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136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 15

To amend sections 122.6511, 4905.03, 4906.01, 1
4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 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
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4928.149, 4928.73, 4928.83, 4928.86, 4929.221, 15
4929.222, 4934.01, 4934.011, 4934.04, 4934.05, 16
4934.06, 4934.07, 4934.071, 4934.072, 4934.08, 17
4934.09, 4934.10, 4934.11, 4934.12, 4934.13, 18
4934.14, 4934.17, 4934.18, 4934.20, 4934.21, 19
4934.23, 4934.25, 4934.26, 4934.27, 4934.35, 20
4934.36, 4934.37, 4934.38, and 5727.76; and to 21
repeal sections 3706.40, 3706.41, 3706.43, 22
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 23
3706.55, 3706.551, 3706.59, 3706.63, 3706.65, 24



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4906.105, 4928.143, 4928.148, 4928.47, and 25
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 122.6511, 4905.03, 4906.01, 31
4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 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, 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. 122.6511. (A) As used in this section and section 96
122.6512 of the Revised Code: 97

(1) "Brownfield" means an abandoned, idled, or under-used 98
industrial, commercial, or institutional property where 99
expansion or redevelopment is complicated by known or potential 100
releases of hazardous substances or petroleum. 101

(2) "Lead entity" means a county, township, municipal 102
corporation, port authority, conservancy district, park district 103
or other similar park authority, county land reutilization 104
corporation, or organization for profit. 105

(3) "Remediation" means any action to contain, remove, or 106
dispose of hazardous substances or petroleum at a brownfield. 107
"Remediation" includes the acquisition of a brownfield, 108

demolition performed at a brownfield, and the installation or 109
upgrade of the minimum amount of infrastructure that is 110
necessary to make a brownfield operational for economic 111
development activity. 112

(4) "County land reutilization corporation" has the same 113
meaning as in section 1724.01 of the Revised Code. 114

(5) "Priority investment area eligible project" means some 115
or all of the following activities necessary or conducive for 116
generating, transporting, storing, or transmitting electricity 117
at the site of a brownfield or former coal mine located in a 118
priority investment area designated under section 122.161 of the 119
Revised Code: 120

(a) Environmental or cultural resource site assessments; 121

(b) The monitoring, remediation, cleanup, or containment 122
of land to remove any condition or substance regulated by state 123
or federal environmental laws or regulations, including 124
hazardous substances, hazardous wastes, solid wastes, or 125
petroleum; 126

(c) The demolition and removal of existing structures, 127
grading, or other site work necessary to make a site or certain 128
real property that includes a brownfield or former coal mine 129
usable for economic development; 130

(d) The development of a remediation and reuse plan; 131

(e) The development or operation of a site for energy 132
generation or battery storage. 133

(B) (1) There is hereby created the brownfield remediation 134
program to award grants for priority investment area eligible 135
projects and the remediation of brownfield sites throughout 136

Ohio. The program shall be administered by the director of 137
development pursuant to this section and rules adopted pursuant 138
to division (B) (2) of this section. 139

(2) The director shall adopt rules, under Chapter 119. of 140
the Revised Code, for the administration of the program. The 141
rules shall include provisions for determining project and 142
project sponsor eligibility, program administration, and any 143
other provisions the director finds necessary. 144

(3) The director shall not award a grant exceeding ten 145
million dollars to a priority investment area eligible project. 146

(C) (1) There is hereby created in the state treasury the 147
brownfield remediation fund. The fund shall consist of moneys 148
appropriated to it by the general assembly, and investment 149
earnings on moneys in the fund shall be credited to the fund. 150

The director shall reserve funds from each appropriation 151
to the fund to each county in the state. The amount reserved 152
shall be one million dollars per county, or, if an appropriation 153
is less than eighty-eight million dollars, a proportionate 154
amount to each county. Amounts reserved pursuant to this section 155
are reserved for one calendar year from the date of the 156
appropriation. After one calendar year, the funds shall be 157
available pursuant to division (D) of this section. 158

(2) A lead entity may submit an initial grant application 159
for the use of funds reserved under division (C) (1) of this 160
section to the director. The lead entity may later submit an 161
amended application to the director, and the director may accept 162
and approve that application for use of funds up to the amount 163
reserved for that county. 164

(D) Funds from an appropriation not reserved under 165

division (C)(1) of this section shall be available for grants to 166
projects located anywhere in the state, and grants from those 167
funds shall be awarded to qualifying projects on a first-come, 168
first-served basis. 169

(E) The amendments to this section by ~~this act~~ H.B. 315 of 170
the 135th general assembly apply to new projects that are 171
applied for and awarded funding by the director of development 172
on and after ~~the effective date of this amendment~~ July 1, 2025. 173
Projects that are applied for or were applied for under this 174
section prior to ~~that date~~ July 1, 2025, shall be governed by 175
this section as it existed prior to ~~that date~~ July 1, 2025. 176

Sec. 4903.27. For all cases involving an application 177
pursuant to section 4909.18 of the Revised Code, the public 178
utilities commission shall not permit any new discovery 179
beginning not later than two hundred fifteen days after the 180
application is determined to be complete. 181

Sec. 4905.03. As used in this chapter, any person, firm, 182
copartnership, voluntary association, joint-stock association, 183
company, or corporation, wherever organized or incorporated, is: 184

(A) A telephone company, when engaged in the business of 185
transmitting telephonic messages to, from, through, or in this 186
state; 187

(B) A for-hire motor carrier, when engaged in the business 188
of transporting persons or property by motor vehicle for 189
compensation, except when engaged in any of the operations in 190
intrastate commerce described in divisions (B)(1) to (9) of 191
section 4921.01 of the Revised Code, but including the carrier's 192
agents, officers, and representatives, as well as employees 193
responsible for hiring, supervising, training, assigning, or 194

dispatching drivers and employees concerned with the 195
installation, inspection, and maintenance of motor-vehicle 196
equipment and accessories; 197

(C) An electric light company, when engaged in the 198
business of supplying electricity for light, heat, or power 199
purposes to consumers within this state, including supplying 200
electric transmission service for electricity delivered to 201
consumers in this state, but excluding a regional transmission 202
organization approved by the federal energy regulatory 203
commission;— 204

An electric light company does not include a self- 205
generator or mercantile customer self-power system. 206

(D) A gas company, when engaged in the business of 207
supplying artificial gas for lighting, power, or heating 208
purposes to consumers within this state or when engaged in the 209
business of supplying artificial gas to gas companies or to 210
natural gas companies within this state, but a producer engaged 211
in supplying to one or more gas or natural gas companies, only 212
such artificial gas as is manufactured by that producer as a by- 213
product of some other process in which the producer is primarily 214
engaged within this state is not thereby a gas company. All 215
rates, rentals, tolls, schedules, charges of any kind, or 216
agreements between any gas company and any other gas company or 217
any natural gas company providing for the supplying of 218
artificial gas and for compensation for the same are subject to 219
the jurisdiction of the public utilities commission. 220

(E) A natural gas company, when engaged in the business of 221
supplying natural gas for lighting, power, or heating purposes 222
to consumers within this state. Notwithstanding the above, 223
neither the delivery nor sale of Ohio-produced natural gas or 224

Ohio-produced raw natural gas liquids by a producer or gatherer 225
under a public utilities commission-ordered exemption, adopted 226
before, as to producers, or after, as to producers or gatherers, 227
January 1, 1996, or the delivery or sale of Ohio-produced 228
natural gas or Ohio-produced raw natural gas liquids by a 229
producer or gatherer of Ohio-produced natural gas or Ohio- 230
produced raw natural gas liquids, either to a lessor under an 231
oil and gas lease of the land on which the producer's drilling 232
unit is located, or the grantor incident to a right-of-way or 233
easement to the producer or gatherer, shall cause the producer 234
or gatherer to be a natural gas company for the purposes of this 235
section. 236

All rates, rentals, tolls, schedules, charges of any kind, 237
or agreements between a natural gas company and other natural 238
gas companies or gas companies providing for the supply of 239
natural gas and for compensation for the same are subject to the 240
jurisdiction of the public utilities commission. The commission, 241
upon application made to it, may relieve any producer or 242
gatherer of natural gas, defined in this section as a gas 243
company or a natural gas company, of compliance with the 244
obligations imposed by this chapter and Chapters 4901., 4903., 245
4907., 4909., 4921., and 4923. of the Revised Code, so long as 246
the producer or gatherer is not affiliated with or under the 247
control of a gas company or a natural gas company engaged in the 248
transportation or distribution of natural gas, or so long as the 249
producer or gatherer does not engage in the distribution of 250
natural gas to consumers. 251

Nothing in division (E) of this section limits the 252
authority of the commission to enforce sections 4905.90 to 253
4905.96 of the Revised Code. 254

(F) A pipe-line company, when engaged in the business of 255
transporting natural gas, oil, or coal or its derivatives 256
through pipes or tubing, either wholly or partly within this 257
state, but not when engaged in the business of the transport 258
associated with gathering lines, raw natural gas liquids, or 259
finished product natural gas liquids; 260

(G) A water-works company, when engaged in the business of 261
supplying water through pipes or tubing, or in a similar manner, 262
to consumers within this state; 263

(H) A heating or cooling company, when engaged in the 264
business of supplying water, steam, or air through pipes or 265
tubing to consumers within this state for heating or cooling 266
purposes; 267

(I) A messenger company, when engaged in the business of 268
supplying messengers for any purpose; 269

(J) A street railway company, when engaged in the business 270
of operating as a common carrier, a railway, wholly or partly 271
within this state, with one or more tracks upon, along, above, 272
or below any public road, street, alleyway, or ground, within 273
any municipal corporation, operated by any motive power other 274
than steam and not a part of an interurban railroad, whether the 275
railway is termed street, inclined-plane, elevated, or 276
underground railway; 277

(K) A suburban railroad company, when engaged in the 278
business of operating as a common carrier, whether wholly or 279
partially within this state, a part of a street railway 280
constructed or extended beyond the limits of a municipal 281
corporation, and not a part of an interurban railroad; 282

(L) An interurban railroad company, when engaged in the 283

business of operating a railroad, wholly or partially within 284
this state, with one or more tracks from one municipal 285
corporation or point in this state to another municipal 286
corporation or point in this state, whether constructed upon the 287
public highways or upon private rights-of-way, outside of 288
municipal corporations, using electricity or other motive power 289
than steam power for the transportation of passengers, packages, 290
express matter, United States mail, baggage, and freight. Such 291
an interurban railroad company is included in the term 292
"railroad" as used in section 4907.02 of the Revised Code. 293

(M) A sewage disposal system company, when engaged in the 294
business of sewage disposal services through pipes or tubing, 295
and treatment works, or in a similar manner, within this state. 296

As used in division (E) of this section, "natural gas" 297
includes natural gas that has been processed to enable 298
consumption or to meet gas quality standards or that has been 299
blended with propane, hydrogen, biologically derived methane 300
gas, or any other artificially produced or processed gas. 301

As used in this section, "gathering lines" has the same 302
meaning as in section 4905.90 of the Revised Code, and "raw 303
natural gas liquids" and "finished product natural gas liquids" 304
have the same meanings as in section 4906.01 of the Revised 305
Code. 306

As used in this section, "self-generator" has the same 307
meaning as in section 4928.01 of the Revised Code, and 308
"mercantile customer self-power system" has the same meaning as 309
in section 4928.73 of the Revised Code. 310

Sec. 4905.321. (A) Notwithstanding section 4905.32 of the 311
Revised Code, all revenues collected from customers by a public 312

utility as part of a rider or rates that are later found to be 313
unreasonable, unlawful, or otherwise improper by the supreme 314
court shall be subject to refund from the date of the issuance 315
of the supreme court's decision until the date when, on remand, 316
the public utilities commission makes changes to the rider or 317
rates to implement the supreme court's decision. 318

(B) The commission shall order the payment of the refunds 319
described in division (A) of this section in a manner designed 320
to allocate the refunds to customer classes in the same 321
proportion as the charges were originally collected. 322

(C) The commission shall determine how to allocate any 323
remaining funds described in division (A) of this section that 324
cannot be refunded for whatever reason. 325

(D) The commission shall order the payment of the funds 326
described in division (A) of this section and shall determine 327
how to allocate any remaining funds that cannot be refunded not 328
more than thirty days after the date of the issuance of the 329
supreme court's decision. 330

Sec. 4905.331. (A) As used in this section: 331

(1) "Electric distribution utility" has the same meaning 332
as in section 4928.01 of the Revised Code. 333

(2) "Electric service" means any service involved in 334
supplying or arranging for the supply of electricity to ultimate 335
consumers in this state. "Electric service" includes "retail 336
electric service" as defined in section 4928.01 of the Revised 337
Code. 338

(3) "Proceeding" includes a proceeding relating to 339
electric service under Chapters 4909. and 4928. of the Revised 340
Code. 341

(B) No electric distribution utility or its affiliate may 342
do either of the following to induce any party to a public 343
utilities commission proceeding to enter into a settlement of a 344
matter pending before the commission: 345

(1) Make a cash payment to that party; 346

(2) Enter into any agreement or any financial or private 347
arrangement with that party that is not made part of the public 348
case record. 349

(C) Notwithstanding division (B) of this section, the 350
commission may do any of the following: 351

(1) Reasonably allocate costs among rate schedules; 352

(2) Reasonably design rates within a rate schedule; 353

(3) Approve reasonable rates designed for particular 354
customers or classes of customers; 355

(4) Approve a resolution of a proceeding under section 356
4905.26 of the Revised Code; 357

(5) Approve payments to any governmental entity, nonprofit 358
organization, or other association for implementing low-income 359
weatherization service programs, subject to the following 360
conditions: 361

(a) The payments are at a rate that is reasonably tailored 362
to the costs of providing the programs. 363

(b) The payments are for programs that are subject to an 364
existing or new audit procedure. 365

(c) The payments are not for low-income weatherization 366
education programs. 367

Sec. 4906.01. As used in Chapter 4906. of the Revised 368

Code:	369
(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	370 371 372 373 374
(B) (1) "Major utility facility" means:	375
(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	376 377 378
(b) An electric transmission line and associated facilities of a design capacity of one hundred <u>sixty</u> kilovolts or more;	379 380 381
(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.	382 383 384 385 386
(2) "Major utility facility" does not include any of the following:	387 388
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	389 390
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	391 392
(c) Electric distributing lines and associated facilities as defined by the power siting board;	393 394
(d) Any manufacturing facility that creates byproducts	395

that may be used in the generation of electricity as defined by	396
the power siting board;	397
(e) Gathering lines, gas gathering pipelines, and	398
processing plant gas stub pipelines as those terms are defined	399
in section 4905.90 of the Revised Code and associated	400
facilities;	401
(f) Any gas processing plant as defined in section 4905.90	402
of the Revised Code;	403
(g) Natural gas liquids finished product pipelines;	404
(h) Pipelines from a gas processing plant as defined in	405
section 4905.90 of the Revised Code to a natural gas liquids	406
fractionation plant, including a raw natural gas liquids	407
pipeline, or to an interstate or intrastate gas pipeline;	408
(i) Any natural gas liquids fractionation plant;	409
(j) A production operation as defined in section 1509.01	410
of the Revised Code, including all pipelines upstream of any	411
gathering lines;	412
(k) Any compressor stations used by the following:	413
(i) A gathering line, a gas gathering pipeline, a	414
processing plant gas stub pipeline, or a gas processing plant as	415
those terms are defined in section 4905.90 of the Revised Code;	416
(ii) A natural gas liquids finished product pipeline, a	417
natural gas liquids fractionation plant, or any pipeline	418
upstream of a natural gas liquids fractionation plant; or	419
(iii) A production operation as defined in section 1509.01	420
of the Revised Code.	421
(C) "Commence to construct" means any clearing of land,	422

excavation, or other action that would adversely affect the 423
natural environment of the site or route of a major utility 424
facility, but does not include surveying changes needed for 425
temporary use of sites or routes for nonutility purposes, or 426
uses in securing geological data, including necessary borings to 427
ascertain foundation conditions. 428

(D) "Certificate" means a certificate of environmental 429
compatibility and public need issued by the power siting board 430
under section 4906.10 of the Revised Code or a construction 431
certificate issued by the board under rules adopted under 432
~~division~~ divisions (E) ~~or (F)~~ to (H) of section 4906.03 of the 433
Revised Code. 434

(E) "Gas" means natural gas, flammable gas, or gas that is 435
toxic or corrosive. 436

(F) "Natural gas liquids finished product pipeline" means 437
a pipeline that carries finished product natural gas liquids to 438
the inlet of an interstate or intrastate finished product 439
natural gas liquid transmission pipeline, rail loading facility, 440
or other petrochemical or refinery facility. 441

(G) "Large solar facility" means an electric generating 442
plant that consists of solar panels and associated facilities 443
with a single interconnection to the electrical grid that is a 444
major utility facility. 445

(H) "Large wind farm" means an electric generating plant 446
that consists of wind turbines and associated facilities with a 447
single interconnection to the electrical grid that is a major 448
utility facility. 449

(I) "Natural gas liquids fractionation plant" means a 450
facility that takes a feed of raw natural gas liquids and 451

produces finished product natural gas liquids. 452

(J) "Raw natural gas" means hydrocarbons that are produced 453
in a gaseous state from gas wells and that generally include 454
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 455
octanes, nonanes, and decanes, plus other naturally occurring 456
impurities like water, carbon dioxide, hydrogen sulfide, 457
nitrogen, oxygen, and helium. 458

(K) "Raw natural gas liquids" means naturally occurring 459
hydrocarbons contained in raw natural gas that are extracted in 460
a gas processing plant and liquefied and generally include 461
mixtures of ethane, propane, butanes, and natural gasoline. 462

(L) "Finished product natural gas liquids" means an 463
individual finished product produced by a natural gas liquids 464
fractionation plant as a liquid that meets the specifications 465
for commercial products as defined by the gas processors 466
association. Those products include ethane, propane, iso-butane, 467
normal butane, and natural gasoline. 468

(M) "Advanced transmission technologies" means software or 469
hardware technologies that increase the capacity, efficiency, 470
reliability, or safety of an existing or new electric 471
transmission system, including grid-enhancing technologies such 472
as dynamic line rating, advanced power flow controllers, and 473
topology optimization; advanced conductors; and other 474
technologies designed to reduce transmission congestion, or 475
increase the capacity, efficiency, reliability, or safety of an 476
existing or new electric transmission system. 477

(N) "Advanced conductor" means a conductor with a direct 478
current electrical resistance that is at least ten per cent 479
lower than existing conductors of a similar diameter on the 480

electric transmission system while simultaneously increasing the 481
energy carrying capacity by at least seventy-five per cent. 482

Sec. 4906.02. (A) (1) There is hereby created within the 483
public utilities commission the power siting board, composed of 484
the chairperson of the public utilities commission, the director 485
of environmental protection, the director of health, the 486
director of development, the director of natural resources, the 487
director of agriculture, and a representative of the public who 488
shall be an engineer and shall be appointed by the governor, 489
from a list of three nominees submitted to the governor by the 490
office of the consumers' counsel, with the advice and consent of 491
the senate and shall serve for a term of four years. The 492
chairperson of the public utilities commission shall be 493
chairperson of the board and its chief executive officer. The 494
chairperson shall designate one of the voting members of the 495
board to act as vice-chairperson who shall possess during the 496
absence or disability of the chairperson all of the powers of 497
the chairperson. All hearings, studies, and consideration of 498
applications for certificates shall be conducted by the board or 499
representatives of its members. 500

In addition, the board shall include four legislative 501
members who may participate fully in all the board's 502
deliberations and activities except that they shall serve as 503
nonvoting members. The speaker of the house of representatives 504
shall appoint one legislative member, and the president of the 505
senate and minority leader of each house shall each appoint one 506
legislative member. Each such legislative leader shall designate 507
an alternate to attend meetings of the board when the regular 508
legislative member appointed by the legislative leader is unable 509
to attend. Each legislative member and alternate shall serve for 510
the duration of the elected term that the legislative member is 511

serving at the time of appointment. A quorum of the board is a majority of its voting members.

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

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

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

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

(D) (1) The chairperson may call to the chairperson's 542
assistance, temporarily, any employee of the environmental 543
protection agency, the department of natural resources, the 544
department of agriculture, the department of health, or the 545
department of development, for the purpose of making studies, 546
conducting hearings, investigating applications, or preparing 547
any report required or authorized under this chapter. Such 548
employees shall not receive any additional compensation over 549
that which they receive from the agency by which they are 550
employed, but they shall be reimbursed for their actual and 551
necessary expenses incurred while working under the direction of 552
the chairperson. All contracts for special services are subject 553
to the approval of the chairperson. 554

(2) Subject to controlling board approval, the board may 555
contract for the services of any expert or analyst, other than 556
an employee described in division (D) (1) of this section, for 557
the purposes of carrying out the board's powers and duties as 558
described in Chapter 4906. of the Revised Code. Any such expert 559
or analyst shall be compensated from the application fee, or if 560
necessary, supplemental application fees assessed in accordance 561
with division (F) of section 4906.06 of the Revised Code. 562

(E) The board's offices shall be located in those of the 563
public utilities commission. 564

Sec. 4906.03. The power siting board shall: 565

(A) Require such information from persons subject to its 566
jurisdiction as it considers necessary to assist in the conduct 567
of hearings and any investigations or studies it may undertake; 568

(B) Conduct any studies or investigations that it 569
considers necessary or appropriate to carry out its 570

responsibilities under this chapter;	571
(C) Adopt rules establishing criteria for evaluating the effects on environmental values of proposed and alternative sites, and projected needs for electric power, and such other rules as are necessary and convenient to implement this chapter, including rules governing application fees, supplemental application fees, and other reasonable fees to be paid by persons subject to the board's jurisdiction. The board shall make an annual accounting of its collection and use of these fees and shall issue an annual report of its accounting, in the form and manner prescribed by its rules, not later than the last day of June of the year following the calendar year to which the report applies.	572 573 574 575 576 577 578 579 580 581 582 583
(D) Approve, disapprove, or modify and approve applications for certificates;	584 585
(E) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board may adopt rules to provide for an accelerated review of an application for a construction certificate for construction of a major utility facility related to a coal research and development project as defined in section 1555.01 of the Revised Code, or to a coal development project as defined in section 1551.30 of the Revised Code, submitted to the Ohio coal development office for review under division (B) (7) of section 1551.33 of the Revised Code. Applications for construction certificates for construction of major utility facilities for Ohio coal research and development shall be filed with the board on the same day as the proposed facility or project is submitted to the Ohio coal development office for review.	586 587 588 589 590 591 592 593 594 595 596 597 598 599
The board shall render a decision on an application for a	600

construction certificate within ninety days after receipt of the 601
application and all of the data and information it may require 602
from the applicant. In rendering a decision on an application 603
for a construction certificate, the board shall only consider 604
the criteria and make the findings and determinations set forth 605
in divisions (A) (2), (3), (5), and (7) and division (B) of 606
section 4906.10 of the Revised Code. 607

(F) Notwithstanding sections 4906.06 to 4906.14 of the 608
Revised Code, the board shall adopt rules to provide for an 609
accelerated review of an application for a construction 610
certificate for any of the following: 611

(1) An electric transmission line that is: 612

(a) Not more than two miles in length; 613

(b) Primarily needed to attract or meet the requirements 614
of a specific customer or specific customers; 615

(c) Necessary to maintain reliable electric service as a 616
result of the retirement or shutdown of an electric generating 617
facility located within the state; or 618

(d) A rebuilding of an existing transmission line. 619

(2) An electric generating facility that uses waste heat 620
or natural gas and is primarily within the current boundary of 621
an existing industrial or electric generating facility; 622

(3) A gas pipeline that is not more than five miles in 623
length or is primarily needed to meet the requirements of a 624
specific customer or specific customers. 625

The board shall adopt rules that provide for the automatic 626
certification to any entity described in this division when an 627
application by any such entity is not suspended by the board, an 628

administrative law judge, or the chairperson or executive 629
director of the board for good cause shown, within ninety days 630
of submission of the application. If an application is 631
suspended, the board shall approve, disapprove, or modify and 632
approve the application not later than ninety days after the 633
date of the suspension. 634

(G) Notwithstanding sections 4906.06 to 4906.14 of the 635
Revised Code, the board shall adopt rules to provide for the 636
accelerated review of an application for a construction 637
certificate for any of the following that are located in a 638
priority investment area designated and approved under section 639
122.161 of the Revised Code: 640

(1) An electric generating plant and associated 641
facilities; 642

(2) An electric transmission line and associated 643
facilities; 644

(3) Gas Pipeline infrastructure. 645

The board shall render a decision on an application 646
submitted under this division not later than forty-five days 647
after receipt of the application. If the board does not render a 648
decision within forty-five days, the application shall be 649
considered approved by operation of law, and the board shall 650
issue a certificate to the applicant. 651

The board shall adopt rules to implement this division, 652
including rules that prioritize applications for construction on 653
areas negatively impacted by the decline of the coal industry. 654

(H) Notwithstanding sections 4906.06 to 4906.14 of the 655
Revised Code, the board shall adopt rules to provide for the 656
accelerated review of an application for a construction 657

certificate for a major utility facility if at the time the 658
application is filed the construction will be located, in whole, 659
on property owned by the applicant; in whole or in part, on an 660
easement or right-of-way; or on any combination of such 661
property, easement, or right-of-way. 662

No accelerated application shall be granted under the 663
rules adopted under division (H) of this section for 664
construction of a major utility facility, in whole or in part, 665
on an easement or right-of-way, if additional consent for 666
construction on the easement or right-of-way is required by any 667
person or entity other than the power siting board. 668

The board shall render a decision on an application 669
submitted under this division not later than forty-five days 670
after receipt of the application. If the board does not render a 671
decision within forty-five days, the application shall be 672
considered approved by operation of law, and the board shall 673
issue a certificate to the applicant. 674

Sec. 4906.04. (A) No person shall commence to construct a 675
major utility facility in this state without first having 676
obtained a certificate for the facility. The replacement of an 677
existing facility with a like facility, as determined by the 678
power siting board, shall not constitute construction of a major 679
utility facility. Such replacement of a like facility is not 680
exempt from any other requirements of state or local laws or 681
regulations. Any facility, with respect to which such a 682
certificate is required, shall thereafter be constructed, 683
operated, and maintained in conformity with such certificate and 684
any terms, conditions, and modifications contained therein. A 685
certificate may only be issued pursuant to Chapter 4906. of the 686
Revised Code. 687

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

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

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

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

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

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

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

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

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

(7) For an electric transmission line, a summary of any

studies that have been made by or for the applicant of cost- 716
effective advanced transmission technologies that maximize the 717
value, expand the capacity, or improve the reliability of the 718
facility. 719

The application shall be filed not more than five years 720
prior to the planned date of commencement of construction. The 721
five-year period may be waived by the board for good cause 722
shown. 723

(B) Each application shall be accompanied by proof of 724
service of a copy of such application on the chief executive 725
officer of each municipal corporation and county, and the head 726
of each public agency charged with the duty of protecting the 727
environment or of planning land use, in the area in which any 728
portion of such facility is to be located. 729

(C) Each applicant within fifteen days after the date of 730
the filing of the application shall give public notice to 731
persons residing in the municipal corporations and counties 732
entitled to receive notice under division (B) of this section, 733
by the publication of a summary of the application in newspapers 734
of general circulation in such area. Proof of such publication 735
shall be filed with the office of the chairperson. 736

(D) Inadvertent failure of service on, or notice to, any 737
of the persons identified in divisions (B) and (C) of this 738
section may be cured pursuant to orders of the board designed to 739
afford them adequate notice to enable them to participate 740
effectively in the proceeding. In addition, the board, after 741
filing, may require the applicant to serve notice of the 742
application or copies thereof or both upon such other persons, 743
and file proof thereof, as the board considers appropriate. 744

(E) An application for an amendment of a certificate shall 745
be in such form and contain such information as the board 746
prescribes. Notice of such an application shall be given as 747
required in divisions (B) and (C) of this section. 748

(F) Each application for certificate or an amendment shall 749
be accompanied by the application fee prescribed by board rule. 750
All application fees, supplemental application fees, and other 751
fees collected by the board shall be deposited in the state 752
treasury to the credit of the power siting board fund, which is 753
hereby created. The chairperson shall administer and authorize 754
expenditures from the fund for any of the purposes of this 755
chapter. If the chairperson determines that moneys credited to 756
the fund from an applicant's fee are not sufficient to pay the 757
board's expenses associated with its review of the application, 758
the chairperson shall request the approval of the controlling 759
board to assess a supplemental application fee upon an applicant 760
to pay anticipated additional expenses associated with the 761
board's review of the application or an amendment to an 762
application. If the chairperson finds that an application fee 763
exceeds the amount needed to pay the board's expenses for review 764
of the application, the chairperson shall cause a refund of the 765
excess amount to be issued to the applicant from the fund. 766

(G) The chairperson shall determine whether an application 767
is in compliance with this section not more than forty-five days 768
after the application is filed. If the chairperson does not 769
issue a determination within the time period required by this 770
division, the application is deemed in compliance by operation 771
of law. 772

Sec. 4906.07. (A) Upon the receipt of an application 773
complying with section 4906.06 of the Revised Code, the power 774

siting board shall promptly fix a date for a public hearing 775
thereon, not less than ~~sixty~~ forty-five nor more than ~~ninety~~ 776
sixty days after such receipt, and shall conclude the proceeding 777
as expeditiously as practicable. 778

(B) On an application for an amendment of a certificate, 779
the board shall hold a hearing in the same manner as a hearing 780
is held on an application for a certificate if the proposed 781
change in the facility would result in any material increase in 782
any environmental impact of the facility or a substantial change 783
in the location of all or a portion of such facility other than 784
as provided in the alternates set forth in the application. 785

(C) The chairperson of the power siting board shall cause 786
each application filed with the board to be investigated and 787
shall, not less than fifteen days prior to the date any 788
application is set for hearing submit a written report to the 789
board and to the applicant. A copy of such report shall be made 790
available to any person upon request. Such report shall set 791
forth the nature of the investigation, and shall contain 792
recommended findings with regard to division (A) of section 793
4906.10 of the Revised Code and shall become part of the record 794
and served upon all parties to the proceeding. 795

Sec. 4906.10. (A) The power siting board shall render a 796
decision upon the record either granting or denying the 797
application as filed, or granting it upon such terms, 798
conditions, or modifications of the construction, operation, or 799
maintenance of the major utility facility as the board considers 800
appropriate. The certificate shall be subject to sections 801
4906.101, 4906.102, and 4906.103 of the Revised Code and 802
conditioned upon the facility being in compliance with standards 803
and rules adopted under section 4561.32 and Chapters 3704., 804

3734., and 6111. of the Revised Code. An applicant may withdraw 805
an application if the board grants a certificate on terms, 806
conditions, or modifications other than those proposed by the 807
applicant in the application. 808

The board shall not grant a certificate for the 809
construction, operation, and maintenance of a major utility 810
facility, either as proposed or as modified by the board, unless 811
it finds and determines all of the following: 812

(1) The basis of the need for the facility if the facility 813
is an electric transmission line or gas pipeline; 814

(2) The nature of the probable environmental impact; 815

(3) That the facility represents the minimum adverse 816
environmental impact, considering the state of available 817
technology and the nature and economics of the various 818
alternatives, and other pertinent considerations; 819

(4) In the case of an electric transmission line or 820
generating facility, that the facility is consistent with 821
regional plans for expansion of the electric power grid of the 822
electric systems serving this state and interconnected utility 823
systems ~~and~~, that the facility will serve the interests of 824
electric system economy and reliability, and, in the case of an 825
electric transmission line, that the facility must consider 826
implementing cost-effective advanced transmission technologies 827
to maximize the value, expand capacity, or improve the 828
reliability of the facility; 829

(5) That the facility will comply with Chapters 3704., 830
3734., and 6111. of the Revised Code and all rules and standards 831
adopted under those chapters and under section 4561.32 of the 832
Revised Code. In determining whether the facility will comply 833

with all rules and standards adopted under section 4561.32 of 834
the Revised Code, the board shall consult with the office of 835
aviation of the division of multi-modal planning and programs of 836
the department of transportation under section 4561.341 of the 837
Revised Code. 838

(6) That the facility will serve the public interest, 839
convenience, and necessity; 840

(7) In addition to the provisions contained in divisions 841
(A) (1) to (6) of this section and rules adopted under those 842
divisions, what its impact will be on the viability as 843
agricultural land of any land in an existing agricultural 844
district established under Chapter 929. of the Revised Code that 845
is located within the site and alternative site of the proposed 846
major utility facility. Rules adopted to evaluate impact under 847
division (A) (7) of this section shall not require the 848
compilation, creation, submission, or production of any 849
information, document, or other data pertaining to land not 850
located within the site and alternative site. 851

(8) That the facility incorporates maximum feasible water 852
conservation practices as determined by the board, considering 853
available technology and the nature and economics of the various 854
alternatives.—; 855

(9) For certificate proceedings involving an electric 856
transmission line and associated facilities, including those 857
proceedings that qualify for accelerated review under section 858
4906.03 of the Revised Code, in addition to the provisions 859
contained in divisions (A) (1) to (8) of this section and rules 860
adopted under those divisions: 861

(a) That other alternatives to the transmission project 862

were considered and that the project is the most cost effective 863
and best suited alternative; 864

(b) That the project will be competitively bid or, if not, 865
will be comparable in cost had the project been competitively 866
bid; 867

(c) That the project has been considered in the context of 868
the utility's larger transmission plan; 869

(d) That the project could not be addressed through the 870
construction or replacement of a distribution line or facility; 871

(e) That the project has been considered in the context of 872
the regional transmission planning process of PJM 873
interconnection regional transmission organization, L.L.C.; 874

(f) That the project could not have been deferred or 875
redesigned to achieve the same operational result at a lower 876
overall cost. 877

(B) If the board determines that the location of all or a 878
part of the proposed facility should be modified, it may 879
condition its certificate upon that modification, provided that 880
the municipal corporations and counties, and persons residing 881
therein, affected by the modification shall have been given 882
reasonable notice thereof. 883

(C) A copy of the decision and any opinion issued 884
therewith shall be served upon each party. 885

(D) The board shall render a decision under this section 886
not later than one hundred eighty days after the date the 887
application is determined to be complete. If the board does not 888
render a decision within the time period required by this 889
division, the application shall be deemed approved by operation 890

of law, and the board shall issue a certificate to the 891
applicant. 892

Sec. 4906.105. Within sixty days after the completion of a 893
certificated facility, the applicant shall file the following 894
information in the certificate proceeding: 895

(A) A copy of the as-built drawings for the entire 896
facility; 897

(B) The final facility rating or nameplate capability for 898
the facility; 899

(C) The final cost for the entire facility and an 900
explanation for deviations from any cost estimate included with 901
the certificate application. 902

Sec. 4906.201. (A) An electric generating plant that 903
consists of wind turbines and associated facilities with a 904
single interconnection to the electrical grid that is designed 905
for, or capable of, operation at an aggregate capacity of fifty 906
megawatts or more is subject to the minimum setback requirements 907
established in rules adopted by the power siting board under 908
division (B) (2) of section 4906.20 of the Revised Code. 909

(B) (1) For any existing certificates and amendments 910
thereto, including to repower operational projects, and existing 911
certification applications that have been found by the 912
chairperson to be in compliance with division (A) of section 913
4906.06 of the Revised Code before the effective date of the 914
amendment of this section by H.B. 59 of the 130th general 915
assembly, September 29, 2013, the distance shall be seven 916
hundred fifty feet instead of one thousand one hundred twenty- 917
five feet. 918

(2) Any amendment made to an existing certificate issued 919

after the effective date of the amendment of this section by 920
H.B. 483 of the 130th general assembly, September 15, 2014, 921
establishing the setback distance of one thousand one hundred 922
twenty-five feet, shall be subject to the setback provision of 923
this section as amended by that act. The amendments to this 924
section by that act shall not be construed to limit or abridge 925
any rights or remedies in equity or under the common law. 926

(3) Nothing in this section limits the applicability of 927
the county commission review process under section 303.58 of the 928
Revised Code. 929

Sec. 4909.04. (A) The public utilities commission, for the 930
purpose of ascertaining the reasonableness and justice of rates 931
and charges for the service rendered by public utilities or 932
railroads, or for any other purpose authorized by law, may 933
investigate and ascertain the value of the property of any 934
public utility or railroad in this state used or useful for the 935
service and convenience of the public, using the same criteria 936
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 937
the Revised Code. At the request of the legislative authority of 938
any municipal corporation, the commission, after hearing and 939
determining that such a valuation is necessary, may also 940
investigate and ascertain the value of the property of any 941
public utility used and useful for the service and convenience 942
of the public where the whole or major portion of such public 943
utility is situated in such municipal corporation. 944

(B) To assist the commission in preparing such a 945
valuation, every public utility or railroad shall: 946

(1) Furnish to the commission, or to its agents, as the 947
commission requires, maps, profiles, schedules of rates and 948
tariffs, contracts, reports of engineers, and other documents, 949

records, and papers, or copies of any of them, in aid of any 950
investigation and ascertainment of the value of its property; 951

(2) Grant to the commission or its agents free access to 952
all of its premises and property and its accounts, records, and 953
memoranda whenever and wherever requested by any such authorized 954
agent; 955

(3) Cooperate with and aid the commission and its agents 956
in the work of the valuation of its property in such further 957
particulars and to such extent as the commission requires and 958
directs. 959

(C) The commission may make all rules which seem necessary 960
to ascertain the value of the property and plant of each public 961
utility or railroad. 962

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 963
4909.05 of the Revised Code: 964

(A) A "lease purchase agreement" is an agreement pursuant 965
to which a public utility leasing property is required to make 966
rental payments for the term of the agreement and either the 967
utility is granted the right to purchase the property upon the 968
completion of the term of the agreement and upon the payment of 969
an additional fixed sum of money or title to the property vests 970
in the utility upon the making of the final rental payment. 971

(B) A "leaseback" is the sale or transfer of property by a 972
public utility to another person contemporaneously followed by 973
the leasing of the property to the public utility on a long-term 974
basis. 975

Sec. 4909.042. (A) With respect to an electric light 976
company that chooses to file a forecasted test period under 977
section 4909.18 of the Revised Code, the public utilities 978

commission shall prescribe the form and details of the valuation 979
report of the property of the utility. Such report shall include 980
all the kinds and classes of property, with the value of each, 981
owned, held, or projected to be owned or held during the test 982
period, by the utility for the service and convenience of the 983
public. 984

(B) Such report shall contain the following facts in 985
detail: 986

(1) The original cost of each parcel of land owned in fee 987
and projected to be owned in fee and in use during the test 988
period, determined by the commission; and also a statement of 989
the conditions of acquisition, whether by direct purchase, by 990
donation, by exercise of the power of eminent domain, or 991
otherwise; 992

(2) The actual acquisition cost, not including periodic 993
rental fees, of rights-of-way, trailways, or other land rights 994
projected to be held during the test period, by virtue of 995
easements, leases, or other forms of grants of rights as to 996
usage; 997

(3) The original cost of all other kinds and classes of 998
property projected to be used and useful during the test period, 999
in the rendition of service to the public. Such original costs 1000
of property, other than land owned in fee, shall be the cost, as 1001
determined to be reasonable by the commission, to the person 1002
that first dedicated or dedicates the property to the public use 1003
and shall be set forth in property accounts and subaccounts as 1004
prescribed by the commission; 1005

(4) The cost of property constituting all or part of a 1006
project projected to be leased to or used by the utility during 1007

the test period, under Chapter 165., 3706., 6121., or 6123. of 1008
the Revised Code and not included under division (B) (3) of this 1009
section exclusive of any interest directly or indirectly paid by 1010
the utility with respect thereto whether or not capitalized; 1011

(5) In the discretion of the commission, the cost to a 1012
utility, in an amount determined to be reasonable by the 1013
commission, of property constituting all or part of a project 1014
projected to be leased to the utility during the test period, 1015
under a lease purchase agreement or a leaseback and not included 1016
under division (B) (3) of this section exclusive of any interest 1017
directly or indirectly paid by the utility with respect thereto 1018
whether or not capitalized; 1019

(6) The proper and adequate reserve for depreciation, as 1020
determined to be reasonable by the commission; 1021

(7) Any sums of money or property that the utility is 1022
projected to receive during the test period, as total or partial 1023
defrayal of the cost of its property; 1024

(8) The valuation of the property of the utility, which 1025
shall be the sum of the amounts contained in the report pursuant 1026
to divisions (B) (1) to (5) of this section, less the sum of the 1027
amounts contained in the report pursuant to divisions (B) (6) and 1028
(7) of this section. 1029

(C) The report shall show separately the property 1030
projected to be used and useful to or held by the utility during 1031
the test period, and such other items as the commission 1032
considers proper. The commission may require an additional 1033
report showing the extent to which the property is projected to 1034
be used and useful during the test period. Such reports shall be 1035
filed in the office of the commission for the information of the 1036

governor and the general assembly. 1037

(D) Any financial information required to be submitted by 1038
an electric light company under this section shall be provided 1039
from the company's full books. The commission shall ensure 1040
appropriate protections against the disclosure of the company's 1041
trade secrets or proprietary information. 1042

Sec. 4909.05. As used in this section: 1043

~~(A) A "lease purchase agreement" is an agreement pursuant-~~ 1044
~~to which a public utility leasing property is required to make-~~ 1045
~~rental payments for the term of the agreement and either the-~~ 1046
~~utility is granted the right to purchase the property upon the-~~ 1047
~~completion of the term of the agreement and upon the payment of-~~ 1048
~~an additional fixed sum of money or title to the property vests-~~ 1049
~~in the utility upon the making of the final rental payment.~~ 1050

~~(B) A "leaseback" is the sale or transfer of property by a~~ 1051
~~public utility to another person contemporaneously followed by-~~ 1052
~~the leasing of the property to the public utility on a long-term~~ 1053
~~basis.~~ 1054

~~(C) The~~ With respect to every public utility, other than 1055
an electric light company that chooses to file a forecasted test 1056
period under section 4909.18 of the Revised Code, the public 1057
utilities commission shall prescribe the form and details of the 1058
valuation report of the property of each public utility or 1059
railroad in the state. Such report shall include all the kinds 1060
and classes of property, with the value of each, owned, held, 1061
or, with respect to a natural gas, water-works, or sewage 1062
disposal system company, projected to be owned or held as of the 1063
date certain, by each public utility or railroad used and 1064
useful, or, with respect to a natural gas, water-works, or 1065

sewage disposal system company, projected to be used and useful 1066
as of the date certain, for the service and convenience of the 1067
public. ~~Such~~ 1068

(B) Such report shall contain the following facts in 1069
detail: 1070

(1) The original cost of each parcel of land owned in fee 1071
and in use, or, with respect to a natural gas, water-works, or 1072
sewage disposal system company, projected to be owned in fee and 1073
in use as of the date certain, determined by the commission; and 1074
also a statement of the conditions of acquisition, whether by 1075
direct purchase, by donation, by exercise of the power of 1076
eminent domain, or otherwise; 1077

(2) The actual acquisition cost, not including periodic 1078
rental fees, of rights-of-way, trailways, or other land rights 1079
held, or, with respect to a natural gas, water-works, or sewage 1080
disposal system company, projected to be held as of the date 1081
certain, by virtue of easements, leases, or other forms of 1082
grants of rights as to usage; 1083

(3) The original cost of all other kinds and classes of 1084
property used and useful, or, with respect to a natural gas, 1085
water-works, or sewage disposal system company, projected to be 1086
used and useful as of the date certain, in the rendition of 1087
service to the public. Subject to section 4909.052 of the 1088
Revised Code, such original costs of property, other than land 1089
owned in fee, shall be the cost, as determined to be reasonable 1090
by the commission, to the person that first dedicated or 1091
dedicates the property to the public use and shall be set forth 1092
in property accounts and subaccounts as prescribed by the 1093
commission. To the extent that the costs of property comprising 1094
a coal research and development facility, as defined in section 1095

1555.01 of the Revised Code, or a coal development project, as 1096
defined in section 1551.30 of the Revised Code, have been 1097
allowed for recovery as Ohio coal research and development costs 1098
under section 4905.304 of the Revised Code, none of those costs 1099
shall be included as a cost of property under this division. 1100

(4) The cost of property constituting all or part of a 1101
project leased to or used by the utility, or, with respect to a 1102
natural gas, water-works, or sewage disposal system company, 1103
projected to be leased to or used by the utility as of the date 1104
certain, under Chapter 165., 3706., 6121., or 6123. of the 1105
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 1106
this section exclusive of any interest directly or indirectly 1107
paid by the utility with respect thereto whether or not 1108
capitalized; 1109

(5) In the discretion of the commission, the cost to a 1110
utility, in an amount determined to be reasonable by the 1111
commission, of property constituting all or part of a project 1112
leased to the utility, or, with respect to a natural gas, water- 1113
works, or sewage disposal system company, projected to be leased 1114
to the utility as of the date certain, under a lease purchase 1115
agreement or a leaseback and not included under division ~~(C) (3)~~ 1116
(B) (3) of this section exclusive of any interest directly or 1117
indirectly paid by the utility with respect thereto whether or 1118
not capitalized; 1119

(6) The cost of the replacement of water service lines 1120
incurred by a water-works company under section 4909.173 of the 1121
Revised Code and the water service line replacement 1122
reimbursement amounts provided to customers under section 1123
4909.174 of the Revised Code; 1124

(7) The proper and adequate reserve for depreciation, as 1125

determined to be reasonable by the commission; 1126

(8) Any sums of money or property that the company may 1127
have received, or, with respect to a natural gas, water-works, 1128
or sewage disposal system company, is projected to receive as of 1129
the date certain, as total or partial defrayal of the cost of 1130
its property; 1131

(9) The valuation of the property of the company, which 1132
shall be the sum of the amounts contained in the report pursuant 1133
to divisions ~~(C) (1)~~ (B) (1) to (6) of this section, less the sum 1134
of the amounts contained in the report pursuant to divisions ~~(C)~~ 1135
~~(7)~~ (B) (7) and (8) of this section. 1136

(C) The report shall show separately the property used and 1137
useful to such public utility or railroad in the furnishing of 1138
the service to the public, the property held by such public 1139
utility or railroad for other purposes, and the property 1140
projected to be used and useful to or held by a natural gas, 1141
water-works, or sewage disposal system company as of the date 1142
certain, and such other items as the commission considers 1143
proper. The commission may require an additional report showing 1144
the extent to which the property is used and useful, or, with 1145
respect to a natural gas, water-works, or sewage disposal system 1146
company, projected to be used and useful as of the date certain. 1147
Such reports shall be filed in the office of the commission for 1148
the information of the governor and the general assembly. 1149

Sec. 4909.052. Subject to a finding that such costs are 1150
just and reasonable, the public utilities commission in 1151
evaluating a petition submitted under section 4905.481 of the 1152
Revised Code shall accept the original cost, reported under 1153
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 1154
of the acquisition of a municipal water-works or sewage disposal 1155

system company that is acquired by a large water-works or sewage disposal system company, provided that the original cost is determined according to all of the following requirements:

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

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

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

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

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

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

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

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

(5) Engages one engineer who is licensed to prepare an assessment of the tangible assets of the company to be acquired. The original source of funding for any part of the tangible

assets shall not be relevant to the determination of the value 1184
of those assets. 1185

(E) The lesser of the purchase price or the fair market 1186
value, described in division (C) of this section, is reported as 1187
the original cost under division ~~(C) (3)~~ (B) (3) of section 1188
4909.05 of the Revised Code of the company to be acquired. 1189

Sec. 4909.06. The investigation and report required by 1190
~~section~~ section 4909.042 or 4909.05 of the Revised Code shall 1191
show, when the public utilities commission deems it necessary, 1192
the amounts, dates, and rates of interest of all bonds 1193
outstanding against each public utility or railroad, the 1194
property upon which such bonds are a lien, the amounts paid for 1195
them, and, the original capital stock and the moneys received by 1196
any such public utility or railroad by reason of any issue of 1197
stock, bonds, or other securities. Such report shall also show 1198
the net and gross receipts of such public utility or railroad 1199
and the method by which moneys were expended or paid out and the 1200
purpose of such payments. The commission may prescribe the 1201
procedure to be followed in making the investigation and 1202
valuation, the form in which the results of the ascertainment of 1203
the value of each public utility or railroad shall be submitted, 1204
and the classifications of the elements that constitute the 1205
ascertained value. Such investigation shall also show the value 1206
of the property of every public utility or railroad as a whole, 1207
and if such property is in more than one county, the value of 1208
its property in each of such counties. 1209

"Valuation" and "value," as used in this section, may 1210
include, ~~with~~ : 1211

(A) With respect to a public utility that is a natural 1212
gas, water-works, or sewage disposal system company, projected 1213

valuation and value as of the date certain, if applicable 1214
because of a future date certain under section 4909.15 of the 1215
Revised Code; 1216

(B) With respect to an electric light company that chooses 1217
to file a forecasted test period under section 4909.18 of the 1218
Revised Code, the valuation and value during the forecasted test 1219
period. 1220

Sec. 4909.07. The public utilities commission, during the 1221
making of the valuation provided for in sections 4909.04 to 1222
4909.13 of the Revised Code, and after its completion, shall in 1223
like manner keep itself informed through its engineers, experts, 1224
and other assistants of all extensions, improvements, or other 1225
changes in the condition and value of the property of all public 1226
utilities or railroads and shall ascertain the value of such 1227
extensions, improvements, and changes. The commission shall, as 1228
is required for the proper regulation of such public utilities 1229
or railroads, revise and correct its valuations of property, 1230
showing such revisions and corrections as a whole and as to each 1231
county. Such revisions and corrections shall be filed in the 1232
same manner as original reports. 1233

"Valuation" and "value," as used in this section, may 1234
include, ~~with~~ : 1235

(A) With respect to a public utility that is a natural 1236
gas, water-works, or sewage disposal system company, projected 1237
valuation and value as of the date certain, if applicable 1238
because of a future date certain under section 4909.15 of the 1239
Revised Code; 1240

(B) With respect to an electric light company that chooses 1241
to file a forecasted test period under section 4909.18 of the 1242

Revised Code, the valuation and value during the forecasted test 1243
period. 1244

Sec. 4909.08. When the public utilities commission has 1245
completed the valuation of the property of any public utility or 1246
railroad and before such valuation becomes final, it shall give 1247
notice by registered letter to such public utility or railroad, 1248
and if a substantial portion of said public utility or railroad 1249
is situated in a municipal corporation, then to the mayor of 1250
such municipal corporation, stating the valuations placed upon 1251
the several kinds and classes of property of such public utility 1252
or railroad and upon the property as a whole and give such 1253
further notice by publication or otherwise as it shall deem 1254
necessary to apprise the public of such valuation. If, within 1255
thirty days after such notification, no protest has been filed 1256
with the commission, such valuation becomes final. If notice of 1257
protest has been filed by any public utility or railroad, the 1258
commission shall fix a time for hearing such protest and shall 1259
consider at such hearing any matter material thereto presented 1260
by such public utility, railroad, or municipal corporation, in 1261
support of its protest or by any representative of the public 1262
against such protest. If, after the hearing of any protest of 1263
any valuation so fixed, the commission is of the opinion that 1264
its inventory is incomplete or inaccurate or that its valuation 1265
is incorrect, it shall make such changes as are necessary and 1266
shall issue an order making such corrected valuations final. A 1267
final valuation by the commission and all classifications made 1268
for the ascertainment of such valuations shall be public and are 1269
prima-facie evidence relative to the value of the property. 1270

"Valuation" and "value," as used in this section, may 1271
include, ~~with~~ : 1272

(A) With respect to a public utility that is a natural 1273
gas, water-works, or sewage disposal system company, projected 1274
valuation and value as of the date certain, if applicable 1275
because of a future date certain under section 4909.15 of the 1276
Revised Code; 1277

(B) With respect to an electric light company that chooses 1278
to file a forecasted test period under section 4909.18 of the 1279
Revised Code, the valuation and value during the forecasted test 1280
period. 1281

Sec. 4909.15. (A) The public utilities commission, when 1282
fixing and determining just and reasonable rates, fares, tolls, 1283
rentals, and charges, shall determine: 1284

~~(1) The~~ (1) (a) With respect to a public utility that is a 1285
natural gas, water-works, or sewage disposal system company, or 1286
that is an electric light company that chooses not to file a 1287
forecasted test period under section 4909.18 of the Revised 1288
Code, the valuation as of the date certain of the property of 1289
the public utility that is used and useful or, with respect to a 1290
natural gas, water-works, or sewage disposal system company, is 1291
projected to be used and useful as of the date certain, in 1292
rendering the public utility service for which rates are to be 1293
fixed and determined.~~The~~ 1294

(b) With respect to an electric light company that chooses 1295
to file a forecasted test period under section 4909.18 of the 1296
Revised Code, the valuation of the property of the utility that 1297
is projected to be used and useful during the forecasted test 1298
period in rendering the public utility service for which rates 1299
are to be fixed and determined. 1300

(c) The valuation so determined under division (A) (1) of 1301

this section for any public utility shall be the total value as 1302
set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the 1303
Revised Code and division (B) (9) of section 4909.05 of the 1304
Revised Code, and a reasonable allowance for materials and 1305
supplies and a reasonable allowance for cash working capital as 1306
determined by the commission. 1307

~~The commission, in its discretion, may include in the~~ 1308
~~valuation a reasonable allowance for construction work in~~ 1309
~~progress but, in no event, may such an allowance be made by the~~ 1310
~~commission until it has determined that the particular~~ 1311
~~construction project is at least seventy-five per cent complete.~~ 1312

~~In determining the percentage completion of a particular~~ 1313
~~construction project, the commission shall consider, among other~~ 1314
~~relevant criteria, the per cent of time elapsed in construction;~~ 1315
~~the per cent of construction funds, excluding allowance for~~ 1316
~~funds used during construction, expended, or obligated to such~~ 1317
~~construction funds budgeted where all such funds are adjusted to~~ 1318
~~reflect current purchasing power; and any physical inspection~~ 1319
~~performed by or on behalf of any party, including the~~ 1320
~~commission's staff.~~ 1321

~~A reasonable allowance for construction work in progress~~ 1322
~~shall not exceed ten per cent of the total valuation as stated~~ 1323
~~in this division, not including such allowance for construction~~ 1324
~~work in progress.~~ 1325

~~Where the commission permits an allowance for construction~~ 1326
~~work in progress, the dollar value of the project or portion~~ 1327
~~thereof included in the valuation as construction work in~~ 1328
~~progress shall not be included in the valuation as plant in~~ 1329
~~service until such time as the total revenue effect of the~~ 1330
~~construction work in progress allowance is offset by the total~~ 1331

~~revenue effect of the plant in service exclusion. Carrying charges calculated in a manner similar to allowance for funds used during construction shall accrue on that portion of the project in service but not reflected in rates as plant in service, and such accrued carrying charges shall be included in the valuation of the property at the conclusion of the offset period for purposes of division (C) (9) of section 4909.05 of the Revised Code.~~ 1332-1339

~~From and after April 10, 1985, no allowance for construction work in progress as it relates to a particular construction project shall be reflected in rates for a period exceeding forty-eight consecutive months commencing on the date the initial rates reflecting such allowance become effective, except as otherwise provided in this division.~~ 1340-1345

~~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.~~ 1346-1355

~~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.~~ 1356-1361

~~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.~~ 1362
1363
1364
1365
1366

~~In the event that a construction work in progress project previously included in the valuation is removed from the valuation pursuant to this division, any revenues collected by the utility from its customers after April 10, 1985, that resulted from such prior inclusion shall be offset against future revenues over the same period of time as the project was included in the valuation as construction work in progress. The total revenue effect of such offset shall not exceed the total revenues previously collected.~~ 1367
1368
1369
1370
1371
1372
1373
1374
1375

~~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.~~ 1376
1377
1378
1379

(2) A fair and reasonable rate of return to the utility on the valuation as determined in division (A) (1) of this section; 1380
1381

(3) The dollar annual return to which the utility is entitled by applying the fair and reasonable rate of return as determined under division (A) (2) of this section to the valuation of the utility determined under division (A) (1) of this section; 1382
1383
1384
1385
1386

(4) The cost to the utility of rendering the public utility service for the test period used for the determination under division (C) (1) of this section, ~~less the total of any interest on cash or credit refunds paid, pursuant to section~~ 1387
1388
1389
1390

~~4909.42 of the Revised Code,~~ by the utility during the test 1391
period. 1392

~~(a) Federal, state, and local taxes imposed on or measured 1393
by net income may, in the discretion of the commission, be 1394
computed by the normalization method of accounting, provided the 1395
utility maintains accounting reserves that reflect differences 1396
between taxes actually payable and taxes on a normalized basis, 1397
provided that no determination as to the treatment in the rate- 1398
making process of such taxes shall be made that will result in 1399
loss of any tax depreciation or other tax benefit to which the 1400
utility would otherwise be entitled, and further provided that 1401
such tax benefit as redounds to the utility as a result of such 1402
a computation may not be retained by the company, used to fund 1403
any dividend or distribution, or utilized for any purpose other 1404
than the defrayal of the operating expenses of the utility and 1405
the defrayal of the expenses of the utility in connection with 1406
construction work. 1407~~

~~(b) The amount of any tax credits granted to an electric 1408
light company under section 5727.391 of the Revised Code for 1409
Ohio coal burned prior to January 1, 2000, shall not be retained 1410
by the company, used to fund any dividend or distribution, or 1411
utilized for any purposes other than the defrayal of the 1412
allowable operating expenses of the company and the defrayal of 1413
the allowable expenses of the company in connection with the 1414
installation, acquisition, construction, or use of a compliance 1415
facility. The amount of the tax credits granted to an electric 1416
light company under that section for Ohio coal burned prior to 1417
January 1, 2000, shall be returned to its customers within three 1418
years after initially claiming the credit through an offset to 1419
the company's rates or fuel component, as determined by the 1420
commission, as set forth in schedules filed by the company under 1421~~

~~section 4905.30 of the Revised Code. As used in division (A)(4)- 1422
(b) of this section, "compliance facility" has the same meaning- 1423
as in section 5727.391 of the Revised Code. 1424~~

(B) The commission shall compute the gross annual revenues 1425
to which the utility is entitled by adding the dollar amount of 1426
return under division (A)(3) of this section to the cost, for 1427
the test period used for the determination under division (C)(1) 1428
of this section, of rendering the public utility service under 1429
division (A)(4) of this section. 1430

(C)(1) Except as provided in division (D) of this section, 1431
the revenues and expenses of the utility shall be determined 1432
during a test period. The utility may as follows: 1433

(a) Electric light companies may propose a forecasted test 1434
period. The company may propose changes to base rates for up to 1435
three consecutive twelve-month periods in a single forecasted 1436
test period application. The commission has discretion to reduce 1437
the number of test periods a company proposes. 1438

During the first twelve-month period, the company may 1439
propose a reasonably forecasted rate base during a thirteen- 1440
month average, revenues, and expenses for the first twelve 1441
months that new base rates will be in effect. 1442

During the second twelve-month period, the base rate 1443
revenue requirement may be adjusted for the return of, and 1444
return on, incremental rate base additions approved by the 1445
commission in the initial application. During the third twelve- 1446
month period, the base rate revenue requirement may be adjusted 1447
for the return of and return on incremental rate base additions 1448
approved by the commission in the initial application. 1449

For the initial twelve-month period, forecasted plant 1450

investment, forecasted revenues, and forecasted expenses versus 1451
actual investment, actual revenues, and actual expenses shall be 1452
trued up via a cost recovery mechanism approved by the 1453
commission. For the second and third twelve-month periods, 1454
forecasted plant investment versus actual plant investment shall 1455
be trued up via a cost recovery mechanism approved by the 1456
commission. 1457

Each true-up process shall take into account the rate of 1458
return that the utility projects to earn on the investments. The 1459
utility shall provide the commission with actual financial 1460
information during the true-up process to ensure accuracy. As 1461
part of the true-up process, the commission shall exclude any 1462
rate base components that have not been found by the commission 1463
to be used and useful in rendering public utility service. 1464

At the end of the last test period, the company shall file 1465
for a rate case under section 4909.18 of the Revised Code. 1466

(b) All utilities, except for electric light companies 1467
that choose to file under division (C) (1) (a) of this section, 1468
shall propose a test period ~~for this determination~~ that is any 1469
twelve-month period beginning not more than six months prior to 1470
the date the application is filed and ending not more than nine 1471
months subsequent to that date. ~~The test period for determining~~ 1472
~~revenues and expenses of the utility shall be the test period~~ 1473
~~proposed by the utility, unless otherwise ordered by the~~ 1474
~~commission.~~ 1475

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1476
this section, the date certain shall be not later than the date 1477
of filing, except that it shall be, for a natural gas, water- 1478
works, or sewage disposal system company, not later than the end 1479
of the test period. 1480

(D) ~~A natural gas, water works, or sewage disposal system-~~ 1481
~~company~~ Utilities filing under division (C) (1) (b) of this 1482
section may propose adjustments to the revenues and expenses ~~to-~~ 1483
~~be determined under division (C) (1) of this section~~ for any 1484
changes that are, during the test period or the twelve-month 1485
period immediately following the test period, reasonably 1486
expected to occur. The ~~natural gas, water works, or sewage-~~ 1487
~~disposal system company~~ utility shall identify and quantify, 1488
individually, any proposed adjustments. The commission shall 1489
incorporate the proposed adjustments into the determination if 1490
the adjustments are just and reasonable. 1491

(E) When the commission is of the opinion, after hearing 1492
and after making the determinations under divisions (A) and (B) 1493
of this section, that any rate, fare, charge, toll, rental, 1494
schedule, classification, or service, or any joint rate, fare, 1495
charge, toll, rental, schedule, classification, or service 1496
rendered, charged, demanded, exacted, or proposed to be 1497
rendered, charged, demanded, or exacted, is, or will be, unjust, 1498
unreasonable, unjustly discriminatory, unjustly preferential, or 1499
in violation of law, that the service is, or will be, 1500
inadequate, or that the maximum rates, charges, tolls, or 1501
rentals chargeable by any such public utility are insufficient 1502
to yield reasonable compensation for the service rendered, and 1503
are unjust and unreasonable, the commission shall: 1504

(1) With due regard among other things to the value of all 1505
property of the public utility ~~actually used and useful for the~~ 1506
~~convenience of the public~~ as determined under division (A) (1) of 1507
this section, excluding from such value the value of any 1508
franchise or right to own, operate, or enjoy the same in excess 1509
of the amount, exclusive of any tax or annual charge, actually 1510
paid to any political subdivision of the state or county, as the 1511

consideration for the grant of such franchise or right, and 1512
excluding any value added to such property by reason of a 1513
monopoly or merger, with due regard in determining the dollar 1514
annual return under division (A) (3) of this section to the 1515
necessity of making reservation out of the income for surplus, 1516
depreciation, and contingencies, and; 1517

(2) With due regard to all such other matters as are 1518
proper, according to the facts in each case, 1519

(a) Including a fair and reasonable rate of return 1520
determined by the commission with reference to a cost of debt 1521
equal to the actual embedded cost of debt of such public 1522
utility, 1523

(b) But not including the portion of any periodic rental 1524
or use payments representing that cost of property that is 1525
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1526
and (5) of section 4909.042 of the Revised Code and divisions 1527
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1528
determine the just and reasonable rate, fare, charge, toll, 1529
rental, or service to be rendered, charged, demanded, exacted, 1530
or collected for the performance or rendition of the service 1531
that will provide the public utility the allowable gross annual 1532
revenues under division (B) of this section, and order such just 1533
and reasonable rate, fare, charge, toll, rental, or service to 1534
be substituted for the existing one. After such determination 1535
and order no change in the rate, fare, toll, charge, rental, 1536
schedule, classification, or service shall be made, rendered, 1537
charged, demanded, exacted, or changed by such public utility 1538
without the order of the commission, and any other rate, fare, 1539
toll, charge, rental, classification, or service is prohibited. 1540

(F) Upon application of any person or any public utility, 1541

and after notice to the parties in interest and opportunity to 1542
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1543
4909., 4921., and 4923. of the Revised Code for other hearings, 1544
has been given, the commission may rescind, alter, or amend an 1545
order fixing any rate, fare, toll, charge, rental, 1546
classification, or service, or any other order made by the 1547
commission. Certified copies of such orders shall be served and 1548
take effect as provided for original orders. 1549

Sec. 4909.156. In fixing the just, reasonable, and 1550
compensatory rates, joint rates, tolls, classifications, 1551
charges, or rentals to be observed and charged for service by 1552
any public utility, the public utilities commission shall, in 1553
action upon an application filed pursuant to section 4909.18 of 1554
the Revised Code, require a public utility to file a report 1555
showing the proportionate amounts of the valuation of the 1556
property of the utility, as determined under section 4909.042 or 1557
4909.05 of the Revised Code, and the proportionate amounts of 1558
the revenues and expenses of the utility that are proposed to be 1559
considered as attributable to the service area involved in the 1560
application. 1561

"Valuation," as used in this section, may include, ~~with~~: 1562

(A) With respect to a public utility that is a natural 1563
gas, water-works, or sewage disposal system company, projected 1564
valuation as of the date certain, if applicable because of a 1565
future date certain under section 4909.15 of the Revised Code; 1566

(B) With respect to an electric light company that chooses 1567
to file a forecasted test period under section 4909.18 of the 1568
Revised Code, the valuation and value during the forecasted test 1569
period. 1570

Sec. 4909.159. An electric light company proposing a 1571
forecasted test period under division (C) (1) (a) of section 1572
4909.15 of the Revised Code shall provide any financial 1573
information required by that section from the company's full 1574
books. The public utilities commission shall ensure appropriate 1575
protections against the disclosure of the company's trade 1576
secrets or proprietary information. 1577

Sec. 4909.173. (A) As used in this section and section 1578
4909.174 of the Revised Code: 1579

(1) "Customer-owned water service line" means the water 1580
service line connected to the water-works company's water 1581
service line at the curb of a customer's property. 1582

(2) "Water-works company" means an entity defined under 1583
division (G) of section 4905.03 of the Revised Code that is a 1584
public utility under section 4905.02 of the Revised Code. 1585

(B) A water-works company may do any of the following: 1586

(1) Replace lead customer-owned water service lines 1587
concurrently with a scheduled utility main replacement project, 1588
an emergency replacement, or company-initiated lead water 1589
service line replacement program; 1590

(2) Replace lead customer-owned water service lines when 1591
mandated or ordered to replace such lines by law or a state or 1592
federal regulatory agency; 1593

(3) Replace customer-owned water service lines of other 1594
composition when mandated or ordered to replace such lines by 1595
law or a state or federal regulatory agency. 1596

(C) If a water-works company replaces customer-owned water 1597
service lines under this section, then the company shall include 1598

the cost of the replacement of the water service lines, 1599
including the cost of replacement of both company side and 1600
customer-owned water service lines and the cost to evaluate 1601
customer-owned water service lines of unknown composition, in 1602
the valuation report of the property of the company as required 1603
under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the Revised 1604
Code for inclusion in a rate case under this chapter. 1605

(D) The water service customer who is responsible for the 1606
customer-owned water service line that was replaced under this 1607
section shall hold legal title to the replaced water service 1608
line. 1609

Sec. 4909.174. (A) A water-works company shall reimburse a 1610
customer who replaces the customer's customer-owned water 1611
service line, if both of the following occur: 1612

(1) The company confirms that the customer-owned water 1613
service line was composed of lead or other composition that was 1614
mandated or ordered to be replaced by law or a state or federal 1615
regulatory agency; 1616

(2) The customer submits the reimbursement request to the 1617
company not later than twelve months after the completion of the 1618
water line replacement. 1619

(B) A water-works company that provides a reimbursement to 1620
a customer under this section shall include the reimbursement 1621
amount in the valuation report of the property of the company as 1622
required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1623
Revised Code for inclusion in a rate case under this chapter. 1624

Sec. 4909.18. Any public utility desiring to establish any 1625
rate, joint rate, toll, classification, charge, or rental, or to 1626
modify, amend, change, increase, or reduce any existing rate, 1627

joint rate, toll, classification, charge, or rental, or any 1628
regulation or practice affecting the same, shall file a written 1629
application with the public utilities commission. Except for 1630
actions under section 4909.16 of the Revised Code, no public 1631
utility may issue the notice of intent to file an application 1632
pursuant to division (B) of section 4909.43 of the Revised Code 1633
to increase any existing rate, joint rate, toll, classification, 1634
charge, or rental, until a final order under this section has 1635
been issued by the commission on any pending prior application 1636
to increase the same rate, joint rate, toll, classification, 1637
charge, or rental or until two hundred seventy-five days after 1638
filing such application, whichever is sooner. Such application 1639
shall be verified by the president or a vice-president and the 1640
secretary or treasurer of the applicant. Such application shall 1641
contain a schedule of the existing rate, joint rate, toll, 1642
classification, charge, or rental, or regulation or practice 1643
affecting the same, a schedule of the modification amendment, 1644
change, increase, or reduction sought to be established, and a 1645
statement of the facts and grounds upon which such application 1646
is based. If such application proposes a new service or the use 1647
of new equipment, or proposes the establishment or amendment of 1648
a regulation, the application shall fully describe the new 1649
service or equipment, or the regulation proposed to be 1650
established or amended, and shall explain how the proposed 1651
service or equipment differs from services or equipment 1652
presently offered or in use, or how the regulation proposed to 1653
be established or amended differs from regulations presently in 1654
effect. The application shall provide such additional 1655
information as the commission may require in its discretion. If 1656
the commission determines that such application is not for an 1657
increase in any rate, joint rate, toll, classification, charge, 1658
or rental, the commission may permit the filing of the schedule 1659

proposed in the application and fix the time when such schedule 1660
shall take effect. If it appears to the commission that the 1661
proposals in the application may be unjust or unreasonable, the 1662
commission shall set the matter for hearing and shall give 1663
notice of such hearing by sending written notice of the date set 1664
for the hearing to the public utility and publishing notice of 1665
the hearing one time in a newspaper of general circulation in 1666
each county in the service area affected by the application. At 1667
such hearing, the burden of proof to show that the proposals in 1668
the application are just and reasonable shall be upon the public 1669
utility. After such hearing, the commission shall, where 1670
practicable, issue an appropriate order within six months from 1671
the date the application was filed. 1672

If the commission determines that said application is for 1673
an increase in any rate, joint rate, toll, classification, 1674
charge, or rental there shall also, unless otherwise ordered by 1675
the commission, be filed with the application in duplicate the 1676
following exhibits: 1677

(A) A report of its property used and useful, or, with 1678
respect to a natural gas, water-works, or sewage disposal system 1679
company, projected to be used and useful, as of the date 1680
certain, or during the forecasted test period, if the 1681
application is filed under division (C) (1) (a) of section 4909.15 1682
of the Revised Code, in rendering the service referred to in 1683
such application, as provided in ~~section~~ sections 4909.042 and 1684
4909.05 of the Revised Code; 1685

(B) A complete operating statement of its last fiscal 1686
year, showing in detail all its receipts, revenues, and incomes 1687
from all sources, all of its operating costs and other 1688
expenditures, and any analysis such public utility deems 1689

applicable to the matter referred to in said application; 1690

(C) A statement of the income and expense anticipated 1691
under the application filed; 1692

(D) A statement of financial condition summarizing assets, 1693
liabilities, and net worth; 1694

(E) Such other information as the commission may require 1695
in its discretion. 1696

Sec. 4909.181. (A) As used in this section, "electric 1697
distribution utility" has the same meaning as in section 4928.01 1698
of the Revised Code. 1699

(B) Not later than December 31, 2029, and at least every 1700
three years thereafter, each electric distribution utility shall 1701
file a rate case application regarding distribution service 1702
under section 4909.18 of the Revised Code. 1703

Sec. 4909.19. (A) Upon the filing of any application for 1704
increase provided for by section 4909.18 of the Revised Code the 1705
public utility shall forthwith publish notice of such 1706
application, in a form approved by the public utilities 1707
commission, once a week for two consecutive weeks in a newspaper 1708
published and in general circulation throughout the territory in 1709
which such public utility operates and directly affected by the 1710
matters referred to in said application. The notice shall 1711
include instructions for direct electronic access to the 1712
application or other documents on file with the public utilities 1713
commission. The first publication of the notice shall be made in 1714
its entirety and may be made in a preprinted insert in the 1715
newspaper. The second publication may be abbreviated if all of 1716
the following apply: 1717

(1) The abbreviated notice is at least one-fourth of the 1718

size of the notice in the first publication. 1719

(2) At the same time the abbreviated notice is published, 1720
the notice in the first publication is posted in its entirety on 1721
the newspaper's web site, if the newspaper has a web site, and 1722
the commission's web site. 1723

(3) The abbreviated notice contains a statement of the web 1724
site posting or postings, as applicable, and instructions for 1725
accessing the posting or postings. 1726

(B) The commission shall determine a format for the 1727
content of all notices required under this section, and shall 1728
consider costs and technological efficiencies in making that 1729
determination. Defects in the publication of said notice shall 1730
not affect the legality or sufficiency of notices published 1731
under this section provided that the commission has 1732
substantially complied with this section, as described in 1733
section 4905.09 of the Revised Code. 1734

(C) The commission shall at once cause an investigation to 1735
be made of the facts set forth in said application and the 1736
exhibits attached thereto, and of the matters connected 1737
therewith. Within ~~a reasonable time as determined by the~~ 1738
~~commission~~ one hundred eighty days after the ~~filing of such~~ 1739
application is determined to be complete, a written report shall 1740
be made and filed with the commission, a copy of which shall be 1741
sent by certified mail to the applicant, the mayor of any 1742
municipal corporation affected by the application, and to such 1743
other persons as the commission deems interested. If no 1744
objection to such report is made by any party interested within 1745
~~thirty~~ fifteen days after such filing and the mailing of copies 1746
thereof, the commission shall fix a date within ten days for the 1747
final hearing upon said application, giving notice thereof to 1748

all parties interested. At such hearing the commission shall 1749
consider the matters set forth in said application and make such 1750
order respecting the prayer thereof as to it seems just and 1751
reasonable. 1752

If objections are filed with the commission, the 1753
commission shall cause a pre-hearing conference to be held 1754
between all parties, intervenors, and the commission staff in 1755
all cases involving more than one hundred thousand customers. 1756

If objections are filed with the commission within ~~thirty-~~ 1757
fifteen days after the filing of such report, the application 1758
shall be promptly set down for hearing of testimony before the 1759
commission or be forthwith referred to an attorney examiner 1760
designated by the commission to take all the testimony with 1761
respect to the application and objections which may be offered 1762
by any interested party. The commission shall also fix the time 1763
and place to take testimony giving ten days' written notice of 1764
such time and place to all parties. The taking of testimony 1765
shall commence on the date fixed in said notice and shall 1766
continue from day to day until completed. The attorney examiner 1767
may, upon good cause shown, grant continuances for not more than 1768
three days, excluding Saturdays, Sundays, and holidays. The 1769
commission may grant continuances for a longer period than three 1770
days upon its order for good cause shown. At any hearing 1771
involving rates or charges sought to be increased, the burden of 1772
proof to show that the increased rates or charges are just and 1773
reasonable shall be on the public utility. 1774

When the taking of testimony is completed, a full and 1775
complete record of such testimony noting all objections made and 1776
exceptions taken by any party or counsel, shall be made, signed 1777
by the attorney examiner, and filed with the commission. Prior 1778

to the formal consideration of the application by the commission 1779
and the rendition of any order respecting the prayer of the 1780
application, a quorum of the commission shall consider the 1781
recommended opinion and order of the attorney examiner, in an 1782
open, formal, public proceeding in which an overview and 1783
explanation is presented orally. Thereafter, the commission 1784
shall make such order respecting the prayer of such application 1785
as seems just and reasonable to it. 1786

In all proceedings before the commission in which the 1787
taking of testimony is required, except when heard by the 1788
commission, attorney examiners shall be assigned by the 1789
commission to take such testimony and fix the time and place 1790
therefor, and such testimony shall be taken in the manner 1791
prescribed in this section. All testimony shall be under oath or 1792
affirmation and taken down and transcribed by a reporter and 1793
made a part of the record in the case. The commission may hear 1794
the testimony or any part thereof in any case without having the 1795
same referred to an attorney examiner and may take additional 1796
testimony. Testimony shall be taken and a record made in 1797
accordance with such general rules as the commission prescribes 1798
and subject to such special instructions in any proceedings as 1799
it, by order, directs. 1800

Sec. 4909.192. When considering an application to increase 1801
rates under section 4909.18 of the Revised Code, the public 1802
utilities commission may approve the following: 1803

(A) Nondiscriminatory programs available for all energy- 1804
intensive customers to implement economic development, job 1805
growth, job retention, or interruptible rates that enhance 1806
distribution and transmission grid reliability and promote 1807
economic development. 1808

(B) Nondiscriminatory programs available for all 1809
mercantile customers, as defined in section 4928.01 of the 1810
Revised Code, that align retail rate recovery with how 1811
transmission costs are incurred by or charged to the electric 1812
distribution utility, as defined in section 4928.01 of the 1813
Revised Code, or programs that allow customers to be billed 1814
directly for transmission service by a competitive retail 1815
electric service provider. 1816

Sec. 4909.193. The public utilities commission shall 1817
determine whether an application filed under section 4909.18 of 1818
the Revised Code is complete not more than forty-five days after 1819
the application is filed. If the commission does not issue a 1820
determination within the time period required by this section, 1821
the application shall be deemed complete by operation of law. 1822

Sec. 4909.42. If the proceeding on an application filed 1823
with the public utilities commission under section 4909.18 of 1824
the Revised Code by any public utility requesting an increase on 1825
any rate, rate mechanism, joint rate, toll, classification, 1826
charge, or rental or requesting a change in a regulation or 1827
practice affecting the same has not been concluded and an 1828
opinion and an order entered pursuant to section 4909.19 of the 1829
Revised Code at the expiration of two hundred seventy-five days 1830
from the date ~~of filing~~ the application is deemed complete, an 1831
~~the public utility may request a temporary increase not to~~ 1832
~~exceed the proposed increase, which~~ shall go into effect ~~upon~~ 1833
~~the filing of a bond or a letter of credit by the public~~ 1834
~~utility~~ and remain in effect until modified in accordance with 1835
the commission's order based upon the merits of the application. 1836
~~The bond or letter of credit shall be filed with the commission~~ 1837
~~and shall be payable to the state for the use and benefit of the~~ 1838
~~customers affected by the proposed increase or change~~ 1839

Not later than three hundred forty-six days from the date 1840
an application is determined complete, the commission shall 1841
issue an order to approve, deny, or modify an application filed 1842
under section 4909.18 of the Revised Code. If the commission 1843
does not issue an order within three hundred forty-six days 1844
after the application is determined complete, the application 1845
shall be deemed approved by operation of law. A temporary 1846
increase under this section shall not exceed the midpoint of the 1847
rates recommended in the staff report filed pursuant to section 1848
4909.19 of the Revised Code and shall be subject to 1849
reconciliation and refund. 1850

~~An affidavit attached to the bond or letter of credit must~~ 1851
~~be signed by two of the officers of the utility, under oath, and~~ 1852
~~must contain a promise on behalf of the utility to refund any~~ 1853
~~amounts collected by the utility over the rate, joint rate,~~ 1854
~~toll, classification, charge, or rental, as determined in the~~ 1855
~~final order of the commission. All refunds shall include~~ 1856
~~interest at the rate stated in section 1343.03 of the Revised~~ 1857
~~Code. The refund shall be in the form of a temporary reduction~~ 1858
~~in rates following the final order of the commission, and shall~~ 1859
~~be accomplished in such manner as shall be prescribed by the~~ 1860
~~commission in its final order. The commission shall exercise~~ 1861
~~continuing and exclusive jurisdiction over such refunds.~~ 1862

~~If the public utilities commission has not entered a final~~ 1863
~~order within five hundred forty-five days from the date of the~~ 1864
~~filing of an application for an increase in rates under section~~ 1865
~~4909.18 of the Revised Code, a public utility shall have no~~ 1866
~~obligation to make a refund of amounts collected after the five~~ 1867
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1868
~~the commission's final order.~~ 1869

Nothing in this section shall be construed to mitigate any 1870
duty of the commission to issue a final order under section 1871
4909.19 of the Revised Code. 1872

Sec. 4928.01. (A) As used in this chapter: 1873

(1) "Ancillary service" means any function necessary to 1874
the provision of electric transmission or distribution service 1875
to a retail customer and includes, but is not limited to, 1876
scheduling, system control, and dispatch services; reactive 1877
supply from generation resources and voltage control service; 1878
reactive supply from transmission resources service; regulation 1879
service; frequency response service; energy imbalance service; 1880
operating reserve-spinning reserve service; operating reserve- 1881
supplemental reserve service; load following; back-up supply 1882
service; real-power loss replacement service; dynamic 1883
scheduling; system black start capability; and network stability 1884
service. 1885

(2) "Billing and collection agent" means a fully 1886
independent agent, not affiliated with or otherwise controlled 1887
by an electric utility, electric services company, electric 1888
cooperative, or governmental aggregator subject to certification 1889
under section 4928.08 of the Revised Code, to the extent that 1890
the agent is under contract with such utility, company, 1891
cooperative, or aggregator solely to provide billing and 1892
collection for retail electric service on behalf of the utility 1893
company, cooperative, or aggregator. 1894

(3) "Certified territory" means the certified territory 1895
established for an electric supplier under sections 4933.81 to 1896
4933.90 of the Revised Code. 1897

(4) "Competitive retail electric service" means a 1898

component of retail electric service that is competitive as 1899
provided under division (B) of this section. 1900

(5) "Electric cooperative" means a not-for-profit electric 1901
light company that both is or has been financed in whole or in 1902
part under the "Rural Electrification Act of 1936," 49 Stat. 1903
1363, 7 U.S.C. 901, and owns or operates facilities in this 1904
state to generate, transmit, or distribute electricity, or a 1905
not-for-profit successor of such company. 1906

(6) "Electric distribution utility" means an electric 1907
utility that supplies at least retail electric distribution 1908
service and does not own or operate an electric generating 1909
facility. 1910

(7) "Electric light company" has the same meaning as in 1911
section 4905.03 of the Revised Code and includes an electric 1912
services company, but excludes any self-generator to the extent 1913
that it consumes electricity it so produces, sells that 1914
electricity for resale, or obtains electricity from a generating 1915
facility it hosts on its premises. 1916

(8) "Electric load center" has the same meaning as in 1917
section 4933.81 of the Revised Code. 1918

(9) "Electric services company" means an electric light 1919
company that is engaged on a for-profit or not-for-profit basis 1920
in the business of supplying or arranging for the supply of only 1921
a competitive retail electric service in this state. "Electric 1922
services company" includes a power marketer, power broker, 1923
aggregator, or independent power producer but excludes an 1924
electric cooperative, municipal electric utility, governmental 1925
aggregator, or billing and collection agent. 1926

(10) "Electric supplier" has the same meaning as in 1927

section 4933.81 of the Revised Code. 1928

(11) "Electric utility" means an electric light company 1929
that has a certified territory and is engaged on a for-profit 1930
basis ~~either~~ in the business of supplying at least a 1931
noncompetitive retail electric service in this state ~~or in the~~ 1932
~~businesses of supplying both a noncompetitive and a competitive~~ 1933
~~retail electric service in this state.~~ "Electric utility" 1934
excludes a municipal electric utility or a billing and 1935
collection agent. 1936

(12) "Firm electric service" means electric service other 1937
than nonfirm electric service. 1938

(13) "Governmental aggregator" means a legislative 1939
authority of a municipal corporation, a board of township 1940
trustees, or a board of county commissioners acting as an 1941
aggregator for the provision of a competitive retail electric 1942
service under authority conferred under section 4928.20 of the 1943
Revised Code. 1944

(14) A person acts "knowingly," regardless of the person's 1945
purpose, when the person is aware that the person's conduct will 1946
probably cause a certain result or will probably be of a certain 1947
nature. A person has knowledge of circumstances when the person 1948
is aware that such circumstances probably exist. 1949

(15) "Level of funding for low-income customer energy 1950
efficiency programs provided through electric utility rates" 1951
means the level of funds specifically included in an electric 1952
utility's rates on October 5, 1999, pursuant to an order of the 1953
public utilities commission issued under Chapter 4905. or 4909. 1954
of the Revised Code and in effect on October 4, 1999, for the 1955
purpose of improving the energy efficiency of housing for the 1956

utility's low-income customers. The term excludes the level of 1957
any such funds committed to a specific nonprofit organization or 1958
organizations pursuant to a stipulation or contract. 1959

(16) "Low-income customer assistance programs" means the 1960
percentage of income payment plan program, the home energy 1961
assistance program, the home weatherization assistance program, 1962
and the targeted energy efficiency and weatherization program. 1963

(17) "Market development period" for an electric utility 1964
means the period of time beginning on the starting date of 1965
competitive retail electric service and ending on the applicable 1966
date for that utility as specified in section 4928.40 of the 1967
Revised Code, irrespective of whether the utility applies to 1968
receive transition revenues under this chapter. 1969

(18) "Market power" means the ability to impose on 1970
customers a sustained price for a product or service above the 1971
price that would prevail in a competitive market. 1972

(19) "Mercantile customer" means a commercial or 1973
industrial customer if the electricity consumed is for 1974
nonresidential use and the customer consumes more than seven 1975
hundred thousand kilowatt hours per year or is part of a 1976
national account involving multiple facilities in one or more 1977
states. 1978

(20) "Municipal electric utility" means a municipal 1979
corporation that owns or operates facilities to generate, 1980
transmit, or distribute electricity. 1981

(21) "Noncompetitive retail electric service" means a 1982
component of retail electric service that is noncompetitive as 1983
provided under division (B) of this section. 1984

(22) "Nonfirm electric service" means electric service 1985

provided pursuant to a schedule filed under section 4905.30 of 1986
the Revised Code or pursuant to an arrangement under section 1987
4905.31 of the Revised Code, which schedule or arrangement 1988
includes conditions that may require the customer to curtail or 1989
interrupt electric usage during nonemergency circumstances upon 1990
notification by an electric utility. 1991

(23) "Percentage of income payment plan arrears" means 1992
funds eligible for collection through the percentage of income 1993
payment plan rider, but uncollected as of July 1, 2000. 1994

(24) "Person" has the same meaning as in section 1.59 of 1995
the Revised Code. 1996

(25) "Advanced energy project" means any technologies, 1997
products, activities, or management practices or strategies that 1998
facilitate the generation or use of electricity or energy and 1999
that reduce or support the reduction of energy consumption or 2000
support the production of clean, renewable energy for 2001
industrial, distribution, commercial, institutional, 2002
governmental, research, not-for-profit, or residential energy 2003
users, including, but not limited to, advanced energy resources 2004
and renewable energy resources. "Advanced energy project" also 2005
includes any project described in division (A), (B), or (C) of 2006
section 4928.621 of the Revised Code. 2007

(26) "Regulatory assets" means the unamortized net 2008
regulatory assets that are capitalized or deferred on the 2009
regulatory books of the electric utility, pursuant to an order 2010
or practice of the public utilities commission or pursuant to 2011
generally accepted accounting principles as a result of a prior 2012
commission rate-making decision, and that would otherwise have 2013
been charged to expense as incurred or would not have been 2014
capitalized or otherwise deferred for future regulatory 2015

consideration absent commission action. "Regulatory assets" 2016
includes, but is not limited to, all deferred demand-side 2017
management costs; all deferred percentage of income payment plan 2018
arrears; post-in-service capitalized charges and assets 2019
recognized in connection with statement of financial accounting 2020
standards no. 109 (receivables from customers for income taxes); 2021
future nuclear decommissioning costs and fuel disposal costs as 2022
those costs have been determined by the commission in the 2023
electric utility's most recent rate or accounting application 2024
proceeding addressing such costs; the undepreciated costs of 2025
safety and radiation control equipment on nuclear generating 2026
plants owned or leased by an electric utility; and fuel costs 2027
currently deferred pursuant to the terms of one or more 2028
settlement agreements approved by the commission. 2029

(27) "Retail electric service" means any service involved 2030
in supplying or arranging for the supply of electricity to 2031
ultimate consumers in this state, from the point of generation 2032
to the point of consumption. For the purposes of this chapter, 2033
retail electric service includes one or more of the following 2034
"service components": generation service, aggregation service, 2035
power marketing service, power brokerage service, transmission 2036
service, distribution service, ancillary service, metering 2037
service, and billing and collection service. 2038

(28) "Starting date of competitive retail electric 2039
service" means January 1, 2001. 2040

(29) "Customer-generator" means a user of a net metering 2041
system. 2042

(30) "Net metering" means measuring the difference in an 2043
applicable billing period between the electricity supplied by an 2044
electric service provider and the electricity generated by a 2045

customer-generator that is fed back to the electric service provider. 2046
2047

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following: 2048
2049

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell; 2050
2051

(b) Is located on a customer-generator's premises; 2052

(c) Operates in parallel with the electric utility's transmission and distribution facilities; 2053
2054

(d) Is intended primarily to offset part or all of the customer-generator's annual requirements for ~~electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection~~ electric energy. 2055
2056
2057
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2062

(32) "Self-generator" means an entity in this state that owns or hosts on ~~its premises~~ property the entity controls an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, ~~whether the~~ and that meet all the following: 2063
2064
2065
2066
2067
2068

(a) The facility is installed or operated by the owner or by an agent a third party under a contract, including a lease, purchase power agreement, or other service contract; 2069
2070
2071

(b) The facility connects directly to the owner's side of the electric meter; 2072
2073

(c) The facility delivers electricity to the owner's side 2074
of the electric meter without the use of an electric 2075
distribution utility's or electric cooperative's distribution 2076
system or transmission system; 2077

(d) The facility is placed into service after the 2078
effective date of amendments to this section by H.B. 15 of the 2079
136th General Assembly. 2080

(33) "Rate plan" means the standard service offer in 2081
effect on the effective date of the amendment of this section by 2082
S.B. 221 of the 127th general assembly, July 31, 2008. 2083

(34) "Advanced energy resource" means any of the 2084
following: 2085

(a) Any method or any modification or replacement of any 2086
property, process, device, structure, or equipment that 2087
increases the generation output of an electric generating 2088
facility to the extent such efficiency is achieved without 2089
additional carbon dioxide emissions by that facility; 2090

(b) Any distributed generation system consisting of 2091
customer cogeneration technology; 2092

(c) Clean coal technology that includes a carbon-based 2093
product that is chemically altered before combustion to 2094
demonstrate a reduction, as expressed as ash, in emissions of 2095
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2096
sulfur trioxide in accordance with the American society of 2097
testing and materials standard D1757A or a reduction of metal 2098
oxide emissions in accordance with standard D5142 of that 2099
society, or clean coal technology that includes the design 2100
capability to control or prevent the emission of carbon dioxide, 2101
which design capability the commission shall adopt by rule and 2102

shall be based on economically feasible best available 2103
technology or, in the absence of a determined best available 2104
technology, shall be of the highest level of economically 2105
feasible design capability for which there exists generally 2106
accepted scientific opinion; 2107

(d) Advanced nuclear energy technology consisting of 2108
generation III technology as defined by the nuclear regulatory 2109
commission; other, later technology; or significant improvements 2110
to existing facilities; 2111

(e) Any fuel cell used in the generation of electricity, 2112
including, but not limited to, a proton exchange membrane fuel 2113
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2114
solid oxide fuel cell; 2115

(f) Advanced solid waste or construction and demolition 2116
debris conversion technology, including, but not limited to, 2117
advanced stoker technology, and advanced fluidized bed 2118
gasification technology, that results in measurable greenhouse 2119
gas emissions reductions as calculated pursuant to the United 2120
States environmental protection agency's waste reduction model 2121
(WARM); 2122

(g) Demand-side management and any energy efficiency 2123
improvement; 2124

(h) Any new, retrofitted, refueled, or repowered 2125
generating facility located in Ohio, including a simple or 2126
combined-cycle natural gas generating facility or a generating 2127
facility that uses biomass, coal, modular nuclear, or any other 2128
fuel as its input; 2129

(i) Any uprated capacity of an existing electric 2130
generating facility if the uprated capacity results from the 2131

deployment of advanced technology. 2132

"Advanced energy resource" does not include a waste energy 2133
recovery system that is, or has been, included in an energy 2134
efficiency program of an electric distribution utility pursuant 2135
to requirements under section 4928.66 of the Revised Code. 2136

(35) "Air contaminant source" has the same meaning as in 2137
section 3704.01 of the Revised Code. 2138

(36) "Cogeneration technology" means technology that 2139
produces electricity and useful thermal output simultaneously. 2140

(37) (a) "Renewable energy resource" means any of the 2141
following: 2142

(i) Solar photovoltaic or solar thermal energy; 2143

(ii) Wind energy; 2144

(iii) Power produced by a hydroelectric facility; 2145

(iv) Power produced by a small hydroelectric facility, 2146
which is a facility that operates, or is rated to operate, at an 2147
aggregate capacity of less than six megawatts; 2148

(v) Power produced by a run-of-the-river hydroelectric 2149
facility placed in service on or after January 1, 1980, that is 2150
located within this state, relies upon the Ohio river, and 2151
operates, or is rated to operate, at an aggregate capacity of 2152
forty or more megawatts; 2153

(vi) Geothermal energy; 2154

(vii) Fuel derived from solid wastes, as defined in 2155
section 3734.01 of the Revised Code, through fractionation, 2156
biological decomposition, or other process that does not 2157
principally involve combustion; 2158

(viii) Biomass energy;	2159
(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;	2160 2161 2162 2163 2164 2165 2166 2167 2168 2169
(x) Biologically derived methane gas;	2170
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	2171 2172 2173
(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.	2174 2175 2176
"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 system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, except that a waste energy recovery system described in division (A) (38) (b) of	2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187

this section may be included only if it was placed into service 2188
between January 1, 2002, and December 31, 2004; storage facility 2189
that will promote the better utilization of a renewable energy 2190
resource; or distributed generation system used by a customer to 2191
generate electricity from any such energy. 2192

"Renewable energy resource" does not include a waste 2193
energy recovery system that is, or was, on or after January 1, 2194
2012, included in an energy efficiency program of an electric 2195
distribution utility pursuant to requirements under section 2196
4928.66 of the Revised Code. 2197

(b) As used in division (A) (37) of this section, 2198
"hydroelectric facility" means a hydroelectric generating 2199
facility that is located at a dam on a river, or on any water 2200
discharged to a river, that is within or bordering this state or 2201
within or bordering an adjoining state and meets all of the 2202
following standards: 2203

(i) The facility provides for river flows that are not 2204
detrimental for fish, wildlife, and water quality, including 2205
seasonal flow fluctuations as defined by the applicable 2206
licensing agency for the facility. 2207

(ii) The facility demonstrates that it complies with the 2208
water quality standards of this state, which compliance may 2209
consist of certification under Section 401 of the "Clean Water 2210
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2211
demonstrates that it has not contributed to a finding by this 2212
state that the river has impaired water quality under Section 2213
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2214
U.S.C. 1313. 2215

(iii) The facility complies with mandatory prescriptions 2216

regarding fish passage as required by the federal energy 2217
regulatory commission license issued for the project, regarding 2218
fish protection for riverine, anadromous, and catadromous fish. 2219

(iv) The facility complies with the recommendations of the 2220
Ohio environmental protection agency and with the terms of its 2221
federal energy regulatory commission license regarding watershed 2222
protection, mitigation, or enhancement, to the extent of each 2223
agency's respective jurisdiction over the facility. 2224

(v) The facility complies with provisions of the 2225
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2226
to 1544, as amended. 2227

(vi) The facility does not harm cultural resources of the 2228
area. This can be shown through compliance with the terms of its 2229
federal energy regulatory commission license or, if the facility 2230
is not regulated by that commission, through development of a 2231
plan approved by the Ohio historic preservation office, to the 2232
extent it has jurisdiction over the facility. 2233

(vii) The facility complies with the terms of its federal 2234
energy regulatory commission license or exemption that are 2235
related to recreational access, accommodation, and facilities 2236
or, if the facility is not regulated by that commission, the 2237
facility complies with similar requirements as are recommended 2238
by resource agencies, to the extent they have jurisdiction over 2239
the facility; and the facility provides access to water to the 2240
public without fee or charge. 2241

(viii) The facility is not recommended for removal by any 2242
federal agency or agency of any state, to the extent the 2243
particular agency has jurisdiction over the facility. 2244

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2245

this section do not apply to a small hydroelectric facility 2246
under division (A) (37) (a) (iv) of this section. 2247

(38) "Waste energy recovery system" means any of the 2248
following: 2249

(a) A facility that generates electricity through the 2250
conversion of energy from either of the following: 2251

(i) Exhaust heat from engines or manufacturing, 2252
industrial, commercial, or institutional sites, except for 2253
exhaust heat from a facility whose primary purpose is the 2254
generation of electricity; 2255

(ii) Reduction of pressure in gas pipelines before gas is 2256
distributed through the pipeline, provided that the conversion 2257
of energy to electricity is achieved without using additional 2258
fossil fuels. 2259

(b) A facility at a state institution of higher education 2260
as defined in section 3345.011 of the Revised Code that recovers 2261
waste heat from electricity-producing engines or combustion 2262
turbines and that simultaneously uses the recovered heat to 2263
produce steam, provided that the facility was placed into 2264
service between January 1, 2002, and December 31, 2004; 2265

(c) A facility that produces steam from recovered waste 2266
heat from a manufacturing process and uses that steam, or 2267
transfers that steam to another facility, to provide heat to 2268
another manufacturing process or to generate electricity. 2269

(39) "Smart grid" means capital improvements to an 2270
electric distribution utility's distribution infrastructure that 2271
improve reliability, efficiency, resiliency, or reduce energy 2272
demand or use, including, but not limited to, advanced metering 2273
and automation of system functions. 2274

(40) "Combined heat and power system" means the 2275
coproduction of electricity and useful thermal energy from the 2276
same fuel source designed to achieve thermal-efficiency levels 2277
of at least sixty per cent, with at least twenty per cent of the 2278
system's total useful energy in the form of thermal energy. 2279

~~(41) "Legacy generation resource" means all generating 2280
facilities owned directly or indirectly by a corporation that 2281
was formed prior to 1960 by investor-owned utilities for the 2282
original purpose of providing power to the federal government 2283
for use in the nation's defense or in furtherance of national 2284
interests, including the Ohio valley electric corporation. 2285~~

~~(42) "Prudently incurred costs related to a legacy 2286
generation resource" means costs, including deferred costs, 2287
allocated pursuant to a power agreement approved by the federal 2288
energy regulatory commission that relates to a legacy generation 2289
resource, less any revenues realized from offering the 2290
contractual commitment for the power agreement into the 2291
wholesale markets, provided that where the net revenues exceed 2292
net costs, those excess revenues shall be credited to customers. 2293
Such costs shall exclude any return on investment in common 2294
equity and, in the event of a premature retirement of a legacy 2295
generation resource, shall exclude any recovery of remaining 2296
debt. Such costs shall include any incremental costs resulting 2297
from the bankruptcy of a current or former sponsor under such 2298
power agreement or co-owner of the legacy generation resource if 2299
not otherwise recovered through a utility rate cost recovery 2300
mechanism. 2301~~

~~(43) (a) (41) (a) "Green energy" means any energy generated 2302
by using an energy resource that does one or more of the 2303
following: 2304~~

(i) Releases reduced air pollutants, thereby reducing cumulative air emissions; 2305
2306

(ii) Is more sustainable and reliable relative to some fossil fuels. 2307
2308

(b) "Green energy" includes energy generated using the following: 2309
2310

(i) Natural gas as a resource; 2311

(ii) Nuclear reaction. 2312

(42) "Energy storage" means electrical generation and storage performed by a distributed energy system connected battery. 2313
2314
2315

(43) "Linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria: 2316
2317
2318
2319

(a) Converts the linear motion of oscillators directly into electricity without the use of a flame or spark; 2320
2321

(b) Is dispatchable with the ability to vary power output across all loads; 2322
2323

(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas. 2324
2325

(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, 2326
2327
2328
2329
2330
2331

the service component shall be deemed a noncompetitive retail 2332
electric service. 2333

Sec. 4928.02. It is the policy of this state to do the 2334
following throughout this state: 2335

(A) Ensure the availability to consumers of adequate, 2336
reliable, safe, efficient, nondiscriminatory, and reasonably 2337
priced retail electric service; 2338

(B) Ensure the availability of unbundled and comparable 2339
retail electric service that provides consumers with the 2340
supplier, price, terms, conditions, and quality options they 2341
elect to meet their respective needs; 2342

(C) Ensure diversity of electricity supplies and 2343
suppliers, by giving consumers effective choices over the 2344
selection of those supplies and suppliers and by encouraging the 2345
development of distributed and small generation facilities; 2346

(D) Encourage innovation and market access for cost- 2347
effective supply- and demand-side retail electric service 2348
including, but not limited to, demand-side management, time- 2349
differentiated pricing, waste energy recovery systems, smart 2350
grid programs, and implementation of advanced metering 2351
infrastructure; 2352

(E) Encourage cost-effective and efficient access to 2353
information regarding the operation of the transmission and 2354
distribution systems of electric utilities in order to promote 2355
both effective customer choice of retail electric service and 2356
the development of performance standards and targets for service 2357
quality for all consumers, including annual achievement reports 2358
written in plain language; 2359

(F) Ensure that an electric utility's transmission and 2360

distribution systems are available to a customer-generator or 2361
owner of distributed generation, so that the customer-generator 2362
or owner can market and deliver the electricity it produces; 2363

(G) Recognize the continuing emergence of competitive 2364
electricity markets through the development and implementation 2365
of flexible regulatory treatment; 2366

(H) Ensure effective competition in the provision of 2367
retail electric service by avoiding anticompetitive subsidies 2368
flowing from a noncompetitive retail electric service to a 2369
competitive retail electric service or to a product or service 2370
other than retail electric service, and vice versa, including by 2371
prohibiting the recovery of any generation-related costs through 2372
distribution or transmission rates; 2373

(I) Ensure retail electric service consumers protection 2374
against unreasonable sales practices, market deficiencies, and 2375
market power; 2376

(J) Provide coherent, transparent means of giving 2377
appropriate incentives to technologies that can adapt 2378
successfully to potential environmental mandates; 2379

(K) Encourage implementation of distributed generation 2380
across customer classes through regular review and updating of 2381
administrative rules governing critical issues such as, but not 2382
limited to, interconnection standards, standby charges, and net 2383
metering; 2384

(L) Protect at-risk populations, including, but not 2385
limited to, when considering the implementation of any new 2386
advanced energy or renewable energy resource; 2387

(M) Encourage the education of small business owners in 2388
this state regarding the use of, and encourage the use of, 2389

energy efficiency programs and alternative energy resources in their businesses;	2390 2391
(N) Facilitate the state's effectiveness in the global economy.	2392 2393
(O) Encourage cost-effective, timely, and efficient access to and sharing of customer usage data with customers and competitive suppliers to promote customer choice and grid modernization.	2394 2395 2396 2397
(P) Ensure that a customer's data is provided in a standard format and provided to third parties in as close to real time as is economically justifiable in order to spur economic investment and improve the energy options of individual customers.	2398 2399 2400 2401 2402
<u>(Q) Encourage the development of community energy facilities, as defined in section 4934.01 of the Revised Code, for the benefit of customers in this state and to facilitate participation by customers with the facilities.</u>	2403 2404 2405 2406
<u>(R) Establish a community energy pilot program, pursuant to sections 4934.04 to 4934.17 and 4934.25 to 4934.27 of the Revised Code.</u>	2407 2408 2409
<u>(S) Establish program evaluations and consumer protections ensuring community energy subscribers are effectively and equitably receiving savings from participating in the community energy pilot program.</u>	2410 2411 2412 2413
In carrying out this policy, the commission shall consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in this state.	2414 2415 2416 2417

Sec. 4928.041. (A) Except as provided in section 4905.31 2418
or Chapter 4928. of the Revised Code, no electric utility shall 2419
provide a competitive retail electric service in this state if 2420
that service was deemed competitive or otherwise legally 2421
classified as competitive prior to the effective date of this 2422
section. 2423

(B) The standard service offer under section 4928.141 of 2424
the Revised Code shall continue to be provided to consumers in 2425
this state by electric utilities. 2426

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2427
~~competitive retail electric service, a~~ A competitive retail 2428
electric service supplied by an ~~electric utility or electric~~ 2429
services company, or by an electric utility consistent with 2430
section 4928.141 of the Revised Code, shall not be subject to 2431
supervision and regulation by a municipal corporation under 2432
Chapter 743. of the Revised Code or by the public utilities 2433
commission under Chapters 4901. to 4909., 4933., 4935., and 2434
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2435
division (B) of section 4905.33, and sections 4905.35 and 2436
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2437
and 4963.41 of the Revised Code only to the extent related to 2438
service reliability and public safety; and except as otherwise 2439
provided in this chapter. The commission's authority to enforce 2440
those excepted provisions with respect to a competitive retail 2441
electric service shall be such authority as is provided for 2442
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2443
and 4963. of the Revised Code and this chapter. Nothing in this 2444
division shall be construed to limit the commission's authority 2445
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2446
Revised Code. 2447

~~On and after the starting date of competitive retail~~ 2448
~~electric service, a~~ (2) A competitive retail electric service 2449
supplied by an electric cooperative shall not be subject to 2450
supervision and regulation by the commission under Chapters 2451
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2452
except as otherwise expressly provided in sections 4928.01 to 2453
4928.10 and 4928.16 of the Revised Code. 2454

~~(2) On and after the starting date of competitive retail~~ 2455
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2456
service supplied by an electric utility shall be subject to 2457
supervision and regulation by the commission under Chapters 2458
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2459
this chapter, to the extent that authority is not preempted by 2460
federal law. The commission's authority to enforce those 2461
provisions with respect to a noncompetitive retail electric 2462
service shall be the authority provided under those chapters and 2463
this chapter, to the extent the authority is not preempted by 2464
federal law. Notwithstanding Chapters 4905. and 4909. of the 2465
Revised Code, commission authority under this chapter shall 2466
include the authority to provide for the recovery, through a 2467
reconcilable rider on an electric distribution utility's 2468
distribution rates, of all transmission and transmission-related 2469
costs, including ancillary and congestion costs, imposed on or 2470
charged to the utility by the federal energy regulatory 2471
commission or a regional transmission organization, independent 2472
transmission operator, or similar organization approved by the 2473
federal energy regulatory commission. 2474

The commission shall adopt, for each electric distribution 2475
utility that provides customers with a standard service offer in 2476
compliance with sections 4928.141 and 4928.142 of the Revised 2477
Code, a cost recovery mechanism relating to transmission, 2478

ancillary, congestion, or any related service required for such 2479
standard service offer that includes provisions for the recovery 2480
of any cost of such service that the electric distribution 2481
utility incurs pursuant to the standard service offer. If the 2482
electric distribution utility is the load serving entity for 2483
shopping load, the cost recovery mechanism will be 2484
nonbypassable. 2485

(2) The commission shall exercise its jurisdiction with 2486
respect to the delivery of electricity by an electric utility in 2487
this state ~~on or after the starting date of competitive retail~~ 2488
~~electric service~~ so as to ensure that no aspect of the delivery 2489
of electricity by the utility to consumers in this state that 2490
consists of a noncompetitive retail electric service is 2491
unregulated. 2492

~~On and after that starting date, a~~ (3) A noncompetitive 2493
retail electric service supplied by an electric cooperative 2494
shall not be subject to supervision and regulation by the 2495
commission under Chapters 4901. to 4909., 4933., 4935., and 2496
4963. of the Revised Code, except sections 4933.81 to 4933.90 2497
and 4935.03 of the Revised Code. The commission's authority to 2498
enforce those excepted sections with respect to a noncompetitive 2499
retail electric service of an electric cooperative shall be such 2500
authority as is provided for their enforcement under Chapters 2501
4933. and 4935. of the Revised Code. 2502

~~(B) Nothing in this chapter affects the authority of the~~ 2503
~~commission under Title XLIX of the Revised Code to regulate an~~ 2504
~~electric light company in this state or an electric service~~ 2505
~~supplied in this state prior to the starting date of competitive~~ 2506
~~retail electric service.~~ 2507

Sec. 4928.08. (A) This section applies to an electric 2508

cooperative, or to a governmental aggregator that is a municipal 2509
electric utility, only to the extent of a competitive retail 2510
electric service it provides to a customer to whom it does not 2511
provide a noncompetitive retail electric service through 2512
transmission or distribution facilities it singly or jointly 2513
owns or operates. 2514

~~(B)~~ (B) (1) No electric utility, electric services company, 2515
electric cooperative, or governmental aggregator shall provide a 2516
competitive retail electric service to a consumer in this state 2517
on and after the starting date of competitive retail electric 2518
service without first being certified by the public utilities 2519
commission regarding its managerial, technical, and financial 2520
capability to provide that service and providing a financial 2521
guarantee sufficient to protect customers and electric 2522
distribution utilities from default. Certification shall be 2523
granted pursuant to procedures and standards the commission 2524
shall prescribe in accordance with division (C) of this section, 2525
except that certification or certification renewal shall be 2526
deemed approved thirty days after the filing of an application 2527
with the commission unless the commission suspends that approval 2528
for good cause shown. In the case of such a suspension, the 2529
commission shall act to approve or deny certification or 2530
certification renewal to the applicant not later than ninety 2531
days after the date of the suspension. 2532

(2) The public utilities commission shall establish rules 2533
to require an electric services company to maintain financial 2534
assurances sufficient to protect customers and electric 2535
distribution utilities from default. Such rules also shall 2536
specifically allow an electric distribution utility to set 2537
reasonable standards for its security and the security of its 2538
customers through financial requirements set in its tariffs. 2539

(3) As used in division (B) (2) of this section, an 2540
"electric services company" has the same meaning as in section 2541
4928.01 of the Revised Code, but excludes a power broker or 2542
aggregator. 2543

(C) Capability standards adopted in rules under division 2544
(B) of this section shall be sufficient to ensure compliance 2545
with the minimum service requirements established under section 2546
4928.10 of the Revised Code and with section 4928.09 of the 2547
Revised Code. The standards shall allow flexibility for 2548
voluntary aggregation, to encourage market creativity in 2549
responding to consumer needs and demands, and shall allow 2550
flexibility for electric services companies that exclusively 2551
provide installation of small electric generation facilities, to 2552
provide ease of market access. The rules shall include 2553
procedures for biennially renewing certification. 2554

(D) The commission may suspend, rescind, or conditionally 2555
rescind the certification of any electric utility, electric 2556
services company, electric cooperative, or governmental 2557
aggregator issued under this section if the commission 2558
determines, after reasonable notice and opportunity for hearing, 2559
that the utility, company, cooperative, or aggregator has failed 2560
to comply with any applicable certification standards or has 2561
engaged in anticompetitive or unfair, deceptive, or 2562
unconscionable acts or practices in this state. 2563

(E) No electric distribution utility on and after the 2564
starting date of competitive retail electric service shall 2565
knowingly distribute electricity, to a retail consumer in this 2566
state, for any supplier of electricity that has not been 2567
certified by the commission pursuant to this section. 2568

(F) Notwithstanding any provision of section 121.95 of the 2569

Revised Code to the contrary, a regulatory restriction contained 2570
in a rule adopted under section 4928.08 of the Revised Code is 2571
not subject to sections 121.95 to 121.953 of the Revised Code. 2572

Sec. 4928.101. (A) As used in this section: 2573

(1) "Small commercial customer" means any customer that 2574
receives electric service pursuant to a nonresidential tariff if 2575
the customer's demand for electricity does not exceed twenty- 2576
five kilowatts within the last twelve months. 2577

(2) "Small commercial customer" excludes any customer that 2578
does one or both of the following: 2579

(a) Manages multiple electric meters and, within the last 2580
twelve months, the electricity demand for at least one of the 2581
meters is twenty-five kilowatts or more; 2582

(b) Has, at the customer's discretion, aggregated the 2583
demand for the customer-managed meters. 2584

(B) If a competitive retail electric service supplier 2585
offers a residential or small commercial customer a contract for 2586
a fixed introductory rate that converts to a variable rate upon 2587
the expiration of the fixed rate, the supplier shall send two 2588
notices to each residential and small commercial customer that 2589
enters into such a contract. Each notice shall provide all of 2590
the following information to the customer: 2591

(1) The fixed rate that is expiring under the contract; 2592

(2) The expiration date of the contract's fixed rate; 2593

(3) The public utilities commission web site that, as a 2594
comparison tool, lists rates offered by competitive retail 2595
electric service suppliers; 2596

(4) A statement explaining that appearing on each 2597
customer's bill is a price-to-compare notice that lists the 2598
utility's standard service offer price. 2599

(C) The second notice shall include all the requirements 2600
as stated in division (B) of this section and shall also 2601
identify the initial rate to be charged upon the contract's 2602
conversion to a variable rate. 2603

(D) The notices shall be sent by standard United States 2604
mail or electronically with a customer's verifiable consent as 2605
follows: 2606

(1) The supplier shall send the first notice not earlier 2607
than ninety days, and not later than sixty days, prior to the 2608
expiration of the fixed rate. 2609

(2) The supplier shall send the second notice not earlier 2610
than forty-five days, and not later than fifteen days, prior to 2611
the expiration of the fixed rate. 2612

(E) A competitive retail electric service supplier shall 2613
provide an annual notice, by standard United States mail or 2614
electronically with a customer's verifiable consent, to each 2615
residential and small commercial customer that has entered into 2616
a contract with the supplier that has converted to a variable 2617
rate upon the expiration of the contract's fixed introductory 2618
rate. The notice shall inform the customer that the customer is 2619
currently subject to a variable rate and that other fixed rate 2620
contracts are available. 2621

(F) Not later than one hundred fifty days after the 2622
effective date of this section, the commission shall adopt rules 2623
in order to implement divisions (B) to (E) of this section. The 2624
rules, at a minimum, shall include the following requirements 2625

regarding the notices required under divisions (B) to (E) of 2626
this section: 2627

(1) To use clear and unambiguous language in order to 2628
enable the customer to make an informed decision; 2629

(2) To design the notices in a way to ensure that they 2630
cannot be confused with marketing materials. 2631

(G) Notwithstanding any provision of section 121.95 of the 2632
Revised Code to the contrary, a regulatory restriction contained 2633
in a rule adopted under section 4928.101 of the Revised Code is 2634
not subject to sections 121.95 to 121.953 of the Revised Code. 2635

Sec. 4928.102. (A) As used in this section, "customer 2636
account information" means a unique electric distribution 2637
utility number or other customer identification number used by 2638
the utility to identify a customer and the customer's account 2639
record. 2640

(B) The public utilities commission shall adopt rules to 2641
ensure that an electric distribution utility processes a 2642
customer's change in competitive retail electric supplier by 2643
using customer account information. A customer who consents to a 2644
change of supplier shall not be required to provide customer 2645
account information to the supplier if the customer provides a 2646
valid form of government-issued identification issued to the 2647
customer or a sufficient alternative form of identification that 2648
allows the supplier to establish the customer's identity 2649
accurately. 2650

(C) Notwithstanding any provision of section 121.95 of the 2651
Revised Code to the contrary, a regulatory restriction contained 2652
in a rule adopted under this section is not subject to sections 2653
121.95 to 121.953 of the Revised Code. 2654

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2655
of this section, the failure of a supplier to provide retail 2656
electric generation service to customers within the certified 2657
territory of an electric distribution utility shall result in 2658
the supplier's customers, after reasonable notice, defaulting to 2659
the utility's standard service offer under sections 4928.141, 2660
and 4928.142, and 4928.143 of the Revised Code until the 2661
customer chooses an alternative supplier. ~~A~~ 2662

(B) A supplier is deemed under this section to have failed 2663
to provide such retail electric generation service if the 2664
commission finds, after reasonable notice and opportunity for 2665
hearing, that any of the following conditions are met: 2666

~~(A)~~ (1) The supplier has defaulted on its contracts with 2667
customers, is in receivership, or has filed for bankruptcy. 2668

~~(B)~~ (2) The supplier is no longer capable of providing the 2669
service. 2670

~~(C)~~ (3) The supplier is unable to provide delivery to 2671
transmission or distribution facilities for such period of time 2672
as may be reasonably specified by commission rule adopted under 2673
division (A) of section 4928.06 of the Revised Code. 2674

~~(D)~~ (4) The supplier's certification has been suspended, 2675
conditionally rescinded, or rescinded under division (D) of 2676
section 4928.08 of the Revised Code. 2677

(C) If an electric distribution utility has an electric 2678
security plan that was approved under section 4928.143 of the 2679
Revised Code as that section existed prior to the amendments to 2680
this section by this act, the failure of a supplier to provide 2681
retail electric generation service to customers within the 2682
certified territory of that utility shall result in the 2683

supplier's customers, after reasonable notice, defaulting to the 2684
utility's standard service offer under that electric security 2685
plan until the customer chooses an alternative supplier or until 2686
the utility's standard service offer is authorized under section 2687
4928.142 of the Revised Code. 2688

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2689
electric distribution utility shall provide consumers, on a 2690
comparable and nondiscriminatory basis within its certified 2691
territory, a standard service offer of all competitive retail 2692
electric services necessary to maintain essential electric 2693
service to consumers, including a firm supply of electric 2694
generation service. To that end, the electric distribution 2695
utility shall apply to the public utilities commission to 2696
establish the standard service offer in accordance with section 2697
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2698
~~may apply simultaneously under both sections, except that the~~ 2699
~~utility's first standard service offer application at minimum~~ 2700
~~shall include a filing under section 4928.143 of the Revised~~ 2701
~~Code. Only~~ Except as provided in division (A) (2) of this 2702
section, a standard service offer authorized in accordance with 2703
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2704
the utility's standard service offer for the purpose of 2705
compliance with this section~~+~~, and that standard service offer 2706
shall serve as the utility's default standard service offer for 2707
the purpose of section 4928.14 of the Revised Code. 2708
~~Notwithstanding the foregoing provision, the rate~~ 2709

(2) An electric distribution utility's electric security 2710
plan of an electric distribution utility that was approved under 2711
section 4928.143 of the Revised Code as that section existed 2712
prior to the amendments to this section by this act shall 2713
continue for the purpose of the utility's compliance with ~~this~~ 2714

division (A) (1) of this section until a standard service offer 2715
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2716
~~4928.143~~ of the Revised Code, and, as applicable, pursuant to 2717
~~division (D) of section 4928.143 of the Revised Code, any rate .~~ 2718
Each security plan that extends approved before the effective 2719
date of the amendments to this section by this act shall extend 2720
beyond December 31, 2008, shall continue to be in effect for the 2721
subject electric distribution utility for the duration of the 2722
plan's term through the final standard service offer auction 2723
delivery period approved by the public utilities commission 2724
under the plan as of the effective date of the amendments to 2725
this section by this act and thereafter shall terminate. 2726

(3) A standard service offer under section 4928.142 ~~or~~ 2727
~~4928.143~~ of the Revised Code shall exclude any previously 2728
authorized allowances for transition costs, with such exclusion 2729
being effective on and after the date that the allowance is 2730
scheduled to end under the utility's ~~rate~~ electric security 2731
plan. 2732

(B) The commission shall set the time for hearing of a 2733
filing under section 4928.142 ~~or~~ ~~4928.143~~ of the Revised Code, 2734
send written notice of the hearing to the electric distribution 2735
utility, and publish notice in a newspaper of general 2736
circulation in each county in the utility's certified territory. 2737
The commission shall adopt rules regarding filings under ~~these~~ 2738
~~sections~~ the section. 2739

Sec. 4928.142. (A) For the purpose of complying with 2740
section 4928.141 of the Revised Code and subject to division (D) 2741
of this section and, as applicable, subject to the ~~rate plan~~ 2742
~~requirement~~ requirements of division (A) of section 4928.141 of 2743
the Revised Code, an electric distribution utility ~~may~~ shall 2744

establish a standard service offer price for retail electric 2745
generation service that is delivered to the utility under a 2746
market-rate offer. 2747

(1) The market-rate offer shall be determined through a 2748
competitive bidding process that provides for all of the 2749
following: 2750

(a) Open, fair, and transparent competitive solicitation; 2751

(b) Clear product definition; 2752

(c) Standardized bid evaluation criteria; 2753

(d) Oversight by an independent third party that shall 2754
design the solicitation, administer the bidding, and ensure that 2755
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2756
this section are met; 2757

(e) Evaluation of the submitted bids prior to the 2758
selection of the least-cost bid winner or winners. 2759

No generation supplier shall be prohibited from 2760
participating in the bidding process. 2761

(2) The public utilities commission shall modify rules, or 2762
adopt new rules as necessary, concerning the conduct of the 2763
competitive bidding process and the qualifications of bidders, 2764
which rules shall foster supplier participation in the bidding 2765
process and shall be consistent with the requirements of 2766
division (A) (1) of this section. 2767

(B) Prior to initiating a competitive bidding process for 2768
a market-rate offer under division (A) of this section, the 2769
electric distribution utility shall file an application with the 2770
commission. An electric distribution utility may file its 2771
application with the commission prior to the effective date of 2772

the commission rules required under division (A) (2) of this 2773
section, and, as the commission determines necessary, the 2774
utility shall immediately conform its filing to the rules upon 2775
their taking effect. 2776

An application under this division shall detail the 2777
electric distribution utility's proposed compliance with the 2778
requirements of division (A) (1) of this section and with 2779
commission rules under division (A) (2) of this section and 2780
demonstrate that all of the following requirements are met: 2781

(1) The electric distribution utility or its transmission 2782
service affiliate belongs to at least one regional transmission 2783
organization that has been approved by the federal energy 2784
regulatory commission; or there otherwise is comparable and 2785
nondiscriminatory access to the electric transmission grid. 2786

(2) Any such regional transmission organization has a 2787
market-monitor function and the ability to take actions to 2788
identify and mitigate market power or the electric distribution 2789
utility's market conduct; or a similar market monitoring 2790
function exists with commensurate ability to identify and 2791
monitor market conditions and mitigate conduct associated with 2792
the exercise of market power. 2793

(3) A published source of information is available 2794
publicly or through subscription that identifies pricing 2795
information for traded electricity on- and off-peak energy 2796
products that are contracts for delivery beginning at least two 2797
years from the date of the publication and is updated on a 2798
regular basis. 2799

The commission shall initiate a proceeding and, within 2800
ninety days after the application's filing date, shall determine 2801

by order whether the electric distribution utility and its 2802
market-rate offer meet all of the foregoing requirements. If the 2803
finding is positive, the electric distribution utility ~~may~~ shall 2804
initiate its competitive bidding process. If the finding is 2805
negative as to one or more requirements, the commission in the 2806
order shall direct the electric distribution utility regarding 2807
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2808
~~manner to the commission's satisfaction; otherwise, the electric~~ 2809
~~distribution utility shall withdraw the application. However, if~~ 2810
~~such remedy is made and the subsequent finding is positive and~~ 2811
~~also if the electric distribution utility made a simultaneous~~ 2812
~~filing under this section and section 4928.143 of the Revised~~ 2813
~~Code, the utility shall not initiate its competitive bid until~~ 2814
~~at least one hundred fifty days after the filing date of those~~ 2815
~~applications.~~ 2816

(C) Upon the completion of the competitive bidding process 2817
authorized by divisions (A) and (B) of this section, ~~including~~ 2818
~~for the purpose of division (D) of this section,~~ the commission 2819
shall select the least-cost bid winner or winners of that 2820
process, and such selected bid or bids, as prescribed as retail 2821
rates by the commission, shall be the electric distribution 2822
utility's standard service offer unless the commission, by order 2823
issued before the third calendar day following the conclusion of 2824
the competitive bidding process for the market rate offer, 2825
determines that one or more of the following criteria were not 2826
met: 2827

(1) Each portion of the bidding process was 2828
oversubscribed, such that the amount of supply bid upon was 2829
greater than the amount of the load bid out. 2830

(2) There were four or more bidders. 2831

(3) At least twenty-five per cent of the load is bid upon 2832
by one or more persons other than the electric distribution 2833
utility. 2834

All costs incurred by the electric distribution utility as 2835
a result of or related to the competitive bidding process or to 2836
procuring generation service to provide the standard service 2837
offer, including the costs of energy and capacity and the costs 2838
of all other products and services procured as a result of the 2839
competitive bidding process, shall be timely recovered through 2840
the standard service offer price, and, for that purpose, the 2841
commission shall approve a reconciliation mechanism, other 2842
recovery mechanism, or a combination of such mechanisms for the 2843
utility. 2844

(D) ~~The first application filed under this section by an 2845
electric distribution utility that, as of July 31, 2008, 2846
directly owns, in whole or in part, operating electric 2847
generating facilities that had been used and useful in this 2848
state shall require that a portion of that the utility's 2849
standard service offer load for the first five years of the 2850
market rate offer be competitively bid under division (A) of 2851
this section as follows: ten per cent of the load in year one, 2852
not more than twenty per cent in year two, thirty per cent in 2853
year three, forty per cent in year four, and fifty per cent in 2854
year five. Consistent with those percentages, the commission 2855
shall determine the actual percentages for each year of years 2856
one through five. The standard service offer price for retail 2857
electric generation service under this first application shall 2858
be a proportionate blend of the bid price and the generation 2859
service price for the remaining standard service offer load, 2860
which latter price shall be equal to the electric distribution 2861
utility's most recent standard service offer price, adjusted 2862~~

~~upward or downward as the commission determines reasonable,~~ 2863
~~relative to the jurisdictional portion of any known and~~ 2864
~~measurable changes from the level of any one or more of the~~ 2865
~~following costs as reflected in that most recent standard~~ 2866
~~service offer price:~~ 2867

~~(1) The electric distribution utility's prudently incurred~~ 2868
~~cost of fuel used to produce electricity;~~ 2869

~~(2) Its prudently incurred purchased power costs;~~ 2870

~~(3) Its prudently incurred costs of satisfying the supply~~ 2871
~~and demand portfolio requirements of this state, including, but~~ 2872
~~not limited to, renewable energy resource and energy efficiency~~ 2873
~~requirements;~~ 2874

~~(4) Its costs prudently incurred to comply with~~ 2875
~~environmental laws and regulations, with consideration of the~~ 2876
~~derating of any facility associated with those costs.~~ 2877

~~In making any adjustment to the most recent standard~~ 2878
~~service offer price on the basis of costs described in division~~ 2879
~~(D) of this section, the commission shall include the benefits~~ 2880
~~that may become available to the electric distribution utility~~ 2881
~~as a result of or in connection with the costs included in the~~ 2882
~~adjustment, including, but not limited to, the utility's receipt~~ 2883
~~of emissions credits or its receipt of tax benefits or of other~~ 2884
~~benefits, and, accordingly, the commission may impose such~~ 2885
~~conditions on the adjustment to ensure that any such benefits~~ 2886
~~are properly aligned with the associated cost responsibility.~~ 2887
~~The commission shall also determine how such adjustments will~~ 2888
~~affect the electric distribution utility's return on common~~ 2889
~~equity that may be achieved by those adjustments. The commission~~ 2890
~~shall not apply its consideration of the return on common equity~~ 2891

~~to reduce any adjustments authorized under this division unless~~ 2892
~~the adjustments will cause the electric distribution utility to~~ 2893
~~earn a return on common equity that is significantly in excess~~ 2894
~~of the return on common equity that is earned by publicly traded~~ 2895
~~companies, including utilities, that face comparable business~~ 2896
~~and financial risk, with such adjustments for capital structure~~ 2897
~~as may be appropriate. The burden of proof for demonstrating~~ 2898
~~that significantly excessive earnings will not occur shall be on~~ 2899
~~the electric distribution utility.~~ 2900

~~Additionally, the commission may adjust the electric~~ 2901
~~distribution utility's most recent standard service offer price~~ 2902
~~by such just and reasonable amount that the commission~~ 2903
~~determines necessary to address any emergency that threatens the~~ 2904
~~utility's financial integrity or to ensure that the resulting~~ 2905
~~revenue available to the utility for providing the standard~~ 2906
~~service offer is not so inadequate as to result, directly or~~ 2907
~~indirectly, in a taking of property without compensation~~ 2908
~~pursuant to Section 19 of Article I, Ohio Constitution. The~~ 2909
~~electric distribution utility has the burden of demonstrating~~ 2910
~~that any adjustment to its most recent standard service offer~~ 2911
~~price is proper in accordance with this division.~~ 2912

~~(E) Beginning in the second year of a blended price under~~ 2913
~~division (D) of this section and notwithstanding any other~~ 2914
~~requirement of this section, the commission may alter~~ 2915
~~prospectively the proportions specified in that division to~~ 2916
~~mitigate any effect of an abrupt or significant change in the~~ 2917
~~electric distribution utility's standard service offer price~~ 2918
~~that would otherwise result in general or with respect to any~~ 2919
~~rate group or rate schedule but for such alteration. Any such~~ 2920
~~alteration shall be made not more often than annually, and the~~ 2921
~~commission shall not, by altering those proportions and in any~~ 2922

~~event, including because of the length of time, as authorized under division (C) of this section, taken to approve the market rate offer, cause the duration of the blending period to exceed ten years as counted from the effective date of the approved market rate offer. Additionally, any such alteration shall be limited to an alteration affecting the prospective proportions used during the blending period and shall not affect any blending proportion previously approved and applied by the commission under this division.~~ 2923
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~~(F) An electric distribution utility that has received commission approval of its first application under division (C) of this section shall not, nor ever shall be authorized or required by the commission to, file an application under section 4928.143 of the Revised Code.~~ 2932
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Sec. 4928.144. The public utilities commission by order may authorize any just and reasonable phase-in of any electric distribution utility ~~rate or price~~ established under sections 4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and inclusive of carrying charges, as the commission considers necessary to ensure ~~rate or price~~ stability for consumers. If the commission's order includes such a phase-in, the order also shall provide for the creation of regulatory assets pursuant to generally accepted accounting principles, by authorizing the deferral of incurred costs equal to the amount not collected, plus carrying charges on that amount. Further, the order shall authorize the collection of those deferrals through a nonbypassable surcharge on any such rate or price so established for the electric distribution utility by the commission. 2937
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Sec. 4928.149. No electric distribution utility may use any electric energy storage system to participate in the 2951
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wholesale market, if the utility purchased or acquired that 2953
system for distribution service. 2954

Sec. 4928.151. The public utilities commission shall adopt 2955
and enforce rules prescribing a uniform, statewide policy 2956
regarding electric transmission and distribution line extensions 2957
and requisite substations and related facilities that are 2958
requested by nonresidential customers of electric utilities, so 2959
that, on and after the effective date of the initial rules so 2960
adopted, all such utilities apply the same policies and charges 2961
to those customers. ~~Initial rules shall be adopted not later~~ 2962
~~than six months after the effective date of this section.~~ The 2963
rules shall address the just and reasonable allocation to and 2964
utility recovery from the requesting customer or other customers 2965
of the utility of all costs of any such line extension and any 2966
requisite substation or related facility, including, but not 2967
limited to, the costs of necessary technical studies, operations 2968
and maintenance costs, and capital costs, including a return on 2969
capital costs. The rules shall also include the following: 2970

(A) Require nonresidential customers to be responsible for 2971
the actual cost of necessary technical studies regarding the 2972
customer's requested transmission and distribution line 2973
extensions; 2974

(B) Require the utility to give nonresidential customers 2975
taking service at greater than thirty-four thousand volts the 2976
option to self-build any such transmission and distribution line 2977
extensions and related facilities that are dedicated to the 2978
nonresidential customer's new service. Related facilities may 2979
include any requisite substation, switching station, breaker 2980
station, or other related system upgrades. If the nonresidential 2981
customer elects to self-build, the customer is responsible for 2982

one hundred per cent of the costs and shall build the system to 2983
the utility's published engineering and construction standards 2984
using contractors that have been approved by the utility. Such 2985
standards are subject to approval by the public utilities 2986
commission, and the utility shall publish such standards and 2987
approved contractors on a public web site. A nonresidential 2988
customer who elects to self-build the line extension and related 2989
facilities shall transfer ownership and operation of the 2990
facilities to the utility to own, operate, and maintain the 2991
facility. 2992

(C) Require nonresidential customers that take service at 2993
greater than thirty-four thousand volts and do not elect to 2994
self-build to provide credit support or reimbursement to the 2995
utility for one hundred per cent of the utility's costs of any 2996
such line extension and any requisite substations and related 2997
facilities, including the costs of necessary technical studies, 2998
operations and maintenance costs, and capital costs, including a 2999
return on capital costs. 3000

Sec. 4928.17. (A) Except as otherwise provided in sections 3001
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 3002
Revised Code ~~and beginning on the starting date of competitive~~ 3003
~~retail electric service,~~ no electric utility shall engage in 3004
this state, either directly or through an affiliate, ~~in the~~ 3005
~~businesses of supplying a noncompetitive retail electric service~~ 3006
~~and supplying a competitive retail electric service, or in the~~ 3007
businesses of supplying a noncompetitive retail electric service 3008
and supplying a product or service other than retail electric 3009
service, unless the utility implements and operates under a 3010
corporate separation plan that is approved by the public 3011
utilities commission under this section, is consistent with the 3012
policy specified in section 4928.02 of the Revised Code, and 3013

achieves all of the following: 3014

(1) The plan provides, at minimum, for the provision of 3015
~~the competitive retail electric service or the nonelectric~~ 3016
product or service through a fully separated affiliate of the 3017
utility, and the plan includes separate accounting requirements, 3018
the code of conduct as ordered by the commission pursuant to a 3019
rule it shall adopt under division (A) of section 4928.06 of the 3020
Revised Code, and such other measures as are necessary to 3021
effectuate the policy specified in section 4928.02 of the 3022
Revised Code. 3023

(2) The plan satisfies the public interest in ~~preventing~~ 3024
~~unfair competitive advantage and~~ preventing the abuse of market 3025
power. 3026

(3) The plan is sufficient to ensure that the utility will 3027
not extend any undue preference or advantage to any affiliate, 3028
division, or part of its own business engaged in the business of 3029
supplying the ~~competitive retail electric service or nonelectric~~ 3030
product or service, including, but not limited to, utility 3031
resources such as trucks, tools, office equipment, office space, 3032
supplies, customer and marketing information, advertising, 3033
billing and mailing systems, personnel, and training, without 3034
compensation based upon fully loaded embedded costs charged to 3035
the affiliate; and to ensure that any such affiliate, division, 3036
or part will not receive undue preference or advantage from any 3037
affiliate, division, or part of the business engaged in business 3038
of supplying the noncompetitive retail electric service. No such 3039
utility, affiliate, division, or part shall extend such undue 3040
preference. ~~Notwithstanding any other division of this section,~~ 3041
~~a utility's obligation under division (A) (3) of this section~~ 3042
~~shall be effective January 1, 2000.~~ 3043

(B) The commission may approve, modify and approve, or 3044
disapprove a corporate separation plan filed with the commission 3045
under division (A) of this section. As part of the code of 3046
conduct required under division (A) (1) of this section, the 3047
commission shall adopt rules pursuant to division (A) of section 3048
4928.06 of the Revised Code regarding corporate separation and 3049
procedures for plan filing and approval. The rules shall include 3050
limitations on affiliate practices solely for the purpose of 3051
maintaining a separation of the affiliate's business from the 3052
business of the utility to prevent ~~unfair competitive advantage~~ 3053
abuse of market power by virtue of that relationship. The rules 3054
also shall include an opportunity for any person having a real 3055
and substantial interest in the corporate separation plan to 3056
file specific objections to the plan and propose specific 3057
responses to issues raised in the objections, which objections 3058
and responses the commission shall address in its final order. 3059
Prior to commission approval of the plan, the commission shall 3060
afford a hearing upon those aspects of the plan that the 3061
commission determines reasonably require a hearing. The 3062
commission may reject and require refiling of a substantially 3063
inadequate plan under this section. 3064

(C) The commission shall issue an order approving or 3065
modifying and approving a corporate separation plan under this 3066
section, to be effective on the date specified in the order, 3067
only upon findings that the plan reasonably complies with the 3068
requirements of division (A) of this section and will provide 3069
for ongoing compliance with the policy specified in section 3070
4928.02 of the Revised Code. However, for good cause shown, the 3071
commission may issue an order approving or modifying and 3072
approving a corporate separation plan under this section that 3073
does not comply with division (A) (1) of this section but 3074

complies with such functional separation requirements as the 3075
commission authorizes to apply for an interim period prescribed 3076
in the order, upon a finding that such alternative plan will 3077
provide for ongoing compliance with the policy specified in 3078
section 4928.02 of the Revised Code. 3079

(D) Any party may seek an amendment to a corporate 3080
separation plan approved under this section, and the commission, 3081
pursuant to a request from any party or on its own initiative, 3082
may order as it considers necessary the filing of an amended 3083
corporate separation plan to reflect changed circumstances. 3084

~~(E) No electric distribution utility shall sell or 3085
transfer any generating asset it wholly or partly owns at any 3086
time without obtaining prior commission approval. 3087~~

Sec. 4928.20. (A) The legislative authority of a municipal 3088
corporation may adopt an ordinance, or the board of township 3089
trustees of a township or the board of county commissioners of a 3090
county may adopt a resolution, under which, ~~on or after the~~ 3091
~~starting date of competitive retail electric service,~~ it may 3092
aggregate in accordance with this section the retail electrical 3093
loads located, respectively, within the municipal corporation, 3094
township, or unincorporated area of the county and, for that 3095
purpose, may enter into service agreements to facilitate for 3096
those loads the sale and purchase of electricity. The 3097
legislative authority or board also may exercise such authority 3098
jointly with any other such legislative authority or board. For 3099
customers that are not mercantile customers, an ordinance or 3100
resolution under this division shall specify whether the 3101
aggregation will occur only with the prior, affirmative consent 3102
of each person owning, occupying, controlling, or using an 3103
electric load center proposed to be aggregated or will occur 3104

automatically for all such persons pursuant to the opt-out 3105
requirements of division (D) of this section. The aggregation of 3106
mercantile customers shall occur only with the prior, 3107
affirmative consent of each such person owning, occupying, 3108
controlling, or using an electric load center proposed to be 3109
aggregated. Nothing in this division, however, authorizes the 3110
aggregation of the retail electric loads of an electric load 3111
center, as defined in section 4933.81 of the Revised Code, that 3112
is located in the certified territory of a nonprofit electric 3113
supplier under sections 4933.81 to 4933.90 of the Revised Code 3114
or an electric load center served by transmission or 3115
distribution facilities of a municipal electric utility. 3116

(B) If an ordinance or resolution adopted under division 3117
(A) of this section specifies that aggregation of customers that 3118
are not mercantile customers will occur automatically as 3119
described in that division, the ordinance or resolution shall 3120
direct the board of elections to submit the question of the 3121
authority to aggregate to the electors of the respective 3122
municipal corporation, township, or unincorporated area of a 3123
county at a special election on the day of the next primary or 3124
general election in the municipal corporation, township, or 3125
county. The legislative authority or board shall certify a copy 3126
of the ordinance or resolution to the board of elections not 3127
less than ninety days before the day of the special election. No 3128
ordinance or resolution adopted under division (A) of this 3129
section that provides for an election under this division shall 3130
take effect unless approved by a majority of the electors voting 3131
upon the ordinance or resolution at the election held pursuant 3132
to this division. 3133

(C) Upon the applicable requisite authority under 3134
divisions (A) and (B) of this section, the legislative authority 3135

or board shall develop a plan of operation and governance for 3136
the aggregation program so authorized. Before adopting a plan 3137
under this division, the legislative authority or board shall 3138
hold at least two public hearings on the plan. Before the first 3139
hearing, the legislative authority or board shall publish notice 3140
of the hearings once a week for two consecutive weeks in a 3141
newspaper of general circulation in the jurisdiction or as 3142
provided in section 7.16 of the Revised Code. The notice shall 3143
summarize the plan and state the date, time, and location of 3144
each hearing. 3145

(D) No legislative authority or board, pursuant to an 3146
ordinance or resolution under divisions (A) and (B) of this 3147
section that provides for automatic aggregation of customers 3148
that are not mercantile customers as described in division (A) 3149
of this section, shall aggregate the electrical load of any 3150
electric load center located within its jurisdiction unless it 3151
in advance clearly discloses to the person owning, occupying, 3152
controlling, or using the load center that the person will be 3153
enrolled automatically in the aggregation program and will 3154
remain so enrolled unless the person affirmatively elects by a 3155
stated procedure not to be so enrolled. The disclosure shall 3156
state prominently the rates, charges, and other terms and 3157
conditions of enrollment. The stated procedure shall allow any 3158
person enrolled in the aggregation program the opportunity to 3159
opt out of the program every three years, without paying a 3160
switching fee. Any such person that opts out before the 3161
commencement of the aggregation program pursuant to the stated 3162
procedure shall default to the standard service offer provided 3163
under section 4928.14 or division (D) of section 4928.35 of the 3164
Revised Code until the person chooses an alternative supplier. 3165

(E) (1) With respect to a governmental aggregation for a 3166

municipal corporation that is authorized pursuant to divisions 3167
(A) to (D) of this section, resolutions may be proposed by 3168
initiative or referendum petitions in accordance with sections 3169
731.28 to 731.41 of the Revised Code. 3170

(2) With respect to a governmental aggregation for a 3171
township or the unincorporated area of a county, which 3172
aggregation is authorized pursuant to divisions (A) to (D) of 3173
this section, resolutions may be proposed by initiative or 3174
referendum petitions in accordance with sections 731.28 to 3175
731.40 of the Revised Code, except that: 3176

(a) The petitions shall be filed, respectively, with the 3177
township fiscal officer or the board of county commissioners, 3178
who shall perform those duties imposed under those sections upon 3179
the city auditor or village clerk. 3180

(b) The petitions shall contain the signatures of not less 3181
than ten per cent of the total number of electors in, 3182
respectively, the township or the unincorporated area of the 3183
county who voted for the office of governor at the preceding 3184
general election for that office in that area. 3185

(F) A governmental aggregator under division (A) of this 3186
section is not a public utility engaging in the wholesale 3187
purchase and resale of electricity, and provision of the 3188
aggregated service is not a wholesale utility transaction. A 3189
governmental aggregator shall be subject to supervision and 3190
regulation by the public utilities commission only to the extent 3191
of any competitive retail electric service it provides and 3192
commission authority under this chapter. 3193

(G) This section does not apply in the case of a municipal 3194
corporation that supplies such aggregated service to electric 3195

load centers to which its municipal electric utility also 3196
supplies a noncompetitive retail electric service through 3197
transmission or distribution facilities the utility singly or 3198
jointly owns or operates. 3199

(H) A governmental aggregator shall not include in its 3200
aggregation the accounts of any of the following: 3201

(1) A customer that has opted out of the aggregation; 3202

(2) A customer in contract with a certified electric 3203
services company; 3204

(3) A customer that has a special contract with an 3205
electric distribution utility; 3206

(4) A customer that is not located within the governmental 3207
aggregator's governmental boundaries; 3208

(5) Subject to division (C) of section 4928.21 of the 3209
Revised Code, a customer who appears on the "do not aggregate" 3210
list maintained under that section. 3211

(I) Customers that are part of a governmental aggregation 3212
under this section shall be responsible only for such portion of 3213
a surcharge under section 4928.144 of the Revised Code that is 3214
proportionate to the benefits, as determined by the commission, 3215
that electric load centers within the jurisdiction of the 3216
governmental aggregation as a group receive. The proportionate 3217
surcharge so established shall apply to each customer of the 3218
governmental aggregation while the customer is part of that 3219
aggregation. If a customer ceases being such a customer, the 3220
otherwise applicable surcharge shall apply. Nothing in this 3221
section shall result in less than full recovery by an electric 3222
distribution utility of any surcharge authorized under section 3223
4928.144 of the Revised Code. Nothing in this section shall 3224

result in less than the full and timely imposition, charging, 3225
collection, and adjustment by an electric distribution utility, 3226
its assignee, or any collection agent, of the phase-in-recovery 3227
charges authorized pursuant to a final financing order issued 3228
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3229

~~(J) On behalf of the customers that are part of a 3230
governmental aggregation under this section and by filing 3231
written notice with the public utilities commission, the 3232
legislative authority that formed or is forming that 3233
governmental aggregation may elect not to receive standby 3234
service within the meaning of division (B)(2)(d) of section 3235
4928.143 of the Revised Code from an electric distribution 3236
utility in whose certified territory the governmental 3237
aggregation is located and that operates under an approved 3238
electric security plan under that section. Upon the filing of 3239
that notice, the electric distribution utility shall not charge 3240
any such customer to whom competitive retail electric generation 3241
service is provided by another supplier under the governmental 3242
aggregation for the standby service. Any such consumer that 3243
returns to the utility for competitive retail electric service 3244
shall pay the market price of power incurred by the utility to 3245
serve that consumer plus any amount attributable to the 3246
utility's cost of compliance with the renewable energy resource 3247
provisions of section 4928.64 of the Revised Code to serve the 3248
consumer. Such market price shall include, but not be limited 3249
to, capacity and energy charges; all charges associated with the 3250
provision of that power supply through the regional transmission 3251
organization, including, but not limited to, transmission, 3252
ancillary services, congestion, and settlement and 3253
administrative charges; and all other costs incurred by the 3254
utility that are associated with the procurement, provision, and 3255~~

~~administration of that power supply, as such costs may be~~ 3256
~~approved by the commission. The period of time during which the~~ 3257
~~market price and renewable energy resource amount shall be so~~ 3258
~~assessed on the consumer shall be from the time the consumer so~~ 3259
~~returns to the electric distribution utility until the~~ 3260
~~expiration of the electric security plan. However, if that~~ 3261
~~period of time is expected to be more than two years, the~~ 3262
~~commission may reduce the time period to a period of not less~~ 3263
~~than two years.~~ 3264

~~(K) The commission shall adopt rules and issue orders in~~ 3265
~~proceedings under sections 4928.141 and 4928.142 of the Revised~~ 3266
~~Code to encourage and promote large-scale governmental~~ 3267
~~aggregation in this state. For that purpose, the commission~~ 3268
~~shall conduct an immediate review of any rules it has adopted~~ 3269
~~for the purpose of this section that are in effect on the~~ 3270
~~effective date of the amendment of this section by S.B. 221 of~~ 3271
~~the 127th general assembly, July 31, 2008. Further, within the~~ 3272
~~context of an electric security plan under section 4928.143 of~~ 3273
~~the Revised Code, the~~ The commission shall consider the effect 3274
~~on large-scale governmental aggregation of any nonbypassable~~ 3275
~~generation charges, however collected, that would be established~~ 3276
~~under that plan, except any nonbypassable generation charges~~ 3277
~~that relate to any cost incurred by the~~ review each application 3278
~~filed under section 4928.142 of the Revised Code by an electric~~ 3279
~~distribution utility,~~ to ensure that the deferral of which has 3280
~~been authorized by the commission prior to the effective date of~~ 3281
~~application and the amendment of this section by S.B. 221 of the~~ 3282
~~127th general assembly, July 31, 2008~~ resulting market rate 3283
offer shall not contain any rate, price, term, condition, or 3284
provision that would have an adverse effect on large-scale 3285
governmental aggregation in this state. 3286

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of	3287
the Revised Code:	3288
(A) "Ancillary agreement" means any bond insurance policy,	3289
letter of credit, reserve account, surety bond, swap	3290
arrangement, hedging arrangement, liquidity or credit support	3291
arrangement, or other similar agreement or arrangement entered	3292
into in connection with the issuance of phase-in-recovery bonds	3293
that is designed to promote the credit quality and marketability	3294
of the bonds or to mitigate the risk of an increase in interest	3295
rates.	3296
(B) "Assignee" means any person or entity to which an	3297
interest in phase-in-recovery property is sold, assigned,	3298
transferred, or conveyed, other than as security, and any	3299
successor to or subsequent assignee of such a person or entity.	3300
(C) "Bond" includes debentures, notes, certificates of	3301
participation, certificates of beneficial interest, certificates	3302
of ownership or other evidences of indebtedness or ownership	3303
that are issued by an electric distribution utility or an	3304
assignee under a final financing order, the proceeds of which	3305
are used directly or indirectly to recover, finance, or	3306
refinance phase-in costs and financing costs, and that are	3307
secured by or payable from revenues from phase-in-recovery	3308
charges.	3309
(D) "Bondholder" means any holder or owner of a phase-in-	3310
recovery bond.	3311
(E) "Financing costs" means any of the following:	3312
(1) Principal, interest, and redemption premiums that are	3313
payable on phase-in-recovery bonds;	3314
(2) Any payment required under an ancillary agreement;	3315

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

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

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

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

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

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

(9) Any other similar costs that the public utilities

commission finds appropriate. 3345

(F) "Financing order" means an order issued by the public 3346
utilities commission under section 4928.232 of the Revised Code 3347
that authorizes an electric distribution utility or an assignee 3348
to issue phase-in-recovery bonds and recover phase-in-recovery 3349
charges. 3350

(G) "Final financing order" means a financing order that 3351
has become final and has taken effect as provided in section 3352
4928.233 of the Revised Code. 3353

(H) "Financing party" means either of the following: 3354

(1) Any trustee, collateral agent, or other person acting 3355
for the benefit of any bondholder; 3356

(2) Any party to an ancillary agreement, the rights and 3357
obligations of which relate to or depend upon the existence of 3358
phase-in-recovery property, the enforcement and priority of a 3359
security interest in phase-in-recovery property, the timely 3360
collection and payment of phase-in-recovery revenues, or a 3361
combination of these factors. 3362

(I) "Financing statement" has the same meaning as in 3363
section 1309.102 of the Revised Code. 3364

(J) "Phase-in costs" means costs, inclusive of carrying 3365
charges incurred before, on, or after ~~the effective date of this~~ 3366
~~section~~ March 22, 2012, authorized by the commission before, on, 3367
or after ~~the effective date of this section~~ March 22, 2012, to 3368
be securitized or deferred as regulatory assets in proceedings 3369
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3370
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3371
4928.14 of the Revised Code as it existed prior to July 31, 3372
2008, or section 4928.143 of the Revised Code as it existed 3373

prior to the effective date of the amendments to this section by 3374
this act pursuant to a final order for which appeals have been 3375
exhausted. "Phase-in costs" excludes the following: 3376

(1) With respect to any electric generating facility that, 3377
on and after ~~the effective date of this section~~ March 22, 2012, 3378
is owned, in whole or in part, by an electric distribution 3379
utility applying for a financing order under section 4928.231 of 3380
the Revised Code, costs that are authorized under division (B) 3381
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3382
section existed prior to the effective date of the amendments to 3383
this section by this act; 3384

(2) Costs incurred after ~~the effective date of this~~ 3385
~~section~~ March 22, 2012, related to the ongoing operation of an 3386
electric generating facility, but not environmental clean-up or 3387
remediation costs incurred by an electric distribution utility 3388
because of its ownership or operation of an electric generating 3389
facility prior to ~~the effective date of this section~~ March 22, 3390
2012, which such clean-up or remediation costs are imposed or 3391
incurred pursuant to federal or state law, rules, or regulations 3392
and for which the commission approves or approved recovery in 3393
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3394
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3395
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3396
July 31, 2008, or section 4928.143 of the Revised Code as it 3397
existed prior to the effective date of the amendments to this 3398
section by this act. 3399

(K) "Phase-in-recovery property" means the property, 3400
rights, and interests of an electric distribution utility or an 3401
assignee under a final financing order, including the right to 3402
impose, charge, and collect the phase-in-recovery charges that 3403

shall be used to pay and secure the payment of phase-in-recovery 3404
bonds and financing costs, and including the right to obtain 3405
adjustments to those charges, and any revenues, receipts, 3406
collections, rights to payment, payments, moneys, claims, or 3407
other proceeds arising from the rights and interests created 3408
under the final financing order. 3409

(L) "Phase-in-recovery revenues" means all revenues, 3410
receipts, collections, payments, moneys, claims, or other 3411
proceeds arising from phase-in-recovery property. 3412

(M) "Successor" means, with respect to any entity, another 3413
entity that succeeds by operation of law to the rights and 3414
obligations of the first legal entity pursuant to any 3415
bankruptcy, reorganization, restructuring, or other insolvency 3416
proceeding, any merger, acquisition, or consolidation, or any 3417
sale or transfer of assets, regardless of whether any of these 3418
occur as a result of a restructuring of the electric power 3419
industry or otherwise. 3420

Sec. 4928.231. (A) An electric distribution utility may 3421
apply to the public utilities commission for a financing order 3422
that authorizes the following: 3423

(1) The issuance of phase-in-recovery bonds, in one or 3424
more series, to recover uncollected phase-in costs; 3425

(2) The imposition, charging, and collection of phase-in- 3426
recovery charges, in accordance with the adjustment mechanism 3427
approved by the commission under section 4928.232 of the Revised 3428
Code, and consistent with the commission's authority regarding 3429
governmental aggregation as provided in division (I) of section 3430
4928.20 of the Revised Code, to recover both of the following: 3431

(a) Uncollected phase-in costs; 3432

(b) Financing costs.	3433
(3) The creation of phase-in-recovery property under the financing order.	3434 3435
(B) The application shall include all of the following:	3436
(1) A description of the uncollected phase-in costs that the electric distribution utility seeks to recover through the issuance of phase-in-recovery bonds;	3437 3438 3439
(2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;	3440 3441
(3) The expected term during which the phase-in costs associated with the issuance of each series of phase-in-recovery bonds are expected to be recovered;	3442 3443 3444
(4) An estimate of the financing costs, as described in section 4928.23 of the Revised Code, associated with the issuance of each series of phase-in-recovery bonds;	3445 3446 3447
(5) An estimate of the amount of phase-in-recovery charges necessary to recover the phase-in costs and financing costs set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of phase-in-recovery bonds;	3448 3449 3450 3451 3452 3453
(6) For phase-in-recovery charges not subject to allocation according to an existing order, a proposed methodology for allocating phase-in-recovery charges among customer classes, including a proposed methodology for allocating such charges to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;	3454 3455 3456 3457 3458 3459 3460

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

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

(9) Any other information required by the commission.

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

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

Code. 3491

(B) When reviewing an application for a financing order 3492
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3493
the commission may hold such hearings, make such inquiries or 3494
investigations, and examine such witnesses, books, papers, 3495
documents, and contracts as the commission considers proper to 3496
carry out these sections. Within thirty days after the filing of 3497
an application under section 4928.231 of the Revised Code, the 3498
commission shall publish a schedule of the proceeding. 3499

(C) (1) Not later than one hundred thirty-five days after 3500
the date the application is filed, the commission shall issue 3501
either a financing order, granting the application in whole or 3502
with modifications, or an order suspending or rejecting the 3503
application. 3504

(2) If the commission suspends an application for a 3505
financing order, the commission shall notify the electric 3506
distribution utility of the suspension and may direct the 3507
electric distribution utility to provide additional information 3508
as the commission considers necessary to evaluate the 3509
application. Not later than ninety days after the suspension, 3510
the commission shall issue either a financing order, granting 3511
the application in whole or with modifications, or an order 3512
rejecting the application. 3513

(D) (1) The commission shall not issue a financing order 3514
under division (C) of this section unless the commission 3515
determines that the financing order is consistent with section 3516
4928.02 of the Revised Code. 3517

(2) Except as provided in division (D) (1) of this section, 3518
the commission shall issue a financing order under division (C) 3519

of this section if, at the time the financing order is issued, 3520
the commission finds that the issuance of the phase-in-recovery 3521
bonds and the phase-in-recovery charges authorized by the order 3522
results in, consistent with market conditions, both measurably 3523
enhancing cost savings to customers and mitigating rate impacts 3524
to customers as compared with traditional financing mechanisms 3525
or traditional cost-recovery methods available to the electric 3526
distribution utility or, if the commission previously approved a 3527
recovery method, as compared with that recovery method. 3528

(E) The commission shall include all of the following in a 3529
financing order issued under division (C) of this section: 3530

(1) A determination of the maximum amount and a 3531
description of the phase-in costs that may be recovered through 3532
phase-in-recovery bonds issued under the financing order; 3533

(2) A description of phase-in-recovery property, the 3534
creation of which is authorized by the financing order; 3535

(3) A description of the financing costs that may be 3536
recovered through phase-in-recovery charges and the period over 3537
which those costs may be recovered; 3538

(4) For phase-in-recovery charges not subject to 3539
allocation according to an existing order, a description of the 3540
methodology and calculation for allocating phase-in-recovery 3541
charges among customer classes, including the allocation of such 3542
charges, if any, to governmental aggregation customers based 3543
upon the proportionate benefit determination made under division 3544
(I) of section 4928.20 of the Revised Code; 3545

(5) A description of the adjustment mechanism for use in 3546
the imposition, charging, and collection of the phase-in- 3547
recovery charges; 3548

(6) The maximum term of the phase-in-recovery bonds; 3549

(7) Any other provision the commission considers 3550
appropriate to ensure the full and timely imposition, charging, 3551
collection, and adjustment, pursuant to an approved adjustment 3552
mechanism, of the phase-in-recovery charges described in 3553
divisions (E) (3) to (5) of this section. 3554

(F) The commission may, in a financing order, afford the 3555
electric distribution utility flexibility in establishing the 3556
terms and conditions for the phase-in-recovery bonds to 3557
accommodate changes in market conditions, including repayment 3558
schedules, interest rates, financing costs, collateral 3559
requirements, required debt service and other reserves, and the 3560
ability of the electric distribution utility, at its option, to 3561
effect a series of issuances of phase-in-recovery bonds and 3562
correlated assignments, sales, pledges, or other transfers of 3563
phase-in-recovery property. Any changes made under this section 3564
to terms and conditions for the phase-in-recovery bonds shall be 3565
in conformance with the financing order. 3566

(G) A financing order may provide that the creation of 3567
phase-in-recovery property shall be simultaneous with the sale 3568
of that property to an assignee as provided in the application 3569
and the pledge of the property to secure phase-in-recovery 3570
bonds. 3571

(H) The commission shall, in a financing order, require 3572
that after the final terms of each issuance of phase-in-recovery 3573
bonds have been established, and prior to the issuance of those 3574
bonds, the electric distribution utility shall determine the 3575
resulting phase-in-recovery charges in accordance with the 3576
adjustment mechanism described in the financing order. These 3577
phase-in-recovery charges shall be final and effective upon the 3578

issuance of the phase-in-recovery bonds, without further 3579
commission action. 3580

Sec. 4928.34. (A) The public utilities commission shall 3581
not approve or prescribe a transition plan under division (A) or 3582
(B) of section 4928.33 of the Revised Code unless the commission 3583
first makes all of the following determinations: 3584

(1) The unbundled components for the electric transmission 3585
component of retail electric service, as specified in the 3586
utility's rate unbundling plan required by division (A) (1) of 3587
section 4928.31 of the Revised Code, equal the tariff rates 3588
determined by the federal energy regulatory commission that are 3589
in effect on the date of the approval of the transition plan 3590
under sections 4928.31 to 4928.40 of the Revised Code, as each 3591
such rate is determined applicable to each particular customer 3592
class and rate schedule by the commission. The unbundled 3593
transmission component shall include a sliding scale of charges 3594
under division (B) of section 4905.31 of the Revised Code to 3595
ensure that refunds determined or approved by the federal energy 3596
regulatory commission are flowed through to retail electric 3597
customers. 3598

(2) The unbundled components for retail electric 3599
distribution service in the rate unbundling plan equal the 3600
difference between the costs attributable to the utility's 3601
transmission and distribution rates and charges under its 3602
schedule of rates and charges in effect on the effective date of 3603
this section, based upon the record in the most recent rate 3604
proceeding of the utility for which the utility's schedule was 3605
established, and the tariff rates for electric transmission 3606
service determined by the federal energy regulatory commission 3607
as described in division (A) (1) of this section. 3608

(3) All other unbundled components required by the 3609
commission in the rate unbundling plan equal the costs 3610
attributable to the particular service as reflected in the 3611
utility's schedule of rates and charges in effect on the 3612
effective date of this section. 3613

(4) The unbundled components for retail electric 3614
generation service in the rate unbundling plan equal the 3615
residual amount remaining after the determination of the 3616
transmission, distribution, and other unbundled components, and 3617
after any adjustments necessary to reflect the effects of the 3618
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3619
No. 3 of the 123rd general assembly. 3620

(5) All unbundled components in the rate unbundling plan 3621
have been adjusted to reflect any base rate reductions on file 3622
with the commission and as scheduled to be in effect by December 3623
31, 2005, under rate settlements in effect on the effective date 3624
of this section. However, all earnings obligations, 3625
restrictions, or caps imposed on an electric utility in a 3626
commission order prior to the effective date of this section are 3627
void. 3628

(6) Subject to division (A) (5) of this section, the total 3629
of all unbundled components in the rate unbundling plan are 3630
capped and shall equal during the market development period, 3631
except as specifically provided in this chapter, the total of 3632
all rates and charges in effect under the applicable bundled 3633
schedule of the electric utility pursuant to section 4905.30 of 3634
the Revised Code in effect on the day before the effective date 3635
of this section, including the transition charge determined 3636
under section 4928.40 of the Revised Code, adjusted for any 3637
changes in the taxation of electric utilities and retail 3638

electric service under Sub. S.B. No. 3 of the 123rd General 3639
Assembly, the universal service rider authorized by section 3640
4928.51 of the Revised Code, and the temporary rider authorized 3641
by section 4928.61 of the Revised Code. For the purpose of this 3642
division, the rate cap applicable to a customer receiving 3643
electric service pursuant to an arrangement approved by the 3644
commission under section 4905.31 of the Revised Code is, for the 3645
term of the arrangement, the total of all rates and charges in 3646
effect under the arrangement. For any rate schedule filed 3647
pursuant to section 4905.30 of the Revised Code or any 3648
arrangement subject to approval pursuant to section 4905.31 of 3649
the Revised Code, the initial tax-related adjustment to the rate 3650
cap required by this division shall be equal to the rate of 3651
taxation specified in section 5727.81 of the Revised Code and 3652
applicable to the schedule or arrangement. To the extent such 3653
total annual amount of the tax-related adjustment is greater 3654
than or less than the comparable amount of the total annual tax 3655
reduction experienced by the electric utility as a result of the 3656
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3657
such difference shall be addressed by the commission through 3658
accounting procedures, refunds, or an annual surcharge or credit 3659
to customers, or through other appropriate means, to avoid 3660
placing the financial responsibility for the difference upon the 3661
electric utility or its shareholders. Any adjustments in the 3662
rate of taxation specified in section 5727.81 of the Revised 3663
Code ~~section~~ shall not occur without a corresponding adjustment 3664
to the rate cap for each such rate schedule or arrangement. The 3665
department of taxation shall advise the commission and self- 3666
assessors under section 5727.81 of the Revised Code prior to the 3667
effective date of any change in the rate of taxation specified 3668
under that section, and the commission shall modify the rate cap 3669
to reflect that adjustment so that the rate cap adjustment is 3670

effective as of the effective date of the change in the rate of 3671
taxation. This division shall be applied, to the extent 3672
possible, to eliminate any increase in the price of electricity 3673
for customers that otherwise may occur as a result of 3674
establishing the taxes contemplated in section 5727.81 of the 3675
Revised Code. 3676

(7) The rate unbundling plan complies with any rules 3677
adopted by the commission under division (A) of section 4928.06 3678
of the Revised Code. 3679

(8) The corporate separation plan required by division (A) 3680
(2) of section 4928.31 of the Revised Code complies with section 3681
4928.17 of the Revised Code and any rules adopted by the 3682
commission under division (A) of section 4928.06 of the Revised 3683
Code. 3684

(9) Any plan or plans the commission requires to address 3685
operational support systems and any other technical 3686
implementation issues pertaining to competitive retail electric 3687
service comply with any rules adopted by the commission under 3688
division (A) of section 4928.06 of the Revised Code. 3689

(10) The employee assistance plan required by division (A) 3690
(4) of section 4928.31 of the Revised Code sufficiently provides 3691
severance, retraining, early retirement, retention, 3692
outplacement, and other assistance for the utility's employees 3693
whose employment is affected by electric industry restructuring 3694
under this chapter. 3695

(11) The consumer education plan required under division 3696
(A) (5) of section 4928.31 of the Revised Code complies with 3697
former section 4928.42 of the Revised Code and any rules adopted 3698
by the commission under division (A) of section 4928.06 of the 3699

Revised Code. 3700

(12) The transition revenues for which an electric utility 3701
is authorized a revenue opportunity under sections 4928.31 to 3702
4928.40 of the Revised Code are the allowable transition costs 3703
of the utility as such costs are determined by the commission 3704
pursuant to section 4928.39 of the Revised Code, and the 3705
transition charges for the customer classes and rate schedules 3706
of the utility are the charges determined pursuant to section 3707
4928.40 of the Revised Code. 3708

(13) Any independent transmission plan included in the 3709
transition plan filed under section 4928.31 of the Revised Code 3710
reasonably complies with section 4928.12 of the Revised Code and 3711
any rules adopted by the commission under division (A) of 3712
section 4928.06 of the Revised Code, unless the commission, for 3713
good cause shown, authorizes the utility to defer compliance 3714
until an order is issued under division (G) of section 4928.35 3715
of the Revised Code. 3716

(14) The utility is in compliance with sections 4928.01 to 3717
4928.11 of the Revised Code and any rules or orders of the 3718
commission adopted or issued under those sections. 3719

(15) All unbundled components in the rate unbundling plan 3720
have been adjusted to reflect the elimination of the tax on 3721
gross receipts imposed by section 5727.30 of the Revised Code. 3722

In addition, a transition plan approved by the commission 3723
under section 4928.33 of the Revised Code but not containing an 3724
approved independent transmission plan shall contain the express 3725
conditions that the utility will comply with an order issued 3726
under division (G) of section 4928.35 of the Revised Code. 3727

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3728

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

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

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

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

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

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

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

(b) Is any run-of-the-river hydroelectric facility that

has an in-service date on or after January 1, 1980; 3758

(c) Is a small hydroelectric facility; 3759

(d) Is created on or after January 1, 1998, by the 3760
modification or retrofit of any facility placed in service prior 3761
to January 1, 1998; or 3762

(e) Is a mercantile customer-sited renewable energy 3763
resource, whether new or existing, that the mercantile customer 3764
commits for integration into the electric distribution utility's 3765
demand-response, energy efficiency, or peak demand reduction 3766
programs as provided under division (A) (2) (c) of section 4928.66 3767
of the Revised Code, including, but not limited to, any of the 3768
following: 3769

(i) A resource that has the effect of improving the 3770
relationship between real and reactive power; 3771

(ii) A resource that makes efficient use of waste heat or 3772
other thermal capabilities owned or controlled by a mercantile 3773
customer; 3774

(iii) Storage technology that allows a mercantile customer 3775
more flexibility to modify its demand or load and usage 3776
characteristics; 3777

(iv) Electric generation equipment owned or controlled by 3778
a mercantile customer that uses a renewable energy resource. 3779

(2) For the purpose of this section and as it considers 3780
appropriate, the public utilities commission may classify any 3781
new technology as such a qualifying renewable energy resource. 3782

(B) (1) By the end of 2026, an electric distribution 3783
utility shall have provided from qualifying renewable energy 3784
resources, including, at its discretion, qualifying renewable 3785

energy resources obtained pursuant to an electricity supply 3786
contract, a portion of the electricity supply required for its 3787
standard service offer under ~~section~~sections 4928.141 and 3788
4928.142 of the Revised Code, and an electric services company 3789
shall have provided a portion of its electricity supply for 3790
retail consumers in this state from qualifying renewable energy 3791
resources, including, at its discretion, qualifying renewable 3792
energy resources obtained pursuant to an electricity supply 3793
contract. That portion shall equal eight and one-half per cent 3794
of the total number of kilowatt hours of electricity sold by the 3795
subject utility or company to any and all retail electric 3796
consumers whose electric load centers are served by that utility 3797
and are located within the utility's certified territory or, in 3798
the case of an electric services company, are served by the 3799
company and are located within this state. However, nothing in 3800
this section precludes a utility or company from providing a 3801
greater percentage. 3802

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3803
The portion required under division (B) (1) of this section shall 3804
be generated from renewable energy resources in accordance with 3805
the following benchmarks: 3806

	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%

3807

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 3808
by the utility or company shall be met either: 3809

(a) Through facilities located in this state; or 3810

(b) With resources that can be shown to be deliverable 3811
into this state. 3812

(C) (1) The commission annually shall review an electric 3813
distribution utility's or electric services company's compliance 3814
with the most recent applicable benchmark under division (B) (2) 3815
of this section and, in the course of that review, shall 3816
identify any undercompliance or noncompliance of the utility or 3817
company that it determines is weather-related, related to 3818
equipment or resource shortages for qualifying renewable energy 3819
resources as applicable, or is otherwise outside the utility's 3820
or company's control. 3821

(2) Subject to the cost cap provisions of division (C) (3) 3822
of this section, if the commission determines, after notice and 3823
opportunity for hearing, and based upon its findings in that 3824
review regarding avoidable undercompliance or noncompliance, but 3825
subject to division (C) (4) of this section, that the utility or 3826
company has failed to comply with any such benchmark, the 3827
commission shall impose a renewable energy compliance payment on 3828
the utility or company. 3829

(a) The compliance payment pertaining to the solar energy 3830
resource benchmarks under division (B) (2) of this section shall 3831
be an amount per megawatt hour of undercompliance or 3832
noncompliance in the period under review, as follows: 3833

- (i) Three hundred dollars for 2014, 2015, and 2016; 3834
- (ii) Two hundred fifty dollars for 2017 and 2018; 3835
- (iii) Two hundred dollars for 2019. 3836

(b) The compliance payment pertaining to the renewable 3837
energy resource benchmarks under division (B) (2) of this section 3838
shall equal the number of additional renewable energy credits 3839
that the electric distribution utility or electric services 3840
company would have needed to comply with the applicable 3841

benchmark in the period under review times an amount that shall 3842
begin at forty-five dollars and shall be adjusted annually by 3843
the commission to reflect any change in the consumer price index 3844
~~as defined in section 101.27 of the Revised Code~~, but shall not 3845
be less than forty-five dollars. As used in this division, 3846
"consumer price index" means the consumer price index prepared 3847
by the United States bureau of labor statistics (U.S. city 3848
average for urban wage earners and clerical workers: all items, 3849
1982-1984=100), or, if that index is no longer published, a 3850
generally available comparable index. 3851

(c) The compliance payment shall not be passed through by 3852
the electric distribution utility or electric services company 3853
to consumers. The compliance payment shall be remitted to the 3854
commission, for deposit to the credit of the advanced energy 3855
fund created under section 4928.61 of the Revised Code. Payment 3856
of the compliance payment shall be subject to such collection 3857
and enforcement procedures as apply to the collection of a 3858
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3859
Revised Code. 3860

(3) An electric distribution utility or an electric 3861
services company need not comply with a benchmark under division 3862
(B) (2) of this section to the extent that its reasonably 3863
expected cost of that compliance exceeds its reasonably expected 3864
cost of otherwise producing or acquiring the requisite 3865
electricity by three per cent or more. The cost of compliance 3866
shall be calculated as though any exemption from taxes and 3867
assessments had not been granted under section 5727.75 of the 3868
Revised Code. 3869

(4) (a) An electric distribution utility or electric 3870
services company may request the commission to make a force 3871

majeure determination pursuant to this division regarding all or 3872
part of the utility's or company's compliance with any minimum 3873
benchmark under division (B) (2) of this section during the 3874
period of review occurring pursuant to division (C) (2) of this 3875
section. The commission may require the electric distribution 3876
utility or electric services company to make solicitations for 3877
renewable energy resource credits as part of its default service 3878
before the utility's or company's request of force majeure under 3879
this division can be made. 3880

(b) Within ninety days after the filing of a request by an 3881
electric distribution utility or electric services company under 3882
division (C) (4) (a) of this section, the commission shall 3883
determine if qualifying renewable energy resources are 3884
reasonably available in the marketplace in sufficient quantities 3885
for the utility or company to comply with the subject minimum 3886
benchmark during the review period. In making this 3887
determination, the commission shall consider whether the 3888
electric distribution utility or electric services company has 3889
made a good faith effort to acquire sufficient qualifying 3890
renewable energy or, as applicable, solar energy resources to so 3891
comply, including, but not limited to, by banking or seeking 3892
renewable energy resource credits or by seeking the resources 3893
through long-term contracts. Additionally, the commission shall 3894
consider the availability of qualifying renewable energy or 3895
solar energy resources in this state and other jurisdictions in 3896
the PJM interconnection regional transmission organization, 3897
L.L.C., or its successor and the midcontinent independent system 3898
operator or its successor. 3899

(c) If, pursuant to division (C) (4) (b) of this section, 3900
the commission determines that qualifying renewable energy or 3901
solar energy resources are not reasonably available to permit 3902

the electric distribution utility or electric services company 3903
to comply, during the period of review, with the subject minimum 3904
benchmark prescribed under division (B) (2) of this section, the 3905
commission shall modify that compliance obligation of the 3906
utility or company as it determines appropriate to accommodate 3907
the finding. Commission modification shall not automatically 3908
reduce the obligation for the electric distribution utility's or 3909
electric services company's compliance in subsequent years. If 3910
it modifies the electric distribution utility or electric 3911
services company obligation under division (C) (4) (c) of this 3912
section, the commission may require the utility or company, if 3913
sufficient renewable energy resource credits exist in the 3914
marketplace, to acquire additional renewable energy resource 3915
credits in subsequent years equivalent to the utility's or 3916
company's modified obligation under division (C) (4) (c) of this 3917
section. 3918

(5) The commission shall establish a process to provide 3919
for at least an annual review of the renewable energy resource 3920
market in this state and in the service territories of the 3921
regional transmission organizations that manage transmission 3922
systems located in this state. The commission shall use the 3923
results of this study to identify any needed changes to the 3924
amount of the renewable energy compliance payment specified 3925
under divisions (C) (2) (a) and (b) of this section. Specifically, 3926
the commission may increase the amount to ensure that payment of 3927
compliance payments is not used to achieve compliance with this 3928
section in lieu of actually acquiring or realizing energy 3929
derived from qualifying renewable energy resources. However, if 3930
the commission finds that the amount of the compliance payment 3931
should be otherwise changed, the commission shall present this 3932
finding to the general assembly for legislative enactment. 3933

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

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

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

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

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

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

Sec. 4928.645. (A) An electric distribution utility or electric services company may use, for the purpose of complying with the requirements under divisions (B) (1) and (2) of section

4928.64 of the Revised Code, renewable energy credits any time 3963
in the five calendar years following the date of their purchase 3964
or acquisition from any entity, including, but not limited to, 3965
the following: 3966

(1) A mercantile customer; 3967

(2) An owner or operator of a hydroelectric generating 3968
facility that is located at a dam on a river, or on any water 3969
discharged to a river, that is within or bordering this state or 3970
within or bordering an adjoining state, or that produces power 3971
that can be shown to be deliverable into this state; 3972

(3) A seller of compressed natural gas that has been 3973
produced from biologically derived methane gas, provided that 3974
the seller may only provide renewable energy credits for metered 3975
amounts of gas. 3976

(B) (1) The public utilities commission shall adopt rules 3977
specifying that one unit of credit shall equal one megawatt hour 3978
of electricity derived from renewable energy resources, except 3979
that, for a generating facility of seventy-five megawatts or 3980
greater that is situated within this state and has committed by 3981
December 31, 2009, to modify or retrofit its generating unit or 3982
units to enable the facility to generate principally from 3983
biomass energy by June 30, 2013, each megawatt hour of 3984
electricity generated principally from that biomass energy shall 3985
equal, in units of credit, the product obtained by multiplying 3986
the actual percentage of biomass feedstock heat input used to 3987
generate such megawatt hour by the quotient obtained by dividing 3988
the then existing unit dollar amount used to determine a 3989
renewable energy compliance payment as provided under division 3990
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3991
existing market value of one renewable energy credit, but such 3992

megawatt hour shall not equal less than one unit of credit. 3993
Renewable energy resources do not have to be converted to 3994
electricity in order to be eligible to receive renewable energy 3995
credits. The rules shall specify that, for purposes of 3996
converting the quantity of energy derived from biologically 3997
derived methane gas to an electricity equivalent, one megawatt 3998
hour equals 3,412,142 British thermal units. 3999

(2) The rules also shall provide for this state a system 4000
of registering renewable energy credits by specifying which of 4001
any generally available registries shall be used for that 4002
purpose and not by creating a registry. That selected system of 4003
registering renewable energy credits shall allow a hydroelectric 4004
generating facility to be eligible for obtaining renewable 4005
energy credits and shall allow customer-sited projects or 4006
actions the broadest opportunities to be eligible for obtaining 4007
renewable energy credits. 4008

~~(C) Beginning January 1, 2020, a qualifying solar resource 4009
as defined in section 3706.40 of the Revised Code is not 4010
eligible to obtain a renewable energy credit under this section 4011
for any megawatt hour for which the resource has been issued a 4012
solar energy credit under section 3706.45 of the Revised Code. 4013~~

~~(D) Except for compressed natural gas that has been 4014
produced from biologically derived methane gas, energy generated 4015
by using natural gas as a resource is not eligible to obtain a 4016
renewable energy credit under this section. 4017~~

Sec. 4928.73. (A) As used in this section: 4018

(1) "Mercantile customer member" means a mercantile 4019
customer connected to a mercantile customer self-power system. 4020

(2) "Mercantile customer self-power system" means one or 4021

more electric generation facilities, electric storage 4022
facilities, or both, along with any associated facilities, that 4023
meet all of the following: 4024

(a) Produce electricity primarily for the consumption of a 4025
mercantile customer member or a group of mercantile customer 4026
members; 4027

(b) Connect directly to the mercantile customer member's 4028
side of the electric meter; 4029

(c) Deliver electricity to the mercantile customer 4030
member's side of the electric meter without the use of an 4031
electric distribution utility's or electric cooperative's 4032
distribution system or transmission system; 4033

(d) Is located on either of the following: 4034

(i) A property owned or controlled by a mercantile 4035
customer member or the entity that owns or operates the 4036
mercantile customer self-power system; 4037

(ii) Land adjacent to a mercantile customer member if the 4038
facilities connect directly with the customer; 4039

(e) Is placed into service after the effective date of 4040
this section. 4041

(B) The mercantile customer self-power system may be owned 4042
or operated by a mercantile customer member, group of mercantile 4043
customer members, or an entity that is not a mercantile customer 4044
member. 4045

(C) A mercantile customer self-power system may provide 4046
electric generation service to one or more mercantile customers. 4047

(D) The public utilities commission shall adopt rules to 4048

implement this section that are applicable to electric 4049
distribution utilities. 4050

(E) Nothing in this section prohibits an electric 4051
distribution utility or an electric cooperative from charging a 4052
mercantile customer for distribution or transmission service 4053
used by a mercantile customer. 4054

Sec. 4928.83. (A) Not later than May 31, 2026, every 4055
electric distribution utility in the state shall develop and 4056
publicly share distribution system hosting capacity maps. The 4057
utility shall ensure that the maps are available on the 4058
utility's web site and shall be updated at least once per 4059
quarter. 4060

(B) The maps described in division (A) of this section 4061
shall include, at a minimum: 4062

(1) Total available distribution hosting capacity, 4063
expressed in megawatts, for new loads; 4064

(2) Separate hosting capacity availability for distributed 4065
energy resources or a separate distributed energy resource 4066
specific map; 4067

(3) Geographic locations and voltage levels of circuits 4068
and substations; 4069

(4) Total, existing, and queued loads or generation 4070
exceeding one megawatt per circuit and substation; 4071

(5) Available substation and circuit capacity expressed in 4072
megawatts. 4073

(C) The public utilities commission shall hold at least 4074
two stakeholder meetings annually to receive input on map 4075
design, data accuracy, and usability. In addition, the 4076

commission shall establish uniform reporting standards to ensure 4077
consistency across all electric distribution utilities. The 4078
commission may also require utilities to include additional data 4079
points as necessary to improve transparency and planning. 4080

(D) Each electric distribution utility shall publish 4081
annual reliability reports, including the following metrics, 4082
identified per circuit: 4083

(1) The system average interruption frequency index, 4084
representing the average number of interruptions per customer; 4085

(2) The customer average interruption duration index, 4086
representing the average interruption duration or average time 4087
to restore service per interrupted customer; 4088

(3) Customers experiencing multiple interruptions, which 4089
identifies customers experiencing at least five interruptions 4090
annually divided by the total number of customers served; 4091

(4) Customers experiencing long interruption durations, 4092
which identifies customers that experienced outages of one or 4093
more hours in duration divided by the total number of customers 4094
served; 4095

(5) Average outage frequency and duration per circuit and 4096
substation; 4097

(6) Identification of circuits and substations with 4098
persistent reliability issues; 4099

(7) Planned and completed upgrades to enhance grid 4100
reliability. 4101

(E) The commission shall review and publish a statewide 4102
reliability report annually, summarizing trends and recommending 4103
grid modernization measures. 4104

Sec. 4928.86. (A) Each entity that owns or controls 4105
transmission facilities located in this state and is not a 4106
regional transmission organization shall create a heat map that 4107
includes both of the following: 4108

(1) For major transmission lines and substations, the 4109
additional power load the lines and substations can take at the 4110
time that the map is created, accounting for all signed electric 4111
service agreements; 4112

(2) The amount of localized generation that can be hosted 4113
on each transmission line. 4114

(B) If a heat map created under this section is not 4115
critical electric infrastructure information, then the entity 4116
that created the map shall publish the map on the entity's web 4117
site. 4118

Sec. 4929.20. ~~(A)~~(A) (1) No governmental aggregator as 4119
defined in division (K) (1) of section 4929.01 of the Revised 4120
Code or no retail natural gas supplier shall provide a 4121
competitive retail natural gas service on or after thirteen 4122
months following ~~the effective date of this section~~ June 26, 4123
2001, to a consumer in this state without first being certified 4124
by the public utilities commission regarding its managerial, 4125
technical, and financial capability to provide that service and 4126
providing reasonable financial assurances sufficient to protect 4127
customers and natural gas companies from default. ~~In addition, a~~ 4128
~~retail natural gas supplier may be required to provide a~~ 4129
~~performance bond sufficient to protect customers and natural gas~~ 4130
~~companies from default.~~ Certification shall be granted pursuant 4131
to procedures and standards the commission shall prescribe in 4132
accordance with rules adopted under section 4929.10 of the 4133
Revised Code. However, certification or certification renewal 4134

shall be deemed approved thirty days after the filing of an 4135
application with the commission unless the commission suspends 4136
that approval for good cause shown. In the case of such a 4137
suspension, the commission shall act to approve or deny 4138
certification or certification renewal to the applicant not 4139
later than ninety days after the date of the suspension. 4140

(2) The commission shall establish rules to require a 4141
competitive retail natural gas supplier to maintain financial 4142
assurances sufficient to protect customers and natural gas 4143
companies from default. Such rules also shall specifically allow 4144
a natural gas company to set reasonable standards for its 4145
security and the security of its customers through financial 4146
requirements set in its tariffs. 4147

(3) As used in division (A)(2) of this section, "retail 4148
natural gas supplier" has the same meaning as in section 4929.01 4149
of the Revised Code, but excludes a broker or aggregator. 4150

(B) Capability standards adopted in rules pursuant to 4151
division (A) of this section shall be sufficient to ensure 4152
compliance with section 4929.22 of the Revised Code and with the 4153
minimum service requirements established under section 4929.23 4154
of the Revised Code. The standards shall allow flexibility for 4155
voluntary aggregation, to encourage market creativity in 4156
responding to consumer needs and demands. The rules shall 4157
include procedures for biennially renewing certification. 4158

(C) (1) The commission may suspend, rescind, or 4159
conditionally rescind the certification of any retail natural 4160
gas supplier or governmental aggregator issued under this 4161
section if the commission determines, after reasonable notice 4162
and opportunity for hearing, that the retail natural gas 4163
supplier or governmental aggregator has failed to comply with 4164

any applicable certification standards prescribed in rules 4165
adopted pursuant to this section or section 4929.22 of the 4166
Revised Code. 4167

(2) An affected natural gas company may file an 4168
application with the commission for approval of authority to 4169
recover in accordance with division (C) (2) of this section 4170
incremental costs reasonably and prudently incurred by the 4171
company in connection with the commission's continuation, 4172
suspension, rescission, or conditional rescission of a 4173
particular retail natural gas supplier's certification under 4174
division (C) (1) of this section. Upon the filing of such an 4175
application, the commission shall conduct an audit of such 4176
incremental costs as are specified in the application. Cost 4177
recovery shall be through a rider on the base rates of customers 4178
of the company for which there is a choice of supplier of 4179
commodity sales service as a result of revised schedules 4180
approved under division (C) of section 4929.29 of the Revised 4181
Code, a rule or order adopted or issued by the commission under 4182
Chapter 4905. of the Revised Code, or an exemption granted by 4183
the commission under sections 4929.04 to 4929.08 of the Revised 4184
Code. The rider shall take effect ninety days after the date of 4185
the application's filing unless the commission, based on the 4186
audit results and for good cause shown, sets the matter for 4187
hearing. After the hearing, the commission shall approve the 4188
application, and authorize such cost recovery rider effective on 4189
the date specified in the order, only for such incremental costs 4190
as the commission determines were reasonably and prudently 4191
incurred by the company in connection with the continuation, 4192
suspension, rescission, or conditional rescission of a retail 4193
natural gas supplier's certification under division (C) (1) of 4194
this section. Any proceeding under division (C) (2) of this 4195

section shall be governed by Chapter 4903. of the Revised Code. 4196

(D) No natural gas company, on and after thirteen months 4197
following ~~the effective date of this section~~ June 26, 2001, 4198
shall knowingly distribute natural gas, to a retail consumer in 4199
this state, for any governmental aggregator, as defined in 4200
division (K) (1) of section 4929.01 of the Revised Code, or 4201
retail natural gas supplier, that has not been certified by the 4202
commission pursuant to this section. 4203

(E) Notwithstanding any provision of section 121.95 of the 4204
Revised Code to the contrary, a regulatory restriction contained 4205
in a rule adopted under section 4929.20 of the Revised Code is 4206
not subject to sections 121.95 to 121.953 of the Revised Code. 4207

Sec. 4929.221. (A) If a competitive retail natural gas 4208
service supplier offers a residential customer or non-mercantile 4209
commercial customer a contract for a fixed introductory rate 4210
that converts to a variable rate upon the expiration of the 4211
fixed rate, the supplier shall send two notices to each 4212
residential customer and non-mercantile commercial customer that 4213
enters into such a contract. Each notice shall provide all of 4214
the following information to the customer: 4215

(1) The fixed rate that is expiring under the contract; 4216

(2) The expiration date of the contract's fixed rate; 4217

(3) The public utilities commission web site that, as a 4218
comparison tool, lists rates offered by competitive retail 4219
natural gas service suppliers. 4220

(B) The second notice shall include all the information 4221
required under division (A) of this section and shall also 4222
identify the initial rate to be charged upon the contract's 4223
conversion to a variable rate. 4224

(C) The notices shall be sent by standard United States mail or electronically with a customer's verifiable consent as follows: 4225
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(1) The supplier shall send the first notice not earlier than ninety days and not later than sixty days prior to the expiration of the fixed rate. 4228
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(2) The supplier shall send the second notice not earlier than forty-five days and not later than fifteen days prior to the expiration of the fixed rate. 4231
4232
4233

(D) A competitive retail natural gas service supplier shall provide an annual notice, by standard United States mail or electronically with a customer's verifiable consent, to each residential customer and non-mercantile commercial customer that has entered into a contract with the supplier that has converted to a variable rate upon the expiration of the contract's fixed introductory rate. The notice shall inform the customer that the customer is currently subject to a variable rate and that other fixed rate contracts are available. 4234
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(E) Not later than one hundred fifty days after the effective date of this section, the commission shall adopt rules in order to implement divisions (A) to (D) of this section. The rules, at a minimum, shall include the following requirements regarding the notices required under divisions (A) to (D) of this section: 4243
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(1) To use clear and unambiguous language in order to enable the customer to make an informed decision; 4249
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(2) To design the notices in a way to ensure that they cannot be confused with marketing materials. 4251
4252

(F) Notwithstanding any provision of section 121.95 of the 4253

Revised Code to the contrary, a regulatory restriction contained 4254
in a rule adopted under section 4929.221 of the Revised Code is 4255
not subject to sections 121.95 to 121.953 of the Revised Code. 4256

Sec. 4929.222. (A) As used in this section, "customer 4257
account information" means a unique natural gas company number 4258
or other customer identification number used by the company to 4259
identify a customer and the customer's account record. 4260

(B) The public utilities commission shall adopt rules to 4261
ensure that a natural gas company processes a customer's change 4262
in competitive retail natural gas supplier by using customer 4263
account information. A customer who consents to a change of 4264
supplier shall not be required to provide customer account 4265
information to the supplier if the customer provides a valid 4266
form of government-issued identification issued to the customer 4267
or a sufficient alternative form of identification that allows 4268
the supplier to establish the customer's identity accurately. 4269

(C) Notwithstanding any provision of section 121.95 of the 4270
Revised Code to the contrary, a regulatory restriction contained 4271
in a rule adopted under this section is not subject to sections 4272
121.95 to 121.953 of the Revised Code. 4273

Sec. 4933.81. As used in sections 4933.81 to 4933.90 of 4274
the Revised Code: 4275

(A) "Electric supplier" means any electric light company 4276
as defined in section 4905.03 of the Revised Code, including 4277
electric light companies organized as nonprofit corporations, 4278
but not including municipal corporations or other units of local 4279
government that provide electric service. 4280

(B) "Adequate facilities" means distribution lines or 4281
facilities having sufficient capacity to meet the maximum 4282

estimated electric service requirements of its existing 4283
customers and of any new customer occurring during the year 4284
following the commencement of permanent electric service, and to 4285
assure all such customers of reasonable continuity and quality 4286
of service. Distribution facilities and lines of an electric 4287
supplier shall be considered "adequate facilities" if such 4288
supplier offers to undertake to make its distribution facilities 4289
and lines meet such service requirements and, in the 4290
determination of the public utilities commission, can do so 4291
within a reasonable time. 4292

(C) "Distribution line" means any electric line that is 4293
being or has been used primarily to provide electric service 4294
directly to electric load centers by the owner of such line. 4295

(D) "Existing distribution line" means any distribution 4296
line of an electric supplier which was in existence on January 4297
1, 1977, or under construction on that date. 4298

(E) "Electric load center" means all the electric- 4299
consuming facilities of any type or character owned, occupied, 4300
controlled, or used by a person at a single location, which 4301
facilities have been, are, or will be connected to and served at 4302
a metered point of delivery and to which electric service has 4303
been, is, or will be rendered. 4304

(F) "Electric service" means retail electric service 4305
furnished to an electric load center for ultimate consumption, 4306
but excludes furnishing electric power or energy at wholesale 4307
for resale. In the case of a for-profit electric supplier and 4308
beginning on the starting date of competitive retail electric 4309
service as defined in section 4928.01 of the Revised Code, 4310
"electric service" also excludes a competitive retail electric 4311
service—, and, starting after the effective date of amendments 4312

to this section by H.B. 15 of the 136th General Assembly, 4313
excludes: 4314

(1) Retail electric service provided to a mercantile 4315
customer member by its own mercantile customer self-power system 4316
as those terms are defined in section 4928.73 of the Revised 4317
Code; 4318

(2) Retail electric service provided to an electric load 4319
center to the extent the center is acting as a self-generator as 4320
defined in section 4928.01 of the Revised Code. 4321

In the case of a not-for-profit electric supplier and 4322
beginning on that competitive retail electric service starting 4323
date, "electric service" also excludes any service component of 4324
competitive retail electric service that is specified in an 4325
irrevocable filing the electric supplier makes with the public 4326
utilities commission for informational purposes only to 4327
eliminate permanently its certified territory under sections 4328
4933.81 to 4933.90 of the Revised Code as to that service 4329
component and further excludes for any new electric load centers 4330
going into service after the effective date of amendments to 4331
this section by H.B. 15 of the 136th general assembly retail 4332
electric service described in divisions (F) (1) and (2) of this 4333
section. The filing shall specify the date on which such 4334
territory is so eliminated. Notwithstanding division (B) of 4335
section 4928.01 of the Revised Code, such a service component 4336
may include retail ancillary, metering, or billing and 4337
collection service irrespective of whether that service 4338
component has or has not been declared competitive under section 4339
4928.04 of the Revised Code. Upon receipt of the filing by the 4340
commission, the not-for-profit electric supplier's certified 4341
territory shall be eliminated permanently as to the service 4342

component specified in the filing as of the date specified in 4343
the filing. As used in this division, "competitive retail 4344
electric service" and "retail electric service" have the same 4345
meanings as in section 4928.01 of the Revised Code. 4346

(G) "Certified territory" means a geographical area the 4347
boundaries of which have been established pursuant to sections 4348
4933.81 to 4933.90 of the Revised Code within which an electric 4349
supplier is authorized and required to provide electric service. 4350

(H) "Other unit of local government" means any 4351
governmental unit or body that may come into existence after 4352
July 12, 1978, with powers and authority similar to those of a 4353
municipal corporation, or that is created to replace or exercise 4354
the relevant powers of any one or more municipal corporations. 4355

Sec. 4934.01. As used in this chapter: 4356

(A) "Bill credit" means the monetary value approved or 4357
revised under section 4934.08 or 4934.09 of the Revised Code by 4358
the public utilities commission for each kilowatt hour of 4359
electricity generated by a community energy facility. 4360

(B) "Certified territory," "electric distribution 4361
utility," and "energy storage" have the same meanings as in 4362
section 4928.01 of the Revised Code. 4363

(C) "Commercial or public sector rooftop" means either of 4364
the following that is located within an electric distribution 4365
utility's certified territory: 4366

(1) The roof of a building located on commercial real 4367
estate as defined in section 1311.85 of the Revised Code; 4368

(2) Any property owned by a public authority as defined in 4369
section 1311.25 of the Revised Code. 4370

- (D) "Community energy facility" means a single facility 4371
that does the following: 4372
- (1) Generates electricity by means of a solar photovoltaic 4373
device or uses as its fuel either solar, wind, biomass, landfill 4374
gas, or hydroelectric power, or uses a microturbine, natural 4375
gas-fired generator, energy storage system, or a fuel cell; 4376
- (2) Meets all of the following requirements: 4377
- (a) The facility is located in this state and is directly 4378
connected to an electric distribution utility's distribution 4379
system. 4380
- (b) The facility has at least three subscribers. 4381
- (c) The facility is located on one parcel of land and, 4382
except as provided in section 4934.011 of the Revised Code, 4383
there is no community energy facility on the same or a 4384
contiguous parcel that is developed, owned, or operated by the 4385
same entity, affiliated entity, or entity under common control. 4386
- (d) No subscriber holds more than a forty per cent 4387
proportional interest in the output of the system, which shall 4388
be measured as the sum total of all meters on the subscriber's 4389
property. 4390
- (e) Not less than sixty per cent of the facility capacity 4391
shall be subscribed by subscriptions of forty kilowatts or less 4392
based on the average annual demand for the prior twelve-month 4393
period. For purposes of this division, a multi-unit building 4394
served by a single meter shall be considered a single customer 4395
provided the average usage, based on the number of units, is 4396
forty kilowatts or less. 4397
- (f) The facility has a nameplate capacity of ten or less 4398

megawatts, or twenty or less megawatts if the facility is on a 4399
distressed site or one or more commercial or public sector 4400
rooftops, as measured at the point of interconnection. 4401

(g) The facility is not under the control of an electric 4402
distribution utility, but may be under the control of an 4403
affiliate of the utility. 4404

(3) (a) If the facility uses either an energy storage 4405
system or natural gas-fired generator, then the energy storage 4406
system or generator is not sized so as to exceed the size of any 4407
co-located facility using solar, wind, biomass, landfill gas, or 4408
hydroelectric power as its fuel. 4409

(b) If the system uses both an energy storage system and 4410
natural gas-fired generator, then the combined nameplate 4411
capacity of the storage system and generator is not sized so as 4412
to exceed the size of any co-located facility using solar, wind, 4413
biomass, landfill gas, or hydroelectric power as its fuel. 4414

(E) "Community energy organization" means a for-profit or 4415
nonprofit entity that operates one or more community energy 4416
facilities. 4417

(F) "Distressed site" means a site made up of one or more 4418
parcels of land, located within an electric distribution 4419
utility's certified territory where the majority of the acreage 4420
is at least one or more of the following: 4421

(1) A brownfield as defined in section 122.6511 of the 4422
Revised Code; 4423

(2) A parcel that is within an area where an investor may 4424
receive a new markets tax credit under section 45D of the 4425
Internal Revenue Code; 4426

<u>(3) A solid waste facility licensed by the environmental</u>	4427
<u>protection agency under section 3734.02 of the Revised Code;</u>	4428
<u>(4) A parcel of land that is described by division (b) (11)</u>	4429
<u>(B) (iii) of section 45 of the Internal Revenue Code;</u>	4430
<u>(5) Land or structure owned by a metropolitan housing</u>	4431
<u>authority, as described in section 3735.27 of the Revised Code;</u>	4432
<u>(6) Land owned by a county land reutilization corporation</u>	4433
<u>as defined in section 1724.01 of the Revised Code.</u>	4434
<u>(G) "Large industrial customer" means any manufacturer</u>	4435
<u>that uses electricity primarily in a process involving a change</u>	4436
<u>of raw or unfinished materials into another form or product, and</u>	4437
<u>that takes service from an electric distribution utility at</u>	4438
<u>primary voltage, subtransmission voltage, or transmission</u>	4439
<u>voltage.</u>	4440
<u>(H) "Net crediting" means a program offered by an electric</u>	4441
<u>distribution utility under which the electric utility does the</u>	4442
<u>following:</u>	4443
<u>(1) Issues a customer, who is a subscriber, a consolidated</u>	4444
<u>electric bill that includes on the customer's monthly bill the</u>	4445
<u>electric utility charges for electric service, the community</u>	4446
<u>energy subscription charge, and any bill credit;</u>	4447
<u>(2) Remits the customer's subscription fee to the owner or</u>	4448
<u>operator of the community energy organization to which the</u>	4449
<u>customer subscribes.</u>	4450
<u>(I) "Non-ministerial permit" means all necessary and</u>	4451
<u>discretionary governmental permits and approvals to construct a</u>	4452
<u>community energy facility notwithstanding any pending legal</u>	4453
<u>challenge to one or more permits or approvals.</u>	4454

(J) "Subscriber" means any retail electric customer who 4455
meets all of the following: 4456

(1) The customer has a single unique tax identification 4457
number; 4458

(2) The customer has an electric meter on the customer's 4459
property; 4460

(3) The customer resides within the certified territory of 4461
an electric distribution utility; 4462

(4) The customer contracts for a subscription from a 4463
community energy facility located in the same certified 4464
territory as the customer; 4465

(5) The customer is not a large industrial customer or a 4466
mercantile customer as defined in section 4928.01 of the Revised 4467
Code. 4468

(K) "Subscription" means the right to obtain from a 4469
community energy organization an allocation of bill credits for 4470
electricity generated by a community energy facility. 4471

(L) "Unsubscribed electricity" means any electricity 4472
generated by a community energy facility that is not 4473
attributable to a subscription. 4474

Sec. 4934.011. A community energy facility may be placed 4475
on the same parcel or a contiguous parcel of land as a community 4476
energy facility that is developed, owned, or operated by the 4477
same entity, affiliated entity, or entity under common control 4478
if at least one of the following is met: 4479

(A) The parcel or parcels of land are a distressed site or 4480
the facility is on one or more commercial or public sector 4481
rooftops, and the total capacity of all community energy 4482

facilities on the parcel or parcels does not exceed twenty 4483
megawatts. 4484

(B) All of the following are satisfied: 4485

(1) The community energy facility is to be located on a 4486
parcel of land, or multiple parcels of land, that were created 4487
prior to the effective date of this section. 4488

(2) The total capacity of all community energy facilities 4489
on the parcel or parcels of land does not exceed ten megawatts. 4490

(3) Each community energy facility has its own distinct 4491
point of interconnection with the serving electric distribution 4492
utility, including separate and distinct metering and the 4493
ability to be directly connected to or disconnected from the 4494
utility. 4495

(4) The generation components of each community energy 4496
facility are separate, including separate fencing, and not 4497
connected with neighboring facilities other than by the 4498
utility's distribution system. 4499

(5) Each community energy facility shares only non- 4500
operational infrastructure, including access roads, utility 4501
poles, and other features necessary to provide utility and 4502
physical access to each facility. 4503

Sec. 4934.04. The public utilities commission shall 4504
establish a community energy pilot program, as described in 4505
sections 4934.05 to 4934.14 and 4934.25 to 4934.27 of the 4506
Revised Code, consisting of one thousand five hundred megawatts 4507
to be implemented throughout this state. 4508

Sec. 4934.05. (A) The public utilities commission shall 4509
annually certify two hundred fifty megawatts of community energy 4510

facilities, based on nameplate capacity, until one thousand 4511
megawatts from such facilities are certified. 4512

(B) All megawatts certified pursuant to this section shall 4513
be allocated proportionally based on the size of each utility's 4514
retail electric sales published by the energy information 4515
administration. 4516

(C) Any uncertified megawatts for a year carry over to the 4517
subsequent year until all available megawatts are certified. 4518

(D) All megawatts certified pursuant to this section shall 4519
be certified in the order that the certification applications 4520
were received. 4521

(E) If applications for certification exceed the total 4522
capacity available for the year, then the applications shall be 4523
placed on a wait list as determined by the commission. Once 4524
certification of one thousand megawatts for community energy 4525
facilities has occurred, the wait list shall be eliminated. 4526

(F) The commission shall ensure that certification under 4527
this section is separate from a certification process required 4528
under sections 4928.64 to 4928.645 of the Revised Code, or any 4529
related rules in the Ohio Administrative Code. 4530

Sec. 4934.06. (A) The public utilities commission shall 4531
certify five hundred megawatts of community energy facilities, 4532
in addition to the megawatts certified under section 4934.05 of 4533
the Revised Code, which shall be reserved for community energy 4534
facilities constructed exclusively on distressed sites or one or 4535
more commercial or public sector rooftops. 4536

(B) The commission shall ensure that certification under 4537
this section is separate from a certification process required 4538
under sections 4928.64 to 4928.645 of the Revised Code, or any 4539

related rules in the Administrative Code. 4540

(C) After all megawatts are certified pursuant to this 4541
section, a community energy facility on a distressed site or a 4542
commercial or public sector rooftop may be certified from the 4543
megawatts allocated under section 4934.05 of the Revised Code. 4544

Sec. 4934.07. (A) An electric distribution utility with a 4545
community energy facility in its certified territory shall 4546
allocate bill credits for all electricity generated by the 4547
facility that is attributable to a subscription. 4548

(B) (1) A community energy organization may account for 4549
unsubscribed electricity on a monthly basis and accumulate bill 4550
credits for the unsubscribed electricity for a period of up to 4551
twelve months after it was generated. 4552

(2) Bill credits for unsubscribed electricity accumulated 4553
under division (B) (1) of this section shall be allocated to 4554
future subscribers at the direction of the community energy 4555
organization. 4556

(C) At least once annually, a community energy 4557
organization shall furnish to the electric distribution utility 4558
in whose certified territory the community energy facility is 4559
located an allocation for distribution of bill credits to 4560
subscribers for unsubscribed electricity. 4561

(D) A community energy organization shall forfeit, to the 4562
electric distribution utility in whose certified territory the 4563
community energy facility is located, any bill credits for 4564
unsubscribed electricity that are not allocated pursuant to 4565
division (B) of this section. 4566

Sec. 4934.071. (A) As used in this section: 4567

(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. 4568
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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: 4573
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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; 4578
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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; 4582
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(c) Any voluntary emission reduction credits obtained, or obtainable, in connection with the electric generation from a community energy facility. 4585
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(B) A regional governmental aggregator may purchase any amount of renewable attributes from a community energy facility. 4588
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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. 4590
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Sec. 4934.08. (A) As used in this section, "retail rate" means all costs of providing generation service, transmission 4595
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service, and distribution service that may be charged by an 4597
electric distribution utility. 4598

(B) A subscriber to a community energy facility shall be 4599
eligible for a bill credit from the subscriber's electric 4600
distribution utility for the proportional output of a community 4601
energy facility attributable to the subscriber. 4602

(C) The public utilities commission shall establish the 4603
bill credit for each subscriber, subject to division (D) of this 4604
section, that is equal to the utility's retail rate on a per- 4605
customer class basis, minus only the utility's base charge for 4606
distribution service approved under Chapter 4909. of the Revised 4607
Code and the utility's distribution riders or other distribution 4608
charges approved under Chapter 4928. of the Revised Code. 4609

(D) When determining the bill credit for each utility, the 4610
commission shall take into account all of the following: 4611

(1) The costs and benefits provided by community energy 4612
facilities participating in the community energy pilot program; 4613

(2) All proposed rules, fees, and charges; 4614

(3) Any other item that the commission determines is 4615
necessary. 4616

Sec. 4934.09. The public utilities commission shall 4617
approve a tariff based on the revised bill credit rate not later 4618
than twelve months after the report under section 4934.37 of the 4619
Revised Code is submitted. 4620

Sec. 4934.10. Any bill credit exceeding a subscriber's 4621
monthly bill amount shall carry forward until fully allocated to 4622
the subscriber's bill or until the termination of the 4623
subscriber's community energy organization subscription. 4624

Sec. 4934.11. No subscriber may obtain a subscription for 4625
electricity generated by a community energy facility 4626
representing more than one hundred per cent of the subscriber's 4627
average annual electricity usage. 4628

Sec. 4934.12. A subscription shall be considered one of 4629
the following: 4630

(A) A consumer transaction subject to Chapter 1345. of the 4631
Revised Code regarding the enrollment of residential subscribers 4632
to obtain an allocation of bill credits; 4633

(B) Goods subject to Chapter 1302. of the Revised Code 4634
regarding the enrollment of nonresidential subscribers to obtain 4635
an allocation of bill credits. 4636

Sec. 4934.13. An electric distribution utility shall 4637
interconnect a community energy facility that is in that 4638
utility's certified territory to its distribution system within 4639
a reasonable time after the facility is constructed and shall 4640
ensure such interconnections are made efficiently, safely, and 4641
in compliance with any applicable federal and state regulations 4642
and standards. 4643

Sec. 4934.14. An electric distribution utility shall not 4644
discriminate against community energy facilities or their 4645
subscribers, which includes adding extraordinary fees and 4646
charges not applied to similar facilities. 4647

Sec. 4934.17. (A) An electric distribution utility may 4648
establish a net crediting program under which the electric 4649
distribution utility shall enter into a net crediting agreement 4650
with a community energy organization. The terms of an agreement 4651
shall specify that authorization by or on behalf of a subscriber 4652
is required before a subscriber may be billed by the electric 4653

distribution utility under the program. An agreement also shall 4654
specify the terms for payments made by the electric distribution 4655
utility to the community energy organization, which terms may 4656
include a net crediting fee of not more than one per cent of the 4657
subscription fee to be deducted from the electric distribution 4658
utility's payment to the community energy organization. 4659

(B) Under a net crediting agreement, an electric 4660
distribution utility shall do the following: 4661

(1) Remit, through an electronic funds transfer, the cash 4662
value of the subscriber's subscription fee, less any net 4663
crediting fee, to the community energy organization not later 4664
than thirty days after the billing period; 4665

(2) Issue electric distribution utility customers who are 4666
subscribers an itemized monthly bill that includes, in addition 4667
to charges described in division (B) (4) of this section, the 4668
subscriber's bill credit for the billing period and the 4669
subscriber's subscription fee; 4670

(3) Process monthly bills for subscribers who participate 4671
in low-income customer assistance programs or budget billing 4672
programs in the same manner as bills for customers who are not 4673
participating in such programs; 4674

(4) Bill for all basic electric services, including 4675
transmission, distribution, and generation charges, consistent 4676
with this section and commission regulations. 4677

Sec. 4934.18. An electric distribution utility that enters 4678
into a net crediting agreement with a community energy 4679
organization shall prioritize payments from a customer who is a 4680
subscriber for each billing period according to this section. 4681
Past due subscriber fees owed to a community energy organization 4682

shall be paid prior to payments to the electric distribution 4683
utility for any arrearages on the customer's electric service 4684
bill. The electric distribution utility shall not apply a 4685
customer's bill credit to a customer's outstanding balance for 4686
electric service for the billing period. 4687

Sec. 4934.20. A nonresidential customer that subscribes to 4688
multiple community energy facilities may participate in the net 4689
crediting program only if each facility is included in a net 4690
crediting agreement under sections 4934.17 to 4934.23 of the 4691
Revised Code. 4692

Sec. 4934.21. The minimum service requirements established 4693
under section 4928.10 of the Revised Code apply to sections 4694
4934.17 to 4934.23 of the Revised Code. 4695

Sec. 4934.23. The public utilities commission shall adopt 4696
rules to implement net crediting programs authorized under 4697
sections 4934.17 to 4934.23 of the Revised Code. 4698

Sec. 4934.25. (A) A community energy organization that 4699
constructs a community energy facility on a distressed site that 4700
is a brownfield, as defined in section 122.6511 of the Revised 4701
Code, shall be eligible to receive a grant awarded by the 4702
department of development from the brownfield remediation 4703
program under section 122.6511 of the Revised Code for costs 4704
associated with construction and remediation. 4705

(B) The department of development shall promulgate rules 4706
for awarding grants described in this section. 4707

Sec. 4934.26. (A) The public utilities commission shall 4708
convene and facilitate an ongoing stakeholder working group to 4709
assist commission staff with effectively and efficiently 4710
promulgating rules for the community energy pilot program. 4711

- (B) The working group shall consist of the following: 4712
- (1) Electric distribution utilities; 4713
- (2) Consumer advocates; 4714
- (3) Community energy industry representatives; 4715
- (4) Other interested parties. 4716

Sec. 4934.27. Not later than six months after the 4717
effective date of this section, the public utilities commission, 4718
with assistance from the working group established by section 4719
4934.26 of the Revised Code shall promulgate rules to implement 4720
the community energy program, which shall include rules for the 4721
creation and establishment of community energy facilities, and 4722
the following: 4723

(A) The certification of community energy facilities, 4724
which shall include rules for the commission to approve or deny 4725
each facility application within ninety days, unless good cause 4726
is shown for not meeting the deadline, as determined by the 4727
commission; 4728

(B) Prohibit removing a subscriber from the subscriber's 4729
applicable customer class because of the subscriber's 4730
subscription to a community energy facility; 4731

(C) Reasonably allow for the transfer and portability of 4732
subscriptions, including allowing a subscriber to retain a 4733
subscription to a facility if the subscriber moves within the 4734
same electric distribution utility's service territory; 4735

(D) Modify existing interconnection standards, fees, and 4736
processes as needed to facilitate the efficient and cost- 4737
effective interconnection of community energy facilities that 4738
allow an electric distribution utility to recover reasonable 4739

interconnection costs for each facility; 4740

(E) Require each electric distribution utility to 4741
efficiently connect a community energy facility to its 4742
electrical distribution grid and not to discriminate against 4743
facilities or subscribers; 4744

(F) Provide for consumer protection in accordance with 4745
existing laws and regulations, including any protections against 4746
disconnection of service; 4747

(G) Establish robust consumer protections for subscribers, 4748
including at least the following: 4749

(1) A standardized customer disclosure form for 4750
residential subscribers; 4751

(2) Prohibiting upfront sign-on fees or credit checks; 4752

(3) Preventing early termination charges to any subscriber 4753
who unsubscribes. 4754

(H) Allow an electric distribution utility to recover 4755
reasonable costs associated with administering the community 4756
energy pilot program; 4757

(I) Ensure that costs associated with the community energy 4758
pilot program only be recovered from customer classes 4759
participating in the program and that no cross-subsidization of 4760
costs between customer classes occurs; 4761

(J) Ensure facilities qualifying for the community energy 4762
pilot program have a signed interconnection agreement or a 4763
system impact study, as determined by the commission, can 4764
demonstrate site control, and have received all applicable non- 4765
ministerial permits; 4766

(K) Require each community energy organization to send a 4767
notice in a standardized format containing information related 4768
to subscriber enrollment to the electric distribution utility 4769
that services the area where the organization's community energy 4770
facility is sited; 4771

(L) Not later than nine months after the effective date of 4772
this section, require each electric distribution utility to 4773
publish new tariffs or update existing tariffs to implement the 4774
community energy pilot program; 4775

(M) Require a community energy organization to be 4776
responsible for the decommissioning of a community energy 4777
facility pursuant to sections 4934.35 and 4934.36 of the Revised 4778
Code. 4779

Sec. 4934.35. (A) Not later than eighteen months after a 4780
community energy facility has ceased generating electricity, a 4781
community energy organization shall commence decommissioning of 4782
the facility. 4783

(B) The decommissioning described in division (A) of this 4784
section shall include the following, to be mutually agreed to in 4785
writing by the property owner or owners and the organization: 4786

(1) The removal, and potential reuse and recycling, of 4787
solar panels and other community energy equipment, and the 4788
remediation of the site; 4789

(2) The removal of all non-utility-owned equipment, 4790
graveled areas, and access roads; 4791

(3) The replacement of any topsoil that was removed for 4792
the construction of the facility and reseeded of the cleared 4793
area. 4794

(C) Not more than twenty per cent of the total combined mass of the community energy facility may enter a landfill. 4795
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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. 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. 4802
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(C) The board of county commissioners where the project is located shall be the obligee of the bond. 4806
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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: 4808
4809
4810
4811
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(1) The number and location of operating community energy facilities; 4813
4814

(2) The amount of nameplate capacity certified; 4815

(3) The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed; 4816
4817
4818

(4) Whether savings were achieved by the subscribers. 4819

(B) The commission shall promulgate rules to require community energy organizations and electric distribution utilities to provide the commission with a report containing the 4820
4821
4822

relevant information described in division (A) of this section. 4823

Sec. 4934.38. Notwithstanding any provision of section 4824
121.95 of the Revised Code to the contrary, a regulatory 4825
restriction contained in a rule adopted under sections 4934.23, 4826
4934.25, 4934.27, and 4934.37 of the Revised Code is not subject 4827
to sections 121.95 to 121.953 of the Revised Code. 4828

Sec. 4935.04. (A) As used in this chapter: 4829

(1) "Major utility facility" means: 4830

(a) An electric transmission line and associated 4831
facilities of a design capacity of one hundred twenty-five 4832
kilovolts or more; 4833

(b) A gas or natural gas transmission line and associated 4834
facilities designed for, or capable of, transporting gas or 4835
natural gas at pressures in excess of one hundred twenty-five 4836
pounds per square inch. 4837

"Major utility facility" does not include electric, gas, 4838
or natural gas distributing lines and gas or natural gas 4839
gathering lines and associated facilities as defined by the 4840
public utilities commission; facilities owned or operated by 4841
industrial firms, persons, or institutions that produce or 4842
transmit gas or natural gas, or electricity primarily for their 4843
own use or as a byproduct of their operations; gas or natural 4844
gas transmission lines and associated facilities over which an 4845
agency of the United States has certificate jurisdiction; 4846
facilities owned or operated by a person furnishing gas or 4847
natural gas directly to fifteen thousand or fewer customers 4848
within this state. 4849

(2) "Person" has the meaning set forth in section 4906.01 4850
of the Revised Code. 4851

(3) "Advanced transmission technologies" has the same 4852
meaning as in section 4906.01 of the Revised Code. 4853

(B) Each person owning or operating a gas or natural gas 4854
transmission line and associated facilities within this state 4855
over which an agency of the United States has certificate 4856
jurisdiction shall furnish to the commission a copy of the 4857
energy information filed by the person with that agency of the 4858
United States. 4859

(C) Each person owning or operating a major utility 4860
facility within this state, or furnishing gas, natural gas, or 4861
electricity directly to more than fifteen thousand customers 4862
within this state shall furnish a report to the commission for 4863
its review. The report shall be furnished annually, except that 4864
for a gas or natural gas company the report shall be furnished 4865
every three years. The report shall be termed the long-term 4866
forecast report and shall contain: 4867

(1) A year-by-year, ten-year forecast of annual energy 4868
demand, peak load, reserves, and a general description of the 4869
resource planning projections to meet demand; 4870

(2) A range of projected loads during the period; 4871

(3) A description of major utility facilities planned to 4872
be added or taken out of service in the next ten years, 4873
including, to the extent the information is available, 4874
prospective sites for transmission line locations; 4875

(4) For gas and natural gas, a projection of anticipated 4876
supply, supply prices, and sources of supply over the forecast 4877
period; 4878

(5) A description of proposed changes in the transmission 4879
system planned for the next five years; 4880

(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 4911
facilities applied individually, together, or in sequence. The 4912
report shall also include an advanced transmission technology 4913
congestion mitigation study to cost-effectively maximize the 4914
delivery of energy resources in the near term that: 4915

(a) Identifies locations on the entity's transmission 4916
system where congestion has occurred for a total of fifty hours 4917
per year or more during the last three years or is likely to 4918
occur during the next five years, including due to planned 4919
transmission outages or other factors; 4920

(b) Estimates the frequency of congestion at each location 4921
and the increased cost to ratepayers resulting from the 4922
substitution of higher-priced electricity; 4923

(c) Evaluates the technical feasibility and estimates the 4924
cost of installing one or more advanced transmission 4925
technologies to address each instance of grid congestion 4926
identified in division (C) (7) (a) of this section and projects 4927
the grid-enhancing technology's efficacy in reducing congestion; 4928

(d) Analyzes the cost-effectiveness of installing grid- 4929
enhancing technologies to address each instance of congestion 4930
identified in division (C) (7) (a) of this section by using the 4931
information developed in division (C) (7) (c) of this section to 4932
calculate the payback period of each installation, using a 4933
methodology developed by the commission; 4934

(e) Proposes an implementation plan, including a schedule 4935
and cost estimate, to install grid-enhancing technologies at 4936
each congestion point at which the payback period is less than 4937
or equal to a value determined by the commission, in order to 4938
maximize transmission system capacity, and explains the entity's 4939

current line rating methodology. 4940

(D) The commission shall: 4941

(1) Review and comment on the reports filed under division 4942
(C) of this section, and make the information contained in the 4943
reports readily available to the public and other interested 4944
government agencies; 4945

(2) Compile and publish each year the general locations of 4946
proposed and existing transmission line routes within its 4947
jurisdiction as identified in the reports filed under division 4948
(C) of this section, identifying the general location of such 4949
sites and routes and the approximate year when construction is 4950
expected to commence, and to make such information readily 4951
available to the public, to each newspaper of daily or weekly 4952
circulation within the area affected by the proposed site and 4953
route, and to interested federal, state, and local agencies; 4954

(3) Hold a public hearing upon the showing of good cause 4955
to the commission by an interested party. 4956

If a hearing is held, the commission shall fix a time for 4957
the hearing, which shall be not later than ninety days after the 4958
report is filed, and publish notice of the date, time of day, 4959
and location of the hearing in a newspaper of general 4960
circulation in each county in which the person furnishing the 4961
report has or intends to locate a major utility facility and 4962
will provide service during the period covered by the report. 4963
The notice shall be published not less than fifteen nor more 4964
than thirty days before the hearing and shall state the matters 4965
to be considered. 4966

(4) Require such information from persons subject to its 4967
jurisdiction as necessary to assist in the conduct of hearings 4968

and any investigation or studies it may undertake; 4969

(5) Conduct any studies or investigations that are 4970
necessary or appropriate to carry out its responsibilities under 4971
this section. 4972

(6) Review and evaluate that advanced transmission 4973
technologies were properly reported in accordance with division 4974
(C) (7) of this section and allow stakeholders to provide 4975
comments. 4976

(7) Approve advanced transmission technology congestion 4977
mitigation implementation plans, including cost recovery. 4978

(E) (1) The scope of the hearing held under division (D) (3) 4979
of this section shall be limited to issues relating to 4980
forecasting. The power siting board, the office of consumers' 4981
counsel, and all other persons having an interest in the 4982
proceedings shall be afforded the opportunity to be heard and to 4983
be represented by counsel. The commission may adjourn the 4984
hearing from time to time. 4985

(2) The hearing shall include, but not be limited to, a 4986
review of: 4987

(a) The projected loads and energy requirements for each 4988
year of the period; 4989

(b) The estimated installed capacity and supplies to meet 4990
the projected load requirements. 4991

(F) Based upon the report furnished pursuant to division 4992
(C) of this section and the hearing record, the commission, 4993
within ninety days from the close of the record in the hearing, 4994
shall determine if: 4995

(1) All information relating to current activities, 4996

facilities agreements, and published energy policies of the 4997
state has been completely and accurately represented; 4998

(2) The load requirements are based on substantially 4999
accurate historical information and adequate methodology; 5000

(3) The forecasting methods consider the relationships 5001
between price and energy consumption; 5002

(4) The report identifies and projects reductions in 5003
energy demands due to energy conservation measures in the 5004
industrial, commercial, residential, transportation, and energy 5005
production sectors in the service area; 5006

(5) Utility company forecasts of loads and resources are 5007
reasonable in relation to population growth estimates made by 5008
state and federal agencies, transportation, and economic 5009
development plans and forecasts, and make recommendations where 5010
possible for necessary and reasonable alternatives to meet 5011
forecasted electric power demand; 5012

(6) The report considers plans for expansion of the 5013
regional power grid and the planned facilities of other 5014
utilities in the state; 5015

(7) All assumptions made in the forecast are reasonable 5016
and adequately documented. 5017

(G) The commission shall adopt rules under section 111.15 5018
of the Revised Code to establish criteria for evaluating the 5019
long-term forecasts of needs for gas and electric transmission 5020
service, to conduct hearings held under this section, to 5021
establish reasonable fees to defray the direct cost of the 5022
hearings and the review process, and such other rules as are 5023
necessary and convenient to implement this section. 5024

(H) The hearing record produced under this section and the 5025
determinations of the commission shall be introduced into 5026
evidence and shall be considered in determining the basis of 5027
need for power siting board deliberations under division (A)(1) 5028
of section 4906.10 of the Revised Code. The hearing record 5029
produced under this section shall be introduced into evidence 5030
and shall be considered by the commission in its initiation of 5031
programs, examinations, and findings under section 4905.70 of 5032
the Revised Code, and shall be considered in the commission's 5033
determinations with respect to the establishment of just and 5034
reasonable rates under section 4909.15 of the Revised Code and 5035
financing utility facilities and authorizing issuance of all 5036
securities under sections 4905.40, 4905.401, 4905.41, and 5037
4905.42 of the Revised Code. The forecast findings also shall 5038
serve as the basis for all other energy planning and development 5039
activities of the state government where electric and gas data 5040
are required. 5041

(I)(1) No court other than the supreme court shall have 5042
power to review, suspend, or delay any determination made by the 5043
commission under this section, or enjoin, restrain, or interfere 5044
with the commission in the performance of official duties. A 5045
writ of mandamus shall not be issued against the commission by 5046
any court other than the supreme court. 5047

(2) A final determination made by the commission shall be 5048
reversed, vacated, or modified by the supreme court on appeal, 5049
if, upon consideration of the record, such court is of the 5050
opinion that such determination was unreasonable or unlawful. 5051

The proceeding to obtain such reversal, vacation, or 5052
modification shall be by notice of appeal, filed with the 5053
commission by any party to the proceeding before it, against the 5054

commission, setting forth the determination appealed from and 5055
errors complained of. The notice of appeal shall be served, 5056
unless waived, upon the commission by leaving a copy at the 5057
office of the chairperson of the commission at Columbus. The 5058
court may permit an interested party to intervene by cross- 5059
appeal. 5060

(3) No proceeding to reverse, vacate, or modify a 5061
determination of the commission is commenced unless the notice 5062
of appeal is filed within sixty days after the date of the 5063
determination. 5064

Sec. 5727.01. As used in this chapter: 5065

(A) "Public utility" means each person referred to as a 5066
telephone company, telegraph company, electric company, natural 5067
gas company, pipe-line company, water-works company, water 5068
transportation company, heating company, rural electric company, 5069
railroad company, combined company, or energy company. 5070

(B) "Gross receipts" means the entire receipts for 5071
business done by any person from operations as a public utility, 5072
or incidental thereto, or in connection therewith, including any 5073
receipts received under Chapter 4928. of the Revised Code. The 5074
gross receipts for business done by an incorporated company 5075
engaged in operation as a public utility includes the entire 5076
receipts for business done by such company under the exercise of 5077
its corporate powers, whether from the operation as a public 5078
utility or from any other business. 5079

(C) "Rural electric company" means any nonprofit 5080
corporation, organization, association, or cooperative engaged 5081
in the business of supplying electricity to its members or 5082
persons owning an interest therein in an area the major portion 5083

of which is rural. "Rural electric company" excludes an energy 5084
company. 5085

(D) Any person: 5086

(1) Is a telegraph company when engaged in the business of 5087
transmitting telegraphic messages to, from, through, or in this 5088
state; 5089

(2) Is a telephone company when primarily engaged in the 5090
business of providing local exchange telephone service, 5091
excluding cellular radio service, in this state; 5092

(3) Is an electric company when engaged in the business of 5093
generating, transmitting, or distributing electricity within 5094
this state for use by others, but excludes a rural electric 5095
company or an energy company; 5096

(4) Is a natural gas company when engaged in the business 5097
of supplying or distributing natural gas for lighting, power, or 5098
heating purposes to consumers within this state, excluding a 5099
person that is a governmental aggregator or retail natural gas 5100
supplier as defined in section 4929.01 of the Revised Code; 5101

(5) Is a pipe-line company when engaged in the business of 5102
transporting natural gas, oil, or coal or its derivatives 5103
through pipes or tubing, either wholly or partially within this 5104
state; 5105

(6) Is a water-works company when engaged in the business 5106
of supplying water through pipes or tubing, or in a similar 5107
manner, to consumers within this state; 5108

(7) Is a water transportation company when engaged in the 5109
transportation of passengers or property, by boat or other 5110
watercraft, over any waterway, whether natural or artificial, 5111

from one point within this state to another point within this 5112
state, or between points within this state and points without 5113
this state; 5114

(8) Is a heating company when engaged in the business of 5115
supplying water, steam, or air through pipes or tubing to 5116
consumers within this state for heating purposes; 5117

(9) Is a railroad company when engaged in the business of 5118
owning or operating a railroad either wholly or partially within 5119
this state on rights-of-way acquired and held exclusively by 5120
such company, or otherwise, and includes a passenger, street, 5121
suburban, or interurban railroad company; 5122

(10) Is an energy company when engaged in the business of 5123
generating, transmitting, storing and releasing, or distributing 5124
electricity within this state for use by others solely from an 5125
energy facility with an aggregate nameplate capacity in excess 5126
of two hundred fifty kilowatts. 5127

As used in division (D) (2) of this section, "local 5128
exchange telephone service" means making available or furnishing 5129
access and a dial tone to all persons within a local calling 5130
area for use in originating and receiving voice grade 5131
communications over a switched network operated by the provider 5132
of the service within the area and for gaining access to other 5133
telecommunication services. 5134

(E) "Taxable property" means the property required by 5135
section 5727.06 of the Revised Code to be assessed by the tax 5136
commissioner, but does not include either of the following: 5137

(1) An item of tangible personal property that for the 5138
period subsequent to the effective date of an air, water, or 5139
noise pollution control certificate and continuing so long as 5140

the certificate is in force, has been certified as part of the 5141
pollution control facility with respect to which the certificate 5142
has been issued; 5143

(2) An item of tangible personal property that during the 5144
construction of a plant or facility and until the item is first 5145
capable of operation, whether actually used in operation or not, 5146
is incorporated in or being held exclusively for incorporation 5147
in that plant or facility. 5148

Notwithstanding section 5701.03 of the Revised Code, for 5149
tax year 2006 and thereafter, "taxable property" includes 5150
patterns, jigs, dies, and drawings of an electric company or a 5151
combined company for use in the activity of an electric company. 5152

(F) "Taxing district" means a municipal corporation or 5153
township, or part thereof, in which the aggregate rate of 5154
taxation is uniform. 5155

(G) "Telecommunications service" has the same meaning as 5156
in division (AA) of section 5739.01 of the Revised Code. 5157

(H) "Interexchange telecommunications company" means a 5158
person that is engaged in the business of transmitting 5159
telephonic messages to, from, through, or in this state, but 5160
that is not a telephone company. 5161

(I) "Sale and leaseback transaction" means a transaction 5162
in which a public utility or interexchange telecommunications 5163
company sells any tangible personal property to a person other 5164
than a public utility or interexchange telecommunications 5165
company and leases that property back from the buyer. 5166

(J) "Production equipment" means all taxable steam, 5167
nuclear, hydraulic, renewable resource, clean coal technology, 5168
and other production plant equipment used to generate or store 5169

and release electricity. For tax years prior to 2001, 5170
"production equipment" includes taxable station equipment that 5171
is located at a production plant. 5172

(K) "Tax year" means the year for which property or gross 5173
receipts are subject to assessment under this chapter. This 5174
division does not limit the tax commissioner's ability to assess 5175
and value property or gross receipts outside the tax year. 5176

(L) "Combined company" means any person engaged in the 5177
activity of an electric company or rural electric company that 5178
is also engaged in the activity of a heating company or a 5179
natural gas company, or any combination thereof. 5180

(M) "Public utility property lessor" means any person, 5181
other than a public utility or an interexchange 5182
telecommunications company, that leases personal property, other 5183
than in a sale and leaseback transaction, to a public utility, 5184
other than a railroad, water transportation, telephone, or 5185
telegraph company if the property would be taxable property if 5186
owned by the public utility. A public utility property lessor is 5187
subject to this chapter only for the purposes of reporting and 5188
paying tax on taxable property it leases to a public utility 5189
other than a telephone or telegraph company. A public utility 5190
property lessor that leases property to a public utility other 5191
than a telephone or telegraph company is not a public utility, 5192
but it shall report its property and be assessed in the same 5193
manner as the utility to which it leases the property. 5194

(N) "Energy resource" means any of the following: 5195

(1) "Renewable energy resource" as defined in section 5196
4928.01 of the Revised Code; 5197

(2) "Clean coal technology" as described in division (A) 5198

(34) (c) of section 4928.01 of the Revised Code;	5199
(3) "Advanced nuclear technology" as described in division	5200
(A) (34) (d) of section 4928.01 of the Revised Code;	5201
(4) "Cogeneration technology" as described in division (A)	5202
(34) (b) of section 4928.01 of the Revised Code;	5203
<u>(5) Energy storage system.</u>	5204
(O) "Energy conversion equipment" means tangible personal	5205
property connected to a wind turbine tower, connected to and	5206
behind solar radiation collector areas and designed to convert	5207
the radiant energy of the sun into electricity or heat, or	5208
connected to any other property used to generate <u>or store and</u>	5209
<u>release</u> electricity from an energy resource, through which	5210
electricity is transferred to controls, transformers, or power	5211
electronics and to the transmission interconnection point.	5212
"Energy conversion equipment" includes, but is not limited	5213
to, inverters, batteries, switch gears, wiring, collection	5214
lines, substations, ancillary tangible personal property, or any	5215
lines and associated tangible personal property located between	5216
substations and the transmission interconnection point.	5217
(P) "Energy facility" means one or more interconnected	5218
wind turbines, solar panels, <u>energy storage systems,</u> or other	5219
tangible personal property used to generate <u>or store and release</u>	5220
electricity from an energy resource owned by the same person,	5221
including:	5222
(1) All interconnection equipment, devices, and related	5223
apparatus connected to such tangible personal property;	5224
(2) All cables, equipment, devices, and related apparatus	5225
that connect the generators to an electricity grid or to a	5226

building or facility that directly consumes the electricity 5227
produced, that facilitate the transmission of electrical energy 5228
from the generators to the grid, building, or facility, and, 5229
where applicable, that transform voltage before ultimate 5230
delivery of electricity to the grid, building, or facility. 5231

"Energy facility" includes buildings, structures, 5232
improvements, or fixtures exclusively used to house, support, or 5233
stabilize tangible personal property constituting the facility 5234
or that are otherwise necessary for the operation of that 5235
property; and so much of the land on which such tangible 5236
personal property is situated as is required for operation of 5237
the facility and is not devoted to some other use, not to 5238
exceed, in the case of wind turbines, one-half acre for each 5239
wind turbine, and regardless of whether the land is owned by the 5240
owner or lessee of the tangible personal property or by another 5241
person. 5242

(Q) "Nameplate capacity" means the original interconnected 5243
maximum rated alternating current output of a generator or other 5244
electric production equipment under specific conditions 5245
designated by the manufacturer, expressed in the number of 5246
kilowatts or megawatts. 5247

(R) "Energy storage system" means tangible personal 5248
property that permits the storage of energy for future use as 5249
electricity. 5250

Sec. 5727.111. As used in this section, "convert" means to 5251
switch fuel input from one energy source to another and 5252
"repower" means to upgrade or replace older generation 5253
components with new technology to increase efficiency and 5254
reliability. The taxable property of each public utility, except 5255
a railroad company, and of each interexchange telecommunications 5256

company shall be assessed at the following percentages of true value: 5257
5258

(A) In the case of a rural electric company, one of the following ~~fifty~~: 5259
5260

(1) Fifty per cent in the case of its taxable transmission and distribution property and its first subject to taxation in this state before tax year 2027; 5261
5262
5263

(2) Seven per cent in the case of its taxable production or energy conversion equipment, and twenty-five first subject to taxation in this state for tax year 2027 and thereafter or any other taxable production equipment that is either converted or repowered; 5264
5265
5266
5267
5268

(3) Twenty-five per cent for ~~in the case of~~ all its other taxable property. 5269
5270

(B) In the case of a telephone or telegraph company, 5271
twenty-five per cent for taxable property first subject to 5272
taxation in this state for tax year 1995 or thereafter for tax 5273
years before tax year 2007, and pursuant to division (H) of 5274
section 5711.22 of the Revised Code for tax year 2007 and 5275
thereafter, and the following for all other taxable property: 5276

(1) For tax years prior to 2005, eighty-eight per cent; 5277

(2) For tax year 2005, sixty-seven per cent; 5278

(3) For tax year 2006, forty-six per cent; 5279

(4) For tax year 2007 and thereafter, pursuant to division 5280
(H) of section 5711.22 of the Revised Code. 5281

(C) Twenty-five per cent in the case of (1) a natural gas 5282
company or (2) a water-works company for taxable property first 5283

subject to taxation in this state for tax year 2017 and 5284
thereafter; 5285

(D) Eighty-eight per cent in the case of a ~~pipe-line~~ 5286
~~company,~~ a water-works company for taxable property first 5287
subject to taxation in this state before tax year 2017, or a 5288
heating company; 5289

~~(E) (1) For tax year 2005, eighty-eight per cent in the~~ 5290
~~case of the taxable transmission and distribution property of an~~ 5291
~~electric company, and twenty-five per cent for all its other~~ 5292
~~taxable property;~~ 5293

~~(2) For tax year 2006 and each tax year thereafter, in (E)~~ 5294
In the case of an electric company, eighty-five one of the 5295
following: 5296

(1) Eighty-five per cent in the case of its taxable 5297
transmission and distribution property and energy conversion 5298
equipment and its energy conversion equipment, first subject to 5299
taxation in this state before tax year 2027; 5300

(2) Twenty-five per cent in the case of its other taxable 5301
transmission and distribution property and twenty-four; 5302

(3) Seven per cent in the case of its taxable production 5303
and energy conversion equipment first subject to taxation in 5304
this state for tax year 2027 and thereafter or any other taxable 5305
production equipment that is either converted or repowered; 5306

(4) Twenty-four per cent for in the case of all its other 5307
taxable property. 5308

(F) (1) Twenty-five per cent in the case of an 5309
interexchange telecommunications company for tax years before 5310
tax year 2007; 5311

(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 first subject to taxation in this state before tax year 2027;

(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 first subject to taxation in this state for tax year 2027 and thereafter or any other taxable production equipment that is either converted or repowered;

(4) Twenty-four per cent in the case of its other taxable production equipment;

(5) 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 first subject to taxation in this state before tax year 2027;

(2) Twenty-five per cent in the case of all its other taxable property.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project

certified by the director of development pursuant to this 5339
section. 5340

(2) "Energy project" means a project to provide electric 5341
power through the construction, installation, and use of an 5342
energy facility. 5343

(3) "Alternative energy zone" means a county declared as 5344
such by the board of county commissioners under division (E) (1) 5345
(b) or (c) of this section. 5346

(4) "Full-time equivalent employee" means the total number 5347
of employee-hours for which compensation was paid to individuals 5348
employed at a qualified energy project for services performed at 5349
the project during the calendar year divided by two thousand 5350
eighty hours. For the purpose of this calculation, "performed at 5351
the project" includes only hours worked at the qualified energy 5352
project and devoted to site preparation or protection, 5353
construction and installation, and the unloading and 5354
distribution of materials at the project site, but does not 5355
include hours worked by superintendents, owners, manufacturers' 5356
representatives, persons employed in a bona fide executive, 5357
management, supervisory, or administrative capacity, or persons 5358
whose sole employment on the project is transporting materials 5359
or persons to the project site. 5360

(5) "Solar energy project" means an energy project 5361
composed of an energy facility using solar panels to generate 5362
electricity. 5363

(6) "Internet identifier of record" has the same meaning 5364
as in section 9.312 of the Revised Code. 5365

(7) "Applicable year" means the later of the following: 5366

(a) The tax year in which the secretary of the treasury of 5367

the United States, or the secretary's delegate, determines, in 5368
accordance with section 45Y of the Internal Revenue Code, that 5369
the annual greenhouse gas emissions from the production of 5370
electricity in the United States are equal to or less than 5371
twenty-five per cent of the annual greenhouse gas emissions from 5372
the production of electricity in the United States for calendar 5373
year 2022; 5374

(b) Tax year 2029. 5375

(8) "Internal Revenue Code" means the Internal Revenue 5376
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5377

(B) (1) Tangible personal property of a qualified energy 5378
project using renewable energy resources is exempt from taxation 5379
for tax years 2011 through the applicable year if all of the 5380
following conditions are satisfied: 5381

(a) On or before the last day of the tax year preceding 5382
the applicable year, the owner or a lessee pursuant to a sale 5383
and leaseback transaction of the project submits an application 5384
to the power siting board for a certificate under section 5385
4906.20 of the Revised Code, or if that section does not apply, 5386
submits an application for any approval, consent, permit, or 5387
certificate or satisfies any condition required by a public 5388
agency or political subdivision of this state for the 5389
construction or initial operation of an energy project. 5390

(b) Construction or installation of the energy facility 5391
begins on or after January 1, 2009, and before the first day of 5392
the applicable year. For the purposes of this division, 5393
construction begins on the earlier of the date of application 5394
for a certificate or other approval or permit described in 5395
division (B) (1) (a) of this section, or the date the contract for 5396

the construction or installation of the energy facility is 5397
entered into. 5398

(c) For a qualified energy project with a nameplate 5399
capacity of twenty megawatts or greater, a board of county 5400
commissioners of a county in which property of the project is 5401
located has adopted a resolution under division (E) (1) (b) or (c) 5402
of this section to approve the application submitted under 5403
division (E) of this section to exempt the property located in 5404
that county from taxation. A board's adoption of a resolution 5405
rejecting an application or its failure to adopt a resolution 5406
approving the application does not affect the tax-exempt status 5407
of the qualified energy project's property that is located in 5408
another county. 5409

(2) If tangible personal property of a qualified energy 5410
project using renewable energy resources was exempt from 5411
taxation under this section beginning in any of tax years 2011 5412
through the applicable year, and the certification under 5413
division (E) (2) of this section has not been revoked, the 5414
tangible personal property of the qualified energy project is 5415
exempt from taxation for the tax year following the applicable 5416
year and all ensuing tax years if the property was placed into 5417
service before the first day of the tax year following the 5418
applicable year, as certified in the construction progress 5419
report required under division (F) (2) of this section. Tangible 5420
personal property that has not been placed into service before 5421
that date is taxable property subject to taxation. An energy 5422
project for which certification has been revoked is ineligible 5423
for further exemption under this section. Revocation does not 5424
affect the tax-exempt status of the project's tangible personal 5425
property for the tax year in which revocation occurs or any 5426
prior tax year. 5427

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, 2021. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E) (1) (b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E) (2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation

for any tax year for which the tangible personal property of the 5458
qualified energy project is exempted under this section. 5459

(E) (1) (a) A person may apply to the director of 5460
development for certification of an energy project as a 5461
qualified energy project on or before the following dates: 5462

(i) The last day of the tax year preceding the applicable 5463
year, for an energy project using renewable energy resources; 5464

(ii) December 31, 2017, for an energy project using clean 5465
coal technology, advanced nuclear technology, or cogeneration 5466
technology. 5467

(b) The director shall forward a copy of each application 5468
for certification of an energy project with a nameplate capacity 5469
of twenty megawatts or greater to the board of county 5470
commissioners of each county in which the project is located and 5471
to each taxing unit with territory located in each of the 5472
affected counties. Any board that receives from the director a 5473
copy of an application submitted under this division shall adopt 5474
a resolution approving or rejecting the application unless it 5475
has adopted a resolution under division (E) (1) (c) of this 5476
section. A resolution adopted under division (E) (1) (b) or (c) of 5477
this section may require an annual service payment to be made in 5478
addition to the service payment required under division (G) of 5479
this section. The sum of the service payment required in the 5480
resolution and the service payment required under division (G) 5481
of this section shall not exceed nine thousand dollars per 5482
megawatt of nameplate capacity located in the county. The 5483
resolution shall specify the time and manner in which the 5484
payments required by the resolution shall be paid to the county 5485
treasurer. The county treasurer shall deposit the payment to the 5486
credit of the county's general fund to be used for any purpose 5487

for which money credited to that fund may be used. 5488

The board shall send copies of the resolution to the owner 5489
of the facility and the director by certified mail or, if the 5490
board has record of an internet identifier of record associated 5491
with the owner or director, by ordinary mail and by that 5492
internet identifier of record. The board shall send such notice 5493
within thirty days after receipt of the application, or a longer 5494
period of time if authorized by the director. 5495

(c) A board of county commissioners may adopt a resolution 5496
declaring the county to be an alternative energy zone and 5497
declaring all applications submitted to the director of 5498
development under this division after the adoption of the 5499
resolution, and prior to its repeal, to be approved by the 5500
board. 5501

All tangible personal property and real property of an 5502
energy project with a nameplate capacity of twenty megawatts or 5503
greater is taxable if it is located in a county in which the 5504
board of county commissioners adopted a resolution rejecting the 5505
application submitted under this division or failed to adopt a 5506
resolution approving the application under division (E) (1) (b) or 5507
(c) of this section. 5508

(2) The director shall certify an energy project if all of 5509
the following circumstances exist: 5510

(a) The application was timely submitted. 5511

(b) For an energy project with a nameplate capacity of 5512
twenty megawatts or greater, a board of county commissioners of 5513
at least one county in which the project is located has adopted 5514
a resolution approving the application under division (E) (1) (b) 5515
or (c) of this section. 5516

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(d) For construction or installation of a qualified energy project described in division (B) (1) (b) of this section, that the project is subject to wage requirements described in section 45(b) (7) (A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b) (8) (A) (i) of the Internal Revenue Code, provided both of the following apply:

(i) The person applies for such certificate after ~~the effective date of this amendment~~ October 3, 2023.

(ii) A board of commissioners of at least one county in which the project is located is required to adopt a resolution approving the application under division (E) (1) (b) or (c) of this section.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

- (1) Comply with all applicable regulations; 5546
- (2) File with the director of development a certified 5547
construction progress report before the first day of March of 5548
each year during the energy facility's construction or 5549
installation indicating the percentage of the project completed, 5550
and the project's nameplate capacity, as of the preceding 5551
thirty-first day of December. Unless otherwise instructed by the 5552
director of development, the owner or lessee of an energy 5553
project shall file a report with the director on or before the 5554
first day of March each year after completion of the energy 5555
facility's construction or installation indicating the project's 5556
nameplate capacity as of the preceding thirty-first day of 5557
December. Not later than sixty days after June 17, 2010, the 5558
owner or lessee of an energy project, the construction of which 5559
was completed before June 17, 2010, shall file a certificate 5560
indicating the project's nameplate capacity. 5561
- (3) File with the director of development, in a manner 5562
prescribed by the director, a report of the total number of 5563
full-time equivalent employees, and the total number of full- 5564
time equivalent employees domiciled in Ohio, who are employed in 5565
the construction or installation of the energy facility; 5566
- (4) For energy projects with a nameplate capacity of 5567
twenty megawatts or greater, repair all roads, bridges, and 5568
culverts affected by construction as reasonably required to 5569
restore them to their preconstruction condition, as determined 5570
by the county engineer in consultation with the local 5571
jurisdiction responsible for the roads, bridges, and culverts. 5572
In the event that the county engineer deems any road, bridge, or 5573
culvert to be inadequate to support the construction or 5574
decommissioning of the energy facility, the road, bridge, or 5575

culvert shall be rebuilt or reinforced to the specifications 5576
established by the county engineer prior to the construction or 5577
decommissioning of the facility. The owner or lessee of the 5578
facility shall post a bond in an amount established by the 5579
county engineer and to be held by the board of county 5580
commissioners to ensure funding for repairs of roads, bridges, 5581
and culverts affected during the construction. The bond shall be 5582
released by the board not later than one year after the date the 5583
repairs are completed. The energy facility owner or lessee 5584
pursuant to a sale and leaseback transaction shall post a bond, 5585
as may be required by the Ohio power siting board in the 5586
certificate authorizing commencement of construction issued 5587
pursuant to section 4906.10 of the Revised Code, to ensure 5588
funding for repairs to roads, bridges, and culverts resulting 5589
from decommissioning of the facility. The energy facility owner 5590
or lessee and the county engineer may enter into an agreement 5591
regarding specific transportation plans, reinforcements, 5592
modifications, use and repair of roads, financial security to be 5593
provided, and any other relevant issue. 5594

(5) Provide or facilitate training for fire and emergency 5595
responders for response to emergency situations related to the 5596
energy project and, for energy projects with a nameplate 5597
capacity of twenty megawatts or greater, at the person's 5598
expense, equip the fire and emergency responders with proper 5599
equipment as reasonably required to enable them to respond to 5600
such emergency situations; 5601

(6) (a) Except as otherwise provided in this division, for 5602
projects for which certification as a qualified energy project 5603
was applied for, under division (E) of this section, before ~~the~~ 5604
~~effective date of this amendment~~ October 3, 2023, maintain a 5605
ratio of Ohio-domiciled full-time equivalent employees employed 5606

in the construction or installation of the energy project to 5607
total full-time equivalent employees employed in the 5608
construction or installation of the energy project of not less 5609
than eighty per cent in the case of a solar energy project, and 5610
not less than fifty per cent in the case of any other energy 5611
project. A person applying for such a qualified energy project 5612
may certify to the director of development that the project will 5613
be voluntarily subject to the wage requirements described in 5614
section 45(b) (7) (A) of the Internal Revenue Code and 5615
apprenticeship requirements described in section 45(b) (8) (A) (i) 5616
of the Internal Revenue Code as authorized in division (F) (6) (b) 5617
of this section. Upon receipt of that certification, the project 5618
shall comply with division (F) (6) (b) of this section rather than 5619
division (F) (6) (a) of this section. 5620

(b) For projects for which certification as a qualified 5621
energy project was applied for, under division (E) of this 5622
section, ~~on or after the effective date of this amendment~~ 5623
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5624
equivalent employees employed in the construction or 5625
installation of the energy project to total full-time equivalent 5626
employees employed in the construction or installation of the 5627
energy project of not less than seventy per cent in the case of 5628
a solar energy project, and not less than fifty per cent in the 5629
case of any other energy project. 5630

(c) For purposes of divisions (F) (6) (a) and (b) of this 5631
section, in the case of an energy project for which 5632
certification from the power siting board is required under 5633
section 4906.20 of the Revised Code, the number of full-time 5634
equivalent employees employed in the construction or 5635
installation of the energy project equals the number actually 5636
employed or the number projected to be employed in the 5637

certificate application, if such projection is required under 5638
regulations adopted pursuant to section 4906.03 of the Revised 5639
Code, whichever is greater. For all other energy projects, the 5640
number of full-time equivalent employees employed in the 5641
construction or installation of the energy project equals the 5642
number actually employed or the number projected to be employed 5643
by the director of development, whichever is greater. To 5644
estimate the number of employees to be employed in the 5645
construction or installation of an energy project, the director 5646
shall use a generally accepted job-estimating model in use for 5647
renewable energy projects, including but not limited to the job 5648
and economic development impact model. The director may adjust 5649
an estimate produced by a model to account for variables not 5650
accounted for by the model. 5651

(7) For energy projects with a nameplate capacity in 5652
excess of twenty megawatts, establish a relationship with any of 5653
the following to educate and train individuals for careers in 5654
the wind or solar energy industry: 5655

(a) A member of the university system of Ohio as defined 5656
in section 3345.011 of the Revised Code; 5657

(b) A person offering an apprenticeship program registered 5658
with the employment and training administration within the 5659
United States department of labor or with the apprenticeship 5660
council created by section 4139.02 of the Revised Code; 5661

(c) A career-technical center, joint vocational school 5662
district, comprehensive career-technical center, or compact 5663
career-technical center; 5664

(d) A training center operated by a labor organization, or 5665
with a training center operated by a for-profit or nonprofit 5666

organization. 5667

The relationship may include endowments, cooperative 5668
programs, internships, apprenticeships, research and development 5669
projects, and curriculum development. 5670

(8) Offer to sell power or renewable energy credits from 5671
the energy project to electric distribution utilities or 5672
electric service companies subject to renewable energy resource 5673
requirements under section 4928.64 of the Revised Code that have 5674
issued requests for proposal for such power or renewable energy 5675
credits. If no electric distribution utility or electric service 5676
company issues a request for proposal on or before December 31, 5677
2010, or accepts an offer for power or renewable energy credits 5678
within forty-five days after the offer is submitted, power or 5679
renewable energy credits from the energy project may be sold to 5680
other persons. Division (F)(8) of this section does not apply 5681
if: 5682

(a) The owner or lessee is a rural electric company or a 5683
municipal power agency as defined in section 3734.058 of the 5684
Revised Code. 5685

(b) The owner or lessee is a person that, before 5686
completion of the energy project, contracted for the sale of 5687
power or renewable energy credits with a rural electric company 5688
or a municipal power agency. 5689

(c) The owner or lessee contracts for the sale of power or 5690
renewable energy credits from the energy project before June 17, 5691
2010. 5692

(9) Make annual service payments as required by division 5693
(G) of this section and as may be required in a resolution 5694
adopted by a board of county commissioners under division (E) of 5695

this section. 5696

(G) The owner or a lessee pursuant to a sale and leaseback 5697
transaction of a qualified energy project shall make annual 5698
service payments in lieu of taxes to the county treasurer on or 5699
before the final dates for payments of taxes on public utility 5700
personal property on the real and public utility personal 5701
property tax list for each tax year for which property of the 5702
energy project is exempt from taxation under this section. The 5703
county treasurer shall allocate the payment on the basis of the 5704
project's physical location. Upon receipt of a payment, or if 5705
timely payment has not been received, the county treasurer shall 5706
certify such receipt or non-receipt to the director of 5707
development and tax commissioner in a form determined by the 5708
director and commissioner, respectively. Each payment shall be 5709
in the following amount: 5710

(1) In the case of a solar energy project, seven thousand 5711
dollars per megawatt of nameplate capacity located in the county 5712
as of the thirty-first-day of December of the preceding tax 5713
year; 5714

(2) In the case of any other energy project using 5715
renewable energy resources, the following: 5716

(a) If the project maintains during the construction or 5717
installation of the energy facility a ratio of Ohio-domiciled 5718
full-time equivalent employees to total full-time equivalent 5719
employees of not less than seventy-five per cent, six thousand 5720
dollars per megawatt of nameplate capacity located in the county 5721
as of the thirty-first day of December of the preceding tax 5722
year; 5723

(b) If the project maintains during the construction or 5724

installation of the energy facility a ratio of Ohio-domiciled 5725
full-time equivalent employees to total full-time equivalent 5726
employees of less than seventy-five per cent but not less than 5727
sixty per cent, seven thousand dollars per megawatt of nameplate 5728
capacity located in the county as of the thirty-first day of 5729
December of the preceding tax year; 5730

(c) If the project maintains during the construction or 5731
installation of the energy facility a ratio of Ohio-domiciled 5732
full-time equivalent employees to total full-time equivalent 5733
employees of less than sixty per cent but not less than fifty 5734
per cent, eight thousand dollars per megawatt of nameplate 5735
capacity located in the county as of the thirty-first day of 5736
December of the preceding tax year. 5737

(3) In the case of an energy project using clean coal 5738
technology, advanced nuclear technology, or cogeneration 5739
technology, the following: 5740

(a) If the project maintains during the construction or 5741
installation of the energy facility a ratio of Ohio-domiciled 5742
full-time equivalent employees to total full-time equivalent 5743
employees of not less than seventy-five per cent, six thousand 5744
dollars per megawatt of nameplate capacity located in the county 5745
as of the thirty-first day of December of the preceding tax 5746
year; 5747

(b) If the project maintains during the construction or 5748
installation of the energy facility a ratio of Ohio-domiciled 5749
full-time equivalent employees to total full-time equivalent 5750
employees of less than seventy-five per cent but not less than 5751
sixty per cent, seven thousand dollars per megawatt of nameplate 5752
capacity located in the county as of the thirty-first day of 5753
December of the preceding tax year; 5754

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

(I) This section and any payments in lieu of taxes made as required under this section continue to apply and be required notwithstanding the enactment of H.B. 15 of the 136th general assembly.

Sec. 5727.76. (A) As used in this section, "qualifying property" means tangible personal property that is dedicated to transporting or transmitting electricity or natural gas and that is placed into service in a priority investment area designated under section 122.161 of the Revised Code during a time when that designation is in effect.

(B) Qualifying property shall be exempt from taxation for the tax year following the year in which the property is placed into service and for the ensuing four tax years.

Section 2. That existing sections 122.6511, 4905.03, 4906.01, 4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 4906.10, 4906.201, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 4909.42, 4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.151, 4928.17, 4928.20, 4928.23,

4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5784
4929.20, 4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 of the 5785
Revised Code are hereby repealed. 5786

Section 3. That sections 3706.40, 3706.41, 3706.43, 5787
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5788
3706.551, 3706.59, 3706.63, 3706.65, 4906.105, 4928.143, 5789
4928.148, 4928.47, and 4928.642 of the Revised Code are hereby 5790
repealed. 5791

Section 4. Beginning on the effective date of this 5792
section, no electric distribution utility shall collect from its 5793
retail customers in this state any charge that was authorized 5794
under section 4928.148 of the Revised Code prior to the repeal 5795
of that section by this act for retail recovery of prudently 5796
incurred costs related to a legacy generation resource. 5797
Beginning on the effective date of this section, the electric 5798
distribution utility shall not apply for, and the public 5799
utilities commission shall not authorize, any rider or cost 5800
recovery mechanism for a legacy generation resource. 5801

The public utilities commission shall continue any 5802
investigation commenced pursuant to section 4928.148 of the 5803
Revised Code prior to the repeal of that section by this act for 5804
purposes of determining the prudence and reasonableness of the 5805
actions of electric distribution utilities with ownership 5806
interests in the legacy generation resource, including their 5807
decisions related to offering the contractual commitment into 5808
the wholesale markets, and excluding from recovery those costs 5809
that the commission determines imprudent and unreasonable. 5810

Section 5. (A) Beginning on the effective date of this 5811
section, no electric distribution utility shall collect from its 5812
retail customers in the state any charge that was authorized 5813

under section 3706.46 of the Revised Code to meet the revenue 5814
requirement for disbursements from the Solar Generation Fund to 5815
owners or operators of qualifying solar resources that was 5816
required under section 3706.55 of the Revised Code before the 5817
repeal of these sections by this act. 5818

(B) Except as provided for in division (C) of this 5819
section, beginning on the effective date of this section, the 5820
Ohio Air Quality Development Authority is prohibited from 5821
directing the Treasurer of State to remit, and the Treasurer is 5822
prohibited from remitting, any money from the Solar Generation 5823
Fund to owners or operators of qualifying solar resources, which 5824
remittance was permitted under section 3706.55 of the Revised 5825
Code prior to the repeal of that section by this act. 5826

(C) The Ohio Air Quality Development Authority shall 5827
direct the Treasurer of State to remit money from the Solar 5828
Generation Fund to owners or operators of qualifying solar 5829
resources that were operational prior to December 31, 2024, in 5830
the same manner as provided in division (A) of section 3706.55 5831
of the Revised Code, as that section existed prior to the 5832
effective date of its repeal by this act. 5833

(D) Notwithstanding section 4905.32 of the Revised Code, 5834
any amounts remaining in the Solar Generation Fund as of 5835
December 31, 2027, minus the remittances that are required to be 5836
made between that date and January 21, 2028, shall be refunded 5837
to customers in a manner that shall be determined by the 5838
authority in consultation with the public utilities commission. 5839

Section 6. Section 4909.193 as enacted by this act and the 5840
amendments to section 4909.42 of the Revised Code by this act 5841
apply to applications filed under section 4909.18 of the Revised 5842
Code on or after the effective date of this section. 5843

Section 7. (A) The Public Utilities Commission shall 5844
conduct a study to evaluate the potential use or deployment of 5845
advanced transmission technologies, as defined in section 5846
4906.01 of the Revised Code, by public utilities to enable 5847
public utilities to safely, reliably, efficiently, and cost- 5848
effectively meet electric system demand and provide safe, 5849
reliable, and affordable electric utility service to customers. 5850
In conducting the study, the Commission shall do the following: 5851

(1) Evaluate the attributes, functions, costs, and 5852
benefits of various advanced transmission technologies, 5853
including grid-enhancing technologies and advanced conductors; 5854

(2) Evaluate the potential of each of the advanced 5855
transmission technologies studied to be used or deployed by 5856
public utilities to provide safe, reliable, and affordable 5857
electric utility service to customers, considering existing and 5858
planned transmission infrastructure and projected demand growth; 5859

(3) Identify the potential reductions in project costs and 5860
project completion timelines by deploying advanced transmission 5861
technologies, as compared to traditional transmission 5862
infrastructure; 5863

(4) Evaluate potential ways to streamline the deployment 5864
of advanced transmission technologies, including streamlined 5865
processes for permitting, maintenance, and upgrades; 5866

(5) Evaluate other deregulated states' policies and laws 5867
relating to advanced transmission technologies and provide 5868
recommendations in accordance with other states' policies and 5869
laws to enable and encourage adoption of advanced transmission 5870
technologies in this state; 5871

(6) Identify processes or ways that end-use customers, 5872

such as industrial or mercantile customers, can invest and 5873
deploy advanced transmission technologies in partnership with 5874
their respective utility to allow for the more rapid deployment 5875
of such technologies; 5876

(7) Identify how the Commission can support and encourage 5877
the implementation of advanced transmission technologies in Ohio 5878
through future rule-making or other Commission activities; 5879

(8) Evaluate any other aspect of advanced transmission 5880
technologies that the Commission determines will assist 5881
policymakers, public utilities, ratepayers, and other 5882
stakeholders in understanding the potential role of advanced 5883
transmission technologies in the transmission system serving 5884
this state and the region; 5885

(9) Identify opportunities for the Federal Energy 5886
Advocate, as employed under section 4928.24 of the Revised Code, 5887
to support and advocate for the implementation of advanced 5888
transmission technologies at the regional transmission 5889
organization, Federal Energy Regulatory Commission, and other 5890
relevant agencies, commissions or regulatory bodies. 5891

(B) In conducting the study required by this section, the 5892
Commission shall consult with or invite comments from 5893
stakeholders. The Commission shall hold a minimum of two public 5894
workshops to review public comments from stakeholders. The 5895
Commission may incorporate any information or comments received 5896
in its report required in division (C) of this section. 5897

(C) Not later than March 1, 2026, the Commission shall 5898
submit a report that includes the Commission's findings with 5899
respect to the topics outlined in this section. A copy of the 5900
report shall be made available online and sent to all members of 5901

the General Assembly. 5902

Section 8. The amendment by this act of sections 5727.01 5903
and 5727.111 of the Revised Code applies to tax year 2027 and 5904
every tax year thereafter. 5905

Section 9. Section 122.6511 of the Revised Code as 5906
presented in this act takes effect on the later of July 1, 2025, 5907
or the effective date of this section. July 1, 2025, is the 5908
effective date of an earlier amendment to that section by H.B. 5909
315 of the 135th General Assembly. 5910

Section 10. The General Assembly, applying the principle 5911
stated in division (B) of section 1.52 of the Revised Code that 5912
amendments are to be harmonized if reasonably capable of 5913
simultaneous operation, finds that the following sections, 5914
presented in this act as composites of the sections as amended 5915
by the acts indicated, are the resulting versions of the 5916
sections in effect prior to the effective date of the sections 5917
as presented in this act: 5918

Section 4906.02 of the Revised Code is presented in this 5919
act as a composite of the section as amended by both H.B. 110 5920
and S.B. 52 of the 134th General Assembly. 5921

Section 4928.01 of the Revised Code is presented in this 5922
act as a composite of the section as amended by both H.B. 308 5923
and H.B. 315 of the 135th General Assembly. 5924