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136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 15

To amend sections 4905.03, 4906.01, 4906.02, 1
4906.03, 4906.04, 4906.06, 4906.07, 4906.08, 2
4906.10, 4906.201, 4909.04, 4909.05, 4909.052, 3
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4
4909.173, 4909.174, 4909.18, 4909.19, 4909.42, 5
4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 6
4928.141, 4928.142, 4928.144, 4928.151, 4928.17, 7
4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 8
4928.542, 4928.64, 4928.645, 4929.20, 4933.81, 9
4935.04, 5727.01, 5727.111, and 5727.75; to 10
enact new section 4906.105 and sections 1.66, 11
122.161, 4903.27, 4905.321, 4905.331, 4909.041, 12
4909.042, 4909.159, 4909.181, 4909.192, 13
4909.193, 4928.041, 4928.101, 4928.102, 14
4928.149, 4928.73, 4928.83, 4928.86, 4928.87, 15
4929.221, 4929.222, 4934.01, 4934.011, 4934.04, 16
4934.05, 4934.06, 4934.07, 4934.071, 4934.072, 17
4934.08, 4934.09, 4934.10, 4934.11, 4934.12, 18
4934.13, 4934.14, 4934.17, 4934.18, 4934.20, 19
4934.21, 4934.23, 4934.25, 4934.26, 4934.27, 20
4934.35, 4934.36, 4934.37, 4934.38, and 5727.76; 21
and to repeal sections 3706.40, 3706.41, 22
3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 23
3706.491, 3706.55, 3706.551, 3706.59, 3706.63, 24



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3706.65, 4906.105, 4928.143, 4928.148, 4928.47, 25
and 4928.642 of the Revised Code to amend the 26
competitive retail electric service law, modify 27
taxation of certain public utility property, and 28
repeal parts of H.B. 6 of the 133rd General 29
Assembly. 30

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

Section 1. That sections 4905.03, 4906.01, 4906.02, 31
4906.03, 4906.04, 4906.06, 4906.07, 4906.08, 4906.10, 4906.201, 32
4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 33
4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 4909.42, 34
4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 35
4928.144, 4928.151, 4928.17, 4928.20, 4928.23, 4928.231, 36
4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 37
4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 be amended and 38
new section 4906.105 and sections 1.66, 122.161, 4903.27, 39
4905.321, 4905.331, 4909.041, 4909.042, 4909.159, 4909.181, 40
4909.192, 4909.193, 4928.041, 4928.101, 4928.102, 4928.149, 41
4928.73, 4928.83, 4928.86, 4928.87, 4929.221, 4929.222, 4934.01, 42
4934.011, 4934.04, 4934.05, 4934.06, 4934.07, 4934.071, 43
4934.072, 4934.08, 4934.09, 4934.10, 4934.11, 4934.12, 4934.13, 44
4934.14, 4934.17, 4934.18, 4934.20, 4934.21, 4934.23, 4934.25, 45
4934.26, 4934.27, 4934.35, 4934.36, 4934.37, 4934.38, and 46
5727.76 of the Revised Code be enacted to read as follows: 47

Sec. 1.66. As used in the Revised Code, unless the 48
context requires otherwise, all measures of electricity 49
described in watts, kilowatts, megawatts, or any derivative 50
thereof means such electricity expressed in alternating current. 51

<u>Sec. 122.161. (A) As used in this section:</u>	52
<u>(1) "Subdivision" means a municipal corporation, township,</u> <u>or county.</u>	53 54
<u>(2) "Legislative authority" means the legislative</u> <u>authority of a municipal corporation, a board of the township</u> <u>trustees, or a board of county commissioners.</u>	55 56 57
<u>(3) "Subdivision's territory" means, in the case of a</u> <u>municipal corporation, the territory of the municipal</u> <u>corporation; in the case of a township, the unincorporated</u> <u>territory of the township; or, in the case of a county, the</u> <u>unincorporated territory of the county.</u>	58 59 60 61 62
<u>(4) "Brownfield" has the same meaning as in section</u> <u>122.6511 of the Revised Code.</u>	63 64
<u>(5) "Former coal mine" means a location that was, but is</u> <u>no longer, used in connection with the extraction of coal from</u> <u>its natural deposit in the earth.</u>	65 66 67
<u>(6) "Qualifying property" has the same meaning as in</u> <u>section 5727.76 of the Revised Code.</u>	68 69
<u>(B) A legislative authority may adopt and certify to the</u> <u>director of development an ordinance or resolution requesting</u> <u>that the director designate the site of a brownfield or former</u> <u>coal mine within the subdivision's territory as a priority</u> <u>investment area. The ordinance or resolution shall describe the</u> <u>boundaries of the proposed area and shall specify that</u> <u>qualifying property in the priority investment area shall be</u> <u>exempt from taxation for five years pursuant to section 5727.76</u> <u>of the Revised Code.</u>	70 71 72 73 74 75 76 77 78
<u>The director, upon receipt of that certification, shall</u>	79

designate the proposed area as a priority investment area if the 80
director determines that the area meets the designation 81
standards set forth in rules adopted by the director. Those 82
standards shall specify that the director must prioritize the 83
designation of areas negatively impacted by the decline of the 84
coal industry. 85

The director shall notify the legislative authority of the 86
director's decision within ninety days after receiving the 87
certified ordinance or resolution. If the director does not 88
issue a decision within those ninety days, the request for 89
designation shall be considered approved by operation of law. 90

(C) The director of development shall immediately notify 91
the public utilities commission, the power siting board, and the 92
tax commissioner if the director approves the designation of a 93
priority investment area under division (B) of this section or 94
if the designation is approved by operation of law. 95

Sec. 4903.27. For all cases involving an application 96
pursuant to section 4909.18 of the Revised Code, the public 97
utilities commission shall not permit any new discovery 98
beginning not later than two hundred fifteen days after the 99
application is determined to be complete. 100

Sec. 4905.03. As used in this chapter, any person, firm, 101
copartnership, voluntary association, joint-stock association, 102
company, or corporation, wherever organized or incorporated, is: 103

(A) A telephone company, when engaged in the business of 104
transmitting telephonic messages to, from, through, or in this 105
state; 106

(B) A for-hire motor carrier, when engaged in the business 107
of transporting persons or property by motor vehicle for 108

compensation, except when engaged in any of the operations in 109
intrastate commerce described in divisions (B) (1) to (9) of 110
section 4921.01 of the Revised Code, but including the carrier's 111
agents, officers, and representatives, as well as employees 112
responsible for hiring, supervising, training, assigning, or 113
dispatching drivers and employees concerned with the 114
installation, inspection, and maintenance of motor-vehicle 115
equipment and accessories; 116

(C) An electric light company, when engaged in the 117
business of supplying electricity for light, heat, or power 118
purposes to consumers within this state, including supplying 119
electric transmission service for electricity delivered to 120
consumers in this state, but excluding a regional transmission 121
organization approved by the federal energy regulatory 122
commission; ~~—~~. 123

An electric light company does not include a self- 124
generator or mercantile customer self-power system. 125

(D) A gas company, when engaged in the business of 126
supplying artificial gas for lighting, power, or heating 127
purposes to consumers within this state or when engaged in the 128
business of supplying artificial gas to gas companies or to 129
natural gas companies within this state, but a producer engaged 130
in supplying to one or more gas or natural gas companies, only 131
such artificial gas as is manufactured by that producer as a by- 132
product of some other process in which the producer is primarily 133
engaged within this state is not thereby a gas company. All 134
rates, rentals, tolls, schedules, charges of any kind, or 135
agreements between any gas company and any other gas company or 136
any natural gas company providing for the supplying of 137
artificial gas and for compensation for the same are subject to 138

the jurisdiction of the public utilities commission. 139

(E) A natural gas company, when engaged in the business of 140
supplying natural gas for lighting, power, or heating purposes 141
to consumers within this state. Notwithstanding the above, 142
neither the delivery nor sale of Ohio-produced natural gas or 143
Ohio-produced raw natural gas liquids by a producer or gatherer 144
under a public utilities commission-ordered exemption, adopted 145
before, as to producers, or after, as to producers or gatherers, 146
January 1, 1996, or the delivery or sale of Ohio-produced 147
natural gas or Ohio-produced raw natural gas liquids by a 148
producer or gatherer of Ohio-produced natural gas or Ohio- 149
produced raw natural gas liquids, either to a lessor under an 150
oil and gas lease of the land on which the producer's drilling 151
unit is located, or the grantor incident to a right-of-way or 152
easement to the producer or gatherer, shall cause the producer 153
or gatherer to be a natural gas company for the purposes of this 154
section. 155

All rates, rentals, tolls, schedules, charges of any kind, 156
or agreements between a natural gas company and other natural 157
gas companies or gas companies providing for the supply of 158
natural gas and for compensation for the same are subject to the 159
jurisdiction of the public utilities commission. The commission, 160
upon application made to it, may relieve any producer or 161
gatherer of natural gas, defined in this section as a gas 162
company or a natural gas company, of compliance with the 163
obligations imposed by this chapter and Chapters 4901., 4903., 164
4907., 4909., 4921., and 4923. of the Revised Code, so long as 165
the producer or gatherer is not affiliated with or under the 166
control of a gas company or a natural gas company engaged in the 167
transportation or distribution of natural gas, or so long as the 168
producer or gatherer does not engage in the distribution of 169

natural gas to consumers.	170
Nothing in division (E) of this section limits the	171
authority of the commission to enforce sections 4905.90 to	172
4905.96 of the Revised Code.	173
(F) A pipe-line company, when engaged in the business of	174
transporting natural gas, oil, or coal or its derivatives	175
through pipes or tubing, either wholly or partly within this	176
state, but not when engaged in the business of the transport	177
associated with gathering lines, raw natural gas liquids, or	178
finished product natural gas liquids;	179
(G) A water-works company, when engaged in the business of	180
supplying water through pipes or tubing, or in a similar manner,	181
to consumers within this state;	182
(H) A heating or cooling company, when engaged in the	183
business of supplying water, steam, or air through pipes or	184
tubing to consumers within this state for heating or cooling	185
purposes;	186
(I) A messenger company, when engaged in the business of	187
supplying messengers for any purpose;	188
(J) A street railway company, when engaged in the business	189
of operating as a common carrier, a railway, wholly or partly	190
within this state, with one or more tracks upon, along, above,	191
or below any public road, street, alleyway, or ground, within	192
any municipal corporation, operated by any motive power other	193
than steam and not a part of an interurban railroad, whether the	194
railway is termed street, inclined-plane, elevated, or	195
underground railway;	196
(K) A suburban railroad company, when engaged in the	197
business of operating as a common carrier, whether wholly or	198

partially within this state, a part of a street railway 199
constructed or extended beyond the limits of a municipal 200
corporation, and not a part of an interurban railroad; 201

(L) An interurban railroad company, when engaged in the 202
business of operating a railroad, wholly or partially within 203
this state, with one or more tracks from one municipal 204
corporation or point in this state to another municipal 205
corporation or point in this state, whether constructed upon the 206
public highways or upon private rights-of-way, outside of 207
municipal corporations, using electricity or other motive power 208
than steam power for the transportation of passengers, packages, 209
express matter, United States mail, baggage, and freight. Such 210
an interurban railroad company is included in the term 211
"railroad" as used in section 4907.02 of the Revised Code. 212

(M) A sewage disposal system company, when engaged in the 213
business of sewage disposal services through pipes or tubing, 214
and treatment works, or in a similar manner, within this state. 215

As used in division (E) of this section, "natural gas" 216
includes natural gas that has been processed to enable 217
consumption or to meet gas quality standards or that has been 218
blended with propane, hydrogen, biologically derived methane 219
gas, or any other artificially produced or processed gas. 220

As used in this section, "gathering lines" has the same 221
meaning as in section 4905.90 of the Revised Code, and "raw 222
natural gas liquids" and "finished product natural gas liquids" 223
have the same meanings as in section 4906.01 of the Revised 224
Code. 225

As used in this section, "self-generator" has the same 226
meaning as in section 4928.01 of the Revised Code, and 227

"mercantile customer self-power system" has the same meaning as 228
in section 4928.73 of the Revised Code. 229

Sec. 4905.321. (A) Except as provided in division (B) of 230
this section, notwithstanding any provision of the Revised Code 231
to the contrary, all charges paid by customers to a public 232
utility that are later found to be unreasonable, unlawful, 233
imprudent, or otherwise improper by the public utilities 234
commission or the supreme court shall be promptly refunded to 235
the customers who paid such charges. The commission shall order 236
such refunds in a manner designed to allocate the refunds to 237
customer classes in the same proportion as the charges were 238
originally collected. 239

(B) This section does not require the refund of any charge 240
that was authorized under section 4928.148 of the Revised Code 241
prior to the repeal of that section by this act. 242

Sec. 4905.331. (A) As used in this section: 243

(1) "Electric distribution utility" has the same meaning 244
as in section 4928.01 of the Revised Code. 245

(2) "Electric service" means any service involved in 246
supplying or arranging for the supply of electricity to ultimate 247
consumers in this state. "Electric service" includes "retail 248
electric service" as defined in section 4928.01 of the Revised 249
Code. 250

(3) "Proceeding" includes a proceeding relating to 251
electric service under Chapters 4909. and 4928. of the Revised 252
Code. 253

(B) No electric distribution utility or its affiliate may 254
do either of the following to induce any party to a public 255
utilities commission proceeding to enter into a settlement of a 256

<u>matter pending before the commission:</u>	257
<u>(1) Make a cash payment to that party;</u>	258
<u>(2) Enter into any agreement or any financial or private arrangement with that party that is not made part of the public case record.</u>	259 260 261
<u>(C) Notwithstanding division (B) of this section, the commission may do any of the following:</u>	262 263
<u>(1) Reasonably allocate costs among rate schedules;</u>	264
<u>(2) Reasonably design rates within a rate schedule;</u>	265
<u>(3) Approve reasonable rates designed for particular customers or classes of customers;</u>	266 267
<u>(4) Approve a resolution of a proceeding under section 4905.26 of the Revised Code;</u>	268 269
<u>(5) Approve payments to any governmental entity, nonprofit organization, or other association for implementing low-income weatherization service programs, subject to the following conditions:</u>	270 271 272 273
<u>(a) The payments are at a rate that is reasonably tailored to the costs of providing the programs.</u>	274 275
<u>(b) The payments are for programs that are subject to an existing or new audit procedure.</u>	276 277
<u>(c) The payments are not for low-income weatherization education programs.</u>	278 279
Sec. 4906.01. As used in Chapter 4906. of the Revised Code:	280 281
(A) "Person" means an individual, corporation, business	282

trust, association, estate, trust, or partnership or any 283
officer, board, commission, department, division, or bureau of 284
the state or a political subdivision of the state, or any other 285
entity. 286

(B) (1) "Major utility facility" means: 287

(a) Electric generating plant and associated facilities 288
designed for, or capable of, operation at a capacity of fifty 289
megawatts or more; 290

(b) An electric transmission line and associated 291
facilities of a design capacity of ~~one hundred~~ sixty kilovolts 292
or more; 293

(c) A gas pipeline that is greater than five hundred feet 294
in length, and its associated facilities, is more than nine 295
inches in outside diameter and is designed for transporting gas 296
at a maximum allowable operating pressure in excess of one 297
hundred twenty-five pounds per square inch. 298

(2) "Major utility facility" does not include any of the 299
following: 300

(a) Gas transmission lines over which an agency of the 301
United States has exclusive jurisdiction; 302

(b) Any solid waste facilities as defined in section 303
6123.01 of the Revised Code; 304

(c) Electric distributing lines and associated facilities 305
as defined by the power siting board; 306

(d) Any manufacturing facility that creates byproducts 307
that may be used in the generation of electricity as defined by 308
the power siting board; 309

(e) Gathering lines, gas gathering pipelines, and processing plant gas stub pipelines as those terms are defined in section 4905.90 of the Revised Code and associated facilities;	310 311 312 313
(f) Any gas processing plant as defined in section 4905.90 of the Revised Code;	314 315
(g) Natural gas liquids finished product pipelines;	316
(h) Pipelines from a gas processing plant as defined in section 4905.90 of the Revised Code to a natural gas liquids fractionation plant, including a raw natural gas liquids pipeline, or to an interstate or intrastate gas pipeline;	317 318 319 320
(i) Any natural gas liquids fractionation plant;	321
(j) A production operation as defined in section 1509.01 of the Revised Code, including all pipelines upstream of any gathering lines;	322 323 324
(k) Any compressor stations used by the following:	325
(i) A gathering line, a gas gathering pipeline, a processing plant gas stub pipeline, or a gas processing plant as those terms are defined in section 4905.90 of the Revised Code;	326 327 328
(ii) A natural gas liquids finished product pipeline, a natural gas liquids fractionation plant, or any pipeline upstream of a natural gas liquids fractionation plant; or	329 330 331
(iii) A production operation as defined in section 1509.01 of the Revised Code.	332 333
(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility	334 335 336

facility, but does not include surveying changes needed for 337
temporary use of sites or routes for nonutility purposes, or 338
uses in securing geological data, including necessary borings to 339
ascertain foundation conditions. 340

(D) "Certificate" means a certificate of environmental 341
compatibility and public need issued by the power siting board 342
under section 4906.10 of the Revised Code or a construction 343
certificate issued by the board under rules adopted under 344
~~division~~ divisions (E) ~~or (F)~~ to (H) of section 4906.03 of the 345
Revised Code. 346

(E) "Gas" means natural gas, flammable gas, or gas that is 347
toxic or corrosive. 348

(F) "Natural gas liquids finished product pipeline" means 349
a pipeline that carries finished product natural gas liquids to 350
the inlet of an interstate or intrastate finished product 351
natural gas liquid transmission pipeline, rail loading facility, 352
or other petrochemical or refinery facility. 353

(G) "Large solar facility" means an electric generating 354
plant that consists of solar panels and associated facilities 355
with a single interconnection to the electrical grid that is a 356
major utility facility. 357

(H) "Large wind farm" means an electric generating plant 358
that consists of wind turbines and associated facilities with a 359
single interconnection to the electrical grid that is a major 360
utility facility. 361

(I) "Natural gas liquids fractionation plant" means a 362
facility that takes a feed of raw natural gas liquids and 363
produces finished product natural gas liquids. 364

(J) "Raw natural gas" means hydrocarbons that are produced 365

in a gaseous state from gas wells and that generally include 366
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 367
octanes, nonanes, and decanes, plus other naturally occurring 368
impurities like water, carbon dioxide, hydrogen sulfide, 369
nitrogen, oxygen, and helium. 370

(K) "Raw natural gas liquids" means naturally occurring 371
hydrocarbons contained in raw natural gas that are extracted in 372
a gas processing plant and liquefied and generally include 373
mixtures of ethane, propane, butanes, and natural gasoline. 374

(L) "Finished product natural gas liquids" means an 375
individual finished product produced by a natural gas liquids 376
fractionation plant as a liquid that meets the specifications 377
for commercial products as defined by the gas processors 378
association. Those products include ethane, propane, iso-butane, 379
normal butane, and natural gasoline. 380

(M) "Advanced transmission technologies" means software or 381
hardware technologies that increase the capacity, efficiency, 382
reliability, or safety of an existing or new electric 383
transmission system, including grid-enhancing technologies such 384
as dynamic line rating, advanced power flow controllers, and 385
topology optimization; advanced conductors; and other 386
technologies designed to reduce transmission congestion, or 387
increase the capacity, efficiency, reliability, or safety of an 388
existing or new electric transmission system. 389

(N) "Advanced conductor" means a conductor with a direct 390
current electrical resistance that is at least ten per cent 391
lower than existing conductors of a similar diameter on the 392
electric transmission system while simultaneously increasing the 393
energy carrying capacity by at least seventy-five per cent. 394

Sec. 4906.02. (A) (1) There is hereby created within the 395
public utilities commission the power siting board, composed of 396
the chairperson of the public utilities commission, the director 397
of environmental protection, the director of health, the 398
director of development, the director of natural resources, the 399
director of agriculture, and a representative of the public who 400
shall be an engineer and shall be appointed by the governor, 401
from a list of three nominees submitted to the governor by the 402
office of the consumers' counsel, with the advice and consent of 403
the senate and shall serve for a term of four years. The 404
chairperson of the public utilities commission shall be 405
chairperson of the board and its chief executive officer. The 406
chairperson shall designate one of the voting members of the 407
board to act as vice-chairperson who shall possess during the 408
absence or disability of the chairperson all of the powers of 409
the chairperson. All hearings, studies, and consideration of 410
applications for certificates shall be conducted by the board or 411
representatives of its members. 412

In addition, the board shall include four legislative 413
members who may participate fully in all the board's 414
deliberations and activities except that they shall serve as 415
nonvoting members. The speaker of the house of representatives 416
shall appoint one legislative member, and the president of the 417
senate and minority leader of each house shall each appoint one 418
legislative member. Each such legislative leader shall designate 419
an alternate to attend meetings of the board when the regular 420
legislative member appointed by the legislative leader is unable 421
to attend. Each legislative member and alternate shall serve for 422
the duration of the elected term that the legislative member is 423
serving at the time of appointment. A quorum of the board is a 424
majority of its voting members. 425

The representative of the public and, notwithstanding 426
section 101.26 of the Revised Code, legislative members of the 427
board or their designated alternates, when engaged in their 428
duties as members of the board, shall be paid at the per diem 429
rate of step 1, pay range 32, under schedule B of section 124.15 430
of the Revised Code and shall be reimbursed for the actual and 431
necessary expenses they incur in the discharge of their official 432
duties. 433

(2) In all cases involving an application for a 434
certificate or a material amendment to an existing certificate 435
for a utility facility, as defined in section 303.57 of the 436
Revised Code, the board shall include two voting ad hoc members, 437
as described in section 4906.021 of the Revised Code. 438

(B) The chairperson shall keep a complete record of all 439
proceedings of the board, issue all necessary process, writs, 440
warrants, and notices, keep all books, maps, documents, and 441
papers ordered filed by the board, conduct investigations 442
pursuant to section 4906.07 of the Revised Code, and perform 443
such other duties as the board may prescribe. 444

(C) The chairperson of the public utilities commission may 445
assign or transfer duties among the commission's staff and may 446
also hire technical or legal staff as full-time employees of the 447
board. Such technical or legal staff shall be funded through 448
application fees or, if necessary, an additional fee assessment 449
on applicants for a certificate. However, the board's authority 450
to grant certificates under section 4906.10 of the Revised Code 451
shall not be exercised by any officer, employee, or body other 452
than the board itself. 453

(D) (1) The chairperson may call to the chairperson's 454
assistance, temporarily, any employee of the environmental 455

protection agency, the department of natural resources, the 456
department of agriculture, the department of health, or the 457
department of development, for the purpose of making studies, 458
conducting hearings, investigating applications, or preparing 459
any report required or authorized under this chapter. Such 460
employees shall not receive any additional compensation over 461
that which they receive from the agency by which they are 462
employed, but they shall be reimbursed for their actual and 463
necessary expenses incurred while working under the direction of 464
the chairperson. All contracts for special services are subject 465
to the approval of the chairperson. 466

(2) Subject to controlling board approval, the board may 467
contract for the services of any expert or analyst, other than 468
an employee described in division (D)(1) of this section, for 469
the purposes of carrying out the board's powers and duties as 470
described in Chapter 4906. of the Revised Code. Any such expert 471
or analyst shall be compensated from the application fee, or if 472
necessary, supplemental application fees assessed in accordance 473
with division (F) of section 4906.06 of the Revised Code. 474

(E) The board's offices shall be located in those of the 475
public utilities commission. 476

Sec. 4906.03. The power siting board shall: 477

(A) Require such information from persons subject to its 478
jurisdiction as it considers necessary to assist in the conduct 479
of hearings and any investigations or studies it may undertake; 480

(B) Conduct any studies or investigations that it 481
considers necessary or appropriate to carry out its 482
responsibilities under this chapter; 483

(C) Adopt rules establishing criteria for evaluating the 484

effects on environmental values of proposed and alternative 485
sites, and projected needs for electric power, and such other 486
rules as are necessary and convenient to implement this chapter, 487
including rules governing application fees, supplemental 488
application fees, and other reasonable fees to be paid by 489
persons subject to the board's jurisdiction. The board shall 490
make an annual accounting of its collection and use of these 491
fees and shall issue an annual report of its accounting, in the 492
form and manner prescribed by its rules, not later than the last 493
day of June of the year following the calendar year to which the 494
report applies. 495

(D) Approve, disapprove, or modify and approve 496
applications for certificates; 497

(E) Notwithstanding sections 4906.06 to 4906.14 of the 498
Revised Code, the board may adopt rules to provide for an 499
accelerated review of an application for a construction 500
certificate for construction of a major utility facility related 501
to a coal research and development project as defined in section 502
1555.01 of the Revised Code, or to a coal development project as 503
defined in section 1551.30 of the Revised Code, submitted to the 504
Ohio coal development office for review under division (B) (7) of 505
section 1551.33 of the Revised Code. Applications for 506
construction certificates for construction of major utility 507
facilities for Ohio coal research and development shall be filed 508
with the board on the same day as the proposed facility or 509
project is submitted to the Ohio coal development office for 510
review. 511

The board shall render a decision on an application for a 512
construction certificate within ninety days after receipt of the 513
application and all of the data and information it may require 514

from the applicant. In rendering a decision on an application 515
for a construction certificate, the board shall only consider 516
the criteria and make the findings and determinations set forth 517
in divisions (A) (2), (3), (5), and (7) and division (B) of 518
section 4906.10 of the Revised Code. 519

(F) Notwithstanding sections 4906.06 to 4906.14 of the 520
Revised Code, the board shall adopt rules to provide for an 521
accelerated review of an application for a construction 522
certificate for any of the following: 523

(1) An electric transmission line that is: 524

(a) Not more than ~~two miles~~ one mile in length; 525

(b) Primarily needed to attract or meet the requirements 526
of a specific customer or specific customers, provided the 527
electric transmission line is not more than one mile in length; 528

(c) Necessary to maintain reliable electric service as a 529
direct result of the retirement or shutdown of an electric 530
generating facility located within the state; or 531

(d) A rebuilding of an existing transmission line if the 532
rebuilt portion of the transmission line is less than one mile 533
in length. 534

(2) An electric generating facility that uses waste heat 535
or natural gas and is primarily within the current boundary of 536
an existing industrial or electric generating facility; 537

(3) A gas pipeline that is not more than five miles in 538
length or is primarily needed to meet the requirements of a 539
specific customer or specific customers. 540

The board shall adopt rules that provide for the automatic 541
certification to any entity described in this division when an 542

application by any such entity is not suspended by the board, an 543
administrative law judge, or the chairperson or executive 544
director of the board for good cause shown, within ~~ninety-one~~ 545
hundred eighty days of submission of the application. If an 546
application is suspended, the board shall approve, disapprove, 547
or modify and approve the application not later than ninety days 548
after the date of the suspension. 549

(G) Notwithstanding sections 4906.06 to 4906.14 of the 550
Revised Code, the board shall adopt rules to provide for the 551
accelerated review of an application for a construction 552
certificate for any of the following that are located in a 553
priority investment area designated and approved under section 554
122.161 of the Revised Code: 555

(1) An electric generating plant and associated 556
facilities; 557

(2) An electric transmission line and associated 558
facilities; 559

(3) Gas Pipeline infrastructure. 560

The board shall render a decision on an application 561
submitted under this division not later than forty-five days 562
after receipt of the application. If the board does not render a 563
decision within forty-five days, the application shall be 564
considered approved by operation of law, and the board shall 565
issue a certificate to the applicant. 566

The board shall adopt rules to implement this division, 567
including rules that prioritize applications for construction on 568
areas negatively impacted by the decline of the coal industry. 569

(H) Notwithstanding sections 4906.06 to 4906.14 of the 570
Revised Code, the board shall adopt rules to provide for the 571

accelerated review of an application for a construction 572
certificate for a major utility facility if at the time the 573
application is filed the construction will be located, in whole, 574
on property owned by the applicant; in whole or in part, on an 575
easement or right-of-way; or on any combination of such 576
property, easement, or right-of-way. 577

No accelerated application shall be granted under the 578
rules adopted under division (H) of this section for 579
construction of a major utility facility, in whole or in part, 580
on an easement or right-of-way, if additional consent for 581
construction on the easement or right-of-way is required by any 582
person or entity other than the power siting board. 583

The board shall render a decision on an application 584
submitted under this division not later than forty-five days 585
after receipt of the application. If the board does not render a 586
decision within forty-five days, the application shall be 587
considered approved by operation of law, and the board shall 588
issue a certificate to the applicant. 589

Sec. 4906.04. (A) No person shall commence to construct a 590
major utility facility in this state without first having 591
obtained a certificate for the facility. The replacement of an 592
existing facility with a like facility, as determined by the 593
power siting board, shall not constitute construction of a major 594
utility facility. Such replacement of a like facility is not 595
exempt from any other requirements of state or local laws or 596
regulations. Any facility, with respect to which such a 597
certificate is required, shall thereafter be constructed, 598
operated, and maintained in conformity with such certificate and 599
any terms, conditions, and modifications contained therein. A 600
certificate may only be issued pursuant to Chapter 4906. of the 601

Revised Code. 602

(B) A certificate may be transferred, subject to the 603
approval of the board, to a person who agrees to comply with the 604
terms, conditions, and modifications contained therein. 605

(C) Notwithstanding division (A) of this section, the 606
rebuilding or replacement of an existing transmission line that 607
is one mile or more in length constitutes construction of a 608
major utility facility. 609

Sec. 4906.06. (A) An applicant for a certificate has the 610
burden of proof and shall file with the office of the 611
chairperson of the power siting board an application, in such 612
form as the board prescribes, containing the following 613
information: 614

(1) A description of the location and of the major utility 615
facility; 616

(2) A summary of any studies that have been made by or for 617
the applicant of the environmental impact of the facility; 618

(3) A statement explaining the need for the facility; 619

(4) A statement of the reasons why the proposed location 620
is best suited for the facility; 621

(5) A statement of how the facility fits into the 622
applicant's forecast contained in the report submitted under 623
section 4935.04 of the Revised Code; 624

(6) Such other information as the applicant may consider 625
relevant or as the board by rule or order may require. Copies of 626
the studies referred to in division (A) (2) of this section shall 627
be filed with the office of the chairperson, if ordered, and 628
shall be available for public inspection. 629

(7) For an electric transmission line, a summary of any 630
studies that have been made by or for the applicant of cost- 631
effective advanced transmission technologies that maximize the 632
value, expand the capacity, or improve the reliability of the 633
facility. 634

The application shall be filed not more than five years 635
prior to the planned date of commencement of construction. The 636
five-year period may be waived by the board for good cause 637
shown. 638

(B) Each application shall be accompanied by proof of 639
service of a copy of such application on the chief executive 640
officer of each municipal corporation and county, and the head 641
of each public agency charged with the duty of protecting the 642
environment or of planning land use, in the area in which any 643
portion of such facility is to be located. 644

(C) Each applicant within fifteen days after the date of 645
the filing of the application shall give public notice to 646
persons residing in the municipal corporations and counties 647
entitled to receive notice under division (B) of this section, 648
by the publication of a summary of the application in newspapers 649
of general circulation in such area. Proof of such publication 650
shall be filed with the office of the chairperson. 651

(D) Inadvertent failure of service on, or notice to, any 652
of the persons identified in divisions (B) and (C) of this 653
section may be cured pursuant to orders of the board designed to 654
afford them adequate notice to enable them to participate 655
effectively in the proceeding. In addition, the board, after 656
filing, may require the applicant to serve notice of the 657
application or copies thereof or both upon such other persons, 658
and file proof thereof, as the board considers appropriate. 659

(E) An application for an amendment of a certificate shall 660
be in such form and contain such information as the board 661
prescribes. Notice of such an application shall be given as 662
required in divisions (B) and (C) of this section. 663

(F) Each application for certificate or an amendment shall 664
be accompanied by the application fee prescribed by board rule. 665
All application fees, supplemental application fees, and other 666
fees collected by the board shall be deposited in the state 667
treasury to the credit of the power siting board fund, which is 668
hereby created. The chairperson shall administer and authorize 669
expenditures from the fund for any of the purposes of this 670
chapter. If the chairperson determines that moneys credited to 671
the fund from an applicant's fee are not sufficient to pay the 672
board's expenses associated with its review of the application, 673
the chairperson shall request the approval of the controlling 674
board to assess a supplemental application fee upon an applicant 675
to pay anticipated additional expenses associated with the 676
board's review of the application or an amendment to an 677
application. If the chairperson finds that an application fee 678
exceeds the amount needed to pay the board's expenses for review 679
of the application, the chairperson shall cause a refund of the 680
excess amount to be issued to the applicant from the fund. 681

(G) The chairperson shall determine whether an application 682
is in compliance with this section not more than forty-five days 683
after the application is filed. If the chairperson does not 684
issue a determination within the time period required by this 685
division, the application is deemed in compliance by operation 686
of law. 687

Sec. 4906.07. (A) Upon the receipt of an application 688
complying with section 4906.06 of the Revised Code, the power 689

siting board shall promptly fix a date for a public hearing 690
thereon, not less than ~~sixty~~ forty-five nor more than ~~ninety~~ 691
sixty days after such receipt, and shall conclude the proceeding 692
as expeditiously as practicable. 693

(B) On an application for an amendment of a certificate, 694
the board shall hold a hearing in the same manner as a hearing 695
is held on an application for a certificate if the proposed 696
change in the facility would result in any material increase in 697
any environmental impact of the facility or a substantial change 698
in the location of all or a portion of such facility other than 699
as provided in the alternates set forth in the application. 700

(C) The chairperson of the power siting board shall cause 701
each application filed with the board to be investigated and 702
shall, not less than fifteen days prior to the date any 703
application is set for hearing submit a written report to the 704
board and to the applicant. A copy of such report shall be made 705
available to any person upon request. Such report shall set 706
forth the nature of the investigation, and shall contain 707
recommended findings with regard to division (A) of section 708
4906.10 of the Revised Code and shall become part of the record 709
and served upon all parties to the proceeding. 710

Sec. 4906.08. (A) The parties to a certification 711
proceeding shall include: 712

(1) The applicant; 713

(2) Each person entitled to receive service of a copy of 714
the application under division (B) of section 4906.06 of the 715
Revised Code, if the person has filed with the power siting 716
board a notice of intervention as a party, within thirty days 717
after the date the person was served with a copy of the 718

application; 719

(3) Any person residing in a municipal corporation or 720
county entitled to receive service of a copy of the application 721
under division (B) of section 4906.06 of the Revised Code and 722
any other person, if the person has petitioned the board for 723
leave to intervene as a party within thirty days after the date 724
of publication of the notice required by division (C) of section 725
4906.06 of the Revised Code, and if that petition has been 726
granted by the board for good cause shown; 727

(4) If the certificate proceeding involves an electric 728
transmission line or associated facilities, the consumers' 729
counsel. 730

(B) If the certificate proceeding involves an electric 731
transmission line or associated facilities, any other person who 732
may be adversely affected by the proceeding may intervene in the 733
proceeding, provided that such other person files a motion to 734
intervene with the power siting board not later than the 735
specific deadline established by order of the power siting board 736
for purposes of a particular proceeding or, if no such deadline 737
is established, five days prior to the scheduled date of 738
hearing. The power siting board may, in its discretion, grant 739
motions to intervene that are filed after the deadlines set 740
forth in divisions (A) (2) and (3) of this section for good cause 741
shown. Persons who may be adversely affected by a certificate 742
proceeding involving an electric transmission line or associated 743
facilities include the office of the Ohio consumers' counsel, 744
any mercantile customer as defined in division (A) (19) of 745
section 4928.01 of the Revised Code located in the state, or any 746
group or association representing the interests of any such 747
mercantile customers. 748

(C) The board, in extraordinary circumstances for good 749
cause shown, may grant a petition, for leave to intervene as a 750
party to participate in subsequent phases of the proceeding, 751
that is filed by a person identified in division (A) (2) or (3) 752
of this section that failed to file a timely notice of 753
intervention or petition for leave to intervene, as the case may 754
be. 755

~~(C)~~ (D) The board shall accept written or oral testimony 756
from any person at the public hearing, but the right to call and 757
examine witnesses shall be reserved for parties. However, the 758
board may adopt rules to exclude repetitive, immaterial, or 759
irrelevant testimony. 760

Sec. 4906.10. (A) The power siting board shall render a 761
decision upon the record either granting or denying the 762
application as filed, or granting it upon such terms, 763
conditions, or modifications of the construction, operation, or 764
maintenance of the major utility facility as the board considers 765
appropriate. The certificate shall be subject to sections 766
4906.101, 4906.102, and 4906.103 of the Revised Code and 767
conditioned upon the facility being in compliance with standards 768
and rules adopted under section 4561.32 and Chapters 3704., 769
3734., and 6111. of the Revised Code. An applicant may withdraw 770
an application if the board grants a certificate on terms, 771
conditions, or modifications other than those proposed by the 772
applicant in the application. 773

The board shall not grant a certificate for the 774
construction, operation, and maintenance of a major utility 775
facility, either as proposed or as modified by the board, unless 776
it finds and determines all of the following: 777

(1) The basis of the need for the facility if the facility 778

- is an electric transmission line or gas pipeline; 779
- (2) The nature of the probable environmental impact; 780
- (3) That the facility represents the minimum adverse 781
environmental impact, considering the state of available 782
technology and the nature and economics of the various 783
alternatives, and other pertinent considerations; 784
- (4) In the case of an electric transmission line or 785
generating facility, that the facility is consistent with 786
regional plans for expansion of the electric power grid of the 787
electric systems serving this state and interconnected utility 788
systems ~~and,~~ that the facility will serve the interests of 789
electric system economy and reliability, and, in the case of an 790
electric transmission line, that the facility must consider 791
implementing cost-effective advanced transmission technologies 792
to maximize the value, expand capacity, or improve the 793
reliability of the facility; 794
- (5) That the facility will comply with Chapters 3704., 795
3734., and 6111. of the Revised Code and all rules and standards 796
adopted under those chapters and under section 4561.32 of the 797
Revised Code. In determining whether the facility will comply 798
with all rules and standards adopted under section 4561.32 of 799
the Revised Code, the board shall consult with the office of 800
aviation of the division of multi-modal planning and programs of 801
the department of transportation under section 4561.341 of the 802
Revised Code. 803
- (6) That the facility will serve the public interest, 804
convenience, and necessity; 805
- (7) In addition to the provisions contained in divisions 806
(A) (1) to (6) of this section and rules adopted under those 807

divisions, what its impact will be on the viability as 808
agricultural land of any land in an existing agricultural 809
district established under Chapter 929. of the Revised Code that 810
is located within the site and alternative site of the proposed 811
major utility facility. Rules adopted to evaluate impact under 812
division (A) (7) of this section shall not require the 813
compilation, creation, submission, or production of any 814
information, document, or other data pertaining to land not 815
located within the site and alternative site. 816

(8) That the facility incorporates maximum feasible water 817
conservation practices as determined by the board, considering 818
available technology and the nature and economics of the various 819
alternatives.—; 820

(9) For certificate proceedings involving an electric 821
transmission line and associated facilities, including those 822
proceedings that qualify for accelerated review under section 823
4906.08 of the Revised Code, in addition to the provisions 824
contained in divisions (A) (1) to (8) of this section and rules 825
adopted under those divisions: 826

(a) That other alternatives to the transmission project 827
were considered and that the project is the most cost effective 828
and best suited alternative; 829

(b) That the project will be competitively bid or, if not, 830
will be comparable in cost had the project been competitively 831
bid; 832

(c) That the project has been considered in the context of 833
the utility's larger transmission plan; 834

(d) That the project could not be addressed through the 835
construction or replacement of a distribution line or facility; 836

(e) That the project has been considered in the context of 837
the regional transmission planning process of PJM 838
interconnection regional transmission organization, L.L.C.; 839

(f) That the project could not have been deferred or 840
redesigned to achieve the same operational result at a lower 841
overall cost. 842

(B) If the board determines that the location of all or a 843
part of the proposed facility should be modified, it may 844
condition its certificate upon that modification, provided that 845
the municipal corporations and counties, and persons residing 846
therein, affected by the modification shall have been given 847
reasonable notice thereof. 848

(C) A copy of the decision and any opinion issued 849
therewith shall be served upon each party. 850

(D) The board shall render a decision under this section 851
not later than one hundred eighty days after the date the 852
application is determined to be complete. If the board does not 853
render a decision within the time period required by this 854
division, the application shall be deemed approved by operation 855
of law, and the board shall issue a certificate to the 856
applicant. 857

Sec. 4906.105. Within sixty days after the completion of a 858
certificated facility, the applicant shall file the following 859
information in the certificate proceeding: 860

(A) A copy of the as-built drawings for the entire 861
facility; 862

(B) The final facility rating or nameplate capability for 863
the facility; 864

(C) The final cost for the entire facility and an 865
explanation for deviations from any cost estimate included with 866
the certificate application. 867

Sec. 4906.201. (A) An electric generating plant that 868
consists of wind turbines and associated facilities with a 869
single interconnection to the electrical grid that is designed 870
for, or capable of, operation at an aggregate capacity of fifty 871
megawatts or more is subject to the minimum setback requirements 872
established in rules adopted by the power siting board under 873
division (B) (2) of section 4906.20 of the Revised Code. 874

(B) (1) For any existing certificates and amendments 875
thereto, including to repower operational projects, and existing 876
certification applications that have been found by the 877
chairperson to be in compliance with division (A) of section 878
4906.06 of the Revised Code before the effective date of the 879
amendment of this section by H.B. 59 of the 130th general 880
assembly, September 29, 2013, the distance shall be seven 881
hundred fifty feet instead of one thousand one hundred twenty- 882
five feet. 883

(2) Any amendment made to an existing certificate issued 884
after the effective date of the amendment of this section by 885
H.B. 483 of the 130th general assembly, September 15, 2014, 886
establishing the setback distance of one thousand one hundred 887
twenty-five feet, shall be subject to the setback provision of 888
this section as amended by that act. The amendments to this 889
section by that act shall not be construed to limit or abridge 890
any rights or remedies in equity or under the common law. 891

(3) Nothing in this section limits the applicability of 892
the county commission review process under section 303.58 of the 893
Revised Code. 894

Sec. 4909.04. (A) The public utilities commission, for the 895
purpose of ascertaining the reasonableness and justice of rates 896
and charges for the service rendered by public utilities or 897
railroads, or for any other purpose authorized by law, may 898
investigate and ascertain the value of the property of any 899
public utility or railroad in this state used or useful for the 900
service and convenience of the public, using the same criteria 901
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 902
the Revised Code. At the request of the legislative authority of 903
any municipal corporation, the commission, after hearing and 904
determining that such a valuation is necessary, may also 905
investigate and ascertain the value of the property of any 906
public utility used and useful for the service and convenience 907
of the public where the whole or major portion of such public 908
utility is situated in such municipal corporation. 909

(B) To assist the commission in preparing such a 910
valuation, every public utility or railroad shall: 911

(1) Furnish to the commission, or to its agents, as the 912
commission requires, maps, profiles, schedules of rates and 913
tariffs, contracts, reports of engineers, and other documents, 914
records, and papers, or copies of any of them, in aid of any 915
investigation and ascertainment of the value of its property; 916

(2) Grant to the commission or its agents free access to 917
all of its premises and property and its accounts, records, and 918
memoranda whenever and wherever requested by any such authorized 919
agent; 920

(3) Cooperate with and aid the commission and its agents 921
in the work of the valuation of its property in such further 922
particulars and to such extent as the commission requires and 923
directs. 924

(C) The commission may make all rules which seem necessary 925
to ascertain the value of the property and plant of each public 926
utility or railroad. 927

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 928
4909.05 of the Revised Code: 929

(A) A "lease purchase agreement" is an agreement pursuant 930
to which a public utility leasing property is required to make 931
rental payments for the term of the agreement and either the 932
utility is granted the right to purchase the property upon the 933
completion of the term of the agreement and upon the payment of 934
an additional fixed sum of money or title to the property vests 935
in the utility upon the making of the final rental payment. 936

(B) A "leaseback" is the sale or transfer of property by a 937
public utility to another person contemporaneously followed by 938
the leasing of the property to the public utility on a long-term 939
basis. 940

Sec. 4909.042. (A) With respect to an electric light 941
company that chooses to file a forecasted test period under 942
section 4909.18 of the Revised Code, the public utilities 943
commission shall prescribe the form and details of the valuation 944
report of the property of the utility. Such report shall include 945
all the kinds and classes of property, with the value of each, 946
owned, held, or projected to be owned or held during the test 947
period, by the utility for the service and convenience of the 948
public. 949

(B) Such report shall contain the following facts in 950
detail: 951

(1) The original cost of each parcel of land owned in fee 952
and projected to be owned in fee and in use during the test 953

period, determined by the commission; and also a statement of 954
the conditions of acquisition, whether by direct purchase, by 955
donation, by exercise of the power of eminent domain, or 956
otherwise; 957

(2) The actual acquisition cost, not including periodic 958
rental fees, of rights-of-way, trailways, or other land rights 959
projected to be held during the test period, by virtue of 960
easements, leases, or other forms of grants of rights as to 961
usage; 962

(3) The original cost of all other kinds and classes of 963
property projected to be used and useful during the test period, 964
in the rendition of service to the public. Such original costs 965
of property, other than land owned in fee, shall be the cost, as 966
determined to be reasonable by the commission, to the person 967
that first dedicated or dedicates the property to the public use 968
and shall be set forth in property accounts and subaccounts as 969
prescribed by the commission; 970

(4) The cost of property constituting all or part of a 971
project projected to be leased to or used by the utility during 972
the test period, under Chapter 165., 3706., 6121., or 6123. of 973
the Revised Code and not included under division (B) (3) of this 974
section exclusive of any interest directly or indirectly paid by 975
the utility with respect thereto whether or not capitalized; 976

(5) In the discretion of the commission, the cost to a 977
utility, in an amount determined to be reasonable by the 978
commission, of property constituting all or part of a project 979
projected to be leased to the utility during the test period, 980
under a lease purchase agreement or a leaseback and not included 981
under division (B) (3) of this section exclusive of any interest 982
directly or indirectly paid by the utility with respect thereto 983

<u>whether or not capitalized;</u>	984
<u>(6) The proper and adequate reserve for depreciation, as</u>	985
<u>determined to be reasonable by the commission;</u>	986
<u>(7) Any sums of money or property that the utility is</u>	987
<u>projected to receive during the test period, as total or partial</u>	988
<u>defrayal of the cost of its property;</u>	989
<u>(8) The valuation of the property of the utility, which</u>	990
<u>shall be the sum of the amounts contained in the report pursuant</u>	991
<u>to divisions (B) (1) to (5) of this section, less the sum of the</u>	992
<u>amounts contained in the report pursuant to divisions (B) (6) and</u>	993
<u>(7) of this section.</u>	994
<u>(C) The report shall show separately the property</u>	995
<u>projected to be used and useful to or held by the utility during</u>	996
<u>the test period, and such other items as the commission</u>	997
<u>considers proper. The commission may require an additional</u>	998
<u>report showing the extent to which the property is projected to</u>	999
<u>be used and useful during the test period. Such reports shall be</u>	1000
<u>filed in the office of the commission for the information of the</u>	1001
<u>governor and the general assembly.</u>	1002
<u>(D) Any financial information required to be submitted by</u>	1003
<u>an electric light company under this section shall be provided</u>	1004
<u>from the company's full books. The commission shall ensure</u>	1005
<u>appropriate protections against the disclosure of the company's</u>	1006
<u>trade secrets or proprietary information.</u>	1007
Sec. 4909.05. As used in this section:	1008
(A) A "lease purchase agreement" is an agreement pursuant	1009
to which a public utility leasing property is required to make	1010
rental payments for the term of the agreement and either the	1011
utility is granted the right to purchase the property upon the	1012

~~completion of the term of the agreement and upon the payment of~~ 1013
~~an additional fixed sum of money or title to the property vests~~ 1014
~~in the utility upon the making of the final rental payment.~~ 1015

~~(B) A "leaseback" is the sale or transfer of property by a~~ 1016
~~public utility to another person contemporaneously followed by~~ 1017
~~the leasing of the property to the public utility on a long-term~~ 1018
~~basis.~~ 1019

~~(C) The~~ With respect to every public utility, other than 1020
an electric light company that chooses to file a forecasted test 1021
period under section 4909.18 of the Revised Code, the public 1022
utilities commission shall prescribe the form and details of the 1023
valuation report of the property of each public utility or 1024
railroad in the state. Such report shall include all the kinds 1025
and classes of property, with the value of each, owned, held, 1026
or, with respect to a natural gas, water-works, or sewage 1027
disposal system company, projected to be owned or held as of the 1028
date certain, by each public utility or railroad used and 1029
useful, or, with respect to a natural gas, water-works, or 1030
sewage disposal system company, projected to be used and useful 1031
as of the date certain, for the service and convenience of the 1032
public. ~~Such~~ 1033

(B) Such report shall contain the following facts in 1034
detail: 1035

(1) The original cost of each parcel of land owned in fee 1036
and in use, or, with respect to a natural gas, water-works, or 1037
sewage disposal system company, projected to be owned in fee and 1038
in use as of the date certain, determined by the commission; and 1039
also a statement of the conditions of acquisition, whether by 1040
direct purchase, by donation, by exercise of the power of 1041
eminent domain, or otherwise; 1042

(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, 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, 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, under Chapter 165., 3706., 6121., or 6123. of the Revised Code and not included under division ~~(C) (3)~~ (B) (3) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not

capitalized; 1074

(5) In the discretion of the commission, the cost to a 1075
utility, in an amount determined to be reasonable by the 1076
commission, of property constituting all or part of a project 1077
leased to the utility, or, with respect to a natural gas, water- 1078
works, or sewage disposal system company, projected to be leased 1079
to the utility as of the date certain, under a lease purchase 1080
agreement or a leaseback and not included under division ~~(C)~~(3) 1081
(B) (3) of this section exclusive of any interest directly or 1082
indirectly paid by the utility with respect thereto whether or 1083
not capitalized; 1084

(6) The cost of the replacement of water service lines 1085
incurred by a water-works company under section 4909.173 of the 1086
Revised Code and the water service line replacement 1087
reimbursement amounts provided to customers under section 1088
4909.174 of the Revised Code; 1089

(7) The proper and adequate reserve for depreciation, as 1090
determined to be reasonable by the commission; 1091

(8) Any sums of money or property that the company may 1092
have received, or, with respect to a natural gas, water-works, 1093
or sewage disposal system company, is projected to receive as of 1094
the date certain, as total or partial defrayal of the cost of 1095
its property; 1096

(9) The valuation of the property of the company, which 1097
shall be the sum of the amounts contained in the report pursuant 1098
to divisions ~~(C)~~(1)(B) (1) to (6) of this section, less the sum 1099
of the amounts contained in the report pursuant to divisions ~~(C)~~ 1100
~~(7)~~(B) (7) and (8) of this section. 1101

(C) The report shall show separately the property used and 1102

useful to such public utility or railroad in the furnishing of 1103
the service to the public, the property held by such public 1104
utility or railroad for other purposes, and the property 1105
projected to be used and useful to or held by a natural gas, 1106
water-works, or sewage disposal system company as of the date 1107
certain, and such other items as the commission considers 1108
proper. The commission may require an additional report showing 1109
the extent to which the property is used and useful, or, with 1110
respect to a natural gas, water-works, or sewage disposal system 1111
company, projected to be used and useful as of the date certain. 1112
Such reports shall be filed in the office of the commission for 1113
the information of the governor and the general assembly. 1114

Sec. 4909.052. Subject to a finding that such costs are 1115
just and reasonable, the public utilities commission in 1116
evaluating a petition submitted under section 4905.481 of the 1117
Revised Code shall accept the original cost, reported under 1118
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 1119
of the acquisition of a municipal water-works or sewage disposal 1120
system company that is acquired by a large water-works or sewage 1121
disposal system company, provided that the original cost is 1122
determined according to all of the following requirements: 1123

(A) The acquiring company has three appraisals performed 1124
on the property of the company being acquired. 1125

(B) The three appraisals are performed by three 1126
independent utility-valuation experts mutually selected by the 1127
acquiring company and the company being acquired from the list 1128
maintained under section 4909.054 of the Revised Code. 1129

(C) The average of the three appraisals is used as the 1130
fair market value of the company being acquired. 1131

(D) Each utility-valuation expert does all of the 1132
following: 1133

(1) Determines the fair market value of the company to be 1134
acquired by establishing the amount for which the company would 1135
be sold in a voluntary transaction between a willing buyer and a 1136
willing seller under no obligation to buy or sell; 1137

(2) Determines the fair market value in compliance with 1138
the uniform standards of professional appraisal practice; 1139

(3) Employs the cost, market, and income approach to 1140
independently quantify the future benefits of the company to be 1141
acquired; 1142

(4) Incorporates the assessment described in division (D) 1143
(5) of this section into the appraisal under the cost, market, 1144
and income approach; 1145

(5) Engages one engineer who is licensed to prepare an 1146
assessment of the tangible assets of the company to be acquired. 1147
The original source of funding for any part of the tangible 1148
assets shall not be relevant to the determination of the value 1149
of those assets. 1150

(E) The lesser of the purchase price or the fair market 1151
value, described in division (C) of this section, is reported as 1152
the original cost under division ~~(C) (3)~~ (B) (3) of section 1153
4909.05 of the Revised Code of the company to be acquired. 1154

Sec. 4909.06. The investigation and report required by 1155
~~section~~ section 4909.042 or 4909.05 of the Revised Code shall 1156
show, when the public utilities commission deems it necessary, 1157
the amounts, dates, and rates of interest of all bonds 1158
outstanding against each public utility or railroad, the 1159
property upon which such bonds are a lien, the amounts paid for 1160

them, and, the original capital stock and the moneys received by 1161
any such public utility or railroad by reason of any issue of 1162
stock, bonds, or other securities. Such report shall also show 1163
the net and gross receipts of such public utility or railroad 1164
and the method by which moneys were expended or paid out and the 1165
purpose of such payments. The commission may prescribe the 1166
procedure to be followed in making the investigation and 1167
valuation, the form in which the results of the ascertainment of 1168
the value of each public utility or railroad shall be submitted, 1169
and the classifications of the elements that constitute the 1170
ascertained value. Such investigation shall also show the value 1171
of the property of every public utility or railroad as a whole, 1172
and if such property is in more than one county, the value of 1173
its property in each of such counties. 1174

"Valuation" and "value," as used in this section, may 1175
include, ~~with~~ : 1176

(A) With respect to a public utility that is a natural 1177
gas, water-works, or sewage disposal system company, projected 1178
valuation and value as of the date certain, if applicable 1179
because of a future date certain under section 4909.15 of the 1180
Revised Code; 1181

(B) With respect to an electric light company that chooses 1182
to file a forecasted test period under section 4909.18 of the 1183
Revised Code, the valuation and value during the forecasted test 1184
period. 1185

Sec. 4909.07. The public utilities commission, during the 1186
making of the valuation provided for in sections 4909.04 to 1187
4909.13 of the Revised Code, and after its completion, shall in 1188
like manner keep itself informed through its engineers, experts, 1189
and other assistants of all extensions, improvements, or other 1190

changes in the condition and value of the property of all public 1191
utilities or railroads and shall ascertain the value of such 1192
extensions, improvements, and changes. The commission shall, as 1193
is required for the proper regulation of such public utilities 1194
or railroads, revise and correct its valuations of property, 1195
showing such revisions and corrections as a whole and as to each 1196
county. Such revisions and corrections shall be filed in the 1197
same manner as original reports. 1198

"Valuation" and "value," as used in this section, may 1199
include, ~~with~~ : 1200

(A) With respect to a public utility that is a natural 1201
gas, water-works, or sewage disposal system company, projected 1202
valuation and value as of the date certain, if applicable 1203
because of a future date certain under section 4909.15 of the 1204
Revised Code; 1205

(B) With respect to an electric light company that chooses 1206
to file a forecasted test period under section 4909.18 of the 1207
Revised Code, the valuation and value during the forecasted test 1208
period. 1209

Sec. 4909.08. When the public utilities commission has 1210
completed the valuation of the property of any public utility or 1211
railroad and before such valuation becomes final, it shall give 1212
notice by registered letter to such public utility or railroad, 1213
and if a substantial portion of said public utility or railroad 1214
is situated in a municipal corporation, then to the mayor of 1215
such municipal corporation, stating the valuations placed upon 1216
the several kinds and classes of property of such public utility 1217
or railroad and upon the property as a whole and give such 1218
further notice by publication or otherwise as it shall deem 1219
necessary to apprise the public of such valuation. If, within 1220

thirty days after such notification, no protest has been filed 1221
with the commission, such valuation becomes final. If notice of 1222
protest has been filed by any public utility or railroad, the 1223
commission shall fix a time for hearing such protest and shall 1224
consider at such hearing any matter material thereto presented 1225
by such public utility, railroad, or municipal corporation, in 1226
support of its protest or by any representative of the public 1227
against such protest. If, after the hearing of any protest of 1228
any valuation so fixed, the commission is of the opinion that 1229
its inventory is incomplete or inaccurate or that its valuation 1230
is incorrect, it shall make such changes as are necessary and 1231
shall issue an order making such corrected valuations final. A 1232
final valuation by the commission and all classifications made 1233
for the ascertainment of such valuations shall be public and are 1234
prima-facie evidence relative to the value of the property. 1235

"Valuation" and "value," as used in this section, may 1236
include, ~~with~~ : 1237

(A) With respect to a public utility that is a natural 1238
gas, water-works, or sewage disposal system company, projected 1239
valuation and value as of the date certain, if applicable 1240
because of a future date certain under section 4909.15 of the 1241
Revised Code; 1242

(B) With respect to an electric light company that chooses 1243
to file a forecasted test period under section 4909.18 of the 1244
Revised Code, the valuation and value during the forecasted test 1245
period. 1246

Sec. 4909.15. (A) The public utilities commission, when 1247
fixing and determining just and reasonable rates, fares, tolls, 1248
rentals, and charges, shall determine: 1249

~~(1) The~~ (1) (a) With respect to a public utility that is a 1250
natural gas, water-works, or sewage disposal system company, or 1251
that is an electric light company that chooses not to file a 1252
forecasted test period under section 4909.18 of the Revised 1253
Code, the valuation as of the date certain of the property of 1254
the public utility that is used and useful or, with respect to a 1255
natural gas, water-works, or sewage disposal system company, is 1256
projected to be used and useful as of the date certain, in 1257
rendering the public utility service for which rates are to be 1258
fixed and determined.~~The~~ 1259

(b) With respect to an electric light company that chooses 1260
to file a forecasted test period under section 4909.18 of the 1261
Revised Code, the valuation of the property of the utility that 1262
is projected to be used and useful during the forecasted test 1263
period in rendering the public utility service for which rates 1264
are to be fixed and determined. 1265

(c) The valuation so determined under division (A) (1) of 1266
this section for any public utility shall be the total value as 1267
set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the 1268
Revised Code and division (B) (9) of section 4909.05 of the 1269
Revised Code, and a reasonable allowance for materials and 1270
supplies and a reasonable allowance for cash working capital as 1271
determined by the commission. 1272

~~The commission, in its discretion, may include in the~~ 1273
~~valuation a reasonable allowance for construction work in~~ 1274
~~progress but, in no event, may such an allowance be made by the~~ 1275
~~commission until it has determined that the particular~~ 1276
~~construction project is at least seventy-five per cent complete.~~ 1277

~~In determining the percentage completion of a particular~~ 1278
~~construction project, the commission shall consider, among other~~ 1279

~~relevant criteria, the per cent of time elapsed in construction, 1280
the per cent of construction funds, excluding allowance for 1281
funds used during construction, expended, or obligated to such 1282
construction funds budgeted where all such funds are adjusted to 1283
reflect current purchasing power; and any physical inspection 1284
performed by or on behalf of any party, including the 1285
commission's staff. 1286~~

~~A reasonable allowance for construction work in progress 1287
shall not exceed ten per cent of the total valuation as stated 1288
in this division, not including such allowance for construction 1289
work in progress. 1290~~

~~Where the commission permits an allowance for construction 1291
work in progress, the dollar value of the project or portion 1292
thereof included in the valuation as construction work in 1293
progress shall not be included in the valuation as plant in 1294
service until such time as the total revenue effect of the 1295
construction work in progress allowance is offset by the total 1296
revenue effect of the plant in service exclusion. Carrying 1297
charges calculated in a manner similar to allowance for funds 1298
used during construction shall accrue on that portion of the 1299
project in service but not reflected in rates as plant in 1300
service, and such accrued carrying charges shall be included in 1301
the valuation of the property at the conclusion of the offset 1302
period for purposes of division (C) (9) of section 4909.05 of the 1303
Revised Code. 1304~~

~~From and after April 10, 1985, no allowance for 1305
construction work in progress as it relates to a particular 1306
construction project shall be reflected in rates for a period 1307
exceeding forty-eight consecutive months commencing on the date 1308
the initial rates reflecting such allowance become effective, 1309~~

~~except as otherwise provided in this division.~~ 1310

~~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.~~ 1311
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~~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.~~ 1321
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~~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.~~ 1327
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~~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~~ 1332
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~~revenues previously collected.~~ 1340

~~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.~~ 1341
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(2) A fair and reasonable rate of return to the utility on 1345
the valuation as determined in division (A) (1) of this section; 1346

(3) The dollar annual return to which the utility is 1347
entitled by applying the fair and reasonable rate of return as 1348
determined under division (A) (2) of this section to the 1349
valuation of the utility determined under division (A) (1) of 1350
this section; 1351

(4) The cost to the utility of rendering the public 1352
utility service for the test period used for the determination 1353
under division (C) (1) of this section, ~~less the total of any~~ 1354
~~interest on cash or credit refunds paid, pursuant to section~~ 1355
~~4909.42 of the Revised Code,~~ by the utility during the test 1356
period. 1357

~~(a)~~ Federal, state, and local taxes imposed on or measured 1358
by net income may, in the discretion of the commission, be 1359
computed by the normalization method of accounting, provided the 1360
utility maintains accounting reserves that reflect differences 1361
between taxes actually payable and taxes on a normalized basis, 1362
provided that no determination as to the treatment in the rate- 1363
making process of such taxes shall be made that will result in 1364
loss of any tax depreciation or other tax benefit to which the 1365
utility would otherwise be entitled, and further provided that 1366
such tax benefit as redounds to the utility as a result of such 1367
a computation may not be retained by the company, used to fund 1368

any dividend or distribution, or utilized for any purpose other 1369
than the defrayal of the operating expenses of the utility and 1370
the defrayal of the expenses of the utility in connection with 1371
construction work. 1372

~~(b) The amount of any tax credits granted to an electric 1373
light company under section 5727.391 of the Revised Code for 1374
Ohio coal burned prior to January 1, 2000, shall not be retained 1375
by the company, used to fund any dividend or distribution, or 1376
utilized for any purposes other than the defrayal of the 1377
allowable operating expenses of the company and the defrayal of 1378
the allowable expenses of the company in connection with the 1379
installation, acquisition, construction, or use of a compliance 1380
facility. The amount of the tax credits granted to an electric 1381
light company under that section for Ohio coal burned prior to 1382
January 1, 2000, shall be returned to its customers within three 1383
years after initially claiming the credit through an offset to 1384
the company's rates or fuel component, as determined by the 1385
commission, as set forth in schedules filed by the company under 1386
section 4905.30 of the Revised Code. As used in division (A) (4) 1387
(b) of this section, "compliance facility" has the same meaning 1388
as in section 5727.391 of the Revised Code. 1389~~

(B) The commission shall compute the gross annual revenues 1390
to which the utility is entitled by adding the dollar amount of 1391
return under division (A) (3) of this section to the cost, for 1392
the test period used for the determination under division (C) (1) 1393
of this section, of rendering the public utility service under 1394
division (A) (4) of this section. 1395

(C) (1) Except as provided in division (D) of this section, 1396
the revenues and expenses of the utility shall be determined 1397
during a test period. The utility may as follows: 1398

(a) Electric light companies may propose a forecasted test period. The company may propose changes to base rates for up to three consecutive twelve-month periods in a single forecasted test period application. The commission has discretion to reduce the number of test periods a company proposes. 1399
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During the first twelve-month period, the company may propose a reasonably forecasted rate base during a thirteen-month average, revenues, and expenses for the first twelve months that new base rates will be in effect. 1404
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During the second twelve-month period, the base rate revenue requirement may be adjusted for the return of, and return on, incremental rate base additions approved by the commission in the initial application. During the third twelve-month period, the base rate revenue requirement may be adjusted for the return of and return on incremental rate base additions approved by the commission in the initial application. 1408
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For the initial twelve-month period, forecasted plant investment, forecasted revenues, and forecasted expenses versus actual investment, actual revenues, and actual expenses shall be trued up via a cost recovery mechanism approved by the commission. For the second and third twelve-month periods, forecasted plant investment versus actual plant investment shall be trued up via a cost recovery mechanism approved by the commission. As part of the true-up process, the commission shall exclude any rate base components that have not been found by the commission to be used and useful in rendering public utility service. 1415
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At the end of the last test period, the company shall file for a rate case under section 4909.18 of the Revised Code. 1426
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(b) All utilities, except for electric light companies 1428
that choose to file under division (C) (1) (a) of this section, 1429
shall propose a test period ~~for this determination~~ that is any 1430
twelve-month period beginning not more than six months prior to 1431
the date the application is filed and ending not more than nine 1432
months subsequent to that date. ~~The test period for determining~~ 1433
~~revenues and expenses of the utility shall be the test period~~ 1434
~~proposed by the utility, unless otherwise ordered by the~~ 1435
~~commission.~~ 1436

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1437
this section, the date certain shall be not later than the date 1438
of filing, except that it shall be, for a natural gas, water- 1439
works, or sewage disposal system company, not later than the end 1440
of the test period. 1441

(D) ~~A natural gas, water-works, or sewage disposal system-~~ 1442
~~company~~ Utilities filing under division (C) (1) (b) of this 1443
section may propose adjustments to the revenues and expenses to- 1444
~~be determined under division (C) (1) of this section for any~~ 1445
changes that are, during the test period or the twelve-month 1446
period immediately following the test period, reasonably 1447
expected to occur. ~~The natural gas, water-works, or sewage-~~ 1448
~~disposal system company utility shall identify and quantify,~~ 1449
individually, any proposed adjustments. The commission shall 1450
incorporate the proposed adjustments into the determination if 1451
the adjustments are just and reasonable. 1452

(E) When the commission is of the opinion, after hearing 1453
and after making the determinations under divisions (A) and (B) 1454
of this section, that any rate, fare, charge, toll, rental, 1455
schedule, classification, or service, or any joint rate, fare, 1456
charge, toll, rental, schedule, classification, or service 1457

rendered, charged, demanded, exacted, or proposed to be 1458
rendered, charged, demanded, or exacted, is, or will be, unjust, 1459
unreasonable, unjustly discriminatory, unjustly preferential, or 1460
in violation of law, that the service is, or will be, 1461
inadequate, or that the maximum rates, charges, tolls, or 1462
rentals chargeable by any such public utility are insufficient 1463
to yield reasonable compensation for the service rendered, and 1464
are unjust and unreasonable, the commission shall: 1465

(1) With due regard among other things to the value of all 1466
property of the public utility ~~actually used and useful for the~~ 1467
~~convenience of the public~~ as determined under division (A) (1) of 1468
this section, excluding from such value the value of any 1469
franchise or right to own, operate, or enjoy the same in excess 1470
of the amount, exclusive of any tax or annual charge, actually 1471
paid to any political subdivision of the state or county, as the 1472
consideration for the grant of such franchise or right, and 1473
excluding any value added to such property by reason of a 1474
monopoly or merger, with due regard in determining the dollar 1475
annual return under division (A) (3) of this section to the 1476
necessity of making reservation out of the income for surplus, 1477
depreciation, and contingencies, and; 1478

(2) With due regard to all such other matters as are 1479
proper, according to the facts in each case, 1480

(a) Including a fair and reasonable rate of return 1481
determined by the commission with reference to a cost of debt 1482
equal to the actual embedded cost of debt of such public 1483
utility, 1484

(b) But not including the portion of any periodic rental 1485
or use payments representing that cost of property that is 1486
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1487

and (5) of section 4909.042 of the Revised Code and divisions 1488
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1489
determine the just and reasonable rate, fare, charge, toll, 1490
rental, or service to be rendered, charged, demanded, exacted, 1491
or collected for the performance or rendition of the service 1492
that will provide the public utility the allowable gross annual 1493
revenues under division (B) of this section, and order such just 1494
and reasonable rate, fare, charge, toll, rental, or service to 1495
be substituted for the existing one. After such determination 1496
and order no change in the rate, fare, toll, charge, rental, 1497
schedule, classification, or service shall be made, rendered, 1498
charged, demanded, exacted, or changed by such public utility 1499
without the order of the commission, and any other rate, fare, 1500
toll, charge, rental, classification, or service is prohibited. 1501

(F) Upon application of any person or any public utility, 1502
and after notice to the parties in interest and opportunity to 1503
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1504
4909., 4921., and 4923. of the Revised Code for other hearings, 1505
has been given, the commission may rescind, alter, or amend an 1506
order fixing any rate, fare, toll, charge, rental, 1507
classification, or service, or any other order made by the 1508
commission. Certified copies of such orders shall be served and 1509
take effect as provided for original orders. 1510

Sec. 4909.156. In fixing the just, reasonable, and 1511
compensatory rates, joint rates, tolls, classifications, 1512
charges, or rentals to be observed and charged for service by 1513
any public utility, the public utilities commission shall, in 1514
action upon an application filed pursuant to section 4909.18 of 1515
the Revised Code, require a public utility to file a report 1516
showing the proportionate amounts of the valuation of the 1517
property of the utility, as determined under section 4909.042 or 1518

4909.05 of the Revised Code, and the proportionate amounts of 1519
the revenues and expenses of the utility that are proposed to be 1520
considered as attributable to the service area involved in the 1521
application. 1522

"Valuation," as used in this section, may include, ~~with~~: 1523

(A) With respect to a public utility that is a natural 1524
gas, water-works, or sewage disposal system company, projected 1525
valuation as of the date certain, if applicable because of a 1526
future date certain under section 4909.15 of the Revised Code; 1527

(B) With respect to an electric light company that chooses 1528
to file a forecasted test period under section 4909.18 of the 1529
Revised Code, the valuation and value during the forecasted test 1530
period. 1531

Sec. 4909.159. An electric light company proposing a 1532
forecasted test period under division (C) (1) (a) of section 1533
4909.15 of the Revised Code shall provide any financial 1534
information required by that section from the company's full 1535
books. The public utilities commission shall ensure appropriate 1536
protections against the disclosure of the company's trade 1537
secrets or proprietary information. 1538

Sec. 4909.173. (A) As used in this section and section 1539
4909.174 of the Revised Code: 1540

(1) "Customer-owned water service line" means the water 1541
service line connected to the water-works company's water 1542
service line at the curb of a customer's property. 1543

(2) "Water-works company" means an entity defined under 1544
division (G) of section 4905.03 of the Revised Code that is a 1545
public utility under section 4905.02 of the Revised Code. 1546

(B) A water-works company may do any of the following:	1547
(1) Replace lead customer-owned water service lines	1548
concurrently with a scheduled utility main replacement project,	1549
an emergency replacement, or company-initiated lead water	1550
service line replacement program;	1551
(2) Replace lead customer-owned water service lines when	1552
mandated or ordered to replace such lines by law or a state or	1553
federal regulatory agency;	1554
(3) Replace customer-owned water service lines of other	1555
composition when mandated or ordered to replace such lines by	1556
law or a state or federal regulatory agency.	1557
(C) If a water-works company replaces customer-owned water	1558
service lines under this section, then the company shall include	1559
the cost of the replacement of the water service lines,	1560
including the cost of replacement of both company side and	1561
customer-owned water service lines and the cost to evaluate	1562
customer-owned water service lines of unknown composition, in	1563
the valuation report of the property of the company as required	1564
under division (C) (6) (B) (6) of section 4909.05 of the Revised	1565
Code for inclusion in a rate case under this chapter.	1566
(D) The water service customer who is responsible for the	1567
customer-owned water service line that was replaced under this	1568
section shall hold legal title to the replaced water service	1569
line.	1570
Sec. 4909.174. (A) A water-works company shall reimburse a	1571
customer who replaces the customer's customer-owned water	1572
service line, if both of the following occur:	1573
(1) The company confirms that the customer-owned water	1574
service line was composed of lead or other composition that was	1575

mandated or ordered to be replaced by law or a state or federal 1576
regulatory agency; 1577

(2) The customer submits the reimbursement request to the 1578
company not later than twelve months after the completion of the 1579
water line replacement. 1580

(B) A water-works company that provides a reimbursement to 1581
a customer under this section shall include the reimbursement 1582
amount in the valuation report of the property of the company as 1583
required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1584
Revised Code for inclusion in a rate case under this chapter. 1585

Sec. 4909.18. Any public utility desiring to establish any 1586
rate, joint rate, toll, classification, charge, or rental, or to 1587
modify, amend, change, increase, or reduce any existing rate, 1588
joint rate, toll, classification, charge, or rental, or any 1589
regulation or practice affecting the same, shall file a written 1590
application with the public utilities commission. Except for 1591
actions under section 4909.16 of the Revised Code, no public 1592
utility may issue the notice of intent to file an application 1593
pursuant to division (B) of section 4909.43 of the Revised Code 1594
to increase any existing rate, joint rate, toll, classification, 1595
charge, or rental, until a final order under this section has 1596
been issued by the commission on any pending prior application 1597
to increase the same rate, joint rate, toll, classification, 1598
charge, or rental or until two hundred seventy-five days after 1599
filing such application, whichever is sooner. Such application 1600
shall be verified by the president or a vice-president and the 1601
secretary or treasurer of the applicant. Such application shall 1602
contain a schedule of the existing rate, joint rate, toll, 1603
classification, charge, or rental, or regulation or practice 1604
affecting the same, a schedule of the modification amendment, 1605

change, increase, or reduction sought to be established, and a 1606
statement of the facts and grounds upon which such application 1607
is based. If such application proposes a new service or the use 1608
of new equipment, or proposes the establishment or amendment of 1609
a regulation, the application shall fully describe the new 1610
service or equipment, or the regulation proposed to be 1611
established or amended, and shall explain how the proposed 1612
service or equipment differs from services or equipment 1613
presently offered or in use, or how the regulation proposed to 1614
be established or amended differs from regulations presently in 1615
effect. The application shall provide such additional 1616
information as the commission may require in its discretion. If 1617
the commission determines that such application is not for an 1618
increase in any rate, joint rate, toll, classification, charge, 1619
or rental, the commission may permit the filing of the schedule 1620
proposed in the application and fix the time when such schedule 1621
shall take effect. If it appears to the commission that the 1622
proposals in the application may be unjust or unreasonable, the 1623
commission shall set the matter for hearing and shall give 1624
notice of such hearing by sending written notice of the date set 1625
for the hearing to the public utility and publishing notice of 1626
the hearing one time in a newspaper of general circulation in 1627
each county in the service area affected by the application. At 1628
such hearing, the burden of proof to show that the proposals in 1629
the application are just and reasonable shall be upon the public 1630
utility. After such hearing, the commission shall, where 1631
practicable, issue an appropriate order within six months from 1632
the date the application was filed. 1633

If the commission determines that said application is for 1634
an increase in any rate, joint rate, toll, classification, 1635
charge, or rental there shall also, unless otherwise ordered by 1636

the commission, be filed with the application in duplicate the 1637
following exhibits: 1638

(A) A report of its property used and useful, or, with 1639
respect to a natural gas, water-works, or sewage disposal system 1640
company, projected to be used and useful, as of the date 1641
certain, or during the forecasted test period, if the 1642
application is filed under division (C) (1) (a) of section 4909.15 1643
of the Revised Code, in rendering the service referred to in 1644
such application, as provided in ~~section~~ sections 4909.042 and 1645
4909.05 of the Revised Code; 1646

(B) A complete operating statement of its last fiscal 1647
year, showing in detail all its receipts, revenues, and incomes 1648
from all sources, all of its operating costs and other 1649
expenditures, and any analysis such public utility deems 1650
applicable to the matter referred to in said application; 1651

(C) A statement of the income and expense anticipated 1652
under the application filed; 1653

(D) A statement of financial condition summarizing assets, 1654
liabilities, and net worth; 1655

(E) Such other information as the commission may require 1656
in its discretion. 1657

Sec. 4909.181. (A) As used in this section, "electric 1658
distribution utility" has the same meaning as in section 4928.01 1659
of the Revised Code. 1660

(B) Not later than December 31, 2029, and at least every 1661
three years thereafter, each electric distribution utility shall 1662
file a rate case application regarding distribution service 1663
under section 4909.18 of the Revised Code. 1664

Sec. 4909.19. (A) Upon the filing of any application for 1665
increase provided for by section 4909.18 of the Revised Code the 1666
public utility shall forthwith publish notice of such 1667
application, in a form approved by the public utilities 1668
commission, once a week for two consecutive weeks in a newspaper 1669
published and in general circulation throughout the territory in 1670
which such public utility operates and directly affected by the 1671
matters referred to in said application. The notice shall 1672
include instructions for direct electronic access to the 1673
application or other documents on file with the public utilities 1674
commission. The first publication of the notice shall be made in 1675
its entirety and may be made in a preprinted insert in the 1676
newspaper. The second publication may be abbreviated if all of 1677
the following apply: 1678

(1) The abbreviated notice is at least one-fourth of the 1679
size of the notice in the first publication. 1680

(2) At the same time the abbreviated notice is published, 1681
the notice in the first publication is posted in its entirety on 1682
the newspaper's web site, if the newspaper has a web site, and 1683
the commission's web site. 1684

(3) The abbreviated notice contains a statement of the web 1685
site posting or postings, as applicable, and instructions for 1686
accessing the posting or postings. 1687

(B) The commission shall determine a format for the 1688
content of all notices required under this section, and shall 1689
consider costs and technological efficiencies in making that 1690
determination. Defects in the publication of said notice shall 1691
not affect the legality or sufficiency of notices published 1692
under this section provided that the commission has 1693
substantially complied with this section, as described in 1694

section 4905.09 of the Revised Code. 1695

(C) The commission shall at once cause an investigation to 1696
be made of the facts set forth in said application and the 1697
exhibits attached thereto, and of the matters connected 1698
therewith. Within ~~a reasonable time as determined by the~~ 1699
~~commission one hundred eighty days~~ after the ~~filing of such~~ 1700
application is determined to be complete, a written report shall 1701
be made and filed with the commission, a copy of which shall be 1702
sent by certified mail to the applicant, the mayor of any 1703
municipal corporation affected by the application, and to such 1704
other persons as the commission deems interested. If no 1705
objection to such report is made by any party interested within 1706
~~thirty fifteen~~ days after such filing and the mailing of copies 1707
thereof, the commission shall fix a date within ten days for the 1708
final hearing upon said application, giving notice thereof to 1709
all parties interested. At such hearing the commission shall 1710
consider the matters set forth in said application and make such 1711
order respecting the prayer thereof as to it seems just and 1712
reasonable. 1713

If objections are filed with the commission, the 1714
commission shall cause a pre-hearing conference to be held 1715
between all parties, intervenors, and the commission staff in 1716
all cases involving more than one hundred thousand customers. 1717

If objections are filed with the commission within ~~thirty~~ 1718
fifteen days after the filing of such report, the application 1719
shall be promptly set down for hearing of testimony before the 1720
commission or be forthwith referred to an attorney examiner 1721
designated by the commission to take all the testimony with 1722
respect to the application and objections which may be offered 1723
by any interested party. The commission shall also fix the time 1724

and place to take testimony giving ten days' written notice of 1725
such time and place to all parties. The taking of testimony 1726
shall commence on the date fixed in said notice and shall 1727
continue from day to day until completed. The attorney examiner 1728
may, upon good cause shown, grant continuances for not more than 1729
three days, excluding Saturdays, Sundays, and holidays. The 1730
commission may grant continuances for a longer period than three 1731
days upon its order for good cause shown. At any hearing 1732
involving rates or charges sought to be increased, the burden of 1733
proof to show that the increased rates or charges are just and 1734
reasonable shall be on the public utility. 1735

When the taking of testimony is completed, a full and 1736
complete record of such testimony noting all objections made and 1737
exceptions taken by any party or counsel, shall be made, signed 1738
by the attorney examiner, and filed with the commission. Prior 1739
to the formal consideration of the application by the commission 1740
and the rendition of any order respecting the prayer of the 1741
application, a quorum of the commission shall consider the 1742
recommended opinion and order of the attorney examiner, in an 1743
open, formal, public proceeding in which an overview and 1744
explanation is presented orally. Thereafter, the commission 1745
shall make such order respecting the prayer of such application 1746
as seems just and reasonable to it. 1747

In all proceedings before the commission in which the 1748
taking of testimony is required, except when heard by the 1749
commission, attorney examiners shall be assigned by the 1750
commission to take such testimony and fix the time and place 1751
therefor, and such testimony shall be taken in the manner 1752
prescribed in this section. All testimony shall be under oath or 1753
affirmation and taken down and transcribed by a reporter and 1754
made a part of the record in the case. The commission may hear 1755

the testimony or any part thereof in any case without having the 1756
same referred to an attorney examiner and may take additional 1757
testimony. Testimony shall be taken and a record made in 1758
accordance with such general rules as the commission prescribes 1759
and subject to such special instructions in any proceedings as 1760
it, by order, directs. 1761

Sec. 4909.192. When considering an application to increase 1762
rates under section 4909.18 of the Revised Code, the public 1763
utilities commission may approve the following: 1764

(A) Nondiscriminatory programs available for all energy- 1765
intensive customers to implement economic development, job 1766
growth, job retention, or interruptible rates that enhance 1767
distribution and transmission grid reliability and promote 1768
economic development. 1769

(B) Nondiscriminatory programs available for all 1770
mercantile customers, as defined in section 4928.01 of the 1771
Revised Code, that align retail rate recovery with how 1772
transmission costs are incurred by or charged to the electric 1773
distribution utility, as defined in section 4928.01 of the 1774
Revised Code, or programs that allow customers to be billed 1775
directly for transmission service by a competitive retail 1776
electric service provider. 1777

Sec. 4909.193. The public utilities commission shall 1778
determine whether an application filed under section 4909.18 of 1779
the Revised Code is complete not more than forty-five days after 1780
the application is filed. If the commission does not issue a 1781
determination within the time period required by this section, 1782
the application shall be deemed complete by operation of law. 1783

Sec. 4909.42. If the proceeding on an application filed 1784

with the public utilities commission under section 4909.18 of 1785
the Revised Code by any public utility requesting an increase on 1786
any rate, rate mechanism, joint rate, toll, classification, 1787
charge, or rental or requesting a change in a regulation or 1788
practice affecting the same has not been concluded and an 1789
opinion and an order entered pursuant to section 4909.19 of the 1790
Revised Code at the expiration of two hundred seventy-five days 1791
from the date ~~of filing~~ the application is deemed complete, ~~an~~ 1792
the public utility may request a temporary increase not to 1793
exceed the proposed increase, which shall go into effect ~~upon~~ 1794
~~the filing of a bond or a letter of credit by the public~~ 1795
~~utility~~ and remain in effect until modified in accordance with 1796
the commission's order based upon the merits of the application. 1797
~~The bond or letter of credit shall be filed with the commission~~ 1798
~~and shall be payable to the state for the use and benefit of the~~ 1799
~~customers affected by the proposed increase or change~~ 1800

Not later than three hundred forty-six days from the date 1801
an application is determined complete, the commission shall 1802
issue an order to approve, deny, or modify an application filed 1803
under section 4909.18 of the Revised Code. If the commission 1804
does not issue an order within three hundred forty-six days 1805
after the application is determined complete, the application 1806
shall be deemed approved by operation of law. A temporary 1807
increase under this section shall not exceed the midpoint of the 1808
rates recommended in the staff report filed pursuant to section 1809
4909.19 of the Revised Code and shall be subject to 1810
reconciliation and refund. 1811

~~An affidavit attached to the bond or letter of credit must~~ 1812
~~be signed by two of the officers of the utility, under oath, and~~ 1813
~~must contain a promise on behalf of the utility to refund any~~ 1814
~~amounts collected by the utility over the rate, joint rate,~~ 1815

~~toll, classification, charge, or rental, as determined in the~~ 1816
~~final order of the commission. All refunds shall include~~ 1817
~~interest at the rate stated in section 1343.03 of the Revised~~ 1818
~~Code. The refund shall be in the form of a temporary reduction~~ 1819
~~in rates following the final order of the commission, and shall~~ 1820
~~be accomplished in such manner as shall be prescribed by the~~ 1821
~~commission in its final order. The commission shall exercise~~ 1822
~~continuing and exclusive jurisdiction over such refunds.~~ 1823

~~If the public utilities commission has not entered a final~~ 1824
~~order within five hundred forty-five days from the date of the~~ 1825
~~filing of an application for an increase in rates under section~~ 1826
~~4909.18 of the Revised Code, a public utility shall have no~~ 1827
~~obligation to make a refund of amounts collected after the five~~ 1828
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1829
~~the commission's final order.~~ 1830

Nothing in this section shall be construed to mitigate any 1831
duty of the commission to issue a final order under section 1832
4909.19 of the Revised Code. 1833

Sec. 4928.01. (A) As used in this chapter: 1834

(1) "Ancillary service" means any function necessary to 1835
the provision of electric transmission or distribution service 1836
to a retail customer and includes, but is not limited to, 1837
scheduling, system control, and dispatch services; reactive 1838
supply from generation resources and voltage control service; 1839
reactive supply from transmission resources service; regulation 1840
service; frequency response service; energy imbalance service; 1841
operating reserve-spinning reserve service; operating reserve- 1842
supplemental reserve service; load following; back-up supply 1843
service; real-power loss replacement service; dynamic 1844
scheduling; system black start capability; and network stability 1845

service. 1846

(2) "Billing and collection agent" means a fully 1847
independent agent, not affiliated with or otherwise controlled 1848
by an electric utility, electric services company, electric 1849
cooperative, or governmental aggregator subject to certification 1850
under section 4928.08 of the Revised Code, to the extent that 1851
the agent is under contract with such utility, company, 1852
cooperative, or aggregator solely to provide billing and 1853
collection for retail electric service on behalf of the utility 1854
company, cooperative, or aggregator. 1855

(3) "Certified territory" means the certified territory 1856
established for an electric supplier under sections 4933.81 to 1857
4933.90 of the Revised Code. 1858

(4) "Competitive retail electric service" means a 1859
component of retail electric service that is competitive as 1860
provided under division (B) of this section. 1861

(5) "Electric cooperative" means a not-for-profit electric 1862
light company that both is or has been financed in whole or in 1863
part under the "Rural Electrification Act of 1936," 49 Stat. 1864
1363, 7 U.S.C. 901, and owns or operates facilities in this 1865
state to generate, transmit, or distribute electricity, or a 1866
not-for-profit successor of such company. 1867

(6) "Electric distribution utility" means an electric 1868
utility that supplies at least retail electric distribution 1869
service and does not own or operate an electric generating 1870
facility. 1871

(7) "Electric light company" has the same meaning as in 1872
section 4905.03 of the Revised Code and includes an electric 1873
services company, but excludes any self-generator to the extent 1874

that it consumes electricity it so produces, sells that 1875
electricity for resale, or obtains electricity from a generating 1876
facility it hosts on its premises. 1877

(8) "Electric load center" has the same meaning as in 1878
section 4933.81 of the Revised Code. 1879

(9) "Electric services company" means an electric light 1880
company that is engaged on a for-profit or not-for-profit basis 1881
in the business of supplying or arranging for the supply of only 1882
a competitive retail electric service in this state. "Electric 1883
services company" includes a power marketer, power broker, 1884
aggregator, or independent power producer but excludes an 1885
electric cooperative, municipal electric utility, governmental 1886
aggregator, or billing and collection agent. 1887

(10) "Electric supplier" has the same meaning as in 1888
section 4933.81 of the Revised Code. 1889

(11) "Electric utility" means an electric light company 1890
that has a certified territory and is engaged on a for-profit 1891
basis ~~either~~ in the business of supplying at least a 1892
noncompetitive retail electric service in this state ~~or in the~~ 1893
~~businesses of supplying both a noncompetitive and a competitive~~ 1894
~~retail electric service in this state.~~ "Electric utility" 1895
excludes a municipal electric utility or a billing and 1896
collection agent. 1897

(12) "Firm electric service" means electric service other 1898
than nonfirm electric service. 1899

(13) "Governmental aggregator" means a legislative 1900
authority of a municipal corporation, a board of township 1901
trustees, or a board of county commissioners acting as an 1902
aggregator for the provision of a competitive retail electric 1903

service under authority conferred under section 4928.20 of the Revised Code. 1904
1905

(14) A person acts "knowingly," regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. 1906
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(15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates" means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract. 1911
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(16) "Low-income customer assistance programs" means the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program, and the targeted energy efficiency and weatherization program. 1921
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(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter. 1925
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(18) "Market power" means the ability to impose on customers a sustained price for a product or service above the 1931
1932

price that would prevail in a competitive market. 1933

(19) "Mercantile customer" means a commercial or 1934
industrial customer if the electricity consumed is for 1935
nonresidential use and the customer consumes more than seven 1936
hundred thousand kilowatt hours per year or is part of a 1937
national account involving multiple facilities in one or more 1938
states. 1939

(20) "Municipal electric utility" means a municipal 1940
corporation that owns or operates facilities to generate, 1941
transmit, or distribute electricity. 1942

(21) "Noncompetitive retail electric service" means a 1943
component of retail electric service that is noncompetitive as 1944
provided under division (B) of this section. 1945

(22) "Nonfirm electric service" means electric service 1946
provided pursuant to a schedule filed under section 4905.30 of 1947
the Revised Code or pursuant to an arrangement under section 1948
4905.31 of the Revised Code, which schedule or arrangement 1949
includes conditions that may require the customer to curtail or 1950
interrupt electric usage during nonemergency circumstances upon 1951
notification by an electric utility. 1952

(23) "Percentage of income payment plan arrears" means 1953
funds eligible for collection through the percentage of income 1954
payment plan rider, but uncollected as of July 1, 2000. 1955

(24) "Person" has the same meaning as in section 1.59 of 1956
the Revised Code. 1957

(25) "Advanced energy project" means any technologies, 1958
products, activities, or management practices or strategies that 1959
facilitate the generation or use of electricity or energy and 1960
that reduce or support the reduction of energy consumption or 1961

support the production of clean, renewable energy for 1962
industrial, distribution, commercial, institutional, 1963
governmental, research, not-for-profit, or residential energy 1964
users, including, but not limited to, advanced energy resources 1965
and renewable energy resources. "Advanced energy project" also 1966
includes any project described in division (A), (B), or (C) of 1967
section 4928.621 of the Revised Code. 1968

(26) "Regulatory assets" means the unamortized net 1969
regulatory assets that are capitalized or deferred on the 1970
regulatory books of the electric utility, pursuant to an order 1971
or practice of the public utilities commission or pursuant to 1972
generally accepted accounting principles as a result of a prior 1973
commission rate-making decision, and that would otherwise have 1974
been charged to expense as incurred or would not have been 1975
capitalized or otherwise deferred for future regulatory 1976
consideration absent commission action. "Regulatory assets" 1977
includes, but is not limited to, all deferred demand-side 1978
management costs; all deferred percentage of income payment plan 1979
arrears; post-in-service capitalized charges and assets 1980
recognized in connection with statement of financial accounting 1981
standards no. 109 (receivables from customers for income taxes); 1982
future nuclear decommissioning costs and fuel disposal costs as 1983
those costs have been determined by the commission in the 1984
electric utility's most recent rate or accounting application 1985
proceeding addressing such costs; the undepreciated costs of 1986
safety and radiation control equipment on nuclear generating 1987
plants owned or leased by an electric utility; and fuel costs 1988
currently deferred pursuant to the terms of one or more 1989
settlement agreements approved by the commission. 1990

(27) "Retail electric service" means any service involved 1991
in supplying or arranging for the supply of electricity to 1992

ultimate consumers in this state, from the point of generation 1993
to the point of consumption. For the purposes of this chapter, 1994
retail electric service includes one or more of the following 1995
"service components": generation service, aggregation service, 1996
power marketing service, power brokerage service, transmission 1997
service, distribution service, ancillary service, metering 1998
service, and billing and collection service. 1999

(28) "Starting date of competitive retail electric 2000
service" means January 1, 2001. 2001

(29) "Customer-generator" means a user of a net metering 2002
system. 2003

(30) "Net metering" means measuring the difference in an 2004
applicable billing period between the electricity supplied by an 2005
electric service provider and the electricity generated by a 2006
customer-generator that is fed back to the electric service 2007
provider. 2008

(31) "Net metering system" means a facility for the 2009
production of electrical energy that does all of the following: 2010

(a) Uses as its fuel either solar, wind, biomass, landfill 2011
gas, or hydropower, or uses a microturbine or a fuel cell; 2012

(b) Is located on a customer-generator's premises; 2013

(c) Operates in parallel with the electric utility's 2014
transmission and distribution facilities; 2015

(d) Is intended primarily to offset part or all of the 2016
customer-generator's annual requirements for electricity. ~~For an 2017
industrial customer-generator with a net metering system that 2018
has a capacity of less than twenty megawatts and uses wind as 2019
energy, this means the net metering system was sized so as to 2020~~

~~not exceed one hundred per cent of the customer generator's~~ 2021
~~annual requirements for electric energy at the time of~~ 2022
~~interconnection~~electric energy. 2023

(32) "Self-generator" means an entity in this state that 2024
owns or hosts on ~~its premises~~ property the entity controls an 2025
electric generation facility that produces electricity primarily 2026
for the owner's consumption and that may provide any such excess 2027
electricity to another entity, whether the facility is installed 2028
or operated by the owner or by ~~an agent~~ a third party under a 2029
contract, including a lease, purchase power agreement, or other 2030
service contract. 2031

(33) "Rate plan" means the standard service offer in 2032
effect on the effective date of the amendment of this section by 2033
S.B. 221 of the 127th general assembly, July 31, 2008. 2034

(34) "Advanced energy resource" means any of the 2035
following: 2036

(a) Any method or any modification or replacement of any 2037
property, process, device, structure, or equipment that 2038
increases the generation output of an electric generating 2039
facility to the extent such efficiency is achieved without 2040
additional carbon dioxide emissions by that facility; 2041

(b) Any distributed generation system consisting of 2042
customer cogeneration technology; 2043

(c) Clean coal technology that includes a carbon-based 2044
product that is chemically altered before combustion to 2045
demonstrate a reduction, as expressed as ash, in emissions of 2046
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2047
sulfur trioxide in accordance with the American society of 2048
testing and materials standard D1757A or a reduction of metal 2049

oxide emissions in accordance with standard D5142 of that 2050
society, or clean coal technology that includes the design 2051
capability to control or prevent the emission of carbon dioxide, 2052
which design capability the commission shall adopt by rule and 2053
shall be based on economically feasible best available 2054
technology or, in the absence of a determined best available 2055
technology, shall be of the highest level of economically 2056
feasible design capability for which there exists generally 2057
accepted scientific opinion; 2058

(d) Advanced nuclear energy technology consisting of 2059
generation III technology as defined by the nuclear regulatory 2060
commission; other, later technology; or significant improvements 2061
to existing facilities; 2062

(e) Any fuel cell used in the generation of electricity, 2063
including, but not limited to, a proton exchange membrane fuel 2064
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2065
solid oxide fuel cell; 2066

(f) Advanced solid waste or construction and demolition 2067
debris conversion technology, including, but not limited to, 2068
advanced stoker technology, and advanced fluidized bed 2069
gasification technology, that results in measurable greenhouse 2070
gas emissions reductions as calculated pursuant to the United 2071
States environmental protection agency's waste reduction model 2072
(WARM); 2073

(g) Demand-side management and any energy efficiency 2074
improvement; 2075

(h) Any new, retrofitted, refueled, or repowered 2076
generating facility located in Ohio, including a simple or 2077
combined-cycle natural gas generating facility or a generating 2078

facility that uses biomass, coal, modular nuclear, or any other 2079
fuel as its input; 2080

(i) Any uprated capacity of an existing electric 2081
generating facility if the uprated capacity results from the 2082
deployment of advanced technology. 2083

"Advanced energy resource" does not include a waste energy 2084
recovery system that is, or has been, included in an energy 2085
efficiency program of an electric distribution utility pursuant 2086
to requirements under section 4928.66 of the Revised Code. 2087

(35) "Air contaminant source" has the same meaning as in 2088
section 3704.01 of the Revised Code. 2089

(36) "Cogeneration technology" means technology that 2090
produces electricity and useful thermal output simultaneously. 2091

(37) (a) "Renewable energy resource" means any of the 2092
following: 2093

(i) Solar photovoltaic or solar thermal energy; 2094

(ii) Wind energy; 2095

(iii) Power produced by a hydroelectric facility; 2096

(iv) Power produced by a small hydroelectric facility, 2097
which is a facility that operates, or is rated to operate, at an 2098
aggregate capacity of less than six megawatts; 2099

(v) Power produced by a run-of-the-river hydroelectric 2100
facility placed in service on or after January 1, 1980, that is 2101
located within this state, relies upon the Ohio river, and 2102
operates, or is rated to operate, at an aggregate capacity of 2103
forty or more megawatts; 2104

(vi) Geothermal energy; 2105

(vii) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;	2106 2107 2108 2109
(viii) Biomass energy;	2110
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	2111 2112 2113 2114 2115 2116 2117 2118 2119 2120
(x) Biologically derived methane gas;	2121
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	2122 2123 2124
(xii) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors.	2125 2126 2127
"Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; <u>a linear generator</u> ; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; waste energy recovery	2128 2129 2130 2131 2132 2133 2134

system placed into service or retrofitted on or after the 2135
effective date of the amendment of this section by S.B. 315 of 2136
the 129th general assembly, September 10, 2012, except that a 2137
waste energy recovery system described in division (A) (38) (b) of 2138
this section may be included only if it was placed into service 2139
between January 1, 2002, and December 31, 2004; storage facility 2140
that will promote the better utilization of a renewable energy 2141
resource; or distributed generation system used by a customer to 2142
generate electricity from any such energy. 2143

"Renewable energy resource" does not include a waste 2144
energy recovery system that is, or was, on or after January 1, 2145
2012, included in an energy efficiency program of an electric 2146
distribution utility pursuant to requirements under section 2147
4928.66 of the Revised Code. 2148

(b) As used in division (A) (37) of this section, 2149
"hydroelectric facility" means a hydroelectric generating 2150
facility that is located at a dam on a river, or on any water 2151
discharged to a river, that is within or bordering this state or 2152
within or bordering an adjoining state and meets all of the 2153
following standards: 2154

(i) The facility provides for river flows that are not 2155
detrimental for fish, wildlife, and water quality, including 2156
seasonal flow fluctuations as defined by the applicable 2157
licensing agency for the facility. 2158

(ii) The facility demonstrates that it complies with the 2159
water quality standards of this state, which compliance may 2160
consist of certification under Section 401 of the "Clean Water 2161
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2162
demonstrates that it has not contributed to a finding by this 2163
state that the river has impaired water quality under Section 2164

303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2165
U.S.C. 1313. 2166

(iii) The facility complies with mandatory prescriptions 2167
regarding fish passage as required by the federal energy 2168
regulatory commission license issued for the project, regarding 2169
fish protection for riverine, anadromous, and catadromous fish. 2170

(iv) The facility complies with the recommendations of the 2171
Ohio environmental protection agency and with the terms of its 2172
federal energy regulatory commission license regarding watershed 2173
protection, mitigation, or enhancement, to the extent of each 2174
agency's respective jurisdiction over the facility. 2175

(v) The facility complies with provisions of the 2176
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2177
to 1544, as amended. 2178

(vi) The facility does not harm cultural resources of the 2179
area. This can be shown through compliance with the terms of its 2180
federal energy regulatory commission license or, if the facility 2181
is not regulated by that commission, through development of a 2182
plan approved by the Ohio historic preservation office, to the 2183
extent it has jurisdiction over the facility. 2184

(vii) The facility complies with the terms of its federal 2185
energy regulatory commission license or exemption that are 2186
related to recreational access, accommodation, and facilities 2187
or, if the facility is not regulated by that commission, the 2188
facility complies with similar requirements as are recommended 2189
by resource agencies, to the extent they have jurisdiction over 2190
the facility; and the facility provides access to water to the 2191
public without fee or charge. 2192

(viii) The facility is not recommended for removal by any 2193

federal agency or agency of any state, to the extent the 2194
particular agency has jurisdiction over the facility. 2195

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2196
this section do not apply to a small hydroelectric facility 2197
under division (A) (37) (a) (iv) of this section. 2198

(38) "Waste energy recovery system" means any of the 2199
following: 2200

(a) A facility that generates electricity through the 2201
conversion of energy from either of the following: 2202

(i) Exhaust heat from engines or manufacturing, 2203
industrial, commercial, or institutional sites, except for 2204
exhaust heat from a facility whose primary purpose is the 2205
generation of electricity; 2206

(ii) Reduction of pressure in gas pipelines before gas is 2207
distributed through the pipeline, provided that the conversion 2208
of energy to electricity is achieved without using additional 2209
fossil fuels. 2210

(b) A facility at a state institution of higher education 2211
as defined in section 3345.011 of the Revised Code that recovers 2212
waste heat from electricity-producing engines or combustion 2213
turbines and that simultaneously uses the recovered heat to 2214
produce steam, provided that the facility was placed into 2215
service between January 1, 2002, and December 31, 2004; 2216

(c) A facility that produces steam from recovered waste 2217
heat from a manufacturing process and uses that steam, or 2218
transfers that steam to another facility, to provide heat to 2219
another manufacturing process or to generate electricity. 2220

(39) "Smart grid" means capital improvements to an 2221

electric distribution utility's distribution infrastructure that 2222
improve reliability, efficiency, resiliency, or reduce energy 2223
demand or use, including, but not limited to, advanced metering 2224
and automation of system functions. 2225

(40) "Combined heat and power system" means the 2226
coproduction of electricity and useful thermal energy from the 2227
same fuel source designed to achieve thermal-efficiency levels 2228
of at least sixty per cent, with at least twenty per cent of the 2229
system's total useful energy in the form of thermal energy. 2230

~~(41) "Legacy generation resource" means all generating 2231
facilities owned directly or indirectly by a corporation that 2232
was formed prior to 1960 by investor-owned utilities for the 2233
original purpose of providing power to the federal government 2234
for use in the nation's defense or in furtherance of national 2235
interests, including the Ohio valley electric corporation. 2236~~

~~(42) "Prudently incurred costs related to a legacy 2237
generation resource" means costs, including deferred costs, 2238
allocated pursuant to a power agreement approved by the federal 2239
energy regulatory commission that relates to a legacy generation 2240
resource, less any revenues realized from offering the 2241
contractual commitment for the power agreement into the 2242
wholesale markets, provided that where the net revenues exceed 2243
net costs, those excess revenues shall be credited to customers. 2244
Such costs shall exclude any return on investment in common 2245
equity and, in the event of a premature retirement of a legacy 2246
generation resource, shall exclude any recovery of remaining 2247
debt. Such costs shall include any incremental costs resulting 2248
from the bankruptcy of a current or former sponsor under such 2249
power agreement or co-owner of the legacy generation resource if 2250
not otherwise recovered through a utility rate cost recovery 2251~~

mechanism.	2252
(43) (a) (41) (a) "Green energy" means any energy generated	2253
by using an energy resource that does one or more of the	2254
following:	2255
(i) Releases reduced air pollutants, thereby reducing	2256
cumulative air emissions;	2257
(ii) Is more sustainable and reliable relative to some	2258
fossil fuels.	2259
(b) "Green energy" includes energy generated using the	2260
following:	2261
(i) Natural gas as a resource;	2262
(ii) Nuclear reaction.	2263
<u>(42) "Energy storage" means electrical generation and</u>	2264
<u>storage performed by a distributed energy system connected</u>	2265
<u>battery.</u>	2266
<u>(43) "Linear generator" means an integrated system</u>	2267
<u>consisting of oscillators, cylinders, electricity conversion</u>	2268
<u>equipment, and associated balance of plant components that meet</u>	2269
<u>the following criteria:</u>	2270
<u>(a) Converts the linear motion of oscillators directly</u>	2271
<u>into electricity without the use of a flame or spark;</u>	2272
<u>(b) Is dispatchable with the ability to vary power output</u>	2273
<u>across all loads;</u>	2274
<u>(c) Can operate on multiple fuel types including renewable</u>	2275
<u>fuels such as hydrogen, ammonia, and biogas.</u>	2276
(B) For the purposes of this chapter, a retail electric	2277
service component shall be deemed a competitive retail electric	2278

service if the service component is competitive pursuant to a 2279
declaration by a provision of the Revised Code or pursuant to an 2280
order of the public utilities commission authorized under 2281
division (A) of section 4928.04 of the Revised Code. Otherwise, 2282
the service component shall be deemed a noncompetitive retail 2283
electric service. 2284

Sec. 4928.02. It is the policy of this state to do the 2285
following throughout this state: 2286

(A) Ensure the availability to consumers of adequate, 2287
reliable, safe, efficient, nondiscriminatory, and reasonably 2288
priced retail electric service; 2289

(B) Ensure the availability of unbundled and comparable 2290
retail electric service that provides consumers with the 2291
supplier, price, terms, conditions, and quality options they 2292
elect to meet their respective needs; 2293

(C) Ensure diversity of electricity supplies and 2294
suppliers, by giving consumers effective choices over the 2295
selection of those supplies and suppliers and by encouraging the 2296
development of distributed and small generation facilities; 2297

(D) Encourage innovation and market access for cost- 2298
effective supply- and demand-side retail electric service 2299
including, but not limited to, demand-side management, time- 2300
differentiated pricing, waste energy recovery systems, smart 2301
grid programs, and implementation of advanced metering 2302
infrastructure; 2303

(E) Encourage cost-effective and efficient access to 2304
information regarding the operation of the transmission and 2305
distribution systems of electric utilities in order to promote 2306
both effective customer choice of retail electric service and 2307

the development of performance standards and targets for service 2308
quality for all consumers, including annual achievement reports 2309
written in plain language; 2310

(F) Ensure that an electric utility's transmission and 2311
distribution systems are available to a customer-generator or 2312
owner of distributed generation, so that the customer-generator 2313
or owner can market and deliver the electricity it produces; 2314

(G) Recognize the continuing emergence of competitive 2315
electricity markets through the development and implementation 2316
of flexible regulatory treatment; 2317

(H) Ensure effective competition in the provision of 2318
retail electric service by avoiding anticompetitive subsidies 2319
flowing from a noncompetitive retail electric service to a 2320
competitive retail electric service or to a product or service 2321
other than retail electric service, and vice versa, including by 2322
prohibiting the recovery of any generation-related costs through 2323
distribution or transmission rates; 2324

(I) Ensure retail electric service consumers protection 2325
against unreasonable sales practices, market deficiencies, and 2326
market power; 2327

(J) Provide coherent, transparent means of giving 2328
appropriate incentives to technologies that can adapt 2329
successfully to potential environmental mandates; 2330

(K) Encourage implementation of distributed generation 2331
across customer classes through regular review and updating of 2332
administrative rules governing critical issues such as, but not 2333
limited to, interconnection standards, standby charges, and net 2334
metering; 2335

(L) Protect at-risk populations, including, but not 2336

limited to, when considering the implementation of any new 2337
advanced energy or renewable energy resource; 2338

(M) Encourage the education of small business owners in 2339
this state regarding the use of, and encourage the use of, 2340
energy efficiency programs and alternative energy resources in 2341
their businesses; 2342

(N) Facilitate the state's effectiveness in the global 2343
economy. 2344

(O) Encourage cost-effective, timely, and efficient access 2345
to and sharing of customer usage data with customers and 2346
competitive suppliers to promote customer choice and grid 2347
modernization. 2348

(P) Ensure that a customer's data is provided in a 2349
standard format and provided to third parties in as close to 2350
real time as is economically justifiable in order to spur 2351
economic investment and improve the energy options of individual 2352
customers. 2353

(Q) Encourage the development of community energy 2354
facilities, as defined in section 4934.01 of the Revised Code, 2355
for the benefit of customers in this state and to facilitate 2356
participation by customers with the facilities. 2357

(R) Establish a community energy pilot program, pursuant 2358
to sections 4934.04 to 4934.17 and 4934.25 to 4934.27 of the 2359
Revised Code. 2360

(S) Establish program evaluations and consumer protections 2361
ensuring community energy subscribers are effectively and 2362
equitably receiving savings from participating in the community 2363
energy pilot program. 2364

In carrying out this policy, the commission shall consider 2365
rules as they apply to the costs of electric distribution 2366
infrastructure, including, but not limited to, line extensions, 2367
for the purpose of development in this state. 2368

Sec. 4928.041. (A) Except as provided in sections 4928.141 2369
and 4928.142 of the Revised Code, no electric utility shall 2370
provide a competitive retail electric service in this state if 2371
that service was deemed competitive or otherwise legally 2372
classified as competitive prior to the effective date of this 2373
section. 2374

(B) The standard service offer under section 4928.141 of 2375
the Revised Code shall continue to be provided to consumers in 2376
this state by electric utilities. 2377

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2378
~~competitive retail electric service, a~~ A competitive retail 2379
electric service supplied by an ~~electric utility or electric~~ 2380
services company, or by an electric utility consistent with 2381
section 4928.141 of the Revised Code, shall not be subject to 2382
supervision and regulation by a municipal corporation under 2383
Chapter 743. of the Revised Code or by the public utilities 2384
commission under Chapters 4901. to 4909., 4933., 4935., and 2385
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2386
division (B) of section 4905.33, and sections 4905.35 and 2387
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2388
and 4963.41 of the Revised Code only to the extent related to 2389
service reliability and public safety; and except as otherwise 2390
provided in this chapter. The commission's authority to enforce 2391
those excepted provisions with respect to a competitive retail 2392
electric service shall be such authority as is provided for 2393
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2394

and 4963. of the Revised Code and this chapter. Nothing in this 2395
division shall be construed to limit the commission's authority 2396
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2397
Revised Code. 2398

~~On and after the starting date of competitive retail~~ 2399
~~electric service, a~~ (2) A competitive retail electric service 2400
supplied by an electric cooperative shall not be subject to 2401
supervision and regulation by the commission under Chapters 2402
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2403
except as otherwise expressly provided in sections 4928.01 to 2404
4928.10 and 4928.16 of the Revised Code. 2405

~~(2) On and after the starting date of competitive retail~~ 2406
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2407
service supplied by an electric utility shall be subject to 2408
supervision and regulation by the commission under Chapters 2409
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2410
this chapter, to the extent that authority is not preempted by 2411
federal law. The commission's authority to enforce those 2412
provisions with respect to a noncompetitive retail electric 2413
service shall be the authority provided under those chapters and 2414
this chapter, to the extent the authority is not preempted by 2415
federal law. Notwithstanding Chapters 4905. and 4909. of the 2416
Revised Code, commission authority under this chapter shall 2417
include the authority to provide for the recovery, through a 2418
reconcilable rider on an electric distribution utility's 2419
distribution rates, of all transmission and transmission-related 2420
costs, including ancillary and congestion costs, imposed on or 2421
charged to the utility by the federal energy regulatory 2422
commission or a regional transmission organization, independent 2423
transmission operator, or similar organization approved by the 2424
federal energy regulatory commission. 2425

(2) The commission shall exercise its jurisdiction with 2426
respect to the delivery of electricity by an electric utility in 2427
this state ~~on or after the starting date of competitive retail~~ 2428
~~electric service~~ so as to ensure that no aspect of the delivery 2429
of electricity by the utility to consumers in this state that 2430
consists of a noncompetitive retail electric service is 2431
unregulated. 2432

~~On and after that starting date, a~~ (3) A noncompetitive 2433
retail electric service supplied by an electric cooperative 2434
shall not be subject to supervision and regulation by the 2435
commission under Chapters 4901. to 4909., 4933., 4935., and 2436
4963. of the Revised Code, except sections 4933.81 to 4933.90 2437
and 4935.03 of the Revised Code. The commission's authority to 2438
enforce those excepted sections with respect to a noncompetitive 2439
retail electric service of an electric cooperative shall be such 2440
authority as is provided for their enforcement under Chapters 2441
4933. and 4935. of the Revised Code. 2442

~~(B) Nothing in this chapter affects the authority of the~~ 2443
~~commission under Title XLIX of the Revised Code to regulate an~~ 2444
~~electric light company in this state or an electric service~~ 2445
~~supplied in this state prior to the starting date of competitive~~ 2446
~~retail electric service.~~ 2447

Sec. 4928.08. (A) This section applies to an electric 2448
cooperative, or to a governmental aggregator that is a municipal 2449
electric utility, only to the extent of a competitive retail 2450
electric service it provides to a customer to whom it does not 2451
provide a noncompetitive retail electric service through 2452
transmission or distribution facilities it singly or jointly 2453
owns or operates. 2454

~~(B)~~ (B) (1) No electric utility, electric services company, 2455

electric cooperative, or governmental aggregator shall provide a 2456
competitive retail electric service to a consumer in this state 2457
on and after the starting date of competitive retail electric 2458
service without first being certified by the public utilities 2459
commission regarding its managerial, technical, and financial 2460
capability to provide that service and providing a financial 2461
guarantee sufficient to protect customers and electric 2462
distribution utilities from default. Certification shall be 2463
granted pursuant to procedures and standards the commission 2464
shall prescribe in accordance with division (C) of this section, 2465
except that certification or certification renewal shall be 2466
deemed approved thirty days after the filing of an application 2467
with the commission unless the commission suspends that approval 2468
for good cause shown. In the case of such a suspension, the 2469
commission shall act to approve or deny certification or 2470
certification renewal to the applicant not later than ninety 2471
days after the date of the suspension. 2472

(2) The public utilities commission shall establish rules 2473
to require an electric services company to maintain financial 2474
assurances sufficient to protect customers and electric 2475
distribution utilities from default. Such rules also shall 2476
specifically allow an electric distribution utility to set 2477
reasonable standards for its security and the security of its 2478
customers through financial requirements set in its tariffs. 2479

(3) As used in division (B) (2) of this section, an 2480
"electric services company" has the same meaning as in section 2481
4928.01 of the Revised Code, but excludes a power broker or 2482
aggregator. 2483

(C) Capability standards adopted in rules under division 2484
(B) of this section shall be sufficient to ensure compliance 2485

with the minimum service requirements established under section 2486
4928.10 of the Revised Code and with section 4928.09 of the 2487
Revised Code. The standards shall allow flexibility for 2488
voluntary aggregation, to encourage market creativity in 2489
responding to consumer needs and demands, and shall allow 2490
flexibility for electric services companies that exclusively 2491
provide installation of small electric generation facilities, to 2492
provide ease of market access. The rules shall include 2493
procedures for biennially renewing certification. 2494

(D) The commission may suspend, rescind, or conditionally 2495
rescind the certification of any electric utility, electric 2496
services company, electric cooperative, or governmental 2497
aggregator issued under this section if the commission 2498
determines, after reasonable notice and opportunity for hearing, 2499
that the utility, company, cooperative, or aggregator has failed 2500
to comply with any applicable certification standards or has 2501
engaged in anticompetitive or unfair, deceptive, or 2502
unconscionable acts or practices in this state. 2503

(E) No electric distribution utility on and after the 2504
starting date of competitive retail electric service shall 2505
knowingly distribute electricity, to a retail consumer in this 2506
state, for any supplier of electricity that has not been 2507
certified by the commission pursuant to this section. 2508

(F) Notwithstanding any provision of section 121.95 of the 2509
Revised Code to the contrary, a regulatory restriction contained 2510
in a rule adopted under section 4928.08 of the Revised Code is 2511
not subject to sections 121.95 to 121.953 of the Revised Code. 2512

Sec. 4928.101. (A) As used in this section: 2513

(1) "Small commercial customer" means any customer that 2514

receives electric service pursuant to a nonresidential tariff if 2515
the customer's demand for electricity does not exceed twenty- 2516
five kilowatts within the last twelve months. 2517

(2) "Small commercial customer" excludes any customer that 2518
does one or both of the following: 2519

(a) Manages multiple electric meters and, within the last 2520
twelve months, the electricity demand for at least one of the 2521
meters is twenty-five kilowatts or more; 2522

(b) Has, at the customer's discretion, aggregated the 2523
demand for the customer-managed meters. 2524

(B) If a competitive retail electric service supplier 2525
offers a residential or small commercial customer a contract for 2526
a fixed introductory rate that converts to a variable rate upon 2527
the expiration of the fixed rate, the supplier shall send two 2528
notices to each residential and small commercial customer that 2529
enters into such a contract. Each notice shall provide all of 2530
the following information to the customer: 2531

(1) The fixed rate that is expiring under the contract; 2532

(2) The expiration date of the contract's fixed rate; 2533

(3) The public utilities commission web site that, as a 2534
comparison tool, lists rates offered by competitive retail 2535
electric service suppliers; 2536

(4) A statement explaining that appearing on each 2537
customer's bill is a price-to-compare notice that lists the 2538
utility's standard service offer price. 2539

(C) The second notice shall include all the requirements 2540
as stated in division (B) of this section and shall also 2541
identify the initial rate to be charged upon the contract's 2542

conversion to a variable rate. 2543

(D) The notices shall be sent by standard United States 2544
mail or electronically with a customer's verifiable consent as 2545
follows: 2546

(1) The supplier shall send the first notice not earlier 2547
than ninety days, and not later than sixty days, prior to the 2548
expiration of the fixed rate. 2549

(2) The supplier shall send the second notice not earlier 2550
than forty-five days, and not later than fifteen days, prior to 2551
the expiration of the fixed rate. 2552

(E) A competitive retail electric service supplier shall 2553
provide an annual notice, by standard United States mail or 2554
electronically with a customer's verifiable consent, to each 2555
residential and small commercial customer that has entered into 2556
a contract with the supplier that has converted to a variable 2557
rate upon the expiration of the contract's fixed introductory 2558
rate. The notice shall inform the customer that the customer is 2559
currently subject to a variable rate and that other fixed rate 2560
contracts are available. 2561

(F) Not later than one hundred fifty days after the 2562
effective date of this section, the commission shall adopt rules 2563
in order to implement divisions (B) to (E) of this section. The 2564
rules, at a minimum, shall include the following requirements 2565
regarding the notices required under divisions (B) to (E) of 2566
this section: 2567

(1) To use clear and unambiguous language in order to 2568
enable the customer to make an informed decision; 2569

(2) To design the notices in a way to ensure that they 2570
cannot be confused with marketing materials. 2571

(G) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4928.101 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code. 2572
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Sec. 4928.102. (A) As used in this section, "customer account information" means a unique electric distribution utility number or other customer identification number used by the utility to identify a customer and the customer's account record. 2576
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(B) The public utilities commission shall adopt rules to ensure that an electric distribution utility processes a customer's change in competitive retail electric supplier by using customer account information. A customer who consents to a change of supplier shall not be required to provide customer account information to the supplier if the customer provides a valid form of government-issued identification issued to the customer or a sufficient alternative form of identification that allows the supplier to establish the customer's identity accurately. 2581
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(C) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code. 2591
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Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) of this section, the failure of a supplier to provide retail electric generation service to customers within the certified territory of an electric distribution utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer under sections 4928.141, ~~and 4928.142, and 4928.143~~ of the Revised Code until the 2595
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customer chooses an alternative supplier. ~~A-~~ 2602

(B) A supplier is deemed under this section to have failed 2603
to provide ~~such retail electric generation~~ service if the 2604
commission finds, after reasonable notice and opportunity for 2605
hearing, that any of the following conditions are met: 2606

~~(A)~~ (1) The supplier has defaulted on its contracts with 2607
customers, is in receivership, or has filed for bankruptcy. 2608

~~(B)~~ (2) The supplier is no longer capable of providing the 2609
service. 2610

~~(C)~~ (3) The supplier is unable to provide delivery to 2611
transmission or distribution facilities for such period of time 2612
as may be reasonably specified by commission rule adopted under 2613
division (A) of section 4928.06 of the Revised Code. 2614

~~(D)~~ (4) The supplier's certification has been suspended, 2615
conditionally rescinded, or rescinded under division (D) of 2616
section 4928.08 of the Revised Code. 2617

(C) If an electric distribution utility has an electric 2618
security plan that was approved under section 4928.143 of the 2619
Revised Code as that section existed prior to the amendments to 2620
this section by this act, the failure of a supplier to provide 2621
retail electric generation service to customers within the 2622
certified territory of that utility shall result in the 2623
supplier's customers, after reasonable notice, defaulting to the 2624
utility's standard service offer under that electric security 2625
plan until the customer chooses an alternative supplier or until 2626
the utility's standard service offer is authorized under section 2627
4928.142 of the Revised Code. 2628

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2629
electric distribution utility shall provide consumers, on a 2630

comparable and nondiscriminatory basis within its certified 2631
territory, a standard service offer of all competitive retail 2632
electric services necessary to maintain essential electric 2633
service to consumers, including a firm supply of electric 2634
generation service. To that end, the electric distribution 2635
utility shall apply to the public utilities commission to 2636
establish the standard service offer in accordance with section 2637
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2638
~~may apply simultaneously under both sections, except that the~~ 2639
~~utility's first standard service offer application at minimum~~ 2640
~~shall include a filing under section 4928.143 of the Revised~~ 2641
~~Code. Only~~ Except as provided in division (A) (2) of this 2642
section, a standard service offer authorized in accordance with 2643
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2644
the utility's standard service offer for the purpose of 2645
compliance with this section~~+~~, and that standard service offer 2646
shall serve as the utility's default standard service offer for 2647
the purpose of section 4928.14 of the Revised Code. 2648
~~Notwithstanding the foregoing provision, the rate~~ 2649

(2) An electric distribution utility's electric security 2650
plan of an electric distribution utility that was approved under 2651
section 4928.143 of the Revised Code as that section existed 2652
prior to the amendments to this section by this act shall 2653
continue for the purpose of the utility's compliance with ~~this~~ 2654
division (A) (1) of this section until a standard service offer 2655
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2656
~~4928.143~~ of the Revised Code, ~~and, as applicable, pursuant to~~ 2657
~~division (D) of section 4928.143 of the Revised Code, any rate~~ . 2658
Each security plan that extends approved before the effective 2659
date of the amendments to this section by this act shall extend 2660
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2661

~~subject electric distribution utility for the duration of the~~ 2662
~~plan's term~~ through the final standard service offer auction 2663
delivery period approved by the public utilities commission 2664
under the plan as of the effective date of the amendments to 2665
this section by this act and thereafter shall terminate. 2666

(3) A standard service offer under section 4928.142 ~~or~~ 2667
~~4928.143~~ of the Revised Code shall exclude any previously 2668
authorized allowances for transition costs, with such exclusion 2669
being effective on and after the date that the allowance is 2670
scheduled to end under the utility's ~~rate~~ electric security 2671
plan. 2672

(B) The commission shall set the time for hearing of a 2673
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2674
send written notice of the hearing to the electric distribution 2675
utility, and publish notice in a newspaper of general 2676
circulation in each county in the utility's certified territory. 2677
The commission shall adopt rules regarding filings under ~~those~~ 2678
~~sections~~ the section. 2679

Sec. 4928.142. (A) For the purpose of complying with 2680
section 4928.141 of the Revised Code and subject to division (D) 2681
of this section and, as applicable, subject to the ~~rate plan~~ 2682
~~requirement~~ requirements of division (A) of section 4928.141 of 2683
the Revised Code, an electric distribution utility ~~may~~ shall 2684
establish a standard service offer price for retail electric 2685
generation service that is delivered to the utility under a 2686
market-rate offer. 2687

(1) The market-rate offer shall be determined through a 2688
competitive bidding process that provides for all of the 2689
following: 2690

(a) Open, fair, and transparent competitive solicitation;	2691
(b) Clear product definition;	2692
(c) Standardized bid evaluation criteria;	2693
(d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division <u>divisions</u> (A) (1) (a) to (c) of this section are met;	2694 2695 2696 2697
(e) Evaluation of the submitted bids prior to the selection of the least-cost bid winner or winners.	2698 2699
No generation supplier shall be prohibited from participating in the bidding process.	2700 2701
(2) The public utilities commission shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process and shall be consistent with the requirements of division (A) (1) of this section.	2702 2703 2704 2705 2706 2707
(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A) (2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.	2708 2709 2710 2711 2712 2713 2714 2715 2716
An application under this division shall detail the electric distribution utility's proposed compliance with the	2717 2718

requirements of division (A) (1) of this section and with 2719
commission rules under division (A) (2) of this section and 2720
demonstrate that all of the following requirements are met: 2721

(1) The electric distribution utility or its transmission 2722
service affiliate belongs to at least one regional transmission 2723
organization that has been approved by the federal energy 2724
regulatory commission; or there otherwise is comparable and 2725
nondiscriminatory access to the electric transmission grid. 2726

(2) Any such regional transmission organization has a 2727
market-monitor function and the ability to take actions to 2728
identify and mitigate market power or the electric distribution 2729
utility's market conduct; or a similar market monitoring 2730
function exists with commensurate ability to identify and 2731
monitor market conditions and mitigate conduct associated with 2732
the exercise of market power. 2733

(3) A published source of information is available 2734
publicly or through subscription that identifies pricing 2735
information for traded electricity on- and off-peak energy 2736
products that are contracts for delivery beginning at least two 2737
years from the date of the publication and is updated on a 2738
regular basis. 2739

The commission shall initiate a proceeding and, within 2740
ninety days after the application's filing date, shall determine 2741
by order whether the electric distribution utility and its 2742
market-rate offer meet all of the foregoing requirements. If the 2743
finding is positive, the electric distribution utility ~~may~~ shall 2744
initiate its competitive bidding process. If the finding is 2745
negative as to one or more requirements, the commission in the 2746
order shall direct the electric distribution utility regarding 2747
how any deficiency ~~may~~ shall be timely ~~remedied in a timely~~ 2748

~~manner to the commission's satisfaction; otherwise, the electric 2749
distribution utility shall withdraw the application. However, if 2750
such remedy is made and the subsequent finding is positive and 2751
also if the electric distribution utility made a simultaneous 2752
filing under this section and section 4928.143 of the Revised 2753
Code, the utility shall not initiate its competitive bid until 2754
at least one hundred fifty days after the filing date of those 2755
applications. 2756~~

(C) Upon the completion of the competitive bidding process 2757
authorized by divisions (A) and (B) of this section, ~~including 2758
for the purpose of division (D) of this section,~~ the commission 2759
shall select the least-cost bid winner or winners of that 2760
process, and such selected bid or bids, as prescribed as retail 2761
rates by the commission, shall be the electric distribution 2762
utility's standard service offer unless the commission, by order 2763
issued before the third calendar day following the conclusion of 2764
the competitive bidding process for the market rate offer, 2765
determines that one or more of the following criteria were not 2766
met: 2767

(1) Each portion of the bidding process was 2768
oversubscribed, such that the amount of supply bid upon was 2769
greater than the amount of the load bid out. 2770

(2) There were four or more bidders. 2771

(3) At least twenty-five per cent of the load is bid upon 2772
by one or more persons other than the electric distribution 2773
utility. 2774

All costs incurred by the electric distribution utility as 2775
a result of or related to the competitive bidding process or to 2776
procuring generation service to provide the standard service 2777

offer, including the costs of energy and capacity and the costs 2778
of all other products and services procured as a result of the 2779
competitive bidding process, shall be timely recovered through 2780
the standard service offer price, and, for that purpose, the 2781
commission shall approve a reconciliation mechanism, other 2782
recovery mechanism, or a combination of such mechanisms for the 2783
utility. 2784

(D) The ~~first~~ application filed under this section by an 2785
electric distribution utility ~~that, as of July 31, 2008,~~ 2786
~~directly owns, in whole or in part, operating electric~~ 2787
~~generating facilities that had been used and useful in this~~ 2788
~~state shall require that a portion of that~~ the utility's 2789
standard service offer load ~~for the first five years of the~~ 2790
~~market rate offer~~ be competitively bid under division (A) of 2791
this section ~~as follows: ten per cent of the load in year one,~~ 2792
~~not more than twenty per cent in year two, thirty per cent in~~ 2793
~~year three, forty per cent in year four, and fifty per cent in~~ 2794
~~year five. Consistent with those percentages, the commission~~ 2795
~~shall determine the actual percentages for each year of years~~ 2796
~~one through five. The standard service offer price for retail~~ 2797
~~electric generation service under this first application shall~~ 2798
~~be a proportionate blend of the bid price and the generation~~ 2799
~~service price for the remaining standard service offer load,~~ 2800
~~which latter price shall be equal to the electric distribution~~ 2801
~~utility's most recent standard service offer price, adjusted~~ 2802
~~upward or downward as the commission determines reasonable,~~ 2803
~~relative to the jurisdictional portion of any known and~~ 2804
~~measurable changes from the level of any one or more of the~~ 2805
~~following costs as reflected in that most recent standard~~ 2806
~~service offer price:~~ 2807

~~(1) The electric distribution utility's prudently incurred 2808~~

~~cost of fuel used to produce electricity;~~ 2809

~~(2) Its prudently incurred purchased power costs;~~ 2810

~~(3) Its prudently incurred costs of satisfying the supply
and demand portfolio requirements of this state, including, but
not limited to, renewable energy resource and energy efficiency
requirements;~~ 2811
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2814

~~(4) Its costs prudently incurred to comply with
environmental laws and regulations, with consideration of the
derating of any facility associated with those costs.~~ 2815
2816
2817

~~In making any adjustment to the most recent standard
service offer price on the basis of costs described in division
(D) of this section, the commission shall include the benefits
that may become available to the electric distribution utility
as a result of or in connection with the costs included in the
adjustment, including, but not limited to, the utility's receipt
of emissions credits or its receipt of tax benefits or of other
benefits, and, accordingly, the commission may impose such
conditions on the adjustment to ensure that any such benefits
are properly aligned with the associated cost responsibility.
The commission shall also determine how such adjustments will
affect the electric distribution utility's return on common
equity that may be achieved by those adjustments. The commission
shall not apply its consideration of the return on common equity
to reduce any adjustments authorized under this division unless
the adjustments will cause the electric distribution utility to
earn a return on common equity that is significantly in excess
of the return on common equity that is earned by publicly traded
companies, including utilities, that face comparable business
and financial risk, with such adjustments for capital structure
as may be appropriate. The burden of proof for demonstrating~~ 2818
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~~that significantly excessive earnings will not occur shall be on~~ 2839
~~the electric distribution utility.~~ 2840

~~Additionally, the commission may adjust the electric~~ 2841
~~distribution utility's most recent standard service offer price~~ 2842
~~by such just and reasonable amount that the commission~~ 2843
~~determines necessary to address any emergency that threatens the~~ 2844
~~utility's financial integrity or to ensure that the resulting~~ 2845
~~revenue available to the utility for providing the standard~~ 2846
~~service offer is not so inadequate as to result, directly or~~ 2847
~~indirectly, in a taking of property without compensation~~ 2848
~~pursuant to Section 19 of Article I, Ohio Constitution. The~~ 2849
~~electric distribution utility has the burden of demonstrating~~ 2850
~~that any adjustment to its most recent standard service offer~~ 2851
~~price is proper in accordance with this division.~~ 2852

~~(E) Beginning in the second year of a blended price under~~ 2853
~~division (D) of this section and notwithstanding any other~~ 2854
~~requirement of this section, the commission may alter~~ 2855
~~prospectively the proportions specified in that division to~~ 2856
~~mitigate any effect of an abrupt or significant change in the~~ 2857
~~electric distribution utility's standard service offer price~~ 2858
~~that would otherwise result in general or with respect to any~~ 2859
~~rate group or rate schedule but for such alteration. Any such~~ 2860
~~alteration shall be made not more often than annually, and the~~ 2861
~~commission shall not, by altering those proportions and in any~~ 2862
~~event, including because of the length of time, as authorized~~ 2863
~~under division (C) of this section, taken to approve the market~~ 2864
~~rate offer, cause the duration of the blending period to exceed~~ 2865
~~ten years as counted from the effective date of the approved~~ 2866
~~market rate offer. Additionally, any such alteration shall be~~ 2867
~~limited to an alteration affecting the prospective proportions~~ 2868
~~used during the blending period and shall not affect any~~ 2869

~~blending proportion previously approved and applied by the~~ 2870
~~commission under this division.~~ 2871

~~(F) An electric distribution utility that has received~~ 2872
~~commission approval of its first application under division (C)~~ 2873
~~of this section shall not, nor ever shall be authorized or~~ 2874
~~required by the commission to, file an application under section~~ 2875
~~4928.143 of the Revised Code.~~ 2876

Sec. 4928.144. The public utilities commission by order 2877
may authorize any just and reasonable phase-in of any electric 2878
distribution utility ~~rate or price~~ established under sections 2879
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2880
inclusive of carrying charges, as the commission considers 2881
necessary to ensure ~~rate or price~~ stability for consumers. If 2882
the commission's order includes such a phase-in, the order also 2883
shall provide for the creation of regulatory assets pursuant to 2884
generally accepted accounting principles, by authorizing the 2885
deferral of incurred costs equal to the amount not collected, 2886
plus carrying charges on that amount. Further, the order shall 2887
authorize the collection of those deferrals through a 2888
nonbypassable surcharge on any such rate or price so established 2889
for the electric distribution utility by the commission. 2890

Sec. 4928.149. No electric distribution utility may use 2891
any electric energy storage system to participate in the 2892
wholesale market, if the utility purchased or acquired that 2893
system for distribution service. 2894

Sec. 4928.151. The public utilities commission shall adopt 2895
and enforce rules prescribing a uniform, statewide policy 2896
regarding electric transmission and distribution line extensions 2897
and requisite substations and related facilities that are 2898
requested by nonresidential customers of electric utilities, so 2899

that, on and after the effective date of the initial rules so 2900
adopted, all such utilities apply the same policies and charges 2901
to those customers. ~~Initial rules shall be adopted not later~~ 2902
~~than six months after the effective date of this section.~~ The 2903
rules shall address the just and reasonable allocation to and 2904
utility recovery from the requesting customer or other customers 2905
of the utility of all costs of any such line extension and any 2906
requisite substation or related facility, including, but not 2907
limited to, the costs of necessary technical studies, operations 2908
and maintenance costs, and capital costs, including a return on 2909
capital costs. The rules shall also include the following: 2910

(A) Require nonresidential customers to be responsible for 2911
the actual cost of necessary technical studies regarding the 2912
customer's requested transmission and distribution line 2913
extensions; 2914

(B) Require the utility to give nonresidential customers 2915
taking service at greater than thirty-four thousand volts the 2916
option to self-build any such transmission and distribution line 2917
extensions and related facilities that are dedicated to the 2918
nonresidential customer's new service. Related facilities may 2919
include any requisite substation, switching station, breaker 2920
station, or other related system upgrades. If the nonresidential 2921
customer elects to self-build, the customer is responsible for 2922
one hundred per cent of the costs and shall build the system to 2923
the utility's published engineering and construction standards 2924
using contractors that have been approved by the utility. Such 2925
standards are subject to approval by the public utilities 2926
commission, and the utility shall publish such standards and 2927
approved contractors on a public web site. A nonresidential 2928
customer who elects to self-build the line extension and related 2929
facilities shall transfer ownership and operation of the 2930

facilities to the utility to own, operate, and maintain the 2931
facility. 2932

(C) Require nonresidential customers that take service at 2933
greater than thirty-four thousand volts and do not elect to 2934
self-build to provide credit support or reimbursement to the 2935
utility for one hundred per cent of the utility's costs of any 2936
such line extension and any requisite substations and related 2937
facilities, including the costs of necessary technical studies, 2938
operations and maintenance costs, and capital costs, including a 2939
return on capital costs. 2940

(D) Prohibit the utility from imposing the following on 2941
nonresidential customers for line extensions or new customer 2942
service, except as set forth in this section, unless the utility 2943
demonstrates that a material transmission constraint exists that 2944
directly impacts the customer requesting service: 2945

(1) Additional rates, cost recovery mechanisms, joint 2946
rates, tolls, classifications, charges, or rentals under section 2947
4909.18 of the Revised Code; 2948

(2) Credit requirements or costs for upgrades to the 2949
transmission system. 2950

Sec. 4928.17. (A) Except as otherwise provided in sections 2951
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2952
Revised Code ~~and beginning on the starting date of competitive~~ 2953
~~retail electric service,~~ no electric utility shall engage in 2954
this state, either directly or through an affiliate, ~~in the~~ 2955
~~businesses of supplying a noncompetitive retail electric service~~ 2956
~~and supplying a competitive retail electric service, or in the~~ 2957
businesses of supplying a noncompetitive retail electric service 2958
and supplying a product or service other than retail electric 2959

service, unless the utility implements and operates under a 2960
corporate separation plan that is approved by the public 2961
utilities commission under this section, is consistent with the 2962
policy specified in section 4928.02 of the Revised Code, and 2963
achieves all of the following: 2964

(1) The plan provides, at minimum, for the provision of 2965
~~the competitive retail electric service or the nonelectric~~ 2966
product or service through a fully separated affiliate of the 2967
utility, and the plan includes separate accounting requirements, 2968
the code of conduct as ordered by the commission pursuant to a 2969
rule it shall adopt under division (A) of section 4928.06 of the 2970
Revised Code, and such other measures as are necessary to 2971
effectuate the policy specified in section 4928.02 of the 2972
Revised Code. 2973

(2) The plan satisfies the public interest in ~~preventing~~ 2974
~~unfair competitive advantage and~~ preventing the abuse of market 2975
power. 2976

(3) The plan is sufficient to ensure that the utility will 2977
not extend any undue preference or advantage to any affiliate, 2978
division, or part of its own business engaged in the business of 2979
supplying the ~~competitive retail electric service or nonelectric~~ 2980
product or service, including, but not limited to, utility 2981
resources such as trucks, tools, office equipment, office space, 2982
supplies, customer and marketing information, advertising, 2983
billing and mailing systems, personnel, and training, without 2984
compensation based upon fully loaded embedded costs charged to 2985
the affiliate; and to ensure that any such affiliate, division, 2986
or part will not receive undue preference or advantage from any 2987
affiliate, division, or part of the business engaged in business 2988
of supplying the noncompetitive retail electric service. No such 2989

utility, affiliate, division, or part shall extend such undue 2990
preference. ~~Notwithstanding any other division of this section,~~ 2991
~~a utility's obligation under division (A) (3) of this section~~ 2992
~~shall be effective January 1, 2000.~~ 2993

(B) The commission may approve, modify and approve, or 2994
disapprove a corporate separation plan filed with the commission 2995
under division (A) of this section. As part of the code of 2996
conduct required under division (A) (1) of this section, the 2997
commission shall adopt rules pursuant to division (A) of section 2998
4928.06 of the Revised Code regarding corporate separation and 2999
procedures for plan filing and approval. The rules shall include 3000
limitations on affiliate practices solely for the purpose of 3001
maintaining a separation of the affiliate's business from the 3002
business of the utility to prevent ~~unfair competitive advantage~~ 3003
abuse of market power by virtue of that relationship. The rules 3004
also shall include an opportunity for any person having a real 3005
and substantial interest in the corporate separation plan to 3006
file specific objections to the plan and propose specific 3007
responses to issues raised in the objections, which objections 3008
and responses the commission shall address in its final order. 3009
Prior to commission approval of the plan, the commission shall 3010
afford a hearing upon those aspects of the plan that the 3011
commission determines reasonably require a hearing. The 3012
commission may reject and require refiling of a substantially 3013
inadequate plan under this section. 3014

(C) The commission shall issue an order approving or 3015
modifying and approving a corporate separation plan under this 3016
section, to be effective on the date specified in the order, 3017
only upon findings that the plan reasonably complies with the 3018
requirements of division (A) of this section and will provide 3019
for ongoing compliance with the policy specified in section 3020

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

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

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

Sec. 4928.20. (A) The legislative authority of a municipal
corporation may adopt an ordinance, or the board of township
trustees of a township or the board of county commissioners of a
county may adopt a resolution, under which, ~~on or after the
starting date of competitive retail electric service,~~ it may
aggregate in accordance with this section the retail electrical
loads located, respectively, within the municipal corporation,
township, or unincorporated area of the county and, for that
purpose, may enter into service agreements to facilitate for
those loads the sale and purchase of electricity. The
legislative authority or board also may exercise such authority
jointly with any other such legislative authority or board. For
customers that are not mercantile customers, an ordinance or

resolution under this division shall specify whether the 3051
aggregation will occur only with the prior, affirmative consent 3052
of each person owning, occupying, controlling, or using an 3053
electric load center proposed to be aggregated or will occur 3054
automatically for all such persons pursuant to the opt-out 3055
requirements of division (D) of this section. The aggregation of 3056
mercantile customers shall occur only with the prior, 3057
affirmative consent of each such person owning, occupying, 3058
controlling, or using an electric load center proposed to be 3059
aggregated. Nothing in this division, however, authorizes the 3060
aggregation of the retail electric loads of an electric load 3061
center, as defined in section 4933.81 of the Revised Code, that 3062
is located in the certified territory of a nonprofit electric 3063
supplier under sections 4933.81 to 4933.90 of the Revised Code 3064
or an electric load center served by transmission or 3065
distribution facilities of a municipal electric utility. 3066

(B) If an ordinance or resolution adopted under division 3067
(A) of this section specifies that aggregation of customers that 3068
are not mercantile customers will occur automatically as 3069
described in that division, the ordinance or resolution shall 3070
direct the board of elections to submit the question of the 3071
authority to aggregate to the electors of the respective 3072
municipal corporation, township, or unincorporated area of a 3073
county at a special election on the day of the next primary or 3074
general election in the municipal corporation, township, or 3075
county. The legislative authority or board shall certify a copy 3076
of the ordinance or resolution to the board of elections not 3077
less than ninety days before the day of the special election. No 3078
ordinance or resolution adopted under division (A) of this 3079
section that provides for an election under this division shall 3080
take effect unless approved by a majority of the electors voting 3081

upon the ordinance or resolution at the election held pursuant 3082
to this division. 3083

(C) Upon the applicable requisite authority under 3084
divisions (A) and (B) of this section, the legislative authority 3085
or board shall develop a plan of operation and governance for 3086
the aggregation program so authorized. Before adopting a plan 3087
under this division, the legislative authority or board shall 3088
hold at least two public hearings on the plan. Before the first 3089
hearing, the legislative authority or board shall publish notice 3090
of the hearings once a week for two consecutive weeks in a 3091
newspaper of general circulation in the jurisdiction or as 3092
provided in section 7.16 of the Revised Code. The notice shall 3093
summarize the plan and state the date, time, and location of 3094
each hearing. 3095

(D) No legislative authority or board, pursuant to an 3096
ordinance or resolution under divisions (A) and (B) of this 3097
section that provides for automatic aggregation of customers 3098
that are not mercantile customers as described in division (A) 3099
of this section, shall aggregate the electrical load of any 3100
electric load center located within its jurisdiction unless it 3101
in advance clearly discloses to the person owning, occupying, 3102
controlling, or using the load center that the person will be 3103
enrolled automatically in the aggregation program and will 3104
remain so enrolled unless the person affirmatively elects by a 3105
stated procedure not to be so enrolled. The disclosure shall 3106
state prominently the rates, charges, and other terms and 3107
conditions of enrollment. The stated procedure shall allow any 3108
person enrolled in the aggregation program the opportunity to 3109
opt out of the program every three years, without paying a 3110
switching fee. Any such person that opts out before the 3111
commencement of the aggregation program pursuant to the stated 3112

procedure shall default to the standard service offer provided 3113
under section 4928.14 or division (D) of section 4928.35 of the 3114
Revised Code until the person chooses an alternative supplier. 3115

(E) (1) With respect to a governmental aggregation for a 3116
municipal corporation that is authorized pursuant to divisions 3117
(A) to (D) of this section, resolutions may be proposed by 3118
initiative or referendum petitions in accordance with sections 3119
731.28 to 731.41 of the Revised Code. 3120

(2) With respect to a governmental aggregation for a 3121
township or the unincorporated area of a county, which 3122
aggregation is authorized pursuant to divisions (A) to (D) of 3123
this section, resolutions may be proposed by initiative or 3124
referendum petitions in accordance with sections 731.28 to 3125
731.40 of the Revised Code, except that: 3126

(a) The petitions shall be filed, respectively, with the 3127
township fiscal officer or the board of county commissioners, 3128
who shall perform those duties imposed under those sections upon 3129
the city auditor or village clerk. 3130

(b) The petitions shall contain the signatures of not less 3131
than ten per cent of the total number of electors in, 3132
respectively, the township or the unincorporated area of the 3133
county who voted for the office of governor at the preceding 3134
general election for that office in that area. 3135

(F) A governmental aggregator under division (A) of this 3136
section is not a public utility engaging in the wholesale 3137
purchase and resale of electricity, and provision of the 3138
aggregated service is not a wholesale utility transaction. A 3139
governmental aggregator shall be subject to supervision and 3140
regulation by the public utilities commission only to the extent 3141

of any competitive retail electric service it provides and 3142
commission authority under this chapter. 3143

(G) This section does not apply in the case of a municipal 3144
corporation that supplies such aggregated service to electric 3145
load centers to which its municipal electric utility also 3146
supplies a noncompetitive retail electric service through 3147
transmission or distribution facilities the utility singly or 3148
jointly owns or operates. 3149

(H) A governmental aggregator shall not include in its 3150
aggregation the accounts of any of the following: 3151

(1) A customer that has opted out of the aggregation; 3152

(2) A customer in contract with a certified electric 3153
services company; 3154

(3) A customer that has a special contract with an 3155
electric distribution utility; 3156

(4) A customer that is not located within the governmental 3157
aggregator's governmental boundaries; 3158

(5) Subject to division (C) of section 4928.21 of the 3159
Revised Code, a customer who appears on the "do not aggregate" 3160
list maintained under that section. 3161

(I) Customers that are part of a governmental aggregation 3162
under this section shall be responsible only for such portion of 3163
a surcharge under section 4928.144 of the Revised Code that is 3164
proportionate to the benefits, as determined by the commission, 3165
that electric load centers within the jurisdiction of the 3166
governmental aggregation as a group receive. The proportionate 3167
surcharge so established shall apply to each customer of the 3168
governmental aggregation while the customer is part of that 3169

aggregation. If a customer ceases being such a customer, the 3170
otherwise applicable surcharge shall apply. Nothing in this 3171
section shall result in less than full recovery by an electric 3172
distribution utility of any surcharge authorized under section 3173
4928.144 of the Revised Code. Nothing in this section shall 3174
result in less than the full and timely imposition, charging, 3175
collection, and adjustment by an electric distribution utility, 3176
its assignee, or any collection agent, of the phase-in-recovery 3177
charges authorized pursuant to a final financing order issued 3178
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3179

~~(J) On behalf of the customers that are part of a 3180
governmental aggregation under this section and by filing 3181
written notice with the public utilities commission, the 3182
legislative authority that formed or is forming that 3183
governmental aggregation may elect not to receive standby 3184
service within the meaning of division (B)(2)(d) of section 3185
4928.143 of the Revised Code from an electric distribution 3186
utility in whose certified territory the governmental 3187
aggregation is located and that operates under an approved 3188
electric security plan under that section. Upon the filing of 3189
that notice, the electric distribution utility shall not charge 3190
any such customer to whom competitive retail electric generation 3191
service is provided by another supplier under the governmental 3192
aggregation for the standby service. Any such consumer that 3193
returns to the utility for competitive retail electric service 3194
shall pay the market price of power incurred by the utility to 3195
serve that consumer plus any amount attributable to the 3196
utility's cost of compliance with the renewable energy resource 3197
provisions of section 4928.64 of the Revised Code to serve the 3198
consumer. Such market price shall include, but not be limited 3199
to, capacity and energy charges; all charges associated with the 3200~~

~~provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and renewable energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.~~

~~(K) The commission shall adopt rules and issue orders in proceedings under sections 4928.141 and 4928.142 of the Revised Code to encourage and promote large-scale governmental aggregation in this state. For that purpose, the commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the~~ The commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, that would be established under that plan, except any nonbypassable generation charges that relate to any cost incurred by the review each application filed under section 4928.142 of the Revised Code by an electric distribution utility, to ensure that the deferral of which has been authorized by the commission prior to the effective date of

application and the amendment of this section by S.B. 221 of the 3232
127th general assembly, July 31, 2008 resulting market rate 3233
offer shall not contain any rate, price, term, condition, or 3234
provision that would have an adverse effect on large-scale 3235
governmental aggregation in this state. 3236

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of 3237
the Revised Code: 3238

(A) "Ancillary agreement" means any bond insurance policy, 3239
letter of credit, reserve account, surety bond, swap 3240
arrangement, hedging arrangement, liquidity or credit support 3241
arrangement, or other similar agreement or arrangement entered 3242
into in connection with the issuance of phase-in-recovery bonds 3243
that is designed to promote the credit quality and marketability 3244
of the bonds or to mitigate the risk of an increase in interest 3245
rates. 3246

(B) "Assignee" means any person or entity to which an 3247
interest in phase-in-recovery property is sold, assigned, 3248
transferred, or conveyed, other than as security, and any 3249
successor to or subsequent assignee of such a person or entity. 3250

(C) "Bond" includes debentures, notes, certificates of 3251
participation, certificates of beneficial interest, certificates 3252
of ownership or other evidences of indebtedness or ownership 3253
that are issued by an electric distribution utility or an 3254
assignee under a final financing order, the proceeds of which 3255
are used directly or indirectly to recover, finance, or 3256
refinance phase-in costs and financing costs, and that are 3257
secured by or payable from revenues from phase-in-recovery 3258
charges. 3259

(D) "Bondholder" means any holder or owner of a phase-in- 3260

recovery bond.	3261
(E) "Financing costs" means any of the following:	3262
(1) Principal, interest, and redemption premiums that are payable on phase-in-recovery bonds;	3263 3264
(2) Any payment required under an ancillary agreement;	3265
(3) Any amount required to fund or replenish a reserve account or another account established under any indenture, ancillary agreement, or other financing document relating to phase-in-recovery bonds;	3266 3267 3268 3269
(4) Any costs of retiring or refunding any existing debt and equity securities of an electric distribution utility in connection with either the issuance of, or the use of proceeds from, phase-in-recovery bonds;	3270 3271 3272 3273
(5) Any costs incurred by an electric distribution utility to obtain modifications of or amendments to any indenture, financing agreement, security agreement, or similar agreement or instrument relating to any existing secured or unsecured obligation of the electric distribution utility in connection with the issuance of phase-in-recovery bonds;	3274 3275 3276 3277 3278 3279
(6) Any costs incurred by an electric distribution utility to obtain any consent, release, waiver, or approval from any holder of an obligation described in division (E)(5) of this section that are necessary to be incurred for the electric distribution utility to issue or cause the issuance of phase-in-recovery bonds;	3280 3281 3282 3283 3284 3285
(7) Any taxes, franchise fees, or license fees imposed on phase-in-recovery revenues;	3286 3287
(8) Any costs related to issuing or servicing phase-in-	3288

recovery bonds or related to obtaining a financing order,	3289
including servicing fees and expenses, trustee fees and	3290
expenses, legal, accounting, or other professional fees and	3291
expenses, administrative fees, placement fees, underwriting	3292
fees, capitalized interest and equity, and rating-agency fees;	3293
(9) Any other similar costs that the public utilities	3294
commission finds appropriate.	3295
(F) "Financing order" means an order issued by the public	3296
utilities commission under section 4928.232 of the Revised Code	3297
that authorizes an electric distribution utility or an assignee	3298
to issue phase-in-recovery bonds and recover phase-in-recovery	3299
charges.	3300
(G) "Final financing order" means a financing order that	3301
has become final and has taken effect as provided in section	3302
4928.233 of the Revised Code.	3303
(H) "Financing party" means either of the following:	3304
(1) Any trustee, collateral agent, or other person acting	3305
for the benefit of any bondholder;	3306
(2) Any party to an ancillary agreement, the rights and	3307
obligations of which relate to or depend upon the existence of	3308
phase-in-recovery property, the enforcement and priority of a	3309
security interest in phase-in-recovery property, the timely	3310
collection and payment of phase-in-recovery revenues, or a	3311
combination of these factors.	3312
(I) "Financing statement" has the same meaning as in	3313
section 1309.102 of the Revised Code.	3314
(J) "Phase-in costs" means costs, inclusive of carrying	3315
charges incurred before, on, or after the effective date of this	3316

~~section~~ March 22, 2012, authorized by the commission before, on, 3317
or after ~~the effective date of this section~~ March 22, 2012, to 3318
be securitized or deferred as regulatory assets in proceedings 3319
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3320
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3321
4928.14 of the Revised Code as it existed prior to July 31, 3322
2008, or section 4928.143 of the Revised Code as it existed 3323
prior to the effective date of the amendments to this section by 3324
this act pursuant to a final order for which appeals have been 3325
exhausted. "Phase-in costs" excludes the following: 3326

(1) With respect to any electric generating facility that, 3327
on and after ~~the effective date of this section~~ March 22, 2012, 3328
is owned, in whole or in part, by an electric distribution 3329
utility applying for a financing order under section 4928.231 of 3330
the Revised Code, costs that are authorized under division (B) 3331
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3332
section existed prior to the effective date of the amendments to 3333
this section by this act; 3334

(2) Costs incurred after ~~the effective date of this~~ 3335
~~section~~ March 22, 2012, related to the ongoing operation of an 3336
electric generating facility, but not environmental clean-up or 3337
remediation costs incurred by an electric distribution utility 3338
because of its ownership or operation of an electric generating 3339
facility prior to ~~the effective date of this section~~ March 22, 3340
2012, which such clean-up or remediation costs are imposed or 3341
incurred pursuant to federal or state law, rules, or regulations 3342
and for which the commission approves or approved recovery in 3343
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3344
~~4928.141 to 4928.143, 4928.142, or 4928.144 of the Revised Code,~~ 3345
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3346
July 31, 2008, or section 4928.143 of the Revised Code as it 3347

existed prior to the effective date of the amendments to this 3348
section by this act. 3349

(K) "Phase-in-recovery property" means the property, 3350
rights, and interests of an electric distribution utility or an 3351
assignee under a final financing order, including the right to 3352
impose, charge, and collect the phase-in-recovery charges that 3353
shall be used to pay and secure the payment of phase-in-recovery 3354
bonds and financing costs, and including the right to obtain 3355
adjustments to those charges, and any revenues, receipts, 3356
collections, rights to payment, payments, moneys, claims, or 3357
other proceeds arising from the rights and interests created 3358
under the final financing order. 3359

(L) "Phase-in-recovery revenues" means all revenues, 3360
receipts, collections, payments, moneys, claims, or other 3361
proceeds arising from phase-in-recovery property. 3362

(M) "Successor" means, with respect to any entity, another 3363
entity that succeeds by operation of law to the rights and 3364
obligations of the first legal entity pursuant to any 3365
bankruptcy, reorganization, restructuring, or other insolvency 3366
proceeding, any merger, acquisition, or consolidation, or any 3367
sale or transfer of assets, regardless of whether any of these 3368
occur as a result of a restructuring of the electric power 3369
industry or otherwise. 3370

Sec. 4928.231. (A) An electric distribution utility may 3371
apply to the public utilities commission for a financing order 3372
that authorizes the following: 3373

(1) The issuance of phase-in-recovery bonds, in one or 3374
more series, to recover uncollected phase-in costs; 3375

(2) The imposition, charging, and collection of phase-in- 3376

recovery charges, in accordance with the adjustment mechanism 3377
approved by the commission under section 4928.232 of the Revised 3378
Code, and consistent with the commission's authority regarding 3379
governmental aggregation as provided in division (I) of section 3380
4928.20 of the Revised Code, to recover both of the following: 3381

(a) Uncollected phase-in costs; 3382

(b) Financing costs. 3383

(3) The creation of phase-in-recovery property under the 3384
financing order. 3385

(B) The application shall include all of the following: 3386

(1) A description of the uncollected phase-in costs that 3387
the electric distribution utility seeks to recover through the 3388
issuance of phase-in-recovery bonds; 3389

(2) An estimate of the date each series of phase-in- 3390
recovery bonds are expected to be issued; 3391

(3) The expected term during which the phase-in costs 3392
associated with the issuance of each series of phase-in-recovery 3393
bonds are expected to be recovered; 3394

(4) An estimate of the financing costs, as described in 3395
section 4928.23 of the Revised Code, associated with the 3396
issuance of each series of phase-in-recovery bonds; 3397

(5) An estimate of the amount of phase-in-recovery charges 3398
necessary to recover the phase-in costs and financing costs set 3399
forth in the application and the calculation for that estimate, 3400
which calculation shall take into account the estimated date or 3401
dates of issuance and the estimated principal amount of each 3402
series of phase-in-recovery bonds; 3403

(6) For phase-in-recovery charges not subject to 3404
allocation according to an existing order, a proposed 3405
methodology for allocating phase-in-recovery charges among 3406
customer classes, including a proposed methodology for 3407
allocating such charges to governmental aggregation customers 3408
based upon the proportionate benefit determination made under 3409
division (I) of section 4928.20 of the Revised Code; 3410

(7) A description of a proposed adjustment mechanism for 3411
use as described in division (A) (2) of this section; 3412

(8) A description and valuation of how the issuance of the 3413
phase-in-recovery bonds, including financing costs, will both 3414
result in cost savings to customers and mitigate rate impacts to 3415
customers when compared to the use of other financing mechanisms 3416
or cost-recovery methods available to the electric distribution 3417
utility; 3418

(9) Any other information required by the commission. 3419

(C) The electric distribution utility may restate or 3420
incorporate by reference in the application any information 3421
required under division (B) (9) of this section that the electric 3422
distribution utility filed with the commission under section 3423
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3424
, section 4928.14 of the Revised Code as it existed prior to 3425
July 31, 2008, or section 4928.143 of the Revised Code as it 3426
existed prior to the amendments to this section by this act. 3427

Sec. 4928.232. (A) Proceedings before the public utilities 3428
commission on an application submitted by an electric 3429
distribution utility under section 4928.231 of the Revised Code 3430
shall be governed by Chapter 4903. of the Revised Code, but only 3431
to the extent that chapter is not inconsistent with this section 3432

or section 4928.233 of the Revised Code. Any party that 3433
participated in the proceeding in which phase-in costs were 3434
approved under section 4909.18 or sections 4928.141 to 4928.144 3435
of the Revised Code ~~or~~, section 4928.14 of the Revised Code as 3436
it existed prior to July 31, 2008, or section 4928.143 of the 3437
Revised Code as it existed prior to the amendments to this 3438
section by this act shall have standing to participate in 3439
proceedings under sections 4928.23 to 4928.2318 of the Revised 3440
Code. 3441

(B) When reviewing an application for a financing order 3442
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3443
the commission may hold such hearings, make such inquiries or 3444
investigations, and examine such witnesses, books, papers, 3445
documents, and contracts as the commission considers proper to 3446
carry out these sections. Within thirty days after the filing of 3447
an application under section 4928.231 of the Revised Code, the 3448
commission shall publish a schedule of the proceeding. 3449

(C) (1) Not later than one hundred thirty-five days after 3450
the date the application is filed, the commission shall issue 3451
either a financing order, granting the application in whole or 3452
with modifications, or an order suspending or rejecting the 3453
application. 3454

(2) If the commission suspends an application for a 3455
financing order, the commission shall notify the electric 3456
distribution utility of the suspension and may direct the 3457
electric distribution utility to provide additional information 3458
as the commission considers necessary to evaluate the 3459
application. Not later than ninety days after the suspension, 3460
the commission shall issue either a financing order, granting 3461
the application in whole or with modifications, or an order 3462

rejecting the application. 3463

(D) (1) The commission shall not issue a financing order 3464
under division (C) of this section unless the commission 3465
determines that the financing order is consistent with section 3466
4928.02 of the Revised Code. 3467

(2) Except as provided in division (D) (1) of this section, 3468
the commission shall issue a financing order under division (C) 3469
of this section if, at the time the financing order is issued, 3470
the commission finds that the issuance of the phase-in-recovery 3471
bonds and the phase-in-recovery charges authorized by the order 3472
results in, consistent with market conditions, both measurably 3473
enhancing cost savings to customers and mitigating rate impacts 3474
to customers as compared with traditional financing mechanisms 3475
or traditional cost-recovery methods available to the electric 3476
distribution utility or, if the commission previously approved a 3477
recovery method, as compared with that recovery method. 3478

(E) The commission shall include all of the following in a 3479
financing order issued under division (C) of this section: 3480

(1) A determination of the maximum amount and a 3481
description of the phase-in costs that may be recovered through 3482
phase-in-recovery bonds issued under the financing order; 3483

(2) A description of phase-in-recovery property, the 3484
creation of which is authorized by the financing order; 3485

(3) A description of the financing costs that may be 3486
recovered through phase-in-recovery charges and the period over 3487
which those costs may be recovered; 3488

(4) For phase-in-recovery charges not subject to 3489
allocation according to an existing order, a description of the 3490
methodology and calculation for allocating phase-in-recovery 3491

charges among customer classes, including the allocation of such	3492
charges, if any, to governmental aggregation customers based	3493
upon the proportionate benefit determination made under division	3494
(I) of section 4928.20 of the Revised Code;	3495
(5) A description of the adjustment mechanism for use in	3496
the imposition, charging, and collection of the phase-in-	3497
recovery charges;	3498
(6) The maximum term of the phase-in-recovery bonds;	3499
(7) Any other provision the commission considers	3500
appropriate to ensure the full and timely imposition, charging,	3501
collection, and adjustment, pursuant to an approved adjustment	3502
mechanism, of the phase-in-recovery charges described in	3503
divisions (E) (3) to (5) of this section.	3504
(F) The commission may, in a financing order, afford the	3505
electric distribution utility flexibility in establishing the	3506
terms and conditions for the phase-in-recovery bonds to	3507
accommodate changes in market conditions, including repayment	3508
schedules, interest rates, financing costs, collateral	3509
requirements, required debt service and other reserves, and the	3510
ability of the electric distribution utility, at its option, to	3511
effect a series of issuances of phase-in-recovery bonds and	3512
correlated assignments, sales, pledges, or other transfers of	3513
phase-in-recovery property. Any changes made under this section	3514
to terms and conditions for the phase-in-recovery bonds shall be	3515
in conformance with the financing order.	3516
(G) A financing order may provide that the creation of	3517
phase-in-recovery property shall be simultaneous with the sale	3518
of that property to an assignee as provided in the application	3519
and the pledge of the property to secure phase-in-recovery	3520

bonds. 3521

(H) The commission shall, in a financing order, require 3522
that after the final terms of each issuance of phase-in-recovery 3523
bonds have been established, and prior to the issuance of those 3524
bonds, the electric distribution utility shall determine the 3525
resulting phase-in-recovery charges in accordance with the 3526
adjustment mechanism described in the financing order. These 3527
phase-in-recovery charges shall be final and effective upon the 3528
issuance of the phase-in-recovery bonds, without further 3529
commission action. 3530

Sec. 4928.34. (A) The public utilities commission shall 3531
not approve or prescribe a transition plan under division (A) or 3532
(B) of section 4928.33 of the Revised Code unless the commission 3533
first makes all of the following determinations: 3534

(1) The unbundled components for the electric transmission 3535
component of retail electric service, as specified in the 3536
utility's rate unbundling plan required by division (A)(1) of 3537
section 4928.31 of the Revised Code, equal the tariff rates 3538
determined by the federal energy regulatory commission that are 3539
in effect on the date of the approval of the transition plan 3540
under sections 4928.31 to 4928.40 of the Revised Code, as each 3541
such rate is determined applicable to each particular customer 3542
class and rate schedule by the commission. The unbundled 3543
transmission component shall include a sliding scale of charges 3544
under division (B) of section 4905.31 of the Revised Code to 3545
ensure that refunds determined or approved by the federal energy 3546
regulatory commission are flowed through to retail electric 3547
customers. 3548

(2) The unbundled components for retail electric 3549
distribution service in the rate unbundling plan equal the 3550

difference between the costs attributable to the utility's 3551
transmission and distribution rates and charges under its 3552
schedule of rates and charges in effect on the effective date of 3553
this section, based upon the record in the most recent rate 3554
proceeding of the utility for which the utility's schedule was 3555
established, and the tariff rates for electric transmission 3556
service determined by the federal energy regulatory commission 3557
as described in division (A) (1) of this section. 3558

(3) All other unbundled components required by the 3559
commission in the rate unbundling plan equal the costs 3560
attributable to the particular service as reflected in the 3561
utility's schedule of rates and charges in effect on the 3562
effective date of this section. 3563

(4) The unbundled components for retail electric 3564
generation service in the rate unbundling plan equal the 3565
residual amount remaining after the determination of the 3566
transmission, distribution, and other unbundled components, and 3567
after any adjustments necessary to reflect the effects of the 3568
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3569
No. 3 of the 123rd general assembly. 3570

(5) All unbundled components in the rate unbundling plan 3571
have been adjusted to reflect any base rate reductions on file 3572
with the commission and as scheduled to be in effect by December 3573
31, 2005, under rate settlements in effect on the effective date 3574
of this section. However, all earnings obligations, 3575
restrictions, or caps imposed on an electric utility in a 3576
commission order prior to the effective date of this section are 3577
void. 3578

(6) Subject to division (A) (5) of this section, the total 3579
of all unbundled components in the rate unbundling plan are 3580

capped and shall equal during the market development period, 3581
except as specifically provided in this chapter, the total of 3582
all rates and charges in effect under the applicable bundled 3583
schedule of the electric utility pursuant to section 4905.30 of 3584
the Revised Code in effect on the day before the effective date 3585
of this section, including the transition charge determined 3586
under section 4928.40 of the Revised Code, adjusted for any 3587
changes in the taxation of electric utilities and retail 3588
electric service under Sub. S.B. No. 3 of the 123rd General 3589
Assembly, the universal service rider authorized by section 3590
4928.51 of the Revised Code, and the temporary rider authorized 3591
by section 4928.61 of the Revised Code. For the purpose of this 3592
division, the rate cap applicable to a customer receiving 3593
electric service pursuant to an arrangement approved by the 3594
commission under section 4905.31 of the Revised Code is, for the 3595
term of the arrangement, the total of all rates and charges in 3596
effect under the arrangement. For any rate schedule filed 3597
pursuant to section 4905.30 of the Revised Code or any 3598
arrangement subject to approval pursuant to section 4905.31 of 3599
the Revised Code, the initial tax-related adjustment to the rate 3600
cap required by this division shall be equal to the rate of 3601
taxation specified in section 5727.81 of the Revised Code and 3602
applicable to the schedule or arrangement. To the extent such 3603
total annual amount of the tax-related adjustment is greater 3604
than or less than the comparable amount of the total annual tax 3605
reduction experienced by the electric utility as a result of the 3606
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3607
such difference shall be addressed by the commission through 3608
accounting procedures, refunds, or an annual surcharge or credit 3609
to customers, or through other appropriate means, to avoid 3610
placing the financial responsibility for the difference upon the 3611
electric utility or its shareholders. Any adjustments in the 3612

rate of taxation specified in section 5727.81 of the Revised 3613
Code ~~section~~ shall not occur without a corresponding adjustment 3614
to the rate cap for each such rate schedule or arrangement. The 3615
department of taxation shall advise the commission and self- 3616
assessors under section 5727.81 of the Revised Code prior to the 3617
effective date of any change in the rate of taxation specified 3618
under that section, and the commission shall modify the rate cap 3619
to reflect that adjustment so that the rate cap adjustment is 3620
effective as of the effective date of the change in the rate of 3621
taxation. This division shall be applied, to the extent 3622
possible, to eliminate any increase in the price of electricity 3623
for customers that otherwise may occur as a result of 3624
establishing the taxes contemplated in section 5727.81 of the 3625
Revised Code. 3626

(7) The rate unbundling plan complies with any rules 3627
adopted by the commission under division (A) of section 4928.06 3628
of the Revised Code. 3629

(8) The corporate separation plan required by division (A) 3630
(2) of section 4928.31 of the Revised Code complies with section 3631
4928.17 of the Revised Code and any rules adopted by the 3632
commission under division (A) of section 4928.06 of the Revised 3633
Code. 3634

(9) Any plan or plans the commission requires to address 3635
operational support systems and any other technical 3636
implementation issues pertaining to competitive retail electric 3637
service comply with any rules adopted by the commission under 3638
division (A) of section 4928.06 of the Revised Code. 3639

(10) The employee assistance plan required by division (A) 3640
(4) of section 4928.31 of the Revised Code sufficiently provides 3641
severance, retraining, early retirement, retention, 3642

outplacement, and other assistance for the utility's employees 3643
whose employment is affected by electric industry restructuring 3644
under this chapter. 3645

(11) The consumer education plan required under division 3646
(A) (5) of section 4928.31 of the Revised Code complies with 3647
former section 4928.42 of the Revised Code and any rules adopted 3648
by the commission under division (A) of section 4928.06 of the 3649
Revised Code. 3650

(12) The transition revenues for which an electric utility 3651
is authorized a revenue opportunity under sections 4928.31 to 3652
4928.40 of the Revised Code are the allowable transition costs 3653
of the utility as such costs are determined by the commission 3654
pursuant to section 4928.39 of the Revised Code, and the 3655
transition charges for the customer classes and rate schedules 3656
of the utility are the charges determined pursuant to section 3657
4928.40 of the Revised Code. 3658

(13) Any independent transmission plan included in the 3659
transition plan filed under section 4928.31 of the Revised Code 3660
reasonably complies with section 4928.12 of the Revised Code and 3661
any rules adopted by the commission under division (A) of 3662
section 4928.06 of the Revised Code, unless the commission, for 3663
good cause shown, authorizes the utility to defer compliance 3664
until an order is issued under division (G) of section 4928.35 3665
of the Revised Code. 3666

(14) The utility is in compliance with sections 4928.01 to 3667
4928.11 of the Revised Code and any rules or orders of the 3668
commission adopted or issued under those sections. 3669

(15) All unbundled components in the rate unbundling plan 3670
have been adjusted to reflect the elimination of the tax on 3671

gross receipts imposed by section 5727.30 of the Revised Code. 3672

In addition, a transition plan approved by the commission 3673
under section 4928.33 of the Revised Code but not containing an 3674
approved independent transmission plan shall contain the express 3675
conditions that the utility will comply with an order issued 3676
under division (G) of section 4928.35 of the Revised Code. 3677

~~(B) Subject to division (E) of section 4928.17 of the~~ 3678
~~Revised Code, if~~ If the commission finds that any part of the 3679
transition plan would constitute an abandonment under sections 3680
4905.20 and 4905.21 of the Revised Code, the commission shall 3681
not approve that part of the transition plan unless it makes the 3682
finding required for approval of an abandonment application 3683
under section 4905.21 of the Revised Code. Sections 4905.20 and 3684
4905.21 of the Revised Code otherwise shall not apply to a 3685
transition plan under sections 4928.31 to 4928.40 of the Revised 3686
Code. 3687

Sec. 4928.542. The winning bid or bids selected through 3688
the competitive procurement process established under section 3689
4928.54 of the Revised Code shall meet all of the following 3690
requirements: 3691

(A) Be designed to provide reliable competitive retail 3692
electric service to percentage of income payment plan program 3693
customers; 3694

(B) Reduce the cost of the percentage of income payment 3695
plan program relative to the otherwise applicable standard 3696
service offer established under sections 4928.141, ~~and~~ and 4928.142, ~~and~~ 3697
~~and 4928.143~~ of the Revised Code; 3698

(C) Result in the best value for persons paying the 3699
universal service rider under section 4928.52 of the Revised 3700

Code. 3701

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3702
renewable energy resource" means a renewable energy resource, as 3703
defined in section 4928.01 of the Revised Code that: 3704

(a) Has a placed-in-service date on or after January 1, 3705
1998; 3706

(b) Is any run-of-the-river hydroelectric facility that 3707
has an in-service date on or after January 1, 1980; 3708

(c) Is a small hydroelectric facility; 3709

(d) Is created on or after January 1, 1998, by the 3710
modification or retrofit of any facility placed in service prior 3711
to January 1, 1998; or 3712

(e) Is a mercantile customer-sited renewable energy 3713
resource, whether new or existing, that the mercantile customer 3714
commits for integration into the electric distribution utility's 3715
demand-response, energy efficiency, or peak demand reduction 3716
programs as provided under division (A) (2) (c) of section 4928.66 3717
of the Revised Code, including, but not limited to, any of the 3718
following: 3719

(i) A resource that has the effect of improving the 3720
relationship between real and reactive power; 3721

(ii) A resource that makes efficient use of waste heat or 3722
other thermal capabilities owned or controlled by a mercantile 3723
customer; 3724

(iii) Storage technology that allows a mercantile customer 3725
more flexibility to modify its demand or load and usage 3726
characteristics; 3727

(iv) Electric generation equipment owned or controlled by 3728
a mercantile customer that uses a renewable energy resource. 3729

(2) For the purpose of this section and as it considers 3730
appropriate, the public utilities commission may classify any 3731
new technology as such a qualifying renewable energy resource. 3732

(B) (1) By the end of 2026, an electric distribution 3733
utility shall have provided from qualifying renewable energy 3734
resources, including, at its discretion, qualifying renewable 3735
energy resources obtained pursuant to an electricity supply 3736
contract, a portion of the electricity supply required for its 3737
standard service offer under ~~section~~sections 4928.141 and 3738
4928.142 of the Revised Code, and an electric services company 3739
shall have provided a portion of its electricity supply for 3740
retail consumers in this state from qualifying renewable energy 3741
resources, including, at its discretion, qualifying renewable 3742
energy resources obtained pursuant to an electricity supply 3743
contract. That portion shall equal eight and one-half per cent 3744
of the total number of kilowatt hours of electricity sold by the 3745
subject utility or company to any and all retail electric 3746
consumers whose electric load centers are served by that utility 3747
and are located within the utility's certified territory or, in 3748
the case of an electric services company, are served by the 3749
company and are located within this state. However, nothing in 3750
this section precludes a utility or company from providing a 3751
greater percentage. 3752

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3753
The portion required under division (B) (1) of this section shall 3754
be generated from renewable energy resources in accordance with 3755
the following benchmarks: 3756
3757

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5%	0%
N	2021	6%	0%
O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%

R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented 3758
by the utility or company shall be met either: 3759

(a) Through facilities located in this state; or 3760

(b) With resources that can be shown to be deliverable 3761
into this state. 3762

(C) (1) The commission annually shall review an electric 3763
distribution utility's or electric services company's compliance 3764
with the most recent applicable benchmark under division (B) (2) 3765
of this section and, in the course of that review, shall 3766
identify any undercompliance or noncompliance of the utility or 3767
company that it determines is weather-related, related to 3768
equipment or resource shortages for qualifying renewable energy 3769
resources as applicable, or is otherwise outside the utility's 3770
or company's control. 3771

(2) Subject to the cost cap provisions of division (C) (3) 3772
of this section, if the commission determines, after notice and 3773
opportunity for hearing, and based upon its findings in that 3774
review regarding avoidable undercompliance or noncompliance, but 3775
subject to division (C) (4) of this section, that the utility or 3776
company has failed to comply with any such benchmark, the 3777
commission shall impose a renewable energy compliance payment on 3778
the utility or company. 3779

(a) The compliance payment pertaining to the solar energy 3780
resource benchmarks under division (B) (2) of this section shall 3781
be an amount per megawatt hour of undercompliance or 3782
noncompliance in the period under review, as follows: 3783

- (i) Three hundred dollars for 2014, 2015, and 2016; 3784
 - (ii) Two hundred fifty dollars for 2017 and 2018; 3785
 - (iii) Two hundred dollars for 2019. 3786
- (b) The compliance payment pertaining to the renewable 3787
energy resource benchmarks under division (B) (2) of this section 3788
shall equal the number of additional renewable energy credits 3789
that the electric distribution utility or electric services 3790
company would have needed to comply with the applicable 3791
benchmark in the period under review times an amount that shall 3792
begin at forty-five dollars and shall be adjusted annually by 3793
the commission to reflect any change in the consumer price index 3794
~~as defined in section 101.27 of the Revised Code~~, but shall not 3795
be less than forty-five dollars. As used in this division, 3796
"consumer price index" means the consumer price index prepared 3797
by the United States bureau of labor statistics (U.S. city 3798
average for urban wage earners and clerical workers: all items, 3799
1982-1984=100), or, if that index is no longer published, a 3800
generally available comparable index. 3801
- (c) The compliance payment shall not be passed through by 3802
the electric distribution utility or electric services company 3803
to consumers. The compliance payment shall be remitted to the 3804
commission, for deposit to the credit of the advanced energy 3805
fund created under section 4928.61 of the Revised Code. Payment 3806
of the compliance payment shall be subject to such collection 3807
and enforcement procedures as apply to the collection of a 3808
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3809
Revised Code. 3810
- (3) An electric distribution utility or an electric 3811
services company need not comply with a benchmark under division 3812

(B) (2) of this section to the extent that its reasonably 3813
expected cost of that compliance exceeds its reasonably expected 3814
cost of otherwise producing or acquiring the requisite 3815
electricity by three per cent or more. The cost of compliance 3816
shall be calculated as though any exemption from taxes and 3817
assessments had not been granted under section 5727.75 of the 3818
Revised Code. 3819

(4) (a) An electric distribution utility or electric 3820
services company may request the commission to make a force 3821
majeure determination pursuant to this division regarding all or 3822
part of the utility's or company's compliance with any minimum 3823
benchmark under division (B) (2) of this section during the 3824
period of review occurring pursuant to division (C) (2) of this 3825
section. The commission may require the electric distribution 3826
utility or electric services company to make solicitations for 3827
renewable energy resource credits as part of its default service 3828
before the utility's or company's request of force majeure under 3829
this division can be made. 3830

(b) Within ninety days after the filing of a request by an 3831
electric distribution utility or electric services company under 3832
division (C) (4) (a) of this section, the commission shall 3833
determine if qualifying renewable energy resources are 3834
reasonably available in the marketplace in sufficient quantities 3835
for the utility or company to comply with the subject minimum 3836
benchmark during the review period. In making this 3837
determination, the commission shall consider whether the 3838
electric distribution utility or electric services company has 3839
made a good faith effort to acquire sufficient qualifying 3840
renewable energy or, as applicable, solar energy resources to so 3841
comply, including, but not limited to, by banking or seeking 3842
renewable energy resource credits or by seeking the resources 3843

through long-term contracts. Additionally, the commission shall 3844
consider the availability of qualifying renewable energy or 3845
solar energy resources in this state and other jurisdictions in 3846
the PJM interconnection regional transmission organization, 3847
L.L.C., or its successor and the midcontinent independent system 3848
operator or its successor. 3849

(c) If, pursuant to division (C)(4)(b) of this section, 3850
the commission determines that qualifying renewable energy or 3851
solar energy resources are not reasonably available to permit 3852
the electric distribution utility or electric services company 3853
to comply, during the period of review, with the subject minimum 3854
benchmark prescribed under division (B)(2) of this section, the 3855
commission shall modify that compliance obligation of the 3856
utility or company as it determines appropriate to accommodate 3857
the finding. Commission modification shall not automatically 3858
reduce the obligation for the electric distribution utility's or 3859
electric services company's compliance in subsequent years. If 3860
it modifies the electric distribution utility or electric 3861
services company obligation under division (C)(4)(c) of this 3862
section, the commission may require the utility or company, if 3863
sufficient renewable energy resource credits exist in the 3864
marketplace, to acquire additional renewable energy resource 3865
credits in subsequent years equivalent to the utility's or 3866
company's modified obligation under division (C)(4)(c) of this 3867
section. 3868

(5) The commission shall establish a process to provide 3869
for at least an annual review of the renewable energy resource 3870
market in this state and in the service territories of the 3871
regional transmission organizations that manage transmission 3872
systems located in this state. The commission shall use the 3873
results of this study to identify any needed changes to the 3874

amount of the renewable energy compliance payment specified 3875
under divisions (C) (2) (a) and (b) of this section. Specifically, 3876
the commission may increase the amount to ensure that payment of 3877
compliance payments is not used to achieve compliance with this 3878
section in lieu of actually acquiring or realizing energy 3879
derived from qualifying renewable energy resources. However, if 3880
the commission finds that the amount of the compliance payment 3881
should be otherwise changed, the commission shall present this 3882
finding to the general assembly for legislative enactment. 3883

(D) The commission annually shall submit to the general 3884
assembly in accordance with section 101.68 of the Revised Code a 3885
report describing all of the following: 3886

(1) The compliance of electric distribution utilities and 3887
electric services companies with division (B) of this section; 3888

(2) The average annual cost of renewable energy credits 3889
purchased by utilities and companies for the year covered in the 3890
report; 3891

(3) Any strategy for utility and company compliance or for 3892
encouraging the use of qualifying renewable energy resources in 3893
supplying this state's electricity needs in a manner that 3894
considers available technology, costs, job creation, and 3895
economic impacts. 3896

The commission shall begin providing the information 3897
described in division (D) (2) of this section in each report 3898
submitted after September 10, 2012. The commission shall allow 3899
and consider public comments on the report prior to its 3900
submission to the general assembly. Nothing in the report shall 3901
be binding on any person, including any utility or company for 3902
the purpose of its compliance with any benchmark under division 3903

(B) of this section, or the enforcement of that provision under 3904
division (C) of this section. 3905

(E) All costs incurred by an electric distribution utility 3906
in complying with the requirements of this section shall be 3907
bypassable by any consumer that has exercised choice of supplier 3908
under section 4928.03 of the Revised Code. 3909

Sec. 4928.645. (A) An electric distribution utility or 3910
electric services company may use, for the purpose of complying 3911
with the requirements under divisions (B)(1) and (2) of section 3912
4928.64 of the Revised Code, renewable energy credits any time 3913
in the five calendar years following the date of their purchase 3914
or acquisition from any entity, including, but not limited to, 3915
the following: 3916

(1) A mercantile customer; 3917

(2) An owner or operator of a hydroelectric generating 3918
facility that is located at a dam on a river, or on any water 3919
discharged to a river, that is within or bordering this state or 3920
within or bordering an adjoining state, or that produces power 3921
that can be shown to be deliverable into this state; 3922

(3) A seller of compressed natural gas that has been 3923
produced from biologically derived methane gas, provided that 3924
the seller may only provide renewable energy credits for metered 3925
amounts of gas. 3926

(B)(1) The public utilities commission shall adopt rules 3927
specifying that one unit of credit shall equal one megawatt hour 3928
of electricity derived from renewable energy resources, except 3929
that, for a generating facility of seventy-five megawatts or 3930
greater that is situated within this state and has committed by 3931
December 31, 2009, to modify or retrofit its generating unit or 3932

units to enable the facility to generate principally from 3933
biomass energy by June 30, 2013, each megawatt hour of 3934
electricity generated principally from that biomass energy shall 3935
equal, in units of credit, the product obtained by multiplying 3936
the actual percentage of biomass feedstock heat input used to 3937
generate such megawatt hour by the quotient obtained by dividing 3938
the then existing unit dollar amount used to determine a 3939
renewable energy compliance payment as provided under division 3940
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3941
existing market value of one renewable energy credit, but such 3942
megawatt hour shall not equal less than one unit of credit. 3943
Renewable energy resources do not have to be converted to 3944
electricity in order to be eligible to receive renewable energy 3945
credits. The rules shall specify that, for purposes of 3946
converting the quantity of energy derived from biologically 3947
derived methane gas to an electricity equivalent, one megawatt 3948
hour equals 3,412,142 British thermal units. 3949

(2) The rules also shall provide for this state a system 3950
of registering renewable energy credits by specifying which of 3951
any generally available registries shall be used for that 3952
purpose and not by creating a registry. That selected system of 3953
registering renewable energy credits shall allow a hydroelectric 3954
generating facility to be eligible for obtaining renewable 3955
energy credits and shall allow customer-sited projects or 3956
actions the broadest opportunities to be eligible for obtaining 3957
renewable energy credits. 3958

(C) ~~Beginning January 1, 2020, a qualifying solar resource 3959
as defined in section 3706.40 of the Revised Code is not 3960
eligible to obtain a renewable energy credit under this section 3961
for any megawatt hour for which the resource has been issued a 3962
solar energy credit under section 3706.45 of the Revised Code. 3963~~

~~(D)~~—Except for compressed natural gas that has been 3964
produced from biologically derived methane gas, energy generated 3965
by using natural gas as a resource is not eligible to obtain a 3966
renewable energy credit under this section. 3967

Sec. 4928.73. (A) As used in this section: 3968

(1) "Mercantile customer member" means a mercantile 3969
customer connected to a mercantile customer self-power system. 3970

(2) "Mercantile customer self-power system" means one or 3971
more electric generation facilities, electric storage 3972
facilities, or both, along with any associated facilities, that 3973
meet all of the following: 3974

(a) Produce electricity primarily for the consumption of a 3975
mercantile customer member or a group of mercantile customer 3976
members; 3977

(b) Connect directly to the mercantile customer member's 3978
side of the electric meter; 3979

(c) Deliver electricity to the mercantile customer 3980
member's side of the electric meter without the use of an 3981
electric distribution utility's or electric cooperative's 3982
distribution system or transmission system; 3983

(d) Is located on either of the following: 3984

(i) A property owned or controlled by a mercantile 3985
customer member or the entity that owns or operates the 3986
mercantile customer self-power system; 3987

(ii) Land adjacent to a mercantile customer member if the 3988
facilities connect directly with the customer. 3989

(B) The mercantile customer self-power system may be owned 3990

or operated by a mercantile customer member, group of mercantile 3991
customer members, or an entity that is not a mercantile customer 3992
member. 3993

(C) A mercantile customer self-power system may provide 3994
electric generation service to one or more mercantile customers. 3995

(D) The public utilities commission shall adopt rules to 3996
implement this section that are applicable to electric 3997
distribution utilities. 3998

(E) Service provided by a mercantile customer self-power 3999
system is not considered a noncompetitive retail electric 4000
service, retail electric service, or competitive retail electric 4001
service pursuant to Chapter 4928. of the Revised Code or an 4002
electric service pursuant to Chapter 4933. of the Revised Code 4003
and is not subject to the jurisdiction or supervision of the 4004
public utilities commission. 4005

(F) Owning, operating, or using a mercantile customer 4006
self-power system does not violate an electric supplier's 4007
exclusive right to furnish electric service to all load centers 4008
located presently or in the future within its certified 4009
territory pursuant to sections 4933.81 to 4933.90 of the Revised 4010
Code. In addition, a mercantile customer member's power purchase 4011
agreement, lease, or other contractual arrangement with an 4012
entity for a mercantile customer self-power system does not 4013
violate an electric supplier's exclusive right to furnish 4014
electric service to all load centers located presently or in the 4015
future within its certified territory pursuant to sections 4016
4933.81 to 4933.90 of the Revised Code. 4017

(G) Nothing in this section prohibits an electric 4018
distribution utility or an electric cooperative from charging a 4019

mercantile customer for distribution or transmission service 4020
used by a mercantile customer. 4021

Sec. 4928.83. (A) Not later than May 31, 2026, every 4022
electric distribution utility in the state shall develop and 4023
publicly share distribution system hosting capacity maps. The 4024
utility shall ensure that the maps are available on the 4025
utility's web site and shall be updated at least once per 4026
quarter. 4027

(B) The maps described in division (A) of this section 4028
shall include, at a minimum: 4029

(1) Total available distribution hosting capacity, 4030
expressed in megawatts, for new loads; 4031

(2) Separate hosting capacity availability for distributed 4032
energy resources or a separate distributed energy resource 4033
specific map; 4034

(3) Geographic locations and voltage levels of circuits 4035
and substations; 4036

(4) Total, existing, and queued loads or generation 4037
exceeding one megawatt per circuit and substation; 4038

(5) Available substation and circuit capacity expressed in 4039
megawatts. 4040

(C) The public utilities commission shall hold at least 4041
two stakeholder meetings annually to receive input on map 4042
design, data accuracy, and usability. In addition, the 4043
commission shall establish uniform reporting standards to ensure 4044
consistency across all electric distribution utilities. The 4045
commission may also require utilities to include additional data 4046
points as necessary to improve transparency and planning. 4047

(D) Each electric distribution utility shall publish 4048
annual reliability reports, including the following metrics, 4049
identified per circuit: 4050

(1) The system average interruption frequency index, 4051
representing the average number of interruptions per customer; 4052

(2) The customer average interruption duration index, 4053
representing the average interruption duration or average time 4054
to restore service per interrupted customer; 4055

(3) Customers experiencing multiple interruptions, which 4056
identifies customers experiencing at least five interruptions 4057
annually divided by the total number of customers served; 4058

(4) Customers experiencing long interruption durations, 4059
which identifies customers that experienced outages of one or 4060
more hours in duration divided by the total number of customers 4061
served; 4062

(5) Average outage frequency and duration per circuit and 4063
substation; 4064

(6) Identification of circuits and substations with 4065
persistent reliability issues; 4066

(7) Planned and completed upgrades to enhance grid 4067
reliability. 4068

(E) The commission shall review and publish a statewide 4069
reliability report annually, summarizing trends and recommending 4070
grid modernization measures. 4071

Sec. 4928.86. (A) Each entity that owns or controls 4072
transmission facilities located in this state and is not a 4073
regional transmission organization shall create a heat map that 4074
includes both of the following: 4075

(1) For major transmission lines and substations, the 4076
additional power load the lines and substations can take at the 4077
time that the map is created, accounting for all signed electric 4078
service agreements; 4079

(2) The amount of localized generation that can be hosted 4080
on each transmission line. 4081

(B) If a heat map created under this section is not 4082
critical electric infrastructure information, then the entity 4083
that created the map shall publish the map on the entity's web 4084
site. 4085

Sec. 4928.87. (A) Not later than December 31, 2027, each 4086
electric distribution utility in this state shall publish one or 4087
more circuit hosting capacity maps that meets all the following 4088
requirements: 4089

(1) The maps shall include all of the following: 4090

(a) Distribution hosting capacity in megawatts for new 4091
load and distributed energy resources identified separately; 4092

(b) Locations and voltages; 4093

(c) Available substation capacity in megawatts; 4094

(d) Available circuit capacity in megawatts; 4095

(e) Total, existing, and queued loads or generation in 4096
excess of one megawatt. Queued loads or generation shall be 4097
included only if it has completed all necessary steps to access 4098
an electric distribution utility's distribution system, 4099
including securing signed customer agreements for loads and 4100
interconnection agreements for generation. 4101

(f) Any other information required by the public utilities 4102

commission. 4103

(2) The maps shall be provided for each electric 4104
distribution utility's distribution system. 4105

(3) The maps shall display available distribution circuit 4106
hosting capacity for new load, in megawatts. 4107

(4) Prior to publishing the maps, electric distribution 4108
utilities shall seek input from interested parties and agree to 4109
hold at least two stakeholder meetings. 4110

(5) The maps shall be made externally available on each 4111
electric distribution utility's web site. 4112

(B) The initial circuit hosting capacity maps required by 4113
this section shall be updated at least quarterly and the updated 4114
maps shall be made externally available on each electric 4115
distribution utility's web site. 4116

Sec. 4929.20. ~~(A)~~(A) (1) No governmental aggregator as 4117
defined in division (K) (1) of section 4929.01 of the Revised 4118
Code or no retail natural gas supplier shall provide a 4119
competitive retail natural gas service on or after thirteen 4120
months following ~~the effective date of this section~~ June 26, 4121
2001, to a consumer in this state without first being certified 4122
by the public utilities commission regarding its managerial, 4123
technical, and financial capability to provide that service and 4124
providing reasonable financial assurances sufficient to protect 4125
customers and natural gas companies from default. ~~In addition, a~~ 4126
~~retail natural gas supplier may be required to provide a~~ 4127
~~performance bond sufficient to protect customers and natural gas~~ 4128
~~companies from default.~~ Certification shall be granted pursuant 4129
to procedures and standards the commission shall prescribe in 4130
accordance with rules adopted under section 4929.10 of the 4131

Revised Code. However, certification or certification renewal 4132
shall be deemed approved thirty days after the filing of an 4133
application with the commission unless the commission suspends 4134
that approval for good cause shown. In the case of such a 4135
suspension, the commission shall act to approve or deny 4136
certification or certification renewal to the applicant not 4137
later than ninety days after the date of the suspension. 4138

(2) The commission shall establish rules to require a 4139
competitive retail natural gas supplier to maintain financial 4140
assurances sufficient to protect customers and natural gas 4141
companies from default. Such rules also shall specifically allow 4142
a natural gas company to set reasonable standards for its 4143
security and the security of its customers through financial 4144
requirements set in its tariffs. 4145

(3) As used in division (A) (2) of this section, "retail 4146
natural gas supplier" has the same meaning as in section 4929.01 4147
of the Revised Code, but excludes a broker or aggregator. 4148

(B) Capability standards adopted in rules pursuant to 4149
division (A) of this section shall be sufficient to ensure 4150
compliance with section 4929.22 of the Revised Code and with the 4151
minimum service requirements established under section 4929.23 4152
of the Revised Code. The standards shall allow flexibility for 4153
voluntary aggregation, to encourage market creativity in 4154
responding to consumer needs and demands. The rules shall 4155
include procedures for biennially renewing certification. 4156

(C) (1) The commission may suspend, rescind, or 4157
conditionally rescind the certification of any retail natural 4158
gas supplier or governmental aggregator issued under this 4159
section if the commission determines, after reasonable notice 4160
and opportunity for hearing, that the retail natural gas 4161

supplier or governmental aggregator has failed to comply with 4162
any applicable certification standards prescribed in rules 4163
adopted pursuant to this section or section 4929.22 of the 4164
Revised Code. 4165

(2) An affected natural gas company may file an 4166
application with the commission for approval of authority to 4167
recover in accordance with division (C) (2) of this section 4168
incremental costs reasonably and prudently incurred by the 4169
company in connection with the commission's continuation, 4170
suspension, rescission, or conditional rescission of a 4171
particular retail natural gas supplier's certification under 4172
division (C) (1) of this section. Upon the filing of such an 4173
application, the commission shall conduct an audit of such 4174
incremental costs as are specified in the application. Cost 4175
recovery shall be through a rider on the base rates of customers 4176
of the company for which there is a choice of supplier of 4177
commodity sales service as a result of revised schedules 4178
approved under division (C) of section 4929.29 of the Revised 4179
Code, a rule or order adopted or issued by the commission under 4180
Chapter 4905. of the Revised Code, or an exemption granted by 4181
the commission under sections 4929.04 to 4929.08 of the Revised 4182
Code. The rider shall take effect ninety days after the date of 4183
the application's filing unless the commission, based on the 4184
audit results and for good cause shown, sets the matter for 4185
hearing. After the hearing, the commission shall approve the 4186
application, and authorize such cost recovery rider effective on 4187
the date specified in the order, only for such incremental costs 4188
as the commission determines were reasonably and prudently 4189
incurred by the company in connection with the continuation, 4190
suspension, rescission, or conditional rescission of a retail 4191
natural gas supplier's certification under division (C) (1) of 4192

this section. Any proceeding under division (C) (2) of this 4193
section shall be governed by Chapter 4903. of the Revised Code. 4194

(D) No natural gas company, on and after thirteen months 4195
following ~~the effective date of this section~~ June 26, 2001, 4196
shall knowingly distribute natural gas, to a retail consumer in 4197
this state, for any governmental aggregator, as defined in 4198
division (K) (1) of section 4929.01 of the Revised Code, or 4199
retail natural gas supplier, that has not been certified by the 4200
commission pursuant to this section. 4201

(E) Notwithstanding any provision of section 121.95 of the 4202
Revised Code to the contrary, a regulatory restriction contained 4203
in a rule adopted under section 4929.20 of the Revised Code is 4204
not subject to sections 121.95 to 121.953 of the Revised Code. 4205

Sec. 4929.221. (A) If a competitive retail natural gas 4206
service supplier offers a residential customer or non-mercantile 4207
commercial customer a contract for a fixed introductory rate 4208
that converts to a variable rate upon the expiration of the 4209
fixed rate, the supplier shall send two notices to each 4210
residential customer and non-mercantile commercial customer that 4211
enters into such a contract. Each notice shall provide all of 4212
the following information to the customer: 4213

(1) The fixed rate that is expiring under the contract; 4214

(2) The expiration date of the contract's fixed rate; 4215

(3) The public utilities commission web site that, as a 4216
comparison tool, lists rates offered by competitive retail 4217
natural gas service suppliers. 4218

(B) The second notice shall include all the information 4219
required under division (A) of this section and shall also 4220
identify the initial rate to be charged upon the contract's 4221

conversion to a variable rate. 4222

(C) The notices shall be sent by standard United States 4223
mail or electronically with a customer's verifiable consent as 4224
follows: 4225

(1) The supplier shall send the first notice not earlier 4226
than ninety days and not later than sixty days prior to the 4227
expiration of the fixed rate. 4228

(2) The supplier shall send the second notice not earlier 4229
than forty-five days and not later than fifteen days prior to 4230
the expiration of the fixed rate. 4231

(D) A competitive retail natural gas service supplier 4232
shall provide an annual notice, by standard United States mail 4233
or electronically with a customer's verifiable consent, to each 4234
residential customer and non-mercantile commercial customer that 4235
has entered into a contract with the supplier that has converted 4236
to a variable rate upon the expiration of the contract's fixed 4237
introductory rate. The notice shall inform the customer that the 4238
customer is currently subject to a variable rate and that other 4239
fixed rate contracts are available. 4240

(E) Not later than one hundred fifty days after the 4241
effective date of this section, the commission shall adopt rules 4242
in order to implement divisions (A) to (D) of this section. The 4243
rules, at a minimum, shall include the following requirements 4244
regarding the notices required under divisions (A) to (D) of 4245
this section: 4246

(1) To use clear and unambiguous language in order to 4247
enable the customer to make an informed decision; 4248

(2) To design the notices in a way to ensure that they 4249
cannot be confused with marketing materials. 4250

(F) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4929.221 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code. 4251
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Sec. 4929.222. (A) As used in this section, "customer account information" means a unique natural gas company number or other customer identification number used by the company to identify a customer and the customer's account record. 4255
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(B) The public utilities commission shall adopt rules to ensure that a natural gas company processes a customer's change in competitive retail natural gas supplier by using customer account information. A customer who consents to a change of supplier shall not be required to provide customer account information to the supplier if the customer provides a valid form of government-issued identification issued to the customer or a sufficient alternative form of identification that allows the supplier to establish the customer's identity accurately. 4259
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(C) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code. 4268
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Sec. 4933.81. As used in sections 4933.81 to 4933.90 of the Revised Code: 4272
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(A) "Electric supplier" means any electric light company as defined in section 4905.03 of the Revised Code, including electric light companies organized as nonprofit corporations, but not including municipal corporations or other units of local government that provide electric service. 4274
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(B) "Adequate facilities" means distribution lines or 4279

facilities having sufficient capacity to meet the maximum 4280
estimated electric service requirements of its existing 4281
customers and of any new customer occurring during the year 4282
following the commencement of permanent electric service, and to 4283
assure all such customers of reasonable continuity and quality 4284
of service. Distribution facilities and lines of an electric 4285
supplier shall be considered "adequate facilities" if such 4286
supplier offers to undertake to make its distribution facilities 4287
and lines meet such service requirements and, in the 4288
determination of the public utilities commission, can do so 4289
within a reasonable time. 4290

(C) "Distribution line" means any electric line that is 4291
being or has been used primarily to provide electric service 4292
directly to electric load centers by the owner of such line. 4293

(D) "Existing distribution line" means any distribution 4294
line of an electric supplier which was in existence on January 4295
1, 1977, or under construction on that date. 4296

(E) "Electric load center" means all the electric- 4297
consuming facilities of any type or character owned, occupied, 4298
controlled, or used by a person at a single location, which 4299
facilities have been, are, or will be connected to and served at 4300
a metered point of delivery and to which electric service has 4301
been, is, or will be rendered. 4302

(F) "Electric service" means retail electric service 4303
furnished to an electric load center for ultimate consumption, 4304
but excludes furnishing electric power or energy at wholesale 4305
for resale. In the case of a for-profit electric supplier and 4306
beginning on the starting date of competitive retail electric 4307
service as defined in section 4928.01 of the Revised Code, 4308
"electric service" also excludes a competitive retail electric 4309

service—, and, starting after the effective date of amendments 4310
to this section by H.B. 15 of the 136th General Assembly, 4311
excludes: 4312

(1) Retail electric service provided to a mercantile 4313
customer member by its own mercantile customer self-power system 4314
as those terms are defined in section 4928.73 of the Revised 4315
Code; 4316

(2) Retail electric service provided to an electric load 4317
center to the extent the center is acting as a self-generator as 4318
defined in section 4928.01 of the Revised Code. 4319

In the case of a not-for-profit electric supplier and 4320
beginning on that competitive retail electric service starting 4321
date, "electric service" also excludes any service component of 4322
competitive retail electric service that is specified in an 4323
irrevocable filing the electric supplier makes with the public 4324
utilities commission for informational purposes only to 4325
eliminate permanently its certified territory under sections 4326
4933.81 to 4933.90 of the Revised Code as to that service 4327
component and further excludes any new electric load centers 4328
going into service after the effective date of amendments to 4329
this section by H.B. 15 of the 136th general assembly that use 4330
retail electric service described in division (F)(1) or (2) of 4331
this section. The filing shall specify the date on which such 4332
territory is so eliminated. Notwithstanding division (B) of 4333
section 4928.01 of the Revised Code, such a service component 4334
may include retail ancillary, metering, or billing and 4335
collection service irrespective of whether that service 4336
component has or has not been declared competitive under section 4337
4928.04 of the Revised Code. Upon receipt of the filing by the 4338
commission, the not-for-profit electric supplier's certified 4339

territory shall be eliminated permanently as to the service 4340
component specified in the filing as of the date specified in 4341
the filing. As used in this division, "competitive retail 4342
electric service" and "retail electric service" have the same 4343
meanings as in section 4928.01 of the Revised Code. 4344

(G) "Certified territory" means a geographical area the 4345
boundaries of which have been established pursuant to sections 4346
4933.81 to 4933.90 of the Revised Code within which an electric 4347
supplier is authorized and required to provide electric service. 4348

(H) "Other unit of local government" means any 4349
governmental unit or body that may come into existence after 4350
July 12, 1978, with powers and authority similar to those of a 4351
municipal corporation, or that is created to replace or exercise 4352
the relevant powers of any one or more municipal corporations. 4353

Sec. 4934.01. As used in this chapter: 4354

(A) "Bill credit" means the monetary value approved or 4355
revised under section 4934.08 or 4934.09 of the Revised Code by 4356
the public utilities commission for each kilowatt hour of 4357
electricity generated by a community energy facility. 4358

(B) "Certified territory," "electric distribution 4359
utility," and "energy storage" have the same meanings as in 4360
section 4928.01 of the Revised Code. 4361

(C) "Commercial or public sector rooftop" means either of 4362
the following that is located within an electric distribution 4363
utility's certified territory: 4364

(1) The roof of a building located on commercial real 4365
estate as defined in section 1311.85 of the Revised Code; 4366

(2) Any property owned by a public authority as defined in 4367

section 1311.25 of the Revised Code. 4368

(D) "Community energy facility" means a single facility 4369
that does the following: 4370

(1) Generates electricity by means of a solar photovoltaic 4371
device or uses as its fuel either solar, wind, biomass, landfill 4372
gas, or hydroelectric power, or uses a microturbine, natural 4373
gas-fired generator, energy storage system, or a fuel cell; 4374

(2) Meets all of the following requirements: 4375

(a) The facility is located in this state and is directly 4376
connected to an electric distribution utility's distribution 4377
system. 4378

(b) The facility has at least three subscribers. 4379

(c) The facility is located on one parcel of land and, 4380
except as provided in section 4934.011 of the Revised Code, 4381
there is no community energy facility on the same or a 4382
contiguous parcel that is developed, owned, or operated by the 4383
same entity, affiliated entity, or entity under common control. 4384

(d) No subscriber holds more than a forty per cent 4385
proportional interest in the output of the system, which shall 4386
be measured as the sum total of all meters on the subscriber's 4387
property. 4388

(e) Not less than sixty per cent of the facility capacity 4389
shall be subscribed by subscriptions of forty kilowatts or less 4390
based on the average annual demand for the prior twelve-month 4391
period. For purposes of this division, a multi-unit building 4392
served by a single meter shall be considered a single customer 4393
provided the average usage, based on the number of units, is 4394
forty kilowatts or less. 4395

(f) The facility has a nameplate capacity of ten or less megawatts, or twenty or less megawatts if the facility is on a distressed site or one or more commercial or public sector rooftops, as measured at the point of interconnection. 4396
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(g) The facility is not under the control of an electric distribution utility, but may be under the control of an affiliate of the utility. 4400
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(3) (a) If the facility uses either an energy storage system or natural gas-fired generator, then the energy storage system or generator is not sized so as to exceed the size of any co-located facility using solar, wind, biomass, landfill gas, or hydroelectric power as its fuel. 4403
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(b) If the system uses both an energy storage system and natural gas-fired generator, then the combined nameplate capacity of the storage system and generator is not sized so as to exceed the size of any co-located facility using solar, wind, biomass, landfill gas, or hydroelectric power as its fuel. 4408
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(E) "Community energy organization" means a for-profit or nonprofit entity that operates one or more community energy facilities. 4413
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(F) "Distressed site" means a site made up of one or more parcels of land, located within an electric distribution utility's certified territory where the majority of the acreage is at least one or more of the following: 4416
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(1) A brownfield as defined in section 122.6511 of the Revised Code; 4420
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(2) A parcel that is within an area where an investor may receive a new markets tax credit under section 45D of the Internal Revenue Code; 4422
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4424

<u>(3) A solid waste facility licensed by the environmental</u>	4425
<u>protection agency under section 3734.02 of the Revised Code;</u>	4426
<u>(4) A parcel of land that is described by division (b) (11)</u>	4427
<u>(B) (iii) of section 45 of the Internal Revenue Code;</u>	4428
<u>(5) Land or structure owned by a metropolitan housing</u>	4429
<u>authority, as described in section 3735.27 of the Revised Code;</u>	4430
<u>(6) Land owned by a county land reutilization corporation</u>	4431
<u>as defined in section 1724.01 of the Revised Code.</u>	4432
<u>(G) "Large industrial customer" means any manufacturer</u>	4433
<u>that uses electricity primarily in a process involving a change</u>	4434
<u>of raw or unfinished materials into another form or product, and</u>	4435
<u>that takes service from an electric distribution utility at</u>	4436
<u>primary voltage, subtransmission voltage, or transmission</u>	4437
<u>voltage.</u>	4438
<u>(H) "Net crediting" means a program offered by an electric</u>	4439
<u>distribution utility under which the electric utility does the</u>	4440
<u>following:</u>	4441
<u>(1) Issues a customer, who is a subscriber, a consolidated</u>	4442
<u>electric bill that includes on the customer's monthly bill the</u>	4443
<u>electric utility charges for electric service, the community</u>	4444
<u>energy subscription charge, and any bill credit;</u>	4445
<u>(2) Remits the customer's subscription fee to the owner or</u>	4446
<u>operator of the community energy organization to which the</u>	4447
<u>customer subscribes.</u>	4448
<u>(I) "Non-ministerial permit" means all necessary and</u>	4449
<u>discretionary governmental permits and approvals to construct a</u>	4450
<u>community energy facility notwithstanding any pending legal</u>	4451
<u>challenge to one or more permits or approvals.</u>	4452

(J) "Subscriber" means any retail electric customer who 4453
meets all of the following: 4454

(1) The customer has a single unique tax identification 4455
number; 4456

(2) The customer has an electric meter on the customer's 4457
property; 4458

(3) The customer resides within the certified territory of 4459
an electric distribution utility; 4460

(4) The customer contracts for a subscription from a 4461
community energy facility located in the same certified 4462
territory as the customer; 4463

(5) The customer is not a large industrial customer or a 4464
mercantile customer as defined in section 4928.01 of the Revised 4465
Code. 4466

(K) "Subscription" means the right to obtain from a 4467
community energy organization an allocation of bill credits for 4468
electricity generated by a community energy facility. 4469

(L) "Unsubscribed electricity" means any electricity 4470
generated by a community energy facility that is not 4471
attributable to a subscription. 4472

Sec. 4934.011. A community energy facility may be placed 4473
on the same parcel or a contiguous parcel of land as a community 4474
energy facility that is developed, owned, or operated by the 4475
same entity, affiliated entity, or entity under common control 4476
if at least one of the following is met: 4477

(A) The parcel or parcels of land are a distressed site or 4478
the facility is on one or more commercial or public sector 4479
rooftops, and the total capacity of all community energy 4480

facilities on the parcel or parcels does not exceed twenty 4481
megawatts. 4482

(B) All of the following are satisfied: 4483

(1) The community energy facility is to be located on a 4484
parcel of land, or multiple parcels of land, that were created 4485
prior to the effective date of this section. 4486

(2) The total capacity of all community energy facilities 4487
on the parcel or parcels of land does not exceed ten megawatts. 4488

(3) Each community energy facility has its own distinct 4489
point of interconnection with the serving electric distribution 4490
utility, including separate and distinct metering and the 4491
ability to be directly connected to or disconnected from the 4492
utility. 4493

(4) The generation components of each community energy 4494
facility are separate, including separate fencing, and not 4495
connected with neighboring facilities other than by the 4496
utility's distribution system. 4497

(5) Each community energy facility shares only non- 4498
operational infrastructure, including access roads, utility 4499
poles, and other features necessary to provide utility and 4500
physical access to each facility. 4501

Sec. 4934.04. The public utilities commission shall 4502
establish a community energy pilot program, as described in 4503
sections 4934.05 to 4934.14 and 4934.25 to 4934.27 of the 4504
Revised Code, consisting of one thousand five hundred megawatts 4505
to be implemented throughout this state. 4506

Sec. 4934.05. (A) The public utilities commission shall 4507
annually certify two hundred fifty megawatts of community energy 4508

facilities, based on nameplate capacity, until one thousand 4509
megawatts from such facilities are certified. 4510

(B) All megawatts certified pursuant to this section shall 4511
be allocated proportionally based on the size of each utility's 4512
retail electric sales published by the energy information 4513
administration. 4514

(C) Any uncertified megawatts for a year carry over to the 4515
subsequent year until all available megawatts are certified. 4516

(D) All megawatts certified pursuant to this section shall 4517
be certified in the order that the certification applications 4518
were received. 4519

(E) If applications for certification exceed the total 4520
capacity available for the year, then the applications shall be 4521
placed on a wait list as determined by the commission. Once 4522
certification of one thousand megawatts for community energy 4523
facilities has occurred, the wait list shall be eliminated. 4524

(F) The commission shall ensure that certification under 4525
this section is separate from a certification process required 4526
under sections 4928.64 to 4928.645 of the Revised Code, or any 4527
related rules in the Ohio Administrative Code. 4528

Sec. 4934.06. (A) The public utilities commission shall 4529
certify five hundred megawatts of community energy facilities, 4530
in addition to the megawatts certified under section 4934.05 of 4531
the Revised Code, which shall be reserved for community energy 4532
facilities constructed exclusively on distressed sites or one or 4533
more commercial or public sector rooftops. 4534

(B) The commission shall ensure that certification under 4535
this section is separate from a certification process required 4536
under sections 4928.64 to 4928.645 of the Revised Code, or any 4537

related rules in the Administrative Code. 4538

(C) After all megawatts are certified pursuant to this 4539
section, a community energy facility on a distressed site or a 4540
commercial or public sector rooftop may be certified from the 4541
megawatts allocated under section 4934.05 of the Revised Code. 4542

Sec. 4934.07. (A) An electric distribution utility with a 4543
community energy facility in its certified territory shall 4544
allocate bill credits for all electricity generated by the 4545
facility that is attributable to a subscription. 4546

(B) (1) A community energy organization may account for 4547
unsubscribed electricity on a monthly basis and accumulate bill 4548
credits for the unsubscribed electricity for a period of up to 4549
twelve months after it was generated. 4550

(2) Bill credits for unsubscribed electricity accumulated 4551
under division (B) (1) of this section shall be allocated to 4552
future subscribers at the direction of the community energy 4553
organization. 4554

(C) At least once annually, a community energy 4555
organization shall furnish to the electric distribution utility 4556
in whose certified territory the community energy facility is 4557
located an allocation for distribution of bill credits to 4558
subscribers for unsubscribed electricity. 4559

(D) A community energy organization shall forfeit, to the 4560
electric distribution utility in whose certified territory the 4561
community energy facility is located, any bill credits for 4562
unsubscribed electricity that are not allocated pursuant to 4563
division (B) of this section. 4564

Sec. 4934.071. (A) As used in this section: 4565

(1) "Regional governmental aggregator" means a regional council of governments established under Chapter 167. of the Revised Code with members in at least seventeen counties that is also a governmental aggregator under section 4928.20 of the Revised Code. 4566
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(2) "Renewable attributes" means any of the following that are attributable to a community energy facility or the electricity generated by a facility provided by the federal or state government or any other legislative authority of a political subdivision in the state: 4571
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(a) Any credits, certificates, benefits, or offsets and allowances computed on the basis of a community energy facility's displacement of fossil fuel-derived, or other conventional, electric generation; 4576
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(b) Any renewable energy credits or any other environmental certificates issued or administered in connection with electricity generated from a community energy facility; 4580
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(c) Any voluntary emission reduction credits obtained, or obtainable, in connection with the electric generation from a community energy facility. 4583
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(B) A regional governmental aggregator may purchase any amount of renewable attributes from a community energy facility. 4586
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Sec. 4934.072. No large industrial customer or mercantile customer, as defined in section 4928.01 of the Revised Code, shall participate in the community energy pilot program or be charged, directly or indirectly, for any costs related to the community energy pilot program. 4588
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Sec. 4934.08. (A) As used in this section, "retail rate" means all costs of providing generation service, transmission 4593
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service, and distribution service that may be charged by an 4595
electric distribution utility. 4596

(B) A subscriber to a community energy facility shall be 4597
eligible for a bill credit from the subscriber's electric 4598
distribution utility for the proportional output of a community 4599
energy facility attributable to the subscriber. 4600

(C) The public utilities commission shall establish the 4601
bill credit for each subscriber, subject to division (D) of this 4602
section, that is equal to the utility's retail rate on a per- 4603
customer class basis, minus only the utility's base charge for 4604
distribution service approved under Chapter 4909. of the Revised 4605
Code and the utility's distribution riders or other distribution 4606
charges approved under Chapter 4928. of the Revised Code. 4607

(D) When determining the bill credit for each utility, the 4608
commission shall consider all of the following: 4609

(1) The costs and benefits provided by community energy 4610
facilities participating in the community energy pilot program; 4611

(2) All proposed rules, fees, and charges; 4612

(3) Any other item that the commission determines is 4613
necessary. 4614

Sec. 4934.09. The public utilities commission shall 4615
approve a tariff based on the revised bill credit rate not later 4616
than twelve months after the report under section 4934.37 of the 4617
Revised Code is submitted. 4618

Sec. 4934.10. Any bill credit exceeding a subscriber's 4619
monthly bill amount shall carry forward until fully allocated to 4620
the subscriber's bill or until the termination of the 4621
subscriber's community energy organization subscription. 4622

Sec. 4934.11. No subscriber may obtain a subscription for 4623
electricity generated by a community energy facility 4624
representing more than one hundred per cent of the subscriber's 4625
average annual electricity usage. 4626

Sec. 4934.12. A subscription shall be considered one of 4627
the following: 4628

(A) A consumer transaction subject to Chapter 1345. of the 4629
Revised Code regarding the enrollment of residential subscribers 4630
to obtain an allocation of bill credits; 4631

(B) Goods subject to Chapter 1302. of the Revised Code 4632
regarding the enrollment of nonresidential subscribers to obtain 4633
an allocation of bill credits. 4634

Sec. 4934.13. An electric distribution utility shall 4635
interconnect a community energy facility that is in that 4636
utility's certified territory to its distribution system within 4637
a reasonable time after the facility is constructed and shall 4638
ensure such interconnections are made efficiently, safely, and 4639
in compliance with any applicable federal and state regulations 4640
and standards. 4641

Sec. 4934.14. An electric distribution utility shall not 4642
discriminate against community energy facilities or their 4643
subscribers, which includes adding extraordinary fees and 4644
charges not applied to similar facilities. 4645

Sec. 4934.17. (A) An electric distribution utility may 4646
establish a net crediting program under which the electric 4647
distribution utility shall enter into a net crediting agreement 4648
with a community energy organization. The terms of an agreement 4649
shall specify that authorization by or on behalf of a subscriber 4650
is required before a subscriber may be billed by the electric 4651

distribution utility under the program. An agreement also shall 4652
specify the terms for payments made by the electric distribution 4653
utility to the community energy organization, which terms may 4654
include a net crediting fee of not more than one per cent of the 4655
subscription fee to be deducted from the electric distribution 4656
utility's payment to the community energy organization. 4657

(B) Under a net crediting agreement, an electric 4658
distribution utility shall do the following: 4659

(1) Remit, through an electronic funds transfer, the cash 4660
value of the subscriber's subscription fee, less any net 4661
crediting fee, to the community energy organization not later 4662
than thirty days after the billing period; 4663

(2) Issue electric distribution utility customers who are 4664
subscribers an itemized monthly bill that includes, in addition 4665
to charges described in division (B) (4) of this section, the 4666
subscriber's bill credit for the billing period and the 4667
subscriber's subscription fee; 4668

(3) Process monthly bills for subscribers who participate 4669
in low-income customer assistance programs or budget billing 4670
programs in the same manner as bills for customers who are not 4671
participating in such programs; 4672

(4) Bill for all basic electric services, including 4673
transmission, distribution, and generation charges, consistent 4674
with this section and commission regulations. 4675

Sec. 4934.18. An electric distribution utility that enters 4676
into a net crediting agreement with a community energy 4677
organization shall prioritize payments from a customer who is a 4678
subscriber for each billing period according to this section. 4679
Past due subscriber fees owed to a community energy organization 4680

shall be paid prior to payments to the electric distribution 4681
utility for any arrearages on the customer's electric service 4682
bill. The electric distribution utility shall not apply a 4683
customer's bill credit to a customer's outstanding balance for 4684
electric service for the billing period. 4685

Sec. 4934.20. A nonresidential customer that subscribes to 4686
multiple community energy facilities may participate in the net 4687
crediting program only if each facility is included in a net 4688
crediting agreement under sections 4934.17 to 4934.23 of the 4689
Revised Code. 4690

Sec. 4934.21. The minimum service requirements established 4691
under section 4928.10 of the Revised Code apply to sections 4692
4934.17 to 4934.23 of the Revised Code. 4693

Sec. 4934.23. The public utilities commission shall adopt 4694
rules to implement net crediting programs authorized under 4695
sections 4934.17 to 4934.23 of the Revised Code. 4696

Sec. 4934.25. (A) A community energy organization that 4697
constructs a community energy facility on a distressed site that 4698
is a brownfield, as defined in section 122.6511 of the Revised 4699
Code, shall be eligible to receive a grant awarded by the 4700
department of development from the brownfield remediation 4701
program under section 122.6511 of the Revised Code for costs 4702
associated with construction and remediation. 4703

(B) The department of development shall promulgate rules 4704
for awarding grants described in this section. 4705

Sec. 4934.26. (A) The public utilities commission shall 4706
convene and facilitate an ongoing stakeholder working group to 4707
assist commission staff with effectively and efficiently 4708
promulgating rules for the community energy pilot program. 4709

- (B) The working group shall consist of the following: 4710
- (1) Electric distribution utilities; 4711
- (2) Consumer advocates; 4712
- (3) Community energy industry representatives; 4713
- (4) Other interested parties. 4714

Sec. 4934.27. Not later than six months after the 4715
effective date of this section, the public utilities commission, 4716
with assistance from the working group established by section 4717
4934.26 of the Revised Code shall promulgate rules to implement 4718
the community energy program, which shall include rules for the 4719
creation and establishment of community energy facilities, and 4720
the following: 4721

(A) The certification of community energy facilities, 4722
which shall include rules for the commission to approve or deny 4723
each facility application within ninety days, unless good cause 4724
is shown for not meeting the deadline, as determined by the 4725
commission; 4726

(B) Prohibit removing a subscriber from the subscriber's 4727
applicable customer class because of the subscriber's 4728
subscription to a community energy facility; 4729

(C) Reasonably allow for the transfer and portability of 4730
subscriptions, including allowing a subscriber to retain a 4731
subscription to a facility if the subscriber moves within the 4732
same electric distribution utility's service territory; 4733

(D) Modify existing interconnection standards, fees, and 4734
processes as needed to facilitate the efficient and cost- 4735
effective interconnection of community energy facilities that 4736
allow an electric distribution utility to recover reasonable 4737

interconnection costs for each facility; 4738

(E) Require each electric distribution utility to 4739
efficiently connect a community energy facility to its 4740
electrical distribution grid and not to discriminate against 4741
facilities or subscribers; 4742

(F) Provide for consumer protection in accordance with 4743
existing laws and regulations, including any protections against 4744
disconnection of service; 4745

(G) Establish robust consumer protections for subscribers, 4746
including at least the following: 4747

(1) A standardized customer disclosure form for 4748
residential subscribers; 4749

(2) Prohibiting upfront sign-on fees or credit checks; 4750

(3) Preventing early termination charges to any subscriber 4751
who unsubscribes. 4752

(H) Allow an electric distribution utility to recover 4753
reasonable costs associated with administering the community 4754
energy pilot program; 4755

(I) Ensure that costs associated with the community energy 4756
pilot program only be recovered from customer classes 4757
participating in the program and that no cross-subsidization of 4758
costs between customer classes occurs; 4759

(J) Ensure facilities qualifying for the community energy 4760
pilot program have a signed interconnection agreement or a 4761
system impact study, as determined by the commission, can 4762
demonstrate site control, and have received all applicable non- 4763
ministerial permits; 4764

(K) Require each community energy organization to send a 4765
notice in a standardized format containing information related 4766
to subscriber enrollment to the electric distribution utility 4767
that services the area where the organization's community energy 4768
facility is sited; 4769

(L) Not later than nine months after the effective date of 4770
this section, require each electric distribution utility to 4771
publish new tariffs or update existing tariffs to implement the 4772
community energy pilot program; 4773

(M) Require a community energy organization to be 4774
responsible for the decommissioning of a community energy 4775
facility pursuant to sections 4934.35 and 4934.36 of the Revised 4776
Code. 4777

Sec. 4934.35. (A) Not later than eighteen months after a 4778
community energy facility has ceased generating electricity, a 4779
community energy organization shall commence decommissioning of 4780
the facility. 4781

(B) The decommissioning described in division (A) of this 4782
section shall include the following, to be mutually agreed to in 4783
writing by the property owner or owners and the organization: 4784

(1) The removal, and potential reuse and recycling, of 4785
solar panels and other community energy equipment, and the 4786
remediation of the site; 4787

(2) The removal of all non-utility-owned equipment, 4788
graveled areas, and access roads; 4789

(3) The replacement of any topsoil that was removed for 4790
the construction of the facility and reseeded of the cleared 4791
area. 4792

(C) Not more than twenty per cent of the total combined mass of the community energy facility may enter a landfill. 4793
4794

Sec. 4934.36. (A) A community energy organization shall maintain sufficient financial assurances, in the form of a bond, through the life of a community energy facility's operation to provide for decommissioning as described in section 4934.35 of the Revised Code. 4795
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4797
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(B) The amount of the bond shall be calculated by a third-party professional engineer obtained by the organization. Every five years from the date of the initial assessment, the bond amount shall be recalculated in the same manner. 4800
4801
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(C) The board of county commissioners where the project is located shall be the obligee of the bond. 4804
4805

Sec. 4934.37. (A) The public utilities commission shall conduct reviews of the community energy pilot program forty-eight months after the rules for the program have been promulgated and submit a report to the general assembly with the following information: 4806
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(1) The number and location of operating community energy facilities; 4811
4812

(2) The amount of nameplate capacity certified; 4813

(3) The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed; 4814
4815
4816

(4) Whether savings were achieved by the subscribers. 4817

(B) The commission shall promulgate rules to require community energy organizations and electric distribution utilities to provide the commission with a report containing the 4818
4819
4820

relevant information described in division (A) of this section. 4821

Sec. 4934.38. Notwithstanding any provision of section 4822
121.95 of the Revised Code to the contrary, a regulatory 4823
restriction contained in a rule adopted under sections 4934.23, 4824
4934.25, 4934.27, and 4934.37 of the Revised Code is not subject 4825
to sections 121.95 to 121.953 of the Revised Code. 4826

Sec. 4935.04. (A) As used in this chapter: 4827

(1) "Major utility facility" means: 4828

(a) An electric transmission line and associated 4829
facilities of a design capacity of one hundred twenty-five 4830
kilovolts or more; 4831

(b) A gas or natural gas transmission line and associated 4832
facilities designed for, or capable of, transporting gas or 4833
natural gas at pressures in excess of one hundred twenty-five 4834
pounds per square inch. 4835

"Major utility facility" does not include electric, gas, 4836
or natural gas distributing lines and gas or natural gas 4837
gathering lines and associated facilities as defined by the 4838
public utilities commission; facilities owned or operated by 4839
industrial firms, persons, or institutions that produce or 4840
transmit gas or natural gas, or electricity primarily for their 4841
own use or as a byproduct of their operations; gas or natural 4842
gas transmission lines and associated facilities over which an 4843
agency of the United States has certificate jurisdiction; 4844
facilities owned or operated by a person furnishing gas or 4845
natural gas directly to fifteen thousand or fewer customers 4846
within this state. 4847

(2) "Person" has the meaning set forth in section 4906.01 4848
of the Revised Code. 4849

(3) "Advanced transmission technologies" has the same 4850
meaning as in section 4906.01 of the Revised Code. 4851

(B) Each person owning or operating a gas or natural gas 4852
transmission line and associated facilities within this state 4853
over which an agency of the United States has certificate 4854
jurisdiction shall furnish to the commission a copy of the 4855
energy information filed by the person with that agency of the 4856
United States. 4857

(C) Each person owning or operating a major utility 4858
facility within this state, or furnishing gas, natural gas, or 4859
electricity directly to more than fifteen thousand customers 4860
within this state shall furnish a report to the commission for 4861
its review. The report shall be furnished annually, except that 4862
for a gas or natural gas company the report shall be furnished 4863
every three years. The report shall be termed the long-term 4864
forecast report and shall contain: 4865

(1) A year-by-year, ten-year forecast of annual energy 4866
demand, peak load, reserves, and a general description of the 4867
resource planning projections to meet demand; 4868

(2) A range of projected loads during the period; 4869

(3) A description of major utility facilities planned to 4870
be added or taken out of service in the next ten years, 4871
including, to the extent the information is available, 4872
prospective sites for transmission line locations; 4873

(4) For gas and natural gas, a projection of anticipated 4874
supply, supply prices, and sources of supply over the forecast 4875
period; 4876

(5) A description of proposed changes in the transmission 4877
system planned for the next five years; 4878

(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural gas utilities, for the next two years. The report shall describe the major utility facilities that, in the judgment of such person, will be required to supply system demands during the forecast period. The report from a gas or natural gas utility shall cover the ten- and five-year periods next succeeding the date of the report, and the report from an electric utility shall cover the twenty-, ten-, and five-year periods next succeeding the date of the report. Each report shall be made available to the public and furnished upon request to municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use. The report shall be in such form and shall contain such information as may be prescribed by the commission.

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

(7) For electric transmission, a person shall include an evaluation and report of the potential use of, or investment in, one or more advanced transmission technologies to enable the electric utility to safely, reliably, efficiently, and cost-effectively meet electric system demand through its major utility facilities.

The report shall identify which advanced transmission technologies were considered as a part of the review of the major utility facilities for the next five years. A person shall also include a cost evaluation comparing costs of traditional transmission investments and costs of advanced transmission

technologies for the projects considered on the major utility 4909
facilities applied individually, together, or in sequence. The 4910
report shall also include an advanced transmission technology 4911
congestion mitigation study to cost-effectively maximize the 4912
delivery of energy resources in the near term that: 4913

(a) Identifies locations on the entity's transmission 4914
system where congestion has occurred for a total of fifty hours 4915
per year or more during the last three years or is likely to 4916
occur during the next five years, including due to planned 4917
transmission outages or other factors; 4918

(b) Estimates the frequency of congestion at each location 4919
and the increased cost to ratepayers resulting from the 4920
substitution of higher-priced electricity; 4921

(c) Evaluates the technical feasibility and estimates the 4922
cost of installing one or more advanced transmission 4923
technologies to address each instance of grid congestion 4924
identified in division (C) (7) (a) of this section and projects 4925
the grid-enhancing technology's efficacy in reducing congestion; 4926

(d) Analyzes the cost-effectiveness of installing grid- 4927
enhancing technologies to address each instance of congestion 4928
identified in division (C) (7) (a) of this section by using the 4929
information developed in division (C) (7) (c) of this section to 4930
calculate the payback period of each installation, using a 4931
methodology developed by the commission; 4932

(e) Proposes an implementation plan, including a schedule 4933
and cost estimate, to install grid-enhancing technologies at 4934
each congestion point at which the payback period is less than 4935
or equal to a value determined by the commission, in order to 4936
maximize transmission system capacity, and explains the entity's 4937

current line rating methodology. 4938

(D) The commission shall: 4939

(1) Review and comment on the reports filed under division 4940
(C) of this section, and make the information contained in the 4941
reports readily available to the public and other interested 4942
government agencies; 4943

(2) Compile and publish each year the general locations of 4944
proposed and existing transmission line routes within its 4945
jurisdiction as identified in the reports filed under division 4946
(C) of this section, identifying the general location of such 4947
sites and routes and the approximate year when construction is 4948
expected to commence, and to make such information readily 4949
available to the public, to each newspaper of daily or weekly 4950
circulation within the area affected by the proposed site and 4951
route, and to interested federal, state, and local agencies; 4952

(3) Hold a public hearing upon the showing of good cause 4953
to the commission by an interested party. 4954

If a hearing is held, the commission shall fix a time for 4955
the hearing, which shall be not later than ninety days after the 4956
report is filed, and publish notice of the date, time of day, 4957
and location of the hearing in a newspaper of general 4958
circulation in each county in which the person furnishing the 4959
report has or intends to locate a major utility facility and 4960
will provide service during the period covered by the report. 4961
The notice shall be published not less than fifteen nor more 4962
than thirty days before the hearing and shall state the matters 4963
to be considered. 4964

(4) Require such information from persons subject to its 4965
jurisdiction as necessary to assist in the conduct of hearings 4966

and any investigation or studies it may undertake; 4967

(5) Conduct any studies or investigations that are 4968
necessary or appropriate to carry out its responsibilities under 4969
this section. 4970

(6) Review and evaluate that advanced transmission 4971
technologies were properly reported in accordance with division 4972
(C) (7) of this section and allow stakeholders to provide 4973
comments. 4974

(7) Approve advanced transmission technology congestion 4975
mitigation implementation plans, including cost recovery. 4976

(E) (1) The scope of the hearing held under division (D) (3) 4977
of this section shall be limited to issues relating to 4978
forecasting. The power siting board, the office of consumers' 4979
counsel, and all other persons having an interest in the 4980
proceedings shall be afforded the opportunity to be heard and to 4981
be represented by counsel. The commission may adjourn the 4982
hearing from time to time. 4983

(2) The hearing shall include, but not be limited to, a 4984
review of: 4985

(a) The projected loads and energy requirements for each 4986
year of the period; 4987

(b) The estimated installed capacity and supplies to meet 4988
the projected load requirements. 4989

(F) Based upon the report furnished pursuant to division 4990
(C) of this section and the hearing record, the commission, 4991
within ninety days from the close of the record in the hearing, 4992
shall determine if: 4993

(1) All information relating to current activities, 4994

facilities agreements, and published energy policies of the 4995
state has been completely and accurately represented; 4996

(2) The load requirements are based on substantially 4997
accurate historical information and adequate methodology; 4998

(3) The forecasting methods consider the relationships 4999
between price and energy consumption; 5000

(4) The report identifies and projects reductions in 5001
energy demands due to energy conservation measures in the 5002
industrial, commercial, residential, transportation, and energy 5003
production sectors in the service area; 5004

(5) Utility company forecasts of loads and resources are 5005
reasonable in relation to population growth estimates made by 5006
state and federal agencies, transportation, and economic 5007
development plans and forecasts, and make recommendations where 5008
possible for necessary and reasonable alternatives to meet 5009
forecasted electric power demand; 5010

(6) The report considers plans for expansion of the 5011
regional power grid and the planned facilities of other 5012
utilities in the state; 5013

(7) All assumptions made in the forecast are reasonable 5014
and adequately documented. 5015

(G) The commission shall adopt rules under section 111.15 5016
of the Revised Code to establish criteria for evaluating the 5017
long-term forecasts of needs for gas and electric transmission 5018
service, to conduct hearings held under this section, to 5019
establish reasonable fees to defray the direct cost of the 5020
hearings and the review process, and such other rules as are 5021
necessary and convenient to implement this section. 5022

(H) The hearing record produced under this section and the 5023
determinations of the commission shall be introduced into 5024
evidence and shall be considered in determining the basis of 5025
need for power siting board deliberations under division (A)(1) 5026
of section 4906.10 of the Revised Code. The hearing record 5027
produced under this section shall be introduced into evidence 5028
and shall be considered by the commission in its initiation of 5029
programs, examinations, and findings under section 4905.70 of 5030
the Revised Code, and shall be considered in the commission's 5031
determinations with respect to the establishment of just and 5032
reasonable rates under section 4909.15 of the Revised Code and 5033
financing utility facilities and authorizing issuance of all 5034
securities under sections 4905.40, 4905.401, 4905.41, and 5035
4905.42 of the Revised Code. The forecast findings also shall 5036
serve as the basis for all other energy planning and development 5037
activities of the state government where electric and gas data 5038
are required. 5039

(I)(1) No court other than the supreme court shall have 5040
power to review, suspend, or delay any determination made by the 5041
commission under this section, or enjoin, restrain, or interfere 5042
with the commission in the performance of official duties. A 5043
writ of mandamus shall not be issued against the commission by 5044
any court other than the supreme court. 5045

(2) A final determination made by the commission shall be 5046
reversed, vacated, or modified by the supreme court on appeal, 5047
if, upon consideration of the record, such court is of the 5048
opinion that such determination was unreasonable or unlawful. 5049

The proceeding to obtain such reversal, vacation, or 5050
modification shall be by notice of appeal, filed with the 5051
commission by any party to the proceeding before it, against the 5052

commission, setting forth the determination appealed from and 5053
errors complained of. The notice of appeal shall be served, 5054
unless waived, upon the commission by leaving a copy at the 5055
office of the chairperson of the commission at Columbus. The 5056
court may permit an interested party to intervene by cross- 5057
appeal. 5058

(3) No proceeding to reverse, vacate, or modify a 5059
determination of the commission is commenced unless the notice 5060
of appeal is filed within sixty days after the date of the 5061
determination. 5062

Sec. 5727.01. As used in this chapter: 5063

(A) "Public utility" means each person referred to as a 5064
telephone company, telegraph company, electric company, natural 5065
gas company, pipe-line company, water-works company, water 5066
transportation company, heating company, rural electric company, 5067
railroad company, combined company, or energy company. 5068

(B) "Gross receipts" means the entire receipts for 5069
business done by any person from operations as a public utility, 5070
or incidental thereto, or in connection therewith, including any 5071
receipts received under Chapter 4928. of the Revised Code. The 5072
gross receipts for business done by an incorporated company 5073
engaged in operation as a public utility includes the entire 5074
receipts for business done by such company under the exercise of 5075
its corporate powers, whether from the operation as a public 5076
utility or from any other business. 5077

(C) "Rural electric company" means any nonprofit 5078
corporation, organization, association, or cooperative engaged 5079
in the business of supplying electricity to its members or 5080
persons owning an interest therein in an area the major portion 5081

of which is rural. "Rural electric company" excludes an energy 5082
company. 5083

(D) Any person: 5084

(1) Is a telegraph company when engaged in the business of 5085
transmitting telegraphic messages to, from, through, or in this 5086
state; 5087

(2) Is a telephone company when primarily engaged in the 5088
business of providing local exchange telephone service, 5089
excluding cellular radio service, in this state; 5090

(3) Is an electric company when engaged in the business of 5091
generating, transmitting, or distributing electricity within 5092
this state for use by others, but excludes a rural electric 5093
company or an energy company; 5094

(4) Is a natural gas company when engaged in the business 5095
of supplying or distributing natural gas for lighting, power, or 5096
heating purposes to consumers within this state, excluding a 5097
person that is a governmental aggregator or retail natural gas 5098
supplier as defined in section 4929.01 of the Revised Code; 5099

(5) Is a pipe-line company when engaged in the business of 5100
transporting natural gas, oil, or coal or its derivatives 5101
through pipes or tubing, either wholly or partially within this 5102
state; 5103

(6) Is a water-works company when engaged in the business 5104
of supplying water through pipes or tubing, or in a similar 5105
manner, to consumers within this state; 5106

(7) Is a water transportation company when engaged in the 5107
transportation of passengers or property, by boat or other 5108
watercraft, over any waterway, whether natural or artificial, 5109

from one point within this state to another point within this 5110
state, or between points within this state and points without 5111
this state; 5112

(8) Is a heating company when engaged in the business of 5113
supplying water, steam, or air through pipes or tubing to 5114
consumers within this state for heating purposes; 5115

(9) Is a railroad company when engaged in the business of 5116
owning or operating a railroad either wholly or partially within 5117
this state on rights-of-way acquired and held exclusively by 5118
such company, or otherwise, and includes a passenger, street, 5119
suburban, or interurban railroad company; 5120

(10) Is an energy company when engaged in the business of 5121
generating, transmitting, storing and releasing, or distributing 5122
electricity within this state for use by others solely from an 5123
energy facility with an aggregate nameplate capacity in excess 5124
of two hundred fifty kilowatts. 5125

As used in division (D) (2) of this section, "local 5126
exchange telephone service" means making available or furnishing 5127
access and a dial tone to all persons within a local calling 5128
area for use in originating and receiving voice grade 5129
communications over a switched network operated by the provider 5130
of the service within the area and for gaining access to other 5131
telecommunication services. 5132

(E) "Taxable property" means the property required by 5133
section 5727.06 of the Revised Code to be assessed by the tax 5134
commissioner, but does not include either of the following: 5135

(1) An item of tangible personal property that for the 5136
period subsequent to the effective date of an air, water, or 5137
noise pollution control certificate and continuing so long as 5138

the certificate is in force, has been certified as part of the 5139
pollution control facility with respect to which the certificate 5140
has been issued; 5141

(2) An item of tangible personal property that during the 5142
construction of a plant or facility and until the item is first 5143
capable of operation, whether actually used in operation or not, 5144
is incorporated in or being held exclusively for incorporation 5145
in that plant or facility. 5146

Notwithstanding section 5701.03 of the Revised Code, for 5147
tax year 2006 and thereafter, "taxable property" includes 5148
patterns, jigs, dies, and drawings of an electric company or a 5149
combined company for use in the activity of an electric company. 5150

(F) "Taxing district" means a municipal corporation or 5151
township, or part thereof, in which the aggregate rate of 5152
taxation is uniform. 5153

(G) "Telecommunications service" has the same meaning as 5154
in division (AA) of section 5739.01 of the Revised Code. 5155

(H) "Interexchange telecommunications company" means a 5156
person that is engaged in the business of transmitting 5157
telephonic messages to, from, through, or in this state, but 5158
that is not a telephone company. 5159

(I) "Sale and leaseback transaction" means a transaction 5160
in which a public utility or interexchange telecommunications 5161
company sells any tangible personal property to a person other 5162
than a public utility or interexchange telecommunications 5163
company and leases that property back from the buyer. 5164

(J) "Production equipment" means all taxable steam, 5165
nuclear, hydraulic, renewable resource, clean coal technology, 5166
and other production plant equipment used to generate or store 5167

and release electricity. For tax years prior to 2001, 5168
"production equipment" includes taxable station equipment that 5169
is located at a production plant. 5170

(K) "Tax year" means the year for which property or gross 5171
receipts are subject to assessment under this chapter. This 5172
division does not limit the tax commissioner's ability to assess 5173
and value property or gross receipts outside the tax year. 5174

(L) "Combined company" means any person engaged in the 5175
activity of an electric company or rural electric company that 5176
is also engaged in the activity of a heating company or a 5177
natural gas company, or any combination thereof. 5178

(M) "Public utility property lessor" means any person, 5179
other than a public utility or an interexchange 5180
telecommunications company, that leases personal property, other 5181
than in a sale and leaseback transaction, to a public utility, 5182
other than a railroad, water transportation, telephone, or 5183
telegraph company if the property would be taxable property if 5184
owned by the public utility. A public utility property lessor is 5185
subject to this chapter only for the purposes of reporting and 5186
paying tax on taxable property it leases to a public utility 5187
other than a telephone or telegraph company. A public utility 5188
property lessor that leases property to a public utility other 5189
than a telephone or telegraph company is not a public utility, 5190
but it shall report its property and be assessed in the same 5191
manner as the utility to which it leases the property. 5192

(N) "Energy resource" means any of the following: 5193

(1) "Renewable energy resource" as defined in section 5194
4928.01 of the Revised Code; 5195

(2) "Clean coal technology" as described in division (A) 5196

(34) (c) of section 4928.01 of the Revised Code;	5197
(3) "Advanced nuclear technology" as described in division	5198
(A) (34) (d) of section 4928.01 of the Revised Code;	5199
(4) "Cogeneration technology" as described in division (A)	5200
(34) (b) of section 4928.01 of the Revised Code;	5201
<u>(5) Energy storage system.</u>	5202
(O) "Energy conversion equipment" means tangible personal	5203
property connected to a wind turbine tower, connected to and	5204
behind solar radiation collector areas and designed to convert	5205
the radiant energy of the sun into electricity or heat, or	5206
connected to any other property used to generate <u>or store and</u>	5207
<u>release</u> electricity from an energy resource, through which	5208
electricity is transferred to controls, transformers, or power	5209
electronics and to the transmission interconnection point.	5210
"Energy conversion equipment" includes, but is not limited	5211
to, inverters, batteries, switch gears, wiring, collection	5212
lines, substations, ancillary tangible personal property, or any	5213
lines and associated tangible personal property located between	5214
substations and the transmission interconnection point.	5215
(P) "Energy facility" means one or more interconnected	5216
wind turbines, solar panels, <u>energy storage systems,</u> or other	5217
tangible personal property used to generate <u>or store and release</u>	5218
electricity from an energy resource owned by the same person,	5219
including:	5220
(1) All interconnection equipment, devices, and related	5221
apparatus connected to such tangible personal property;	5222
(2) All cables, equipment, devices, and related apparatus	5223
that connect the generators to an electricity grid or to a	5224

building or facility that directly consumes the electricity 5225
produced, that facilitate the transmission of electrical energy 5226
from the generators to the grid, building, or facility, and, 5227
where applicable, that transform voltage before ultimate 5228
delivery of electricity to the grid, building, or facility. 5229

"Energy facility" includes buildings, structures, 5230
improvements, or fixtures exclusively used to house, support, or 5231
stabilize tangible personal property constituting the facility 5232
or that are otherwise necessary for the operation of that 5233
property; and so much of the land on which such tangible 5234
personal property is situated as is required for operation of 5235
the facility and is not devoted to some other use, not to 5236
exceed, in the case of wind turbines, one-half acre for each 5237
wind turbine, and regardless of whether the land is owned by the 5238
owner or lessee of the tangible personal property or by another 5239
person. 5240

(Q) "Nameplate capacity" means the original interconnected 5241
maximum rated alternating current output of a generator or other 5242
electric production equipment under specific conditions 5243
designated by the manufacturer, expressed in the number of 5244
kilowatts or megawatts. 5245

(R) "Energy storage system" means tangible personal 5246
property that is capable of storing and releasing energy. 5247

Sec. 5727.111. The taxable property of each public 5248
utility, except a railroad company, and of each interexchange 5249
telecommunications company shall be assessed at the following 5250
percentages of true value: 5251

(A) In the case of a rural electric company, one of the 5252
following fifty: 5253

(1) Fifty per cent in the case of its taxable transmission and distribution property placed into service before the last day of the year that includes the effective date of this amendment and its; 5254
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(2) Seven per cent in the case of its taxable production or energy conversion equipment, and twenty-five placed into service on or after the last day of the year that includes the effective date of this amendment or any other taxable production equipment that is either repowered for the production of electricity or converted such that it produces electricity in a new manner; 5258
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(3) Twenty-five per cent for in the case of all its other taxable property. 5265
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(B) In the case of a telephone or telegraph company, 5267
twenty-five per cent for taxable property first subject to 5268
taxation in this state for tax year 1995 or thereafter for tax 5269
years before tax year 2007, and pursuant to division (H) of 5270
section 5711.22 of the Revised Code for tax year 2007 and 5271
thereafter, and the following for all other taxable property: 5272

(1) For tax years prior to 2005, eighty-eight per cent; 5273

(2) For tax year 2005, sixty-seven per cent; 5274

(3) For tax year 2006, forty-six per cent; 5275

(4) For tax year 2007 and thereafter, pursuant to division 5276
(H) of section 5711.22 of the Revised Code. 5277

(C) Twenty-five per cent in the case of (1) a natural gas 5278
company or (2) a water-works company for taxable property first 5279
subject to taxation in this state for tax year 2017 and 5280
thereafter. 5281

(D) Eighty-eight per cent in the case of a ~~pipe-line~~ 5282
~~company,~~ a water-works company for taxable property first 5283
subject to taxation in this state before tax year 2017, or a 5284
heating company~~;~~. 5285

(E) ~~(1) For tax year 2005, eighty-eight per cent in the~~ 5286
~~case of the taxable transmission and distribution property of an~~ 5287
~~electric company, and twenty-five per cent for all its other~~ 5288
~~taxable property;~~ 5289

~~(2) For tax year 2006 and each tax year thereafter, in~~ 5290
~~In~~ the case of an electric company, ~~eighty-five~~ one of the 5291
following: 5292

(1) Eighty-five per cent in the case of its taxable 5293
transmission and distribution property and energy conversion 5294
equipment placed into service before the last day of the year 5295
that includes the effective date of this amendment ~~and its~~ 5296
~~energy conversion equipment;~~ 5297

(2) Twenty-five per cent in the case of its other taxable 5298
transmission and distribution property ~~and twenty-four;~~ 5299

(3) Seven per cent in the case of its taxable production 5300
and energy conversion equipment placed into service on or after 5301
the last day of the year that includes the effective date of 5302
this amendment or any other taxable production equipment that is 5303
either repowered for the production of electricity or converted 5304
such that it produces electricity in a new manner; 5305

(4) Twenty-four per cent ~~for~~ in the case of all its other 5306
taxable property. 5307

(F) (1) Twenty-five per cent in the case of an 5308
interexchange telecommunications company for tax years before 5309
tax year 2007; 5310

(2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter.

(G) Twenty-five per cent in the case of a water transportation company.

(H) ~~For tax year 2011 and each tax year thereafter in~~ In the case of an energy company, ~~twenty-four~~ one of the following:

(1) Eighty-five per cent in the case of its taxable production equipment, transmission and distribution property placed into service before the last day of the year that includes the effective date of this amendment;

(2) Twenty-five per cent in the case of its other taxable transmission and distribution property ~~and eighty-five;~~

(3) Seven per cent in the case of its taxable production or energy conversion equipment placed into service on or after the last day of the year that includes the effective date of this amendment or any other taxable production equipment that is either repowered for the production of electricity or converted such that it produces electricity in a new manner;

(4) Eighty-five per cent ~~for~~ in the case of all its other taxable property.

(I) In the case of a pipeline company, one of the following:

(1) Eighty-eight per cent of its taxable property placed into service before the last day of the year that includes the effective date of this amendment;

(2) Twenty-five per cent in the case of all its other taxable property.

Sec. 5727.75. (A) For purposes of this section:	5338
(1) "Qualified energy project" means an energy project certified by the director of development pursuant to this section.	5339 5340 5341
(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.	5342 5343 5344
(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E) (1) (b) or (c) of this section.	5345 5346 5347
(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours. For the purpose of this calculation, "performed at the project" includes only hours worked at the qualified energy project and devoted to site preparation or protection, construction and installation, and the unloading and distribution of materials at the project site, but does not include hours worked by superintendents, owners, manufacturers' representatives, persons employed in a bona fide executive, management, supervisory, or administrative capacity, or persons whose sole employment on the project is transporting materials or persons to the project site.	5348 5349 5350 5351 5352 5353 5354 5355 5356 5357 5358 5359 5360 5361
(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.	5362 5363 5364
(6) "Internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.	5365 5366

(7) "Applicable year" means the later of the following: 5367

(a) The tax year in which the secretary of the treasury of 5368
the United States, or the secretary's delegate, determines, in 5369
accordance with section 45Y of the Internal Revenue Code, that 5370
the annual greenhouse gas emissions from the production of 5371
electricity in the United States are equal to or less than 5372
twenty-five per cent of the annual greenhouse gas emissions from 5373
the production of electricity in the United States for calendar 5374
year 2022; 5375

(b) Tax year 2029. 5376

(8) "Internal Revenue Code" means the Internal Revenue 5377
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5378

(B) (1) Tangible personal property of a qualified energy 5379
project using renewable energy resources is exempt from taxation 5380
for tax years 2011 through the applicable year if all of the 5381
following conditions are satisfied: 5382

(a) On or before the last day of the tax year preceding 5383
the applicable year, the owner or a lessee pursuant to a sale 5384
and leaseback transaction of the project submits an application 5385
to the power siting board for a certificate under section 5386
4906.20 of the Revised Code, or if that section does not apply, 5387
submits an application for any approval, consent, permit, or 5388
certificate or satisfies any condition required by a public 5389
agency or political subdivision of this state for the 5390
construction or initial operation of an energy project. 5391

(b) Construction or installation of the energy facility 5392
begins on or after January 1, 2009, and before the first day of 5393
the applicable year. For the purposes of this division, 5394
construction begins on the earlier of the date of application 5395

for a certificate or other approval or permit described in 5396
division (B) (1) (a) of this section, or the date the contract for 5397
the construction or installation of the energy facility is 5398
entered into. 5399

(c) For a qualified energy project with a nameplate 5400
capacity of twenty megawatts or greater, a board of county 5401
commissioners of a county in which property of the project is 5402
located has adopted a resolution under division (E) (1) (b) or (c) 5403
of this section to approve the application submitted under 5404
division (E) of this section to exempt the property located in 5405
that county from taxation. A board's adoption of a resolution 5406
rejecting an application or its failure to adopt a resolution 5407
approving the application does not affect the tax-exempt status 5408
of the qualified energy project's property that is located in 5409
another county. 5410

(2) If tangible personal property of a qualified energy 5411
project using renewable energy resources was exempt from 5412
taxation under this section beginning in any of tax years 2011 5413
through the applicable year, and the certification under 5414
division (E) (2) of this section has not been revoked, the 5415
tangible personal property of the qualified energy project is 5416
exempt from taxation for the tax year following the applicable 5417
year and all ensuing tax years if the property was placed into 5418
service before the first day of the tax year following the 5419
applicable year, as certified in the construction progress 5420
report required under division (F) (2) of this section. Tangible 5421
personal property that has not been placed into service before 5422
that date is taxable property subject to taxation. An energy 5423
project for which certification has been revoked is ineligible 5424
for further exemption under this section. Revocation does not 5425
affect the tax-exempt status of the project's tangible personal 5426

property for the tax year in which revocation occurs or any 5427
prior tax year. 5428

(C) Tangible personal property of a qualified energy 5429
project using clean coal technology, advanced nuclear 5430
technology, or cogeneration technology is exempt from taxation 5431
for the first tax year that the property would be listed for 5432
taxation and all subsequent years if all of the following 5433
circumstances are met: 5434

(1) The property was placed into service before January 1, 5435
2021. Tangible personal property that has not been placed into 5436
service before that date is taxable property subject to 5437
taxation. 5438

(2) For such a qualified energy project with a nameplate 5439
capacity of twenty megawatts or greater, a board of county 5440
commissioners of a county in which property of the qualified 5441
energy project is located has adopted a resolution under 5442
division (E) (1) (b) or (c) of this section to approve the 5443
application submitted under division (E) of this section to 5444
exempt the property located in that county from taxation. A 5445
board's adoption of a resolution rejecting the application or 5446
its failure to adopt a resolution approving the application does 5447
not affect the tax-exempt status of the qualified energy 5448
project's property that is located in another county. 5449

(3) The certification for the qualified energy project 5450
issued under division (E) (2) of this section has not been 5451
revoked. An energy project for which certification has been 5452
revoked is ineligible for exemption under this section. 5453
Revocation does not affect the tax-exempt status of the 5454
project's tangible personal property for the tax year in which 5455
revocation occurs or any prior tax year. 5456

(D) Except as otherwise provided in this section, real 5457
property of a qualified energy project is exempt from taxation 5458
for any tax year for which the tangible personal property of the 5459
qualified energy project is exempted under this section. 5460

(E) (1) (a) A person may apply to the director of 5461
development for certification of an energy project as a 5462
qualified energy project on or before the following dates: 5463

(i) The last day of the tax year preceding the applicable 5464
year, for an energy project using renewable energy resources; 5465

(ii) December 31, 2017, for an energy project using clean 5466
coal technology, advanced nuclear technology, or cogeneration 5467
technology. 5468

(b) The director shall forward a copy of each application 5469
for certification of an energy project with a nameplate capacity 5470
of twenty megawatts or greater to the board of county 5471
commissioners of each county in which the project is located and 5472
to each taxing unit with territory located in each of the 5473
affected counties. Any board that receives from the director a 5474
copy of an application submitted under this division shall adopt 5475
a resolution approving or rejecting the application unless it 5476
has adopted a resolution under division (E) (1) (c) of this 5477
section. A resolution adopted under division (E) (1) (b) or (c) of 5478
this section may require an annual service payment to be made in 5479
addition to the service payment required under division (G) of 5480
this section. The sum of the service payment required in the 5481
resolution and the service payment required under division (G) 5482
of this section shall not exceed nine thousand dollars per 5483
megawatt of nameplate capacity located in the county. The 5484
resolution shall specify the time and manner in which the 5485
payments required by the resolution shall be paid to the county 5486

treasurer. The county treasurer shall deposit the payment to the 5487
credit of the county's general fund to be used for any purpose 5488
for which money credited to that fund may be used. 5489

The board shall send copies of the resolution to the owner 5490
of the facility and the director by certified mail or, if the 5491
board has record of an internet identifier of record associated 5492
with the owner or director, by ordinary mail and by that 5493
internet identifier of record. The board shall send such notice 5494
within thirty days after receipt of the application, or a longer 5495
period of time if authorized by the director. 5496

(c) A board of county commissioners may adopt a resolution 5497
declaring the county to be an alternative energy zone and 5498
declaring all applications submitted to the director of 5499
development under this division after the adoption of the 5500
resolution, and prior to its repeal, to be approved by the 5501
board. 5502

All tangible personal property and real property of an 5503
energy project with a nameplate capacity of twenty megawatts or 5504
greater is taxable if it is located in a county in which the 5505
board of county commissioners adopted a resolution rejecting the 5506
application submitted under this division or failed to adopt a 5507
resolution approving the application under division (E) (1) (b) or 5508
(c) of this section. 5509

(2) The director shall certify an energy project if all of 5510
the following circumstances exist: 5511

(a) The application was timely submitted. 5512

(b) For an energy project with a nameplate capacity of 5513
twenty megawatts or greater, a board of county commissioners of 5514
at least one county in which the project is located has adopted 5515

a resolution approving the application under division (E) (1) (b) 5516
or (c) of this section. 5517

(c) No portion of the project's facility was used to 5518
supply electricity before December 31, 2009. 5519

(d) For construction or installation of a qualified energy 5520
project described in division (B) (1) (b) of this section, that 5521
the project is subject to wage requirements described in section 5522
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 5523
requirements described in section 45(b) (8) (A) (i) of the Internal 5524
Revenue Code, provided both of the following apply: 5525

(i) The person applies for such certificate after ~~the~~ 5526
~~effective date of this amendment~~ October 3, 2023. 5527

(ii) A board of commissioners of at least one county in 5528
which the project is located is required to adopt a resolution 5529
approving the application under division (E) (1) (b) or (c) of 5530
this section. 5531

(3) The director shall deny a certification application if 5532
the director determines the person has failed to comply with any 5533
requirement under this section. The director may revoke a 5534
certification if the director determines the person, or 5535
subsequent owner or lessee pursuant to a sale and leaseback 5536
transaction of the qualified energy project, has failed to 5537
comply with any requirement under this section. Upon 5538
certification or revocation, the director shall notify the 5539
person, owner, or lessee, the tax commissioner, and the county 5540
auditor of a county in which the project is located of the 5541
certification or revocation. Notice shall be provided in a 5542
manner convenient to the director. 5543

(F) The owner or a lessee pursuant to a sale and leaseback 5544

transaction of a qualified energy project shall do each of the 5545
following: 5546

(1) Comply with all applicable regulations; 5547

(2) File with the director of development a certified 5548
construction progress report before the first day of March of 5549
each year during the energy facility's construction or 5550
installation indicating the percentage of the project completed, 5551
and the project's nameplate capacity, as of the preceding 5552
thirty-first day of December. Unless otherwise instructed by the 5553
director of development, the owner or lessee of an energy 5554
project shall file a report with the director on or before the 5555
first day of March each year after completion of the energy 5556
facility's construction or installation indicating the project's 5557
nameplate capacity as of the preceding thirty-first day of 5558
December. Not later than sixty days after June 17, 2010, the 5559
owner or lessee of an energy project, the construction of which 5560
was completed before June 17, 2010, shall file a certificate 5561
indicating the project's nameplate capacity. 5562

(3) File with the director of development, in a manner 5563
prescribed by the director, a report of the total number of 5564
full-time equivalent employees, and the total number of full- 5565
time equivalent employees domiciled in Ohio, who are employed in 5566
the construction or installation of the energy facility; 5567

(4) For energy projects with a nameplate capacity of 5568
twenty megawatts or greater, repair all roads, bridges, and 5569
culverts affected by construction as reasonably required to 5570
restore them to their preconstruction condition, as determined 5571
by the county engineer in consultation with the local 5572
jurisdiction responsible for the roads, bridges, and culverts. 5573
In the event that the county engineer deems any road, bridge, or 5574

culvert to be inadequate to support the construction or 5575
decommissioning of the energy facility, the road, bridge, or 5576
culvert shall be rebuilt or reinforced to the specifications 5577
established by the county engineer prior to the construction or 5578
decommissioning of the facility. The owner or lessee of the 5579
facility shall post a bond in an amount established by the 5580
county engineer and to be held by the board of county 5581
commissioners to ensure funding for repairs of roads, bridges, 5582
and culverts affected during the construction. The bond shall be 5583
released by the board not later than one year after the date the 5584
repairs are completed. The energy facility owner or lessee 5585
pursuant to a sale and leaseback transaction shall post a bond, 5586
as may be required by the Ohio power siting board in the 5587
certificate authorizing commencement of construction issued 5588
pursuant to section 4906.10 of the Revised Code, to ensure 5589
funding for repairs to roads, bridges, and culverts resulting 5590
from decommissioning of the facility. The energy facility owner 5591
or lessee and the county engineer may enter into an agreement 5592
regarding specific transportation plans, reinforcements, 5593
modifications, use and repair of roads, financial security to be 5594
provided, and any other relevant issue. 5595

(5) Provide or facilitate training for fire and emergency 5596
responders for response to emergency situations related to the 5597
energy project and, for energy projects with a nameplate 5598
capacity of twenty megawatts or greater, at the person's 5599
expense, equip the fire and emergency responders with proper 5600
equipment as reasonably required to enable them to respond to 5601
such emergency situations; 5602

(6) (a) Except as otherwise provided in this division, for 5603
projects for which certification as a qualified energy project 5604
was applied for, under division (E) of this section, before ~~the~~ 5605

~~effective date of this amendment~~ October 3, 2023, maintain a 5606
ratio of Ohio-domiciled full-time equivalent employees employed 5607
in the construction or installation of the energy project to 5608
total full-time equivalent employees employed in the 5609
construction or installation of the energy project of not less 5610
than eighty per cent in the case of a solar energy project, and 5611
not less than fifty per cent in the case of any other energy 5612
project. A person applying for such a qualified energy project 5613
may certify to the director of development that the project will 5614
be voluntarily subject to the wage requirements described in 5615
section 45(b) (7) (A) of the Internal Revenue Code and 5616
apprenticeship requirements described in section 45(b) (8) (A) (i) 5617
of the Internal Revenue Code as authorized in division (F) (6) (b) 5618
of this section. Upon receipt of that certification, the project 5619
shall comply with division (F) (6) (b) of this section rather than 5620
division (F) (6) (a) of this section. 5621

(b) For projects for which certification as a qualified 5622
energy project was applied for, under division (E) of this 5623
section, on or after ~~the effective date of this amendment~~ 5624
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5625
equivalent employees employed in the construction or 5626
installation of the energy project to total full-time equivalent 5627
employees employed in the construction or installation of the 5628
energy project of not less than seventy per cent in the case of 5629
a solar energy project, and not less than fifty per cent in the 5630
case of any other energy project. 5631

(c) For purposes of divisions (F) (6) (a) and (b) of this 5632
section, in the case of an energy project for which 5633
certification from the power siting board is required under 5634
section 4906.20 of the Revised Code, the number of full-time 5635
equivalent employees employed in the construction or 5636

installation of the energy project equals the number actually 5637
employed or the number projected to be employed in the 5638
certificate application, if such projection is required under 5639
regulations adopted pursuant to section 4906.03 of the Revised 5640
Code, whichever is greater. For all other energy projects, the 5641
number of full-time equivalent employees employed in the 5642
construction or installation of the energy project equals the 5643
number actually employed or the number projected to be employed 5644
by the director of development, whichever is greater. To 5645
estimate the number of employees to be employed in the 5646
construction or installation of an energy project, the director 5647
shall use a generally accepted job-estimating model in use for 5648
renewable energy projects, including but not limited to the job 5649
and economic development impact model. The director may adjust 5650
an estimate produced by a model to account for variables not 5651
accounted for by the model. 5652

(7) For energy projects with a nameplate capacity in 5653
excess of twenty megawatts, establish a relationship with any of 5654
the following to educate and train individuals for careers in 5655
the wind or solar energy industry: 5656

(a) A member of the university system of Ohio as defined 5657
in section 3345.011 of the Revised Code; 5658

(b) A person offering an apprenticeship program registered 5659
with the employment and training administration within the 5660
United States department of labor or with the apprenticeship 5661
council created by section 4139.02 of the Revised Code; 5662

(c) A career-technical center, joint vocational school 5663
district, comprehensive career-technical center, or compact 5664
career-technical center; 5665

(d) A training center operated by a labor organization, or 5666
with a training center operated by a for-profit or nonprofit 5667
organization. 5668

The relationship may include endowments, cooperative 5669
programs, internships, apprenticeships, research and development 5670
projects, and curriculum development. 5671

(8) Offer to sell power or renewable energy credits from 5672
the energy project to electric distribution utilities or 5673
electric service companies subject to renewable energy resource 5674
requirements under section 4928.64 of the Revised Code that have 5675
issued requests for proposal for such power or renewable energy 5676
credits. If no electric distribution utility or electric service 5677
company issues a request for proposal on or before December 31, 5678
2010, or accepts an offer for power or renewable energy credits 5679
within forty-five days after the offer is submitted, power or 5680
renewable energy credits from the energy project may be sold to 5681
other persons. Division (F) (8) of this section does not apply 5682
if: 5683

(a) The owner or lessee is a rural electric company or a 5684
municipal power agency as defined in section 3734.058 of the 5685
Revised Code. 5686

(b) The owner or lessee is a person that, before 5687
completion of the energy project, contracted for the sale of 5688
power or renewable energy credits with a rural electric company 5689
or a municipal power agency. 5690

(c) The owner or lessee contracts for the sale of power or 5691
renewable energy credits from the energy project before June 17, 5692
2010. 5693

(9) Make annual service payments as required by division 5694

(G) of this section and as may be required in a resolution 5695
adopted by a board of county commissioners under division (E) of 5696
this section. 5697

(G) The owner or a lessee pursuant to a sale and leaseback 5698
transaction of a qualified energy project shall make annual 5699
service payments in lieu of taxes to the county treasurer on or 5700
before the final dates for payments of taxes on public utility 5701
personal property on the real and public utility personal 5702
property tax list for each tax year for which property of the 5703
energy project is exempt from taxation under this section. The 5704
county treasurer shall allocate the payment on the basis of the 5705
project's physical location. Upon receipt of a payment, or if 5706
timely payment has not been received, the county treasurer shall 5707
certify such receipt or non-receipt to the director of 5708
development and tax commissioner in a form determined by the 5709
director and commissioner, respectively. Each payment shall be 5710
in the following amount: 5711

(1) In the case of a solar energy project, seven thousand 5712
dollars per megawatt of nameplate capacity located in the county 5713
as of the thirty-first-day of December of the preceding tax 5714
year; 5715

(2) In the case of any other energy project using 5716
renewable energy resources, the following: 5717

(a) If the project maintains during the construction or 5718
installation of the energy facility a ratio of Ohio-domiciled 5719
full-time equivalent employees to total full-time equivalent 5720
employees of not less than seventy-five per cent, six thousand 5721
dollars per megawatt of nameplate capacity located in the county 5722
as of the thirty-first day of December of the preceding tax 5723
year; 5724

(b) If the project maintains during the construction or 5725
installation of the energy facility a ratio of Ohio-domiciled 5726
full-time equivalent employees to total full-time equivalent 5727
employees of less than seventy-five per cent but not less than 5728
sixty per cent, seven thousand dollars per megawatt of nameplate 5729
capacity located in the county as of the thirty-first day of 5730
December of the preceding tax year; 5731

(c) If the project maintains during the construction or 5732
installation of the energy facility a ratio of Ohio-domiciled 5733
full-time equivalent employees to total full-time equivalent 5734
employees of less than sixty per cent but not less than fifty 5735
per cent, eight thousand dollars per megawatt of nameplate 5736
capacity located in the county as of the thirty-first day of 5737
December of the preceding tax year. 5738

(3) In the case of an energy project using clean coal 5739
technology, advanced nuclear technology, or cogeneration 5740
technology, the following: 5741

(a) If the project maintains during the construction or 5742
installation of the energy facility a ratio of Ohio-domiciled 5743
full-time equivalent employees to total full-time equivalent 5744
employees of not less than seventy-five per cent, six thousand 5745
dollars per megawatt of nameplate capacity located in the county 5746
as of the thirty-first day of December of the preceding tax 5747
year; 5748

(b) If the project maintains during the construction or 5749
installation of the energy facility a ratio of Ohio-domiciled 5750
full-time equivalent employees to total full-time equivalent 5751
employees of less than seventy-five per cent but not less than 5752
sixty per cent, seven thousand dollars per megawatt of nameplate 5753
capacity located in the county as of the thirty-first day of 5754

December of the preceding tax year; 5755

(c) If the project maintains during the construction or 5756
installation of the energy facility a ratio of Ohio-domiciled 5757
full-time equivalent employees to total full-time equivalent 5758
employees of less than sixty per cent but not less than fifty 5759
per cent, eight thousand dollars per megawatt of nameplate 5760
capacity located in the county as of the thirty-first day of 5761
December of the preceding tax year. 5762

(H) The director of development in consultation with the 5763
tax commissioner shall adopt rules pursuant to Chapter 119. of 5764
the Revised Code to implement and enforce this section. 5765

(I) This section and any payments in lieu of taxes made as 5766
required under this section continue to apply and be required 5767
notwithstanding the enactment of H.B. 15 of the 136th general 5768
assembly. 5769

Sec. 5727.76. (A) As used in this section, "qualifying 5770
property" means property that is dedicated to transporting or 5771
transmitting electricity or natural gas and that is placed into 5772
service in a priority investment area designated under section 5773
122.161 of the Revised Code during a time when that designation 5774
is in effect. 5775

(B) Notwithstanding section 5727.111 of the Revised Code, 5776
qualifying property shall be assessed at seven per cent of true 5777
value for the tax year following the year in which the property 5778
is placed into service and for the ensuing four tax years. 5779

Section 2. That existing sections 4905.03, 4906.01, 5780
4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 4906.08, 4906.10, 5781
4906.201, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 5782
4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 5783

4909.42, 4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 5784
4928.142, 4928.144, 4928.151, 4928.17, 4928.20, 4928.23, 5785
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5786
4929.20, 4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 of the 5787
Revised Code are hereby repealed. 5788

Section 3. That sections 3706.40, 3706.41, 3706.43, 5789
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5790
3706.551, 3706.59, 3706.63, 3706.65, 4906.105, 4928.143, 5791
4928.148, 4928.47, and 4928.642 of the Revised Code are hereby 5792
repealed. 5793

Section 4. Beginning on the effective date of this 5794
section, no electric distribution utility shall collect from its 5795
retail customers in this state any charge that was authorized 5796
under section 4928.148 of the Revised Code prior to the repeal 5797
of that section by this act for retail recovery of prudently 5798
incurred costs related to a legacy generation resource. 5799
Beginning on the effective date of this section, the electric 5800
distribution utility shall not apply for, and the public 5801
utilities commission shall not authorize, any rider or cost 5802
recovery mechanism for a legacy generation resource. 5803

The public utilities commission shall continue any 5804
investigation commenced pursuant to section 4928.148 of the 5805
Revised Code prior to the repeal of that section by this act for 5806
purposes of determining the prudence and reasonableness of the 5807
actions of electric distribution utilities with ownership 5808
interests in the legacy generation resource, including their 5809
decisions related to offering the contractual commitment into 5810
the wholesale markets, and excluding from recovery those costs 5811
that the commission determines imprudent and unreasonable. 5812

Section 5. (A) Beginning on the effective date of this 5813

section, no electric distribution utility shall collect from its 5814
retail customers in the state any charge that was authorized 5815
under section 3706.46 of the Revised Code to meet the revenue 5816
requirement for disbursements from the Solar Generation Fund to 5817
owners or operators of qualifying solar resources that was 5818
required under section 3706.55 of the Revised Code before the 5819
repeal of these sections by this act. 5820

(B) Except as provided for in division (C) of this 5821
section, beginning on the effective date of this section, the 5822
Ohio Air Quality Development Authority is prohibited from 5823
directing the Treasurer of State to remit, and the Treasurer is 5824
prohibited from remitting, any money from the Solar Generation 5825
Fund to owners or operators of qualifying solar resources, which 5826
remittance was permitted under section 3706.55 of the Revised 5827
Code prior to the repeal of that section by this act. 5828

(C) The Ohio Air Quality Development Authority shall 5829
direct the Treasurer of State to remit money from the Solar 5830
Generation Fund to owners or operators of qualifying solar 5831
resources that were operational prior to December 31, 2024, in 5832
the same manner as provided in division (A) of section 3706.55 5833
of the Revised Code, as that section existed prior to the 5834
effective date of its repeal by this act. 5835

(D) Notwithstanding section 4905.32 of the Revised Code, 5836
any amounts remaining in the Solar Generation Fund as of 5837
December 31, 2027, minus the remittances that are required to be 5838
made between that date and January 21, 2028, shall be refunded 5839
to customers in a manner that shall be determined by the 5840
authority in consultation with the public utilities commission. 5841

Section 6. Section 4909.193 as enacted by this act and the 5842
amendments to section 4909.42 of the Revised Code by this act 5843

apply to applications filed under section 4909.18 of the Revised Code on or after the effective date of this section. 5844
5845

Section 7. (A) The Public Utilities Commission shall 5846
conduct a study to evaluate the potential use or deployment of 5847
advanced transmission technologies, as defined in section 5848
4906.01 of the Revised Code, by public utilities to enable 5849
public utilities to safely, reliably, efficiently, and cost- 5850
effectively meet electric system demand and provide safe, 5851
reliable, and affordable electric utility service to customers. 5852
In conducting the study, the Commission shall do the following: 5853

(1) Evaluate the attributes, functions, costs, and 5854
benefits of various advanced transmission technologies, 5855
including grid-enhancing technologies and advanced conductors; 5856

(2) Evaluate the potential of each of the advanced 5857
transmission technologies studied to be used or deployed by 5858
public utilities to provide safe, reliable, and affordable 5859
electric utility service to customers, considering existing and 5860
planned transmission infrastructure and projected demand growth; 5861

(3) Identify the potential reductions in project costs and 5862
project completion timelines by deploying advanced transmission 5863
technologies, as compared to traditional transmission 5864
infrastructure; 5865

(4) Evaluate potential ways to streamline the deployment 5866
of advanced transmission technologies, including streamlined 5867
processes for permitting, maintenance, and upgrades; 5868

(5) Evaluate other deregulated states' policies and laws 5869
relating to advanced transmission technologies and provide 5870
recommendations in accordance with other states' policies and 5871
laws to enable and encourage adoption of advanced transmission 5872

technologies in this state; 5873

(6) Identify processes or ways that end-use customers, 5874
such as industrial or mercantile customers, can invest and 5875
deploy advanced transmission technologies in partnership with 5876
their respective utility to allow for the more rapid deployment 5877
of such technologies; 5878

(7) Identify how the Commission can support and encourage 5879
the implementation of advanced transmission technologies in Ohio 5880
through future rule-making or other Commission activities; 5881

(8) Evaluate any other aspect of advanced transmission 5882
technologies that the Commission determines will assist 5883
policymakers, public utilities, ratepayers, and other 5884
stakeholders in understanding the potential role of advanced 5885
transmission technologies in the transmission system serving 5886
this state and the region; 5887

(9) Identify opportunities for the Federal Energy 5888
Advocate, as employed under section 4928.24 of the Revised Code, 5889
to support and advocate for the implementation of advanced 5890
transmission technologies at the regional transmission 5891
organization, Federal Energy Regulatory Commission, and other 5892
relevant agencies, commissions or regulatory bodies. 5893

(B) In conducting the study required by this section, the 5894
Commission shall consult with or invite comments from 5895
stakeholders. The Commission shall hold a minimum of two public 5896
workshops to review public comments from stakeholders. The 5897
Commission may incorporate any information or comments received 5898
in its report required in division (C) of this section. 5899

(C) Not later than March 1, 2026, the Commission shall 5900
submit a report that includes the Commission's findings with 5901

respect to the topics outlined in this section. A copy of the 5902
report shall be made available online and sent to all members of 5903
the General Assembly. 5904

Section 8. The amendment by this act of section 5727.01 of 5905
the Revised Code applies to tax years beginning on or after the 5906
effective date of this section. 5907

Section 9. The General Assembly, applying the principle 5908
stated in division (B) of section 1.52 of the Revised Code that 5909
amendments are to be harmonized if reasonably capable of 5910
simultaneous operation, finds that the following sections, 5911
presented in this act as composites of the sections as amended 5912
by the acts indicated, are the resulting versions of the 5913
sections in effect prior to the effective date of the sections 5914
as presented in this act: 5915

Section 4906.02 of the Revised Code is presented in this 5916
act as a composite of the section as amended by both H.B. 110 5917
and S.B. 52 of the 134th General Assembly. 5918

Section 4928.01 of the Revised Code is presented in this 5919
act as a composite of the section as amended by both H.B. 308 5920
and H.B. 315 of the 135th General Assembly. 5921