the date a natural gas company files an alternative rate plan application pursuant to section 4929.054 of the Revised Code, the company's proposed alternative rate plan shall be deemed approved by operation of law.

Sec. 4929.0510. If the public utility commission modifies either the alternative rate plan as proposed by a natural gas company pursuant to section 4929.054 of the Revised Code or any settlement agreement between the company and any party to the alternative rate plan, then the company may withdraw the alternative rate plan and terminate it.

Section 2. That existing sections 4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.155, 4909.156, 4909.18, 4909.191, 4909.42, 4928.18, and 4929.041 of the Revised Code are hereby repealed.