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**136th General Assembly**  
**Regular Session**  
**2025-2026**

**Sub. H. B. No. 15**

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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  
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4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 6  
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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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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 <del>one hundred</del> <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 572  
effects on environmental values of proposed and alternative 573  
sites, and projected needs for electric power, and such other 574  
rules as are necessary and convenient to implement this chapter, 575  
including rules governing application fees, supplemental 576  
application fees, and other reasonable fees to be paid by 577  
persons subject to the board's jurisdiction. The board shall 578  
make an annual accounting of its collection and use of these 579  
fees and shall issue an annual report of its accounting, in the 580  
form and manner prescribed by its rules, not later than the last 581  
day of June of the year following the calendar year to which the 582  
report applies. 583

(D) Approve, disapprove, or modify and approve 584  
applications for certificates; 585

(E) Notwithstanding sections 4906.06 to 4906.14 of the 586  
Revised Code, the board may adopt rules to provide for an 587  
accelerated review of an application for a construction 588  
certificate for construction of a major utility facility related 589  
to a coal research and development project as defined in section 590  
1555.01 of the Revised Code, or to a coal development project as 591  
defined in section 1551.30 of the Revised Code, submitted to the 592  
Ohio coal development office for review under division (B) (7) of 593  
section 1551.33 of the Revised Code. Applications for 594  
construction certificates for construction of major utility 595  
facilities for Ohio coal research and development shall be filed 596  
with the board on the same day as the proposed facility or 597  
project is submitted to the Ohio coal development office for 598  
review. 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- 1332  
charges calculated in a manner similar to allowance for funds- 1333  
used during construction shall accrue on that portion of the- 1334  
project in service but not reflected in rates as plant in- 1335  
service, and such accrued carrying charges shall be included in- 1336  
the valuation of the property at the conclusion of the offset- 1337  
period for purposes of division (C) (9) of section 4909.05 of the 1338  
Revised Code. 1339~~

~~From and after April 10, 1985, no allowance for- 1340  
construction work in progress as it relates to a particular- 1341  
construction project shall be reflected in rates for a period- 1342  
exceeding forty-eight consecutive months commencing on the date- 1343  
the initial rates reflecting such allowance become effective,- 1344  
except as otherwise provided in this division. 1345~~

~~The applicable maximum period in rates for an allowance- 1346  
for construction work in progress as it relates to a particular- 1347  
construction project shall be tolled if, and to the extent, a- 1348  
delay in the in-service date of the project is caused by the- 1349  
action or inaction of any federal, state, county, or municipal- 1350  
agency having jurisdiction, where such action or inaction- 1351  
relates to a change in a rule, standard, or approval of such- 1352  
agency, and where such action or inaction is not the result of- 1353  
the failure of the utility to reasonably endeavor to comply with 1354  
any rule, standard, or approval prior to such change. 1355~~

~~In the event that such period expires before the project- 1356  
goes into service, the commission shall exclude, from the date- 1357  
of expiration, the allowance for the project as construction- 1358  
work in progress from rates, except that the commission may- 1359  
extend the expiration date up to twelve months for good cause- 1360  
shown. 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)  
(b) of this section, "compliance facility" has the same meaning  
as in section 5727.391 of the Revised Code.~~ 1422  
1423  
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. If the company proposes a forecasted test period, the 1435  
company shall propose annual base rates for three consecutive 1436  
twelve-month periods in a single forecasted test period 1437  
application. 1438

During the first twelve-month period, the company shall 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 shall 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 shall be 1447  
adjusted for the return of and return on incremental rate base 1448  
additions approved by the commission in the initial application. 1449

For each twelve-month period, forecasted plant investment, 1450

forecasted revenues, and forecasted expenses versus actual 1451  
investment, actual revenues, and actual expenses shall be trued 1452  
up via a cost recovery mechanism approved by the commission. 1453

Each true-up process shall include an adjustment to actual 1454  
for the rate of return that the company is authorized to earn on 1455  
the actual investments made. The company shall provide the 1456  
commission with actual financial information during the true-up 1457  
process to ensure accuracy. As part of the true-up process, the 1458  
commission shall include only rate base components that have 1459  
been found by the commission to be used and useful in rendering 1460  
public utility service. 1461

At the end of the last test period, the company shall file 1462  
for a rate case under section 4909.18 of the Revised Code. 1463

(b) All utilities, except for electric light companies 1464  
that choose to file under division (C) (1) (a) of this section, 1465  
shall propose a test period for this determination that is any 1466  
twelve-month period beginning not more than six months prior to 1467  
the date the application is filed and ending not more than nine 1468  
months subsequent to that date. ~~The test period for determining~~ 1469  
~~revenues and expenses of the utility shall be the test period~~ 1470  
~~proposed by the utility, unless otherwise ordered by the~~ 1471  
~~commission.~~ 1472

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1473  
this section, the date certain shall be not later than the date 1474  
of filing, except that it shall be, for a natural gas, water- 1475  
works, or sewage disposal system company, not later than the end 1476  
of the test period. 1477

(D) ~~A natural gas, water-works, or sewage disposal system~~ 1478  
company Utilities filing under division (C) (1) (b) of this 1479

~~section~~ may propose adjustments to the revenues and expenses ~~to~~ 1480  
~~be determined under division (C) (1) of this section~~ for any 1481  
changes that are, during the test period or the twelve-month 1482  
period immediately following the test period, reasonably 1483  
expected to occur. The ~~natural gas, water works, or sewage~~ 1484  
~~disposal system company utility~~ shall identify and quantify, 1485  
individually, any proposed adjustments. The commission shall 1486  
incorporate the proposed adjustments into the determination if 1487  
the adjustments are just and reasonable. 1488

(E) When the commission is of the opinion, after hearing 1489  
and after making the determinations under divisions (A) and (B) 1490  
of this section, that any rate, fare, charge, toll, rental, 1491  
schedule, classification, or service, or any joint rate, fare, 1492  
charge, toll, rental, schedule, classification, or service 1493  
rendered, charged, demanded, exacted, or proposed to be 1494  
rendered, charged, demanded, or exacted, is, or will be, unjust, 1495  
unreasonable, unjustly discriminatory, unjustly preferential, or 1496  
in violation of law, that the service is, or will be, 1497  
inadequate, or that the maximum rates, charges, tolls, or 1498  
rentals chargeable by any such public utility are insufficient 1499  
to yield reasonable compensation for the service rendered, and 1500  
are unjust and unreasonable, the commission shall: 1501

(1) With due regard among other things to the value of all 1502  
property of the public utility ~~actually used and useful for the~~ 1503  
~~convenience of the public~~ as determined under division (A) (1) of 1504  
this section, excluding from such value the value of any 1505  
franchise or right to own, operate, or enjoy the same in excess 1506  
of the amount, exclusive of any tax or annual charge, actually 1507  
paid to any political subdivision of the state or county, as the 1508  
consideration for the grant of such franchise or right, and 1509  
excluding any value added to such property by reason of a 1510

monopoly or merger, with due regard in determining the dollar 1511  
annual return under division (A) (3) of this section to the 1512  
necessity of making reservation out of the income for surplus, 1513  
depreciation, and contingencies, and; 1514

(2) With due regard to all such other matters as are 1515  
proper, according to the facts in each case, 1516

(a) Including a fair and reasonable rate of return 1517  
determined by the commission with reference to a cost of debt 1518  
equal to the actual embedded cost of debt of such public 1519  
utility, 1520

(b) But not including the portion of any periodic rental 1521  
or use payments representing that cost of property that is 1522  
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1523  
and (5) of section 4909.042 of the Revised Code and divisions 1524  
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1525  
determine the just and reasonable rate, fare, charge, toll, 1526  
rental, or service to be rendered, charged, demanded, exacted, 1527  
or collected for the performance or rendition of the service 1528  
that will provide the public utility the allowable gross annual 1529  
revenues under division (B) of this section, and order such just 1530  
and reasonable rate, fare, charge, toll, rental, or service to 1531  
be substituted for the existing one. After such determination 1532  
and order no change in the rate, fare, toll, charge, rental, 1533  
schedule, classification, or service shall be made, rendered, 1534  
charged, demanded, exacted, or changed by such public utility 1535  
without the order of the commission, and any other rate, fare, 1536  
toll, charge, rental, classification, or service is prohibited. 1537

(F) Upon application of any person or any public utility, 1538  
and after notice to the parties in interest and opportunity to 1539  
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1540

4909., 4921., and 4923. of the Revised Code for other hearings, 1541  
has been given, the commission may rescind, alter, or amend an 1542  
order fixing any rate, fare, toll, charge, rental, 1543  
classification, or service, or any other order made by the 1544  
commission. Certified copies of such orders shall be served and 1545  
take effect as provided for original orders. 1546

**Sec. 4909.156.** In fixing the just, reasonable, and 1547  
compensatory rates, joint rates, tolls, classifications, 1548  
charges, or rentals to be observed and charged for service by 1549  
any public utility, the public utilities commission shall, in 1550  
action upon an application filed pursuant to section 4909.18 of 1551  
the Revised Code, require a public utility to file a report 1552  
showing the proportionate amounts of the valuation of the 1553  
property of the utility, as determined under section 4909.042 or 1554  
4909.05 of the Revised Code, and the proportionate amounts of 1555  
the revenues and expenses of the utility that are proposed to be 1556  
considered as attributable to the service area involved in the 1557  
application. 1558

"Valuation," as used in this section, may include, ~~with~~: 1559

(A) With respect to a public utility that is a natural 1560  
gas, water-works, or sewage disposal system company, projected 1561  
valuation as of the date certain, if applicable because of a 1562  
future date certain under section 4909.15 of the Revised Code; 1563

(B) With respect to an electric light company that chooses 1564  
to file a forecasted test period under section 4909.18 of the 1565  
Revised Code, the valuation and value during the forecasted test 1566  
period. 1567

**Sec. 4909.159.** An electric light company proposing a 1568  
forecasted test period under division (C) (1) (a) of section 1569

4909.15 of the Revised Code shall provide any financial 1570  
information required by that section from the company's full 1571  
books. The public utilities commission shall ensure appropriate 1572  
protections against the disclosure of the company's trade 1573  
secrets or proprietary information. 1574

**Sec. 4909.173.** (A) As used in this section and section 1575  
4909.174 of the Revised Code: 1576

(1) "Customer-owned water service line" means the water 1577  
service line connected to the water-works company's water 1578  
service line at the curb of a customer's property. 1579

(2) "Water-works company" means an entity defined under 1580  
division (G) of section 4905.03 of the Revised Code that is a 1581  
public utility under section 4905.02 of the Revised Code. 1582

(B) A water-works company may do any of the following: 1583

(1) Replace lead customer-owned water service lines 1584  
concurrently with a scheduled utility main replacement project, 1585  
an emergency replacement, or company-initiated lead water 1586  
service line replacement program; 1587

(2) Replace lead customer-owned water service lines when 1588  
mandated or ordered to replace such lines by law or a state or 1589  
federal regulatory agency; 1590

(3) Replace customer-owned water service lines of other 1591  
composition when mandated or ordered to replace such lines by 1592  
law or a state or federal regulatory agency. 1593

(C) If a water-works company replaces customer-owned water 1594  
service lines under this section, then the company shall include 1595  
the cost of the replacement of the water service lines, 1596  
including the cost of replacement of both company side and 1597

customer-owned water service lines and the cost to evaluate 1598  
customer-owned water service lines of unknown composition, in 1599  
the valuation report of the property of the company as required 1600  
under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the Revised 1601  
Code for inclusion in a rate case under this chapter. 1602

(D) The water service customer who is responsible for the 1603  
customer-owned water service line that was replaced under this 1604  
section shall hold legal title to the replaced water service 1605  
line. 1606

**Sec. 4909.174.** (A) A water-works company shall reimburse a 1607  
customer who replaces the customer's customer-owned water 1608  
service line, if both of the following occur: 1609

(1) The company confirms that the customer-owned water 1610  
service line was composed of lead or other composition that was 1611  
mandated or ordered to be replaced by law or a state or federal 1612  
regulatory agency; 1613

(2) The customer submits the reimbursement request to the 1614  
company not later than twelve months after the completion of the 1615  
water line replacement. 1616

(B) A water-works company that provides a reimbursement to 1617  
a customer under this section shall include the reimbursement 1618  
amount in the valuation report of the property of the company as 1619  
required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1620  
Revised Code for inclusion in a rate case under this chapter. 1621

**Sec. 4909.18.** Any public utility desiring to establish any 1622  
rate, joint rate, toll, classification, charge, or rental, or to 1623  
modify, amend, change, increase, or reduce any existing rate, 1624  
joint rate, toll, classification, charge, or rental, or any 1625  
regulation or practice affecting the same, shall file a written 1626



application with the public utilities commission. Except for 1627  
actions under section 4909.16 of the Revised Code, no public 1628  
utility may issue the notice of intent to file an application 1629  
pursuant to division (B) of section 4909.43 of the Revised Code 1630  
to increase any existing rate, joint rate, toll, classification, 1631  
charge, or rental, until a final order under this section has 1632  
been issued by the commission on any pending prior application 1633  
to increase the same rate, joint rate, toll, classification, 1634  
charge, or rental or until two hundred seventy-five days after 1635  
filing such application, whichever is sooner. Such application 1636  
shall be verified by the president or a vice-president and the 1637  
secretary or treasurer of the applicant. Such application shall 1638  
contain a schedule of the existing rate, joint rate, toll, 1639  
classification, charge, or rental, or regulation or practice 1640  
affecting the same, a schedule of the modification amendment, 1641  
change, increase, or reduction sought to be established, and a 1642  
statement of the facts and grounds upon which such application 1643  
is based. If such application proposes a new service or the use 1644  
of new equipment, or proposes the establishment or amendment of 1645  
a regulation, the application shall fully describe the new 1646  
service or equipment, or the regulation proposed to be 1647  
established or amended, and shall explain how the proposed 1648  
service or equipment differs from services or equipment 1649  
presently offered or in use, or how the regulation proposed to 1650  
be established or amended differs from regulations presently in 1651  
effect. The application shall provide such additional 1652  
information as the commission may require in its discretion. If 1653  
the commission determines that such application is not for an 1654  
increase in any rate, joint rate, toll, classification, charge, 1655  
or rental, the commission may permit the filing of the schedule 1656  
proposed in the application and fix the time when such schedule 1657  
shall take effect. If it appears to the commission that the 1658

proposals in the application may be unjust or unreasonable, the 1659  
commission shall set the matter for hearing and shall give 1660  
notice of such hearing by sending written notice of the date set 1661  
for the hearing to the public utility and publishing notice of 1662  
the hearing one time in a newspaper of general circulation in 1663  
each county in the service area affected by the application. At 1664  
such hearing, the burden of proof to show that the proposals in 1665  
the application are just and reasonable shall be upon the public 1666  
utility. After such hearing, the commission shall, where 1667  
practicable, issue an appropriate order within six months from 1668  
the date the application was filed. 1669

If the commission determines that said application is for 1670  
an increase in any rate, joint rate, toll, classification, 1671  
charge, or rental there shall also, unless otherwise ordered by 1672  
the commission, be filed with the application in duplicate the 1673  
following exhibits: 1674

(A) A report of its property used and useful, or, with 1675  
respect to a natural gas, water-works, or sewage disposal system 1676  
company, projected to be used and useful, as of the date 1677  
certain, or during the forecasted test period, if the 1678  
application is filed under division (C) (1) (a) of section 4909.15 1679  
of the Revised Code, in rendering the service referred to in 1680  
such application, as provided in ~~section~~ sections 4909.042 and 1681  
4909.05 of the Revised Code; 1682

(B) A complete operating statement of its last fiscal 1683  
year, showing in detail all its receipts, revenues, and incomes 1684  
from all sources, all of its operating costs and other 1685  
expenditures, and any analysis such public utility deems 1686  
applicable to the matter referred to in said application; 1687

(C) A statement of the income and expense anticipated 1688

under the application filed; 1689

(D) A statement of financial condition summarizing assets, 1690  
liabilities, and net worth; 1691

(E) Such other information as the commission may require 1692  
in its discretion. 1693

**Sec. 4909.181.** (A) As used in this section, "electric 1694  
distribution utility" has the same meaning as in section 4928.01 1695  
of the Revised Code. 1696

(B) Not later than December 31, 2029, and at least every 1697  
three years thereafter, each electric distribution utility shall 1698  
file a rate case application regarding distribution service 1699  
under section 4909.18 of the Revised Code. 1700

**Sec. 4909.19.** (A) Upon the filing of any application for 1701  
increase provided for by section 4909.18 of the Revised Code the 1702  
public utility shall forthwith publish notice of such 1703  
application, in a form approved by the public utilities 1704  
commission, once a week for two consecutive weeks in a newspaper 1705  
published and in general circulation throughout the territory in 1706  
which such public utility operates and directly affected by the 1707  
matters referred to in said application. The notice shall 1708  
include instructions for direct electronic access to the 1709  
application or other documents on file with the public utilities 1710  
commission. The first publication of the notice shall be made in 1711  
its entirety and may be made in a preprinted insert in the 1712  
newspaper. The second publication may be abbreviated if all of 1713  
the following apply: 1714

(1) The abbreviated notice is at least one-fourth of the 1715  
size of the notice in the first publication. 1716

(2) At the same time the abbreviated notice is published, 1717

the notice in the first publication is posted in its entirety on 1718  
the newspaper's web site, if the newspaper has a web site, and 1719  
the commission's web site. 1720

(3) The abbreviated notice contains a statement of the web 1721  
site posting or postings, as applicable, and instructions for 1722  
accessing the posting or postings. 1723

(B) The commission shall determine a format for the 1724  
content of all notices required under this section, and shall 1725  
consider costs and technological efficiencies in making that 1726  
determination. Defects in the publication of said notice shall 1727  
not affect the legality or sufficiency of notices published 1728  
under this section provided that the commission has 1729  
substantially complied with this section, as described in 1730  
section 4905.09 of the Revised Code. 1731

(C) The commission shall at once cause an investigation to 1732  
be made of the facts set forth in said application and the 1733  
exhibits attached thereto, and of the matters connected 1734  
therewith. Within ~~a reasonable time as determined by the~~ 1735  
~~commission~~ one hundred eighty days after the ~~filing of such~~ 1736  
application is determined to be complete, a written report shall 1737  
be made and filed with the commission, a copy of which shall be 1738  
sent by certified mail to the applicant, the mayor of any 1739  
municipal corporation affected by the application, and to such 1740  
other persons as the commission deems interested. If no 1741  
objection to such report is made by any party interested within 1742  
thirty days after such filing and the mailing of copies thereof, 1743  
the commission shall fix a date within ten days for the final 1744  
hearing upon said application, giving notice thereof to all 1745  
parties interested. At such hearing the commission shall 1746  
consider the matters set forth in said application and make such 1747

order respecting the prayer thereof as to it seems just and 1748  
reasonable. 1749

If objections are filed with the commission, the 1750  
commission shall cause a pre-hearing conference to be held 1751  
between all parties, intervenors, and the commission staff in 1752  
all cases involving more than one hundred thousand customers. 1753

If objections are filed with the commission within thirty 1754  
days after the filing of such report, the application shall be 1755  
promptly set down for hearing of testimony before the commission 1756  
or be forthwith referred to an attorney examiner designated by 1757  
the commission to take all the testimony with respect to the 1758  
application and objections which may be offered by any 1759  
interested party. The commission shall also fix the time and 1760  
place to take testimony giving ten days' written notice of such 1761  
time and place to all parties. The taking of testimony shall 1762  
commence on the date fixed in said notice and shall continue 1763  
from day to day until completed. The attorney examiner may, upon 1764  
good cause shown, grant continuances for not more than three 1765  
days, excluding Saturdays, Sundays, and holidays. The commission 1766  
may grant continuances for a longer period than three days upon 1767  
its order for good cause shown. At any hearing involving rates 1768  
or charges sought to be increased, the burden of proof to show 1769  
that the increased rates or charges are just and reasonable 1770  
shall be on the public utility. 1771

When the taking of testimony is completed, a full and 1772  
complete record of such testimony noting all objections made and 1773  
exceptions taken by any party or counsel, shall be made, signed 1774  
by the attorney examiner, and filed with the commission. Prior 1775  
to the formal consideration of the application by the commission 1776  
and the rendition of any order respecting the prayer of the 1777

application, a quorum of the commission shall consider the 1778  
recommended opinion and order of the attorney examiner, in an 1779  
open, formal, public proceeding in which an overview and 1780  
explanation is presented orally. Thereafter, the commission 1781  
shall make such order respecting the prayer of such application 1782  
as seems just and reasonable to it. 1783

In all proceedings before the commission in which the 1784  
taking of testimony is required, except when heard by the 1785  
commission, attorney examiners shall be assigned by the 1786  
commission to take such testimony and fix the time and place 1787  
therefor, and such testimony shall be taken in the manner 1788  
prescribed in this section. All testimony shall be under oath or 1789  
affirmation and taken down and transcribed by a reporter and 1790  
made a part of the record in the case. The commission may hear 1791  
the testimony or any part thereof in any case without having the 1792  
same referred to an attorney examiner and may take additional 1793  
testimony. Testimony shall be taken and a record made in 1794  
accordance with such general rules as the commission prescribes 1795  
and subject to such special instructions in any proceedings as 1796  
it, by order, directs. 1797

Sec. 4909.192. When considering an application to increase 1798  
rates under section 4909.18 of the Revised Code, the public 1799  
utilities commission may approve the following: 1800

(A) Nondiscriminatory programs available for all energy- 1801  
intensive customers to implement economic development, job 1802  
growth, job retention, or interruptible rates that enhance 1803  
distribution and transmission grid reliability and promote 1804  
economic development. 1805

(B) Nondiscriminatory programs available for all 1806  
mercantile customers, as defined in section 4928.01 of the 1807

Revised Code, that align retail rate recovery with how 1808  
transmission costs are incurred by or charged to the electric 1809  
distribution utility, as defined in section 4928.01 of the 1810  
Revised Code, or programs that allow customers to be billed 1811  
directly for transmission service by a competitive retail 1812  
electric service provider so long as such programs do not shift 1813  
direct or indirect costs to other utility customers. 1814

**Sec. 4909.193.** The public utilities commission shall 1815  
determine whether an application filed under section 4909.18 of 1816  
the Revised Code is complete not more than forty-five days after 1817  
the application is filed. If the commission does not issue a 1818  
determination within the time period required by this section, 1819  
the application shall be deemed complete by operation of law. 1820

**Sec. 4909.42.** If the proceeding on an application filed 1821  
with the public utilities commission under section 4909.18 of 1822  
the Revised Code by any public utility requesting an increase on 1823  
any rate, rate mechanism, joint rate, toll, classification, 1824  
charge, or rental or requesting a change in a regulation or 1825  
practice affecting the same has not been concluded and an 1826  
opinion and an order entered pursuant to section 4909.19 of the 1827  
Revised Code at the expiration of two hundred seventy-five days 1828  
from the date ~~of filing~~ the application is deemed complete, ~~an~~ 1829  
the public utility may request a temporary increase ~~not to~~ 1830  
~~exceed the proposed increase~~, and any party to the proceeding 1831  
may request a temporary decrease, which shall go into effect 1832  
upon the filing of a bond or a letter of credit by the public 1833  
utility and remain in effect until modified in accordance with 1834  
the commission's order based upon the merits of the application. 1835  
~~The bond or letter of credit shall be filed with the commission~~ 1836  
~~and shall be payable to the state for the use and benefit of the~~ 1837  
~~customers affected by the proposed increase or change~~ 1838

Not later than three hundred sixty days from the date an 1839  
application is determined complete, the commission shall issue 1840  
an order to approve, deny, or modify an application filed under 1841  
section 4909.18 of the Revised Code. If the commission does not 1842  
issue an order within three hundred sixty days after the 1843  
application is determined complete, the application shall be 1844  
deemed approved by operation of law. A temporary increase or 1845  
decrease under this section shall not exceed the midpoint of the 1846  
rates recommended in the staff report filed pursuant to section 1847  
4909.19 of the Revised Code and shall be subject to 1848  
reconciliation and refund. 1849

~~An affidavit attached to the bond or letter of credit must~~ 1850  
~~be signed by two of the officers of the utility, under oath, and~~ 1851  
~~must contain a promise on behalf of the utility to refund any~~ 1852  
~~amounts collected by the utility over the rate, joint rate,~~ 1853  
~~toll, classification, charge, or rental, as determined in the~~ 1854  
~~final order of the commission. All refunds shall include~~ 1855  
~~interest at the rate stated in section 1343.03 of the Revised~~ 1856  
~~Code. The refund shall be in the form of a temporary reduction~~ 1857  
~~in rates following the final order of the commission, and shall~~ 1858  
~~be accomplished in such manner as shall be prescribed by the~~ 1859  
~~commission in its final order. The commission shall exercise~~ 1860  
~~continuing and exclusive jurisdiction over such refunds.~~ 1861

~~If the public utilities commission has not entered a final~~ 1862  
~~order within five hundred forty-five days from the date of the~~ 1863  
~~filing of an application for an increase in rates under section~~ 1864  
~~4909.18 of the Revised Code, a public utility shall have no~~ 1865  
~~obligation to make a refund of amounts collected after the five~~ 1866  
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1867  
~~the commission's final order.~~ 1868



Nothing in this section shall be construed to mitigate any 1869  
duty of the commission to issue a final order under section 1870  
4909.19 of the Revised Code. 1871

**Sec. 4928.01.** (A) As used in this chapter: 1872

(1) "Ancillary service" means any function necessary to 1873  
the provision of electric transmission or distribution service 1874  
to a retail customer and includes, but is not limited to, 1875  
scheduling, system control, and dispatch services; reactive 1876  
supply from generation resources and voltage control service; 1877  
reactive supply from transmission resources service; regulation 1878  
service; frequency response service; energy imbalance service; 1879  
operating reserve-spinning reserve service; operating reserve- 1880  
supplemental reserve service; load following; back-up supply 1881  
service; real-power loss replacement service; dynamic 1882  
scheduling; system black start capability; and network stability 1883  
service. 1884

(2) "Billing and collection agent" means a fully 1885  
independent agent, not affiliated with or otherwise controlled 1886  
by an electric utility, electric services company, electric 1887  
cooperative, or governmental aggregator subject to certification 1888  
under section 4928.08 of the Revised Code, to the extent that 1889  
the agent is under contract with such utility, company, 1890  
cooperative, or aggregator solely to provide billing and 1891  
collection for retail electric service on behalf of the utility 1892  
company, cooperative, or aggregator. 1893

(3) "Certified territory" means the certified territory 1894  
established for an electric supplier under sections 4933.81 to 1895  
4933.90 of the Revised Code. 1896

(4) "Competitive retail electric service" means a 1897

component of retail electric service that is competitive as 1898  
provided under division (B) of this section. 1899

(5) "Electric cooperative" means a not-for-profit electric 1900  
light company that both is or has been financed in whole or in 1901  
part under the "Rural Electrification Act of 1936," 49 Stat. 1902  
1363, 7 U.S.C. 901, and owns or operates facilities in this 1903  
state to generate, transmit, or distribute electricity, or a 1904  
not-for-profit successor of such company. 1905

(6) "Electric distribution utility" means an electric 1906  
utility that supplies at least retail electric distribution 1907  
service and does not own or operate an electric generating 1908  
facility. 1909

(7) "Electric light company" has the same meaning as in 1910  
section 4905.03 of the Revised Code and includes an electric 1911  
services company, but excludes any self-generator to the extent 1912  
that it consumes electricity it so produces, sells that 1913  
electricity for resale, or obtains electricity from a generating 1914  
facility it hosts on its premises. 1915

(8) "Electric load center" has the same meaning as in 1916  
section 4933.81 of the Revised Code. 1917

(9) "Electric services company" means an electric light 1918  
company that is engaged on a for-profit or not-for-profit basis 1919  
in the business of supplying or arranging for the supply of only 1920  
a competitive retail electric service in this state. "Electric 1921  
services company" includes a power marketer, power broker, 1922  
aggregator, or independent power producer but excludes an 1923  
electric cooperative, municipal electric utility, governmental 1924  
aggregator, or billing and collection agent. 1925

(10) "Electric supplier" has the same meaning as in 1926

section 4933.81 of the Revised Code. 1927

(11) "Electric utility" means an electric light company 1928  
that has a certified territory and is engaged on a for-profit 1929  
basis ~~either~~ in the business of supplying at least a 1930  
noncompetitive retail electric service in this state ~~or in the~~ 1931  
~~businesses of supplying both a noncompetitive and a competitive~~ 1932  
~~retail electric service in this state.~~ "Electric utility" 1933  
excludes a municipal electric utility or a billing and 1934  
collection agent. 1935

(12) "Firm electric service" means electric service other 1936  
than nonfirm electric service. 1937

(13) "Governmental aggregator" means a legislative 1938  
authority of a municipal corporation, a board of township 1939  
trustees, or a board of county commissioners acting as an 1940  
aggregator for the provision of a competitive retail electric 1941  
service under authority conferred under section 4928.20 of the 1942  
Revised Code. 1943

(14) A person acts "knowingly," regardless of the person's 1944  
purpose, when the person is aware that the person's conduct will 1945  
probably cause a certain result or will probably be of a certain 1946  
nature. A person has knowledge of circumstances when the person 1947  
is aware that such circumstances probably exist. 1948

(15) "Level of funding for low-income customer energy 1949  
efficiency programs provided through electric utility rates" 1950  
means the level of funds specifically included in an electric 1951  
utility's rates on October 5, 1999, pursuant to an order of the 1952  
public utilities commission issued under Chapter 4905. or 4909. 1953  
of the Revised Code and in effect on October 4, 1999, for the 1954  
purpose of improving the energy efficiency of housing for the 1955

utility's low-income customers. The term excludes the level of 1956  
any such funds committed to a specific nonprofit organization or 1957  
organizations pursuant to a stipulation or contract. 1958

(16) "Low-income customer assistance programs" means the 1959  
percentage of income payment plan program, the home energy 1960  
assistance program, the home weatherization assistance program, 1961  
and the targeted energy efficiency and weatherization program. 1962

(17) "Market development period" for an electric utility 1963  
means the period of time beginning on the starting date of 1964  
competitive retail electric service and ending on the applicable 1965  
date for that utility as specified in section 4928.40 of the 1966  
Revised Code, irrespective of whether the utility applies to 1967  
receive transition revenues under this chapter. 1968

(18) "Market power" means the ability to impose on 1969  
customers a sustained price for a product or service above the 1970  
price that would prevail in a competitive market. 1971

(19) "Mercantile customer" means a commercial or 1972  
industrial customer if the electricity consumed is for 1973  
nonresidential use and the customer consumes more than seven 1974  
hundred thousand kilowatt hours per year or is part of a 1975  
national account involving multiple facilities in one or more 1976  
states. 1977

(20) "Municipal electric utility" means a municipal 1978  
corporation that owns or operates facilities to generate, 1979  
transmit, or distribute electricity. 1980

(21) "Noncompetitive retail electric service" means a 1981  
component of retail electric service that is noncompetitive as 1982  
provided under division (B) of this section. 1983

(22) "Nonfirm electric service" means electric service 1984

provided pursuant to a schedule filed under section 4905.30 of 1985  
the Revised Code or pursuant to an arrangement under section 1986  
4905.31 of the Revised Code, which schedule or arrangement 1987  
includes conditions that may require the customer to curtail or 1988  
interrupt electric usage during nonemergency circumstances upon 1989  
notification by an electric utility. 1990

(23) "Percentage of income payment plan arrears" means 1991  
funds eligible for collection through the percentage of income 1992  
payment plan rider, but uncollected as of July 1, 2000. 1993

(24) "Person" has the same meaning as in section 1.59 of 1994  
the Revised Code. 1995

(25) "Advanced energy project" means any technologies, 1996  
products, activities, or management practices or strategies that 1997  
facilitate the generation or use of electricity or energy and 1998  
that reduce or support the reduction of energy consumption or 1999  
support the production of clean, renewable energy for 2000  
industrial, distribution, commercial, institutional, 2001  
governmental, research, not-for-profit, or residential energy 2002  
users, including, but not limited to, advanced energy resources 2003  
and renewable energy resources. "Advanced energy project" also 2004  
includes any project described in division (A), (B), or (C) of 2005  
section 4928.621 of the Revised Code. 2006

(26) "Regulatory assets" means the unamortized net 2007  
regulatory assets that are capitalized or deferred on the 2008  
regulatory books of the electric utility, pursuant to an order 2009  
or practice of the public utilities commission or pursuant to 2010  
generally accepted accounting principles as a result of a prior 2011  
commission rate-making decision, and that would otherwise have 2012  
been charged to expense as incurred or would not have been 2013  
capitalized or otherwise deferred for future regulatory 2014

consideration absent commission action. "Regulatory assets" 2015  
includes, but is not limited to, all deferred demand-side 2016  
management costs; all deferred percentage of income payment plan 2017  
arrears; post-in-service capitalized charges and assets 2018  
recognized in connection with statement of financial accounting 2019  
standards no. 109 (receivables from customers for income taxes); 2020  
future nuclear decommissioning costs and fuel disposal costs as 2021  
those costs have been determined by the commission in the 2022  
electric utility's most recent rate or accounting application 2023  
proceeding addressing such costs; the undepreciated costs of 2024  
safety and radiation control equipment on nuclear generating 2025  
plants owned or leased by an electric utility; and fuel costs 2026  
currently deferred pursuant to the terms of one or more 2027  
settlement agreements approved by the commission. 2028

(27) "Retail electric service" means any service involved 2029  
in supplying or arranging for the supply of electricity to 2030  
ultimate consumers in this state, from the point of generation 2031  
to the point of consumption. For the purposes of this chapter, 2032  
retail electric service includes one or more of the following 2033  
"service components": generation service, aggregation service, 2034  
power marketing service, power brokerage service, transmission 2035  
service, distribution service, ancillary service, metering 2036  
service, and billing and collection service. 2037

(28) "Starting date of competitive retail electric 2038  
service" means January 1, 2001. 2039

(29) "Customer-generator" means a user of a net metering 2040  
system. 2041

(30) "Net metering" means measuring the difference in an 2042  
applicable billing period between the electricity supplied by an 2043  
electric service provider and the electricity generated by a 2044

customer-generator that is fed back to the electric service provider. 2045  
2046

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following: 2047  
2048

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell; 2049  
2050

(b) Is located on a customer-generator's premises; 2051

(c) Operates in parallel with the electric utility's transmission and distribution facilities; 2052  
2053

(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. 2054  
2055  
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(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: 2062  
2063  
2064  
2065  
2066  
2067

(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; 2068  
2069  
2070

(b) The facility connects directly to the owner's side of the electric meter; 2071  
2072

(c) The facility delivers electricity to the owner's side 2073  
of the electric meter without the use of an electric 2074  
distribution utility's or electric cooperative's distribution 2075  
system or transmission system; 2076

(d) The facility is placed into service after the 2077  
effective date of amendments to this section by H.B. 15 of the 2078  
136th General Assembly. 2079

(33) "Rate plan" means the standard service offer in 2080  
effect on the effective date of the amendment of this section by 2081  
S.B. 221 of the 127th general assembly, July 31, 2008. 2082

(34) "Advanced energy resource" means any of the 2083  
following: 2084

(a) Any method or any modification or replacement of any 2085  
property, process, device, structure, or equipment that 2086  
increases the generation output of an electric generating 2087  
facility to the extent such efficiency is achieved without 2088  
additional carbon dioxide emissions by that facility; 2089

(b) Any distributed generation system consisting of 2090  
customer cogeneration technology; 2091

(c) Clean coal technology that includes a carbon-based 2092  
product that is chemically altered before combustion to 2093  
demonstrate a reduction, as expressed as ash, in emissions of 2094  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2095  
sulfur trioxide in accordance with the American society of 2096  
testing and materials standard D1757A or a reduction of metal 2097  
oxide emissions in accordance with standard D5142 of that 2098  
society, or clean coal technology that includes the design 2099  
capability to control or prevent the emission of carbon dioxide, 2100  
which design capability the commission shall adopt by rule and 2101



shall be based on economically feasible best available 2102  
technology or, in the absence of a determined best available 2103  
technology, shall be of the highest level of economically 2104  
feasible design capability for which there exists generally 2105  
accepted scientific opinion; 2106

(d) Advanced nuclear energy technology consisting of 2107  
generation III technology as defined by the nuclear regulatory 2108  
commission; other, later technology; or significant improvements 2109  
to existing facilities; 2110

(e) Any fuel cell used in the generation of electricity, 2111  
including, but not limited to, a proton exchange membrane fuel 2112  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2113  
solid oxide fuel cell; 2114

(f) Advanced solid waste or construction and demolition 2115  
debris conversion technology, including, but not limited to, 2116  
advanced stoker technology, and advanced fluidized bed 2117  
gasification technology, that results in measurable greenhouse 2118  
gas emissions reductions as calculated pursuant to the United 2119  
States environmental protection agency's waste reduction model 2120  
(WARM); 2121

(g) Demand-side management and any energy efficiency 2122  
improvement; 2123

(h) Any new, retrofitted, refueled, or repowered 2124  
generating facility located in Ohio, including a simple or 2125  
combined-cycle natural gas generating facility or a generating 2126  
facility that uses biomass, coal, modular nuclear, or any other 2127  
fuel as its input; 2128

(i) Any uprated capacity of an existing electric 2129  
generating facility if the uprated capacity results from the 2130

deployment of advanced technology. 2131

"Advanced energy resource" does not include a waste energy 2132  
recovery system that is, or has been, included in an energy 2133  
efficiency program of an electric distribution utility pursuant 2134  
to requirements under section 4928.66 of the Revised Code. 2135

(35) "Air contaminant source" has the same meaning as in 2136  
section 3704.01 of the Revised Code. 2137

(36) "Cogeneration technology" means technology that 2138  
produces electricity and useful thermal output simultaneously. 2139

(37) (a) "Renewable energy resource" means any of the 2140  
following: 2141

(i) Solar photovoltaic or solar thermal energy; 2142

(ii) Wind energy; 2143

(iii) Power produced by a hydroelectric facility; 2144

(iv) Power produced by a small hydroelectric facility, 2145  
which is a facility that operates, or is rated to operate, at an 2146  
aggregate capacity of less than six megawatts; 2147

(v) Power produced by a run-of-the-river hydroelectric 2148  
facility placed in service on or after January 1, 1980, that is 2149  
located within this state, relies upon the Ohio river, and 2150  
operates, or is rated to operate, at an aggregate capacity of 2151  
forty or more megawatts; 2152

(vi) Geothermal energy; 2153

(vii) Fuel derived from solid wastes, as defined in 2154  
section 3734.01 of the Revised Code, through fractionation, 2155  
biological decomposition, or other process that does not 2156  
principally involve combustion; 2157

(viii) Biomass energy;	2158
(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;	2159 2160 2161 2162 2163 2164 2165 2166 2167 2168
(x) Biologically derived methane gas;	2169
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	2170 2171 2172
(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.	2173 2174 2175
"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	2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186

this section may be included only if it was placed into service 2187  
between January 1, 2002, and December 31, 2004; storage facility 2188  
that will promote the better utilization of a renewable energy 2189  
resource; or distributed generation system used by a customer to 2190  
generate electricity from any such energy. 2191

"Renewable energy resource" does not include a waste 2192  
energy recovery system that is, or was, on or after January 1, 2193  
2012, included in an energy efficiency program of an electric 2194  
distribution utility pursuant to requirements under section 2195  
4928.66 of the Revised Code. 2196

(b) As used in division (A) (37) of this section, 2197  
"hydroelectric facility" means a hydroelectric generating 2198  
facility that is located at a dam on a river, or on any water 2199  
discharged to a river, that is within or bordering this state or 2200  
within or bordering an adjoining state and meets all of the 2201  
following standards: 2202

(i) The facility provides for river flows that are not 2203  
detrimental for fish, wildlife, and water quality, including 2204  
seasonal flow fluctuations as defined by the applicable 2205  
licensing agency for the facility. 2206

(ii) The facility demonstrates that it complies with the 2207  
water quality standards of this state, which compliance may 2208  
consist of certification under Section 401 of the "Clean Water 2209  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2210  
demonstrates that it has not contributed to a finding by this 2211  
state that the river has impaired water quality under Section 2212  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2213  
U.S.C. 1313. 2214

(iii) The facility complies with mandatory prescriptions 2215

regarding fish passage as required by the federal energy 2216  
regulatory commission license issued for the project, regarding 2217  
fish protection for riverine, anadromous, and catadromous fish. 2218

(iv) The facility complies with the recommendations of the 2219  
Ohio environmental protection agency and with the terms of its 2220  
federal energy regulatory commission license regarding watershed 2221  
protection, mitigation, or enhancement, to the extent of each 2222  
agency's respective jurisdiction over the facility. 2223

(v) The facility complies with provisions of the 2224  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2225  
to 1544, as amended. 2226

(vi) The facility does not harm cultural resources of the 2227  
area. This can be shown through compliance with the terms of its 2228  
federal energy regulatory commission license or, if the facility 2229  
is not regulated by that commission, through development of a 2230  
plan approved by the Ohio historic preservation office, to the 2231  
extent it has jurisdiction over the facility. 2232

(vii) The facility complies with the terms of its federal 2233  
energy regulatory commission license or exemption that are 2234  
related to recreational access, accommodation, and facilities 2235  
or, if the facility is not regulated by that commission, the 2236  
facility complies with similar requirements as are recommended 2237  
by resource agencies, to the extent they have jurisdiction over 2238  
the facility; and the facility provides access to water to the 2239  
public without fee or charge. 2240

(viii) The facility is not recommended for removal by any 2241  
federal agency or agency of any state, to the extent the 2242  
particular agency has jurisdiction over the facility. 2243

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2244

this section do not apply to a small hydroelectric facility 2245  
under division (A) (37) (a) (iv) of this section. 2246

(38) "Waste energy recovery system" means any of the 2247  
following: 2248

(a) A facility that generates electricity through the 2249  
conversion of energy from either of the following: 2250

(i) Exhaust heat from engines or manufacturing, 2251  
industrial, commercial, or institutional sites, except for 2252  
exhaust heat from a facility whose primary purpose is the 2253  
generation of electricity; 2254

(ii) Reduction of pressure in gas pipelines before gas is 2255  
distributed through the pipeline, provided that the conversion 2256  
of energy to electricity is achieved without using additional 2257  
fossil fuels. 2258

(b) A facility at a state institution of higher education 2259  
as defined in section 3345.011 of the Revised Code that recovers 2260  
waste heat from electricity-producing engines or combustion 2261  
turbines and that simultaneously uses the recovered heat to 2262  
produce steam, provided that the facility was placed into 2263  
service between January 1, 2002, and December 31, 2004; 2264

(c) A facility that produces steam from recovered waste 2265  
heat from a manufacturing process and uses that steam, or 2266  
transfers that steam to another facility, to provide heat to 2267  
another manufacturing process or to generate electricity. 2268

(39) "Smart grid" means capital improvements to an 2269  
electric distribution utility's distribution infrastructure that 2270  
improve reliability, efficiency, resiliency, or reduce energy 2271  
demand or use, including, but not limited to, advanced metering 2272  
and automation of system functions. 2273

(40) "Combined heat and power system" means the 2274  
coproduction of electricity and useful thermal energy from the 2275  
same fuel source designed to achieve thermal-efficiency levels 2276  
of at least sixty per cent, with at least twenty per cent of the 2277  
system's total useful energy in the form of thermal energy. 2278

~~(41) "Legacy generation resource" means all generating 2279  
facilities owned directly or indirectly by a corporation that 2280  
was formed prior to 1960 by investor-owned utilities for the 2281  
original purpose of providing power to the federal government 2282  
for use in the nation's defense or in furtherance of national 2283  
interests, including the Ohio valley electric corporation. 2284~~

~~(42) "Prudently incurred costs related to a legacy 2285  
generation resource" means costs, including deferred costs, 2286  
allocated pursuant to a power agreement approved by the federal 2287  
energy regulatory commission that relates to a legacy generation 2288  
resource, less any revenues realized from offering the 2289  
contractual commitment for the power agreement into the 2290  
wholesale markets, provided that where the net revenues exceed 2291  
net costs, those excess revenues shall be credited to customers. 2292  
Such costs shall exclude any return on investment in common 2293  
equity and, in the event of a premature retirement of a legacy 2294  
generation resource, shall exclude any recovery of remaining 2295  
debt. Such costs shall include any incremental costs resulting 2296  
from the bankruptcy of a current or former sponsor under such 2297  
power agreement or co-owner of the legacy generation resource if 2298  
not otherwise recovered through a utility rate cost recovery 2299  
mechanism. 2300~~

~~(43) (a) (41) (a) "Green energy" means any energy generated 2301  
by using an energy resource that does one or more of the 2302  
following: 2303~~

(i) Releases reduced air pollutants, thereby reducing cumulative air emissions;	2304 2305
(ii) Is more sustainable and reliable relative to some fossil fuels.	2306 2307
(b) "Green energy" includes energy generated using the following:	2308 2309
(i) Natural gas as a resource;	2310
(ii) Nuclear reaction.	2311
<u>(42) "Energy storage" means electrical generation and storage performed by a distributed energy system connected battery.</u>	2312 2313 2314
<u>(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:</u>	2315 2316 2317 2318
<u>(a) Converts the linear motion of oscillators directly into electricity without the use of a flame or spark;</u>	2319 2320
<u>(b) Is dispatchable with the ability to vary power output across all loads;</u>	2321 2322
<u>(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas.</u>	2323 2324
(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,	2325 2326 2327 2328 2329 2330



the service component shall be deemed a noncompetitive retail 2331  
electric service. 2332

**Sec. 4928.02.** It is the policy of this state to do the 2333  
following throughout this state: 2334

(A) Ensure the availability to consumers of adequate, 2335  
reliable, safe, efficient, nondiscriminatory, and reasonably 2336  
priced retail electric service; 2337

(B) Ensure the availability of unbundled and comparable 2338  
retail electric service that provides consumers with the 2339  
supplier, price, terms, conditions, and quality options they 2340  
elect to meet their respective needs; 2341

(C) Ensure diversity of electricity supplies and 2342  
suppliers, by giving consumers effective choices over the 2343  
selection of those supplies and suppliers and by encouraging the 2344  
development of distributed and small generation facilities; 2345

(D) Encourage innovation and market access for cost- 2346  
effective supply- and demand-side retail electric service 2347  
including, but not limited to, demand-side management, time- 2348  
differentiated pricing, waste energy recovery systems, smart 2349  
grid programs, and implementation of advanced metering 2350  
infrastructure; 2351

(E) Encourage cost-effective and efficient access to 2352  
information regarding the operation of the transmission and 2353  
distribution systems of electric utilities in order to promote 2354  
both effective customer choice of retail electric service and 2355  
the development of performance standards and targets for service 2356  
quality for all consumers, including annual achievement reports 2357  
written in plain language; 2358

(F) Ensure that an electric utility's transmission and 2359

distribution systems are available to a customer-generator or 2360  
owner of distributed generation, so that the customer-generator 2361  
or owner can market and deliver the electricity it produces; 2362

(G) Recognize the continuing emergence of competitive 2363  
electricity markets through the development and implementation 2364  
of flexible regulatory treatment; 2365

(H) Ensure effective competition in the provision of 2366  
retail electric service by avoiding anticompetitive subsidies 2367  
flowing from a noncompetitive retail electric service to a 2368  
competitive retail electric service or to a product or service 2369  
other than retail electric service, and vice versa, including by 2370  
prohibiting the recovery of any generation-related costs through 2371  
distribution or transmission rates; 2372

(I) Ensure retail electric service consumers protection 2373  
against unreasonable sales practices, market deficiencies, and 2374  
market power; 2375

(J) Provide coherent, transparent means of giving 2376  
appropriate incentives to technologies that can adapt 2377  
successfully to potential environmental mandates; 2378

(K) Encourage implementation of distributed generation 2379  
across customer classes through regular review and updating of 2380  
administrative rules governing critical issues such as, but not 2381  
limited to, interconnection standards, standby charges, and net 2382  
metering; 2383

(L) Protect at-risk populations, including, but not 2384  
limited to, when considering the implementation of any new 2385  
advanced energy or renewable energy resource; 2386

(M) Encourage the education of small business owners in 2387  
this state regarding the use of, and encourage the use of, 2388

energy efficiency programs and alternative energy resources in their businesses;	2389 2390
(N) Facilitate the state's effectiveness in the global economy.	2391 2392
(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.	2393 2394 2395 2396
(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.	2397 2398 2399 2400 2401
<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>	2402 2403 2404 2405
<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>	2406 2407 2408
<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>	2409 2410 2411 2412
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.	2413 2414 2415 2416

Sec. 4928.041. (A) Except as provided in section 4905.31 2417  
or Chapter 4928. of the Revised Code, no electric utility shall 2418  
provide a competitive retail electric service in this state if 2419  
that service was deemed competitive or otherwise legally 2420  
classified as competitive prior to the effective date of this 2421  
section. 2422

(B) The standard service offer under section 4928.141 of 2423  
the Revised Code shall continue to be provided to consumers in 2424  
this state by electric utilities. 2425

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2426  
~~competitive retail electric service, a~~ A competitive retail 2427  
electric service supplied by an ~~electric utility or electric~~ 2428  
services company, or by an electric utility consistent with 2429  
section 4928.141 of the Revised Code, shall not be subject to 2430  
supervision and regulation by a municipal corporation under 2431  
Chapter 743. of the Revised Code or by the public utilities 2432  
commission under Chapters 4901. to 4909., 4933., 4935., and 2433  
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2434  
division (B) of section 4905.33, and sections 4905.35 and 2435  
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2436  
and 4963.41 of the Revised Code only to the extent related to 2437  
service reliability and public safety; and except as otherwise 2438  
provided in this chapter. The commission's authority to enforce 2439  
those excepted provisions with respect to a competitive retail 2440  
electric service shall be such authority as is provided for 2441  
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2442  
and 4963. of the Revised Code and this chapter. Nothing in this 2443  
division shall be construed to limit the commission's authority 2444  
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2445  
Revised Code. 2446

~~On and after the starting date of competitive retail~~ 2447  
~~electric service, a~~ (2) A competitive retail electric service 2448  
supplied by an electric cooperative shall not be subject to 2449  
supervision and regulation by the commission under Chapters 2450  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2451  
except as otherwise expressly provided in sections 4928.01 to 2452  
4928.10 and 4928.16 of the Revised Code. 2453

~~(2) On and after the starting date of competitive retail~~ 2454  
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2455  
service supplied by an electric utility shall be subject to 2456  
supervision and regulation by the commission under Chapters 2457  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2458  
this chapter, to the extent that authority is not preempted by 2459  
federal law. The commission's authority to enforce those 2460  
provisions with respect to a noncompetitive retail electric 2461  
service shall be the authority provided under those chapters and 2462  
this chapter, to the extent the authority is not preempted by 2463  
federal law. Notwithstanding Chapters 4905. and 4909. of the 2464  
Revised Code, commission authority under this chapter shall 2465  
include the authority to provide for the recovery, through a 2466  
reconcilable rider on an electric distribution utility's 2467  
distribution rates, of all transmission and transmission-related 2468  
costs, including ancillary and congestion costs, imposed on or 2469  
charged to the utility by the federal energy regulatory 2470  
commission or a regional transmission organization, independent 2471  
transmission operator, or similar organization approved by the 2472  
federal energy regulatory commission. 2473

The commission shall adopt, for each electric distribution 2474  
utility that provides customers with a standard service offer in 2475  
compliance with sections 4928.141 and 4928.142 of the Revised 2476  
Code, a bypassable cost recovery mechanism relating to 2477

transmission, ancillary, congestion, or any related service 2478  
required for such standard service offer that includes 2479  
provisions for the recovery of any cost of such service that the 2480  
electric distribution utility incurs pursuant to the standard 2481  
service offer. 2482

(2) The commission shall exercise its jurisdiction with 2483  
respect to the delivery of electricity by an electric utility in 2484  
this state ~~on or after the starting date of competitive retail~~ 2485  
~~electric service~~ so as to ensure that no aspect of the delivery 2486  
of electricity by the utility to consumers in this state that 2487  
consists of a noncompetitive retail electric service is 2488  
unregulated. 2489

~~On and after that starting date, a~~ (3) A noncompetitive 2490  
retail electric service supplied by an electric cooperative 2491  
shall not be subject to supervision and regulation by the 2492  
commission under Chapters 4901. to 4909., 4933., 4935., and 2493  
4963. of the Revised Code, except sections 4933.81 to 4933.90 2494  
and 4935.03 of the Revised Code. The commission's authority to 2495  
enforce those excepted sections with respect to a noncompetitive 2496  
retail electric service of an electric cooperative shall be such 2497  
authority as is provided for their enforcement under Chapters 2498  
4933. and 4935. of the Revised Code. 2499

~~(B) Nothing in this chapter affects the authority of the~~ 2500  
~~commission under Title XLIX of the Revised Code to regulate an~~ 2501  
~~electric light company in this state or an electric service~~ 2502  
~~supplied in this state prior to the starting date of competitive~~ 2503  
~~retail electric service.~~ 2504

**Sec. 4928.08.** (A) This section applies to an electric 2505  
cooperative, or to a governmental aggregator that is a municipal 2506  
electric utility, only to the extent of a competitive retail 2507

electric service it provides to a customer to whom it does not 2508  
provide a noncompetitive retail electric service through 2509  
transmission or distribution facilities it singly or jointly 2510  
owns or operates. 2511

~~(B)~~ (B) (1) No electric utility, electric services company, 2512  
electric cooperative, or governmental aggregator shall provide a 2513  
competitive retail electric service to a consumer in this state 2514  
on and after the starting date of competitive retail electric 2515  
service without first being certified by the public utilities 2516  
commission regarding its managerial, technical, and financial 2517  
capability to provide that service and providing a financial 2518  
guarantee sufficient to protect customers and electric 2519  
distribution utilities from default. Certification shall be 2520  
granted pursuant to procedures and standards the commission 2521  
shall prescribe in accordance with division (C) of this section, 2522  
except that certification or certification renewal shall be 2523  
deemed approved thirty days after the filing of an application 2524  
with the commission unless the commission suspends that approval 2525  
for good cause shown. In the case of such a suspension, the 2526  
commission shall act to approve or deny certification or 2527  
certification renewal to the applicant not later than ninety 2528  
days after the date of the suspension. 2529

(2) The public utilities commission shall establish rules 2530  
to require an electric services company to maintain financial 2531  
assurances sufficient to protect customers and electric 2532  
distribution utilities from default. Such rules also shall 2533  
specifically allow an electric distribution utility to set 2534  
reasonable standards for its security and the security of its 2535  
customers through financial requirements set in its tariffs. 2536

(3) As used in division (B) (2) of this section, an 2537

"electric services company" has the same meaning as in section 2538  
4928.01 of the Revised Code, but excludes a power broker or 2539  
aggregator. 2540

(C) Capability standards adopted in rules under division 2541  
(B) of this section shall be sufficient to ensure compliance 2542  
with the minimum service requirements established under section 2543  
4928.10 of the Revised Code and with section 4928.09 of the 2544  
Revised Code. The standards shall allow flexibility for 2545  
voluntary aggregation, to encourage market creativity in 2546  
responding to consumer needs and demands, and shall allow 2547  
flexibility for electric services companies that exclusively 2548  
provide installation of small electric generation facilities, to 2549  
provide ease of market access. The rules shall include 2550  
procedures for biennially renewing certification. 2551

(D) The commission may suspend, rescind, or conditionally 2552  
rescind the certification of any electric utility, electric 2553  
services company, electric cooperative, or governmental 2554  
aggregator issued under this section if the commission 2555  
determines, after reasonable notice and opportunity for hearing, 2556  
that the utility, company, cooperative, or aggregator has failed 2557  
to comply with any applicable certification standards or has 2558  
engaged in anticompetitive or unfair, deceptive, or 2559  
unconscionable acts or practices in this state. 2560

(E) No electric distribution utility on and after the 2561  
starting date of competitive retail electric service shall 2562  
knowingly distribute electricity, to a retail consumer in this 2563  
state, for any supplier of electricity that has not been 2564  
certified by the commission pursuant to this section. 2565

(F) Notwithstanding any provision of section 121.95 of the 2566  
Revised Code to the contrary, a regulatory restriction contained 2567



in a rule adopted under section 4928.08 of the Revised Code is 2568  
not subject to sections 121.95 to 121.953 of the Revised Code. 2569

**Sec. 4928.101.** (A) As used in this section: 2570

(1) "Small commercial customer" means any customer that 2571  
receives electric service pursuant to a nonresidential tariff if 2572  
the customer's demand for electricity does not exceed twenty- 2573  
five kilowatts within the last twelve months. 2574

(2) "Small commercial customer" excludes any customer that 2575  
does one or both of the following: 2576

(a) Manages multiple electric meters and, within the last 2577  
twelve months, the electricity demand for at least one of the 2578  
meters is twenty-five kilowatts or more; 2579

(b) Has, at the customer's discretion, aggregated the 2580  
demand for the customer-managed meters. 2581

(B) If a competitive retail electric service supplier 2582  
offers a residential or small commercial customer a contract for 2583  
a fixed introductory rate that converts to a variable rate upon 2584  
the expiration of the fixed rate, the supplier shall send two 2585  
notices to each residential and small commercial customer that 2586  
enters into such a contract. Each notice shall provide all of 2587  
the following information to the customer: 2588

(1) The fixed rate that is expiring under the contract; 2589

(2) The expiration date of the contract's fixed rate; 2590

(3) The public utilities commission web site that, as a 2591  
comparison tool, lists rates offered by competitive retail 2592  
electric service suppliers; 2593

(4) A statement explaining that appearing on each 2594

customer's bill is a price-to-compare notice that lists the 2595  
utility's standard service offer price. 2596

(C) The second notice shall include all the requirements 2597  
as stated in division (B) of this section and shall also 2598  
identify the initial rate to be charged upon the contract's 2599  
conversion to a variable rate. 2600

(D) The notices shall be sent by standard United States 2601  
mail or electronically with a customer's verifiable consent as 2602  
follows: 2603

(1) The supplier shall send the first notice not earlier 2604  
than ninety days, and not later than sixty days, prior to the 2605  
expiration of the fixed rate. 2606

(2) The supplier shall send the second notice not earlier 2607  
than forty-five days, and not later than fifteen days, prior to 2608  
the expiration of the fixed rate. 2609

(E) A competitive retail electric service supplier shall 2610  
provide an annual notice, by standard United States mail or 2611  
electronically with a customer's verifiable consent, to each 2612  
residential and small commercial customer that has entered into 2613  
a contract with the supplier that has converted to a variable 2614  
rate upon the expiration of the contract's fixed introductory 2615  
rate. The notice shall inform the customer that the customer is 2616  
currently subject to a variable rate and that other fixed rate 2617  
contracts are available. 2618

(F) Not later than one hundred fifty days after the 2619  
effective date of this section, the commission shall adopt rules 2620  
in order to implement divisions (B) to (E) of this section. The 2621  
rules, at a minimum, shall include the following requirements 2622  
regarding the notices required under divisions (B) to (E) of 2623

this section: 2624

(1) To use clear and unambiguous language in order to 2625  
enable the customer to make an informed decision; 2626

(2) To design the notices in a way to ensure that they 2627  
cannot be confused with marketing materials. 2628

(G) Notwithstanding any provision of section 121.95 of the 2629  
Revised Code to the contrary, a regulatory restriction contained 2630  
in a rule adopted under section 4928.101 of the Revised Code is 2631  
not subject to sections 121.95 to 121.953 of the Revised Code. 2632

**Sec. 4928.102.** (A) As used in this section, "customer 2633  
account information" means a unique electric distribution 2634  
utility number or other customer identification number used by 2635  
the utility to identify a customer and the customer's account 2636  
record. 2637

(B) The public utilities commission shall adopt rules to 2638  
ensure that an electric distribution utility processes a 2639  
customer's change in competitive retail electric supplier by 2640  
using customer account information. A customer who consents to a 2641  
change of supplier shall not be required to provide customer 2642  
account information to the supplier if the customer provides a 2643  
valid form of government-issued identification issued to the 2644  
customer or a sufficient alternative form of identification that 2645  
allows the supplier to establish the customer's identity 2646  
accurately. 2647

(C) Notwithstanding any provision of section 121.95 of the 2648  
Revised Code to the contrary, a regulatory restriction contained 2649  
in a rule adopted under this section is not subject to sections 2650  
121.95 to 121.953 of the Revised Code. 2651

**Sec. 4928.14.** ~~The~~ (A) Except as provided in division (C) 2652

of this section, the failure of a supplier to provide retail 2653  
electric generation service to customers within the certified 2654  
territory of an electric distribution utility shall result in 2655  
the supplier's customers, after reasonable notice, defaulting to 2656  
the utility's standard service offer under sections 4928.141, 7, 2657  
and 4928.142, and 4928.143 of the Revised Code until the 2658  
customer chooses an alternative supplier. A- 2659

(B) A supplier is deemed under this section to have failed 2660  
to provide such retail electric generation service if the 2661  
commission finds, after reasonable notice and opportunity for 2662  
hearing, that any of the following conditions are met: 2663

~~(A)~~ (1) The supplier has defaulted on its contracts with 2664  
customers, is in receivership, or has filed for bankruptcy. 2665

~~(B)~~ (2) The supplier is no longer capable of providing the 2666  
service. 2667

~~(C)~~ (3) The supplier is unable to provide delivery to 2668  
transmission or distribution facilities for such period of time 2669  
as may be reasonably specified by commission rule adopted under 2670  
division (A) of section 4928.06 of the Revised Code. 2671

~~(D)~~ (4) The supplier's certification has been suspended, 2672  
conditionally rescinded, or rescinded under division (D) of 2673  
section 4928.08 of the Revised Code. 2674

(C) If an electric distribution utility has an electric 2675  
security plan that was approved under section 4928.143 of the 2676  
Revised Code as that section existed prior to the amendments to 2677  
this section by this act, the failure of a supplier to provide 2678  
retail electric generation service to customers within the 2679  
certified territory of that utility shall result in the 2680  
supplier's customers, after reasonable notice, defaulting to the 2681

utility's standard service offer under that electric security 2682  
plan until the customer chooses an alternative supplier or until 2683  
the utility's standard service offer is authorized under section 2684  
4928.142 of the Revised Code. 2685

**Sec. 4928.141.** ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2686  
electric distribution utility shall provide consumers, on a 2687  
comparable and nondiscriminatory basis within its certified 2688  
territory, a standard service offer of all competitive retail 2689  
electric services necessary to maintain essential electric 2690  
service to consumers, including a firm supply of electric 2691  
generation service. To that end, the electric distribution 2692  
utility shall apply to the public utilities commission to 2693  
establish the standard service offer in accordance with section 2694  
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2695  
~~may apply simultaneously under both sections, except that the~~ 2696  
~~utility's first standard service offer application at minimum~~ 2697  
~~shall include a filing under section 4928.143 of the Revised~~ 2698  
~~Code. Only~~ Except as provided in division (A) (2) of this 2699  
section, a standard service offer authorized in accordance with 2700  
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2701  
the utility's standard service offer for the purpose of 2702  
compliance with this section<sup>+</sup>, and that standard service offer 2703  
shall serve as the utility's default standard service offer for 2704  
the purpose of section 4928.14 of the Revised Code. 2705  
~~Notwithstanding the foregoing provision, the rate~~ 2706

(2) An electric distribution utility's electric security 2707  
plan of an electric distribution utility that was approved under 2708  
section 4928.143 of the Revised Code as that section existed 2709  
prior to the amendments to this section by this act shall 2710  
continue for the purpose of the utility's compliance with ~~this~~ 2711  
division (A) (1) of this section until a standard service offer 2712

is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2713  
4928.143 of the Revised Code, ~~and, as applicable, pursuant to~~ 2714  
~~division (D) of section 4928.143 of the Revised Code, any rate~~ . 2715  
Each security plan that extends approved before the effective 2716  
date of the amendments to this section by this act shall extend 2717  
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2718  
~~subject electric distribution utility for the duration of the~~ 2719  
~~plan's term~~ through the final standard service offer auction 2720  
delivery period approved by the public utilities commission 2721  
under the plan as of the effective date of the amendments to 2722  
this section by this act and thereafter shall terminate. 2723

(3) A standard service offer under section 4928.142 ~~or~~ 2724  
4928.143 of the Revised Code shall exclude any previously 2725  
authorized allowances for transition costs, with such exclusion 2726  
being effective on and after the date that the allowance is 2727  
scheduled to end under the utility's ~~rate~~ electric security 2728  
plan. 2729

(B) The commission shall set the time for hearing of a 2730  
filing under section 4928.142 ~~or~~ 4928.143 of the Revised Code, 2731  
send written notice of the hearing to the electric distribution 2732  
utility, and publish notice in a newspaper of general 2733  
circulation in each county in the utility's certified territory. 2734  
The commission shall adopt rules regarding filings under ~~those~~ 2735  
~~sections~~ the section. 2736

**Sec. 4928.142.** (A) For the purpose of complying with 2737  
section 4928.141 of the Revised Code and subject to division (D) 2738  
of this section and, as applicable, subject to the ~~rate plan~~ 2739  
~~requirement~~ requirements of division (A) of section 4928.141 of 2740  
the Revised Code, an electric distribution utility ~~may~~ shall 2741  
establish a standard service offer price for retail electric 2742

generation service that is delivered to the utility under a 2743  
market-rate offer. 2744

(1) The market-rate offer shall be determined through a 2745  
competitive bidding process that provides for all of the 2746  
following: 2747

(a) Open, fair, and transparent competitive solicitation; 2748

(b) Clear product definition; 2749

(c) Standardized bid evaluation criteria; 2750

(d) Oversight by an independent third party that shall 2751  
design the solicitation, administer the bidding, and ensure that 2752  
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2753  
this section are met; 2754

(e) Evaluation of the submitted bids prior to the 2755  
selection of the least-cost bid winner or winners. 2756

No generation supplier shall be prohibited from 2757  
participating in the bidding process. 2758

(2) The public utilities commission shall modify rules, or 2759  
adopt new rules as necessary, concerning the conduct of the 2760  
competitive bidding process and the qualifications of bidders, 2761  
which rules shall foster supplier participation in the bidding 2762  
process and shall be consistent with the requirements of 2763  
division (A) (1) of this section. 2764

(B) Prior to initiating a competitive bidding process for 2765  
a market-rate offer under division (A) of this section, the 2766  
electric distribution utility shall file an application with the 2767  
commission. An electric distribution utility may file its 2768  
application with the commission prior to the effective date of 2769  
the commission rules required under division (A) (2) of this 2770

section, and, as the commission determines necessary, the 2771  
utility shall immediately conform its filing to the rules upon 2772  
their taking effect. 2773

An application under this division shall detail the 2774  
electric distribution utility's proposed compliance with the 2775  
requirements of division (A) (1) of this section and with 2776  
commission rules under division (A) (2) of this section and 2777  
demonstrate that all of the following requirements are met: 2778

(1) The electric distribution utility or its transmission 2779  
service affiliate belongs to at least one regional transmission 2780  
organization that has been approved by the federal energy 2781  
regulatory commission; or there otherwise is comparable and 2782  
nondiscriminatory access to the electric transmission grid. 2783

(2) Any such regional transmission organization has a 2784  
market-monitor function and the ability to take actions to 2785  
identify and mitigate market power or the electric distribution 2786  
utility's market conduct; or a similar market monitoring 2787  
function exists with commensurate ability to identify and 2788  
monitor market conditions and mitigate conduct associated with 2789  
the exercise of market power. 2790

(3) A published source of information is available 2791  
publicly or through subscription that identifies pricing 2792  
information for traded electricity on- and off-peak energy 2793  
products that are contracts for delivery beginning at least two 2794  
years from the date of the publication and is updated on a 2795  
regular basis. 2796

The commission shall initiate a proceeding and, within 2797  
ninety days after the application's filing date, shall determine 2798  
by order whether the electric distribution utility and its 2799



market-rate offer meet all of the foregoing requirements. If the 2800  
finding is positive, the electric distribution utility ~~may shall~~ 2801  
initiate its competitive bidding process. If the finding is 2802  
negative as to one or more requirements, the commission in the 2803  
order shall direct the electric distribution utility regarding 2804  
how any deficiency ~~may shall be timely remedied in a timely~~ 2805  
~~manner to the commission's satisfaction; otherwise, the electric~~ 2806  
~~distribution utility shall withdraw the application. However, if~~ 2807  
~~such remedy is made and the subsequent finding is positive and~~ 2808  
~~also if the electric distribution utility made a simultaneous~~ 2809  
~~filing under this section and section 4928.143 of the Revised~~ 2810  
~~Code, the utility shall not initiate its competitive bid until~~ 2811  
~~at least one hundred fifty days after the filing date of those~~ 2812  
~~applications.~~ 2813

(C) Upon the completion of the competitive bidding process 2814  
authorized by divisions (A) and (B) of this section, ~~including~~ 2815  
~~for the purpose of division (D) of this section,~~ the commission 2816  
shall select the least-cost bid winner or winners of that 2817  
process, and such selected bid or bids, as prescribed as retail 2818  
rates by the commission, shall be the electric distribution 2819  
utility's standard service offer unless the commission, by order 2820  
issued before the third calendar day following the conclusion of 2821  
the competitive bidding process for the market rate offer, 2822  
determines that one or more of the following criteria were not 2823  
met: 2824

(1) Each portion of the bidding process was 2825  
oversubscribed, such that the amount of supply bid upon was 2826  
greater than the amount of the load bid out. 2827

(2) There were four or more bidders. 2828

(3) At least twenty-five per cent of the load is bid upon 2829

by one or more persons other than the electric distribution 2830  
utility. 2831

All costs incurred by the electric distribution utility as 2832  
a result of or related to the competitive bidding process or to 2833  
procuring generation service to provide the standard service 2834  
offer, including the costs of energy and capacity and the costs 2835  
of all other products and services procured as a result of the 2836  
competitive bidding process, shall be timely recovered through 2837  
the standard service offer price, and, for that purpose, the 2838  
commission shall approve a reconciliation mechanism, other 2839  
recovery mechanism, or a combination of such mechanisms for the 2840  
utility. 2841

(D) The ~~first~~ application filed under this section by an 2842  
electric distribution utility ~~that, as of July 31, 2008,~~ 2843  
~~directly owns, in whole or in part, operating electric-~~ 2844  
~~generating facilities that had been used and useful in this-~~ 2845  
~~state shall require that a portion of that~~ the utility's 2846  
standard service offer load ~~for the first five years of the~~ 2847  
~~market rate offer be competitively bid under division (A) of~~ 2848  
this section ~~as follows: ten per cent of the load in year one,~~ 2849  
~~not more than twenty per cent in year two, thirty per cent in~~ 2850  
~~year three, forty per cent in year four, and fifty per cent in~~ 2851  
~~year five. Consistent with those percentages, the commission-~~ 2852  
~~shall determine the actual percentages for each year of years-~~ 2853  
~~one through five. The standard service offer price for retail-~~ 2854  
~~electric generation service under this first application shall~~ 2855  
~~be a proportionate blend of the bid price and the generation-~~ 2856  
~~service price for the remaining standard service offer load,~~ 2857  
~~which latter price shall be equal to the electric distribution-~~ 2858  
~~utility's most recent standard service offer price, adjusted-~~ 2859  
~~upward or downward as the commission determines reasonable,~~ 2860

~~relative to the jurisdictional portion of any known and~~ 2861  
~~measurable changes from the level of any one or more of the~~ 2862  
~~following costs as reflected in that most recent standard~~ 2863  
~~service offer price:~~ 2864

~~(1) The electric distribution utility's prudently incurred~~ 2865  
~~cost of fuel used to produce electricity;~~ 2866

~~(2) Its prudently incurred purchased power costs;~~ 2867

~~(3) Its prudently incurred costs of satisfying the supply~~ 2868  
~~and demand portfolio requirements of this state, including, but~~ 2869  
~~not limited to, renewable energy resource and energy efficiency~~ 2870  
~~requirements;~~ 2871

~~(4) Its costs prudently incurred to comply with~~ 2872  
~~environmental laws and regulations, with consideration of the~~ 2873  
~~derating of any facility associated with those costs.~~ 2874

~~In making any adjustment to the most recent standard~~ 2875  
~~service offer price on the basis of costs described in division~~ 2876  
~~(D) of this section, the commission shall include the benefits~~ 2877  
~~that may become available to the electric distribution utility~~ 2878  
~~as a result of or in connection with the costs included in the~~ 2879  
~~adjustment, including, but not limited to, the utility's receipt~~ 2880  
~~of emissions credits or its receipt of tax benefits or of other~~ 2881  
~~benefits, and, accordingly, the commission may impose such~~ 2882  
~~conditions on the adjustment to ensure that any such benefits~~ 2883  
~~are properly aligned with the associated cost responsibility.~~ 2884  
~~The commission shall also determine how such adjustments will~~ 2885  
~~affect the electric distribution utility's return on common~~ 2886  
~~equity that may be achieved by those adjustments. The commission~~ 2887  
~~shall not apply its consideration of the return on common equity~~ 2888  
~~to reduce any adjustments authorized under this division unless~~ 2889

~~the adjustments will cause the electric distribution utility to~~ 2890  
~~earn a return on common equity that is significantly in excess~~ 2891  
~~of the return on common equity that is earned by publicly traded~~ 2892  
~~companies, including utilities, that face comparable business~~ 2893  
~~and financial risk, with such adjustments for capital structure~~ 2894  
~~as may be appropriate. The burden of proof for demonstrating~~ 2895  
~~that significantly excessive earnings will not occur shall be on~~ 2896  
~~the electric distribution utility.~~ 2897

~~Additionally, the commission may adjust the electric~~ 2898  
~~distribution utility's most recent standard service offer price~~ 2899  
~~by such just and reasonable amount that the commission~~ 2900  
~~determines necessary to address any emergency that threatens the~~ 2901  
~~utility's financial integrity or to ensure that the resulting~~ 2902  
~~revenue available to the utility for providing the standard~~ 2903  
~~service offer is not so inadequate as to result, directly or~~ 2904  
~~indirectly, in a taking of property without compensation~~ 2905  
~~pursuant to Section 19 of Article I, Ohio Constitution. The~~ 2906  
~~electric distribution utility has the burden of demonstrating~~ 2907  
~~that any adjustment to its most recent standard service offer~~ 2908  
~~price is proper in accordance with this division.~~ 2909

~~(E) Beginning in the second year of a blended price under~~ 2910  
~~division (D) of this section and notwithstanding any other~~ 2911  
~~requirement of this section, the commission may alter~~ 2912  
~~prospectively the proportions specified in that division to~~ 2913  
~~mitigate any effect of an abrupt or significant change in the~~ 2914  
~~electric distribution utility's standard service offer price~~ 2915  
~~that would otherwise result in general or with respect to any~~ 2916  
~~rate group or rate schedule but for such alteration. Any such~~ 2917  
~~alteration shall be made not more often than annually, and the~~ 2918  
~~commission shall not, by altering those proportions and in any~~ 2919  
~~event, including because of the length of time, as authorized~~ 2920

~~under division (C) of this section, taken to approve the market- 2921  
rate offer, cause the duration of the blending period to exceed- 2922  
ten years as counted from the effective date of the approved- 2923  
market rate offer. Additionally, any such alteration shall be- 2924  
limited to an alteration affecting the prospective proportions- 2925  
used during the blending period and shall not affect any- 2926  
blending proportion previously approved and applied by the- 2927  
commission under this division. 2928~~

~~(F) An electric distribution utility that has received- 2929  
commission approval of its first application under division (C)- 2930  
of this section shall not, nor ever shall be authorized or- 2931  
required by the commission to, file an application under section 2932  
4928.143 of the Revised Code. 2933~~

**Sec. 4928.144.** The public utilities commission by order 2934  
may authorize any just and reasonable phase-in of any electric 2935  
distribution utility ~~rate or price~~ established under sections 2936  
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2937  
inclusive of carrying charges, as the commission considers 2938  
necessary to ensure ~~rate or price~~ stability for consumers. If 2939  
the commission's order includes such a phase-in, the order also 2940  
shall provide for the creation of regulatory assets pursuant to 2941  
generally accepted accounting principles, by authorizing the 2942  
deferral of incurred costs equal to the amount not collected, 2943  
plus carrying charges on that amount. Further, the order shall 2944  
authorize the collection of those deferrals through a 2945  
nonbypassable surcharge on any such rate or price so established 2946  
for the electric distribution utility by the commission. 2947

**Sec. 4928.149.** No electric distribution utility may use 2948  
any electric energy storage system to participate in the 2949  
wholesale market, if the utility purchased or acquired that 2950

system for distribution service.

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

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

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(B) Require the utility to give nonresidential customers  
taking service at greater than thirty-four thousand volts the  
option to self-build any such transmission and distribution line  
extensions and related facilities that are dedicated to the  
nonresidential customer's new service. Related facilities may  
include any requisite substation, switching station, breaker  
station, or other related system upgrades. If the nonresidential  
customer elects to self-build, the customer is responsible for  
one hundred per cent of the costs and shall build the system to

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the utility's published engineering and construction standards 2981  
using contractors that have been approved by the utility. Such 2982  
standards are subject to approval by the public utilities 2983  
commission, and the utility shall publish such standards and 2984  
approved contractors on a public web site. A nonresidential 2985  
customer who elects to self-build the line extension and related 2986  
facilities shall transfer ownership and operation of the 2987  
facilities to the utility to own, operate, and maintain the 2988  
facility. 2989

(C) Require nonresidential customers that take service at 2990  
greater than thirty-four thousand volts and do not elect to 2991  
self-build to provide credit support or reimbursement to the 2992  
utility for one hundred per cent of the utility's costs of any 2993  
such line extension and any requisite substations and related 2994  
facilities, including the costs of necessary technical studies, 2995  
operations and maintenance costs, and capital costs, including a 2996  
return on capital costs. 2997

**Sec. 4928.17.** (A) Except as otherwise provided in sections 2998  
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2999  
Revised Code ~~and beginning on the starting date of competitive~~ 3000  
~~retail electric service,~~ no electric utility shall engage in 3001  
this state, either directly or through an affiliate, ~~in the~~ 3002  
~~businesses of supplying a noncompetitive retail electric service~~ 3003  
~~and supplying a competitive retail electric service, or in the~~ 3004  
businesses of supplying a noncompetitive retail electric service 3005  
and supplying a product or service other than retail electric 3006  
service, unless the utility implements and operates under a 3007  
corporate separation plan that is approved by the public 3008  
utilities commission under this section, is consistent with the 3009  
policy specified in section 4928.02 of the Revised Code, and 3010  
achieves all of the following: 3011

(1) The plan provides, at minimum, for the provision of 3012  
~~the competitive retail electric service or the nonelectric~~ 3013  
product or service through a fully separated affiliate of the 3014  
utility, and the plan includes separate accounting requirements, 3015  
the code of conduct as ordered by the commission pursuant to a 3016  
rule it shall adopt under division (A) of section 4928.06 of the 3017  
Revised Code, and such other measures as are necessary to 3018  
effectuate the policy specified in section 4928.02 of the 3019  
Revised Code. 3020

(2) The plan satisfies the public interest in ~~preventing~~ 3021  
~~unfair competitive advantage and~~ preventing the abuse of market 3022  
power. 3023

(3) The plan is sufficient to ensure that the utility will 3024  
not extend any undue preference or advantage to any affiliate, 3025  
division, or part of its own business engaged in the business of 3026  
supplying the ~~competitive retail electric service or nonelectric~~ 3027  
product or service, including, but not limited to, utility 3028  
resources such as trucks, tools, office equipment, office space, 3029  
supplies, customer and marketing information, advertising, 3030  
billing and mailing systems, personnel, and training, without 3031  
compensation based upon fully loaded embedded costs charged to 3032  
the affiliate; and to ensure that any such affiliate, division, 3033  
or part will not receive undue preference or advantage from any 3034  
affiliate, division, or part of the business engaged in business 3035  
of supplying the noncompetitive retail electric service. No such 3036  
utility, affiliate, division, or part shall extend such undue 3037  
preference. ~~Notwithstanding any other division of this section,~~ 3038  
~~a utility's obligation under division (A)(3) of this section~~ 3039  
~~shall be effective January 1, 2000.~~ 3040

(B) The commission may approve, modify and approve, or 3041



disapprove a corporate separation plan filed with the commission 3042  
under division (A) of this section. As part of the code of 3043  
conduct required under division (A) (1) of this section, the 3044  
commission shall adopt rules pursuant to division (A) of section 3045  
4928.06 of the Revised Code regarding corporate separation and 3046  
procedures for plan filing and approval. The rules shall include 3047  
limitations on affiliate practices solely for the purpose of 3048  
maintaining a separation of the affiliate's business from the 3049  
business of the utility to prevent ~~unfair competitive advantage~~ 3050  
abuse of market power by virtue of that relationship. The rules 3051  
also shall include an opportunity for any person having a real 3052  
and substantial interest in the corporate separation plan to 3053  
file specific objections to the plan and propose specific 3054  
responses to issues raised in the objections, which objections 3055  
and responses the commission shall address in its final order. 3056  
Prior to commission approval of the plan, the commission shall 3057  
afford a hearing upon those aspects of the plan that the 3058  
commission determines reasonably require a hearing. The 3059  
commission may reject and require refiling of a substantially 3060  
inadequate plan under this section. 3061

(C) The commission shall issue an order approving or 3062  
modifying and approving a corporate separation plan under this 3063  
section, to be effective on the date specified in the order, 3064  
only upon findings that the plan reasonably complies with the 3065  
requirements of division (A) of this section and will provide 3066  
for ongoing compliance with the policy specified in section 3067  
4928.02 of the Revised Code. However, for good cause shown, the 3068  
commission may issue an order approving or modifying and 3069  
approving a corporate separation plan under this section that 3070  
does not comply with division (A) (1) of this section but 3071  
complies with such functional separation requirements as the 3072

commission authorizes to apply for an interim period prescribed 3073  
in the order, upon a finding that such alternative plan will 3074  
provide for ongoing compliance with the policy specified in 3075  
section 4928.02 of the Revised Code. 3076

(D) Any party may seek an amendment to a corporate 3077  
separation plan approved under this section, and the commission, 3078  
pursuant to a request from any party or on its own initiative, 3079  
may order as it considers necessary the filing of an amended 3080  
corporate separation plan to reflect changed circumstances. 3081

~~(E) No electric distribution utility shall sell or 3082  
transfer any generating asset it wholly or partly owns at any 3083  
time without obtaining prior commission approval. 3084~~

**Sec. 4928.20.** (A) The legislative authority of a municipal 3085  
corporation may adopt an ordinance, or the board of township 3086  
trustees of a township or the board of county commissioners of a 3087  
county may adopt a resolution, under which, ~~on or after the~~ 3088  
~~starting date of competitive retail electric service,~~ it may 3089  
aggregate in accordance with this section the retail electrical 3090  
loads located, respectively, within the municipal corporation, 3091  
township, or unincorporated area of the county and, for that 3092  
purpose, may enter into service agreements to facilitate for 3093  
those loads the sale and purchase of electricity. The 3094  
legislative authority or board also may exercise such authority 3095  
jointly with any other such legislative authority or board. For 3096  
customers that are not mercantile customers, an ordinance or 3097  
resolution under this division shall specify whether the 3098  
aggregation will occur only with the prior, affirmative consent 3099  
of each person owning, occupying, controlling, or using an 3100  
electric load center proposed to be aggregated or will occur 3101  
automatically for all such persons pursuant to the opt-out 3102

requirements of division (D) of this section. The aggregation of 3103  
mercantile customers shall occur only with the prior, 3104  
affirmative consent of each such person owning, occupying, 3105  
controlling, or using an electric load center proposed to be 3106  
aggregated. Nothing in this division, however, authorizes the 3107  
aggregation of the retail electric loads of an electric load 3108  
center, as defined in section 4933.81 of the Revised Code, that 3109  
is located in the certified territory of a nonprofit electric 3110  
supplier under sections 4933.81 to 4933.90 of the Revised Code 3111  
or an electric load center served by transmission or 3112  
distribution facilities of a municipal electric utility. 3113

(B) If an ordinance or resolution adopted under division 3114  
(A) of this section specifies that aggregation of customers that 3115  
are not mercantile customers will occur automatically as 3116  
described in that division, the ordinance or resolution shall 3117  
direct the board of elections to submit the question of the 3118  
authority to aggregate to the electors of the respective 3119  
municipal corporation, township, or unincorporated area of a 3120  
county at a special election on the day of the next primary or 3121  
general election in the municipal corporation, township, or 3122  
county. The legislative authority or board shall certify a copy 3123  
of the ordinance or resolution to the board of elections not 3124  
less than ninety days before the day of the special election. No 3125  
ordinance or resolution adopted under division (A) of this 3126  
section that provides for an election under this division shall 3127  
take effect unless approved by a majority of the electors voting 3128  
upon the ordinance or resolution at the election held pursuant 3129  
to this division. 3130

(C) Upon the applicable requisite authority under 3131  
divisions (A) and (B) of this section, the legislative authority 3132  
or board shall develop a plan of operation and governance for 3133

the aggregation program so authorized. Before adopting a plan 3134  
under this division, the legislative authority or board shall 3135  
hold at least two public hearings on the plan. Before the first 3136  
hearing, the legislative authority or board shall publish notice 3137  
of the hearings once a week for two consecutive weeks in a 3138  
newspaper of general circulation in the jurisdiction or as 3139  
provided in section 7.16 of the Revised Code. The notice shall 3140  
summarize the plan and state the date, time, and location of 3141  
each hearing. 3142

(D) No legislative authority or board, pursuant to an 3143  
ordinance or resolution under divisions (A) and (B) of this 3144  
section that provides for automatic aggregation of customers 3145  
that are not mercantile customers as described in division (A) 3146  
of this section, shall aggregate the electrical load of any 3147  
electric load center located within its jurisdiction unless it 3148  
in advance clearly discloses to the person owning, occupying, 3149  
controlling, or using the load center that the person will be 3150  
enrolled automatically in the aggregation program and will 3151  
remain so enrolled unless the person affirmatively elects by a 3152  
stated procedure not to be so enrolled. The disclosure shall 3153  
state prominently the rates, charges, and other terms and 3154  
conditions of enrollment. The stated procedure shall allow any 3155  
person enrolled in the aggregation program the opportunity to 3156  
opt out of the program every three years, without paying a 3157  
switching fee. Any such person that opts out before the 3158  
commencement of the aggregation program pursuant to the stated 3159  
procedure shall default to the standard service offer provided 3160  
under section 4928.14 or division (D) of section 4928.35 of the 3161  
Revised Code until the person chooses an alternative supplier. 3162

(E) (1) With respect to a governmental aggregation for a 3163  
municipal corporation that is authorized pursuant to divisions 3164

(A) to (D) of this section, resolutions may be proposed by 3165  
initiative or referendum petitions in accordance with sections 3166  
731.28 to 731.41 of the Revised Code. 3167

(2) With respect to a governmental aggregation for a 3168  
township or the unincorporated area of a county, which 3169  
aggregation is authorized pursuant to divisions (A) to (D) of 3170  
this section, resolutions may be proposed by initiative or 3171  
referendum petitions in accordance with sections 731.28 to 3172  
731.40 of the Revised Code, except that: 3173

(a) The petitions shall be filed, respectively, with the 3174  
township fiscal officer or the board of county commissioners, 3175  
who shall perform those duties imposed under those sections upon 3176  
the city auditor or village clerk. 3177

(b) The petitions shall contain the signatures of not less 3178  
than ten per cent of the total number of electors in, 3179  
respectively, the township or the unincorporated area of the 3180  
county who voted for the office of governor at the preceding 3181  
general election for that office in that area. 3182

(F) A governmental aggregator under division (A) of this 3183  
section is not a public utility engaging in the wholesale 3184  
purchase and resale of electricity, and provision of the 3185  
aggregated service is not a wholesale utility transaction. A 3186  
governmental aggregator shall be subject to supervision and 3187  
regulation by the public utilities commission only to the extent 3188  
of any competitive retail electric service it provides and 3189  
commission authority under this chapter. 3190

(G) This section does not apply in the case of a municipal 3191  
corporation that supplies such aggregated service to electric 3192  
load centers to which its municipal electric utility also 3193

supplies a noncompetitive retail electric service through 3194  
transmission or distribution facilities the utility singly or 3195  
jointly owns or operates. 3196

(H) A governmental aggregator shall not include in its 3197  
aggregation the accounts of any of the following: 3198

(1) A customer that has opted out of the aggregation; 3199

(2) A customer in contract with a certified electric 3200  
services company; 3201

(3) A customer that has a special contract with an 3202  
electric distribution utility; 3203

(4) A customer that is not located within the governmental 3204  
aggregator's governmental boundaries; 3205

(5) Subject to division (C) of section 4928.21 of the 3206  
Revised Code, a customer who appears on the "do not aggregate" 3207  
list maintained under that section. 3208

(I) Customers that are part of a governmental aggregation 3209  
under this section shall be responsible only for such portion of 3210  
a surcharge under section 4928.144 of the Revised Code that is 3211  
proportionate to the benefits, as determined by the commission, 3212  
that electric load centers within the jurisdiction of the 3213  
governmental aggregation as a group receive. The proportionate 3214  
surcharge so established shall apply to each customer of the 3215  
governmental aggregation while the customer is part of that 3216  
aggregation. If a customer ceases being such a customer, the 3217  
otherwise applicable surcharge shall apply. Nothing in this 3218  
section shall result in less than full recovery by an electric 3219  
distribution utility of any surcharge authorized under section 3220  
4928.144 of the Revised Code. Nothing in this section shall 3221  
result in less than the full and timely imposition, charging, 3222

collection, and adjustment by an electric distribution utility, 3223  
its assignee, or any collection agent, of the phase-in-recovery 3224  
charges authorized pursuant to a final financing order issued 3225  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3226

~~(J) On behalf of the customers that are part of a 3227  
governmental aggregation under this section and by filing 3228  
written notice with the public utilities commission, the 3229  
legislative authority that formed or is forming that 3230  
governmental aggregation may elect not to receive standby 3231  
service within the meaning of division (B) (2) (d) of section 3232  
4928.143 of the Revised Code from an electric distribution 3233  
utility in whose certified territory the governmental 3234  
aggregation is located and that operates under an approved 3235  
electric security plan under that section. Upon the filing of 3236  
that notice, the electric distribution utility shall not charge 3237  
any such customer to whom competitive retail electric generation 3238  
service is provided by another supplier under the governmental 3239  
aggregation for the standby service. Any such consumer that 3240  
returns to the utility for competitive retail electric service 3241  
shall pay the market price of power incurred by the utility to 3242  
serve that consumer plus any amount attributable to the 3243  
utility's cost of compliance with the renewable energy resource 3244  
provisions of section 4928.64 of the Revised Code to serve the 3245  
consumer. Such market price shall include, but not be limited 3246  
to, capacity and energy charges; all charges associated with the 3247  
provision of that power supply through the regional transmission 3248  
organization, including, but not limited to, transmission, 3249  
ancillary services, congestion, and settlement and 3250  
administrative charges; and all other costs incurred by the 3251  
utility that are associated with the procurement, provision, and 3252  
administration of that power supply, as such costs may be 3253~~

~~approved by the commission. The period of time during which the~~ 3254  
~~market price and renewable energy resource amount shall be so~~ 3255  
~~assessed on the consumer shall be from the time the consumer so~~ 3256  
~~returns to the electric distribution utility until the~~ 3257  
~~expiration of the electric security plan. However, if that~~ 3258  
~~period of time is expected to be more than two years, the~~ 3259  
~~commission may reduce the time period to a period of not less~~ 3260  
~~than two years.~~ 3261

~~(K) The commission shall adopt rules and issue orders in~~ 3262  
~~proceedings under sections 4928.141 and 4928.142 of the Revised~~ 3263  
~~Code to encourage and promote large-scale governmental~~ 3264  
~~aggregation in this state. For that purpose, the commission~~ 3265  
~~shall conduct an immediate review of any rules it has adopted~~ 3266  
~~for the purpose of this section that are in effect on the~~ 3267  
~~effective date of the amendment of this section by S.B. 221 of~~ 3268  
~~the 127th general assembly, July 31, 2008. ~~Further, within the~~~~ 3269  
~~~~context of an electric security plan under section 4928.143 of~~~~ 3270  
~~~~the Revised Code, the The commission shall ~~consider the effect~~~~ 3271  
~~~~on large-scale governmental aggregation of any nonbypassable~~~~ 3272  
~~~~generation charges, however collected, that would be established~~~~ 3273  
~~~~under that plan, except any nonbypassable generation charges~~~~ 3274  
~~~~that relate to any cost incurred by the review each application~~~~ 3275  
~~~~filed under section 4928.142 of the Revised Code by an electric~~~~ 3276  
~~~~distribution utility, to ensure that the deferral of which has~~~~ 3277  
~~~~been authorized by the commission prior to the effective date of~~~~ 3278  
~~~~application and the amendment of this section by S.B. 221 of the~~~~ 3279  
~~~~127th general assembly, July 31, 2008 resulting market rate~~~~ 3280  
~~~~offer shall not contain any rate, price, term, condition, or~~~~ 3281  
~~~~provision that would have an adverse effect on large-scale~~~~ 3282  
~~~~governmental aggregation in this state.~~~~ 3283~~

**Sec. 4928.23.** As used in sections 4928.23 to 4928.2318 of 3284



|  |      |
|--|------|
| the Revised Code:  | 3285 |
| (A) "Ancillary agreement" means any bond insurance policy,       | 3286 |
| letter of credit, reserve account, surety bond, swap             | 3287 |
| arrangement, hedging arrangement, liquidity or credit support    | 3288 |
| arrangement, or other similar agreement or arrangement entered   | 3289 |
| into in connection with the issuance of phase-in-recovery bonds  | 3290 |
| that is designed to promote the credit quality and marketability | 3291 |
| of the bonds or to mitigate the risk of an increase in interest  | 3292 |
| rates.   | 3293 |
| (B) "Assignee" means any person or entity to which an            | 3294 |
| interest in phase-in-recovery property is sold, assigned,        | 3295 |
| transferred, or conveyed, other than as security, and any        | 3296 |
| successor to or subsequent assignee of such a person or entity.  | 3297 |
| (C) "Bond" includes debentures, notes, certificates of           | 3298 |
| participation, certificates of beneficial interest, certificates | 3299 |
| of ownership or other evidences of indebtedness or ownership     | 3300 |
| that are issued by an electric distribution utility or an        | 3301 |
| assignee under a final financing order, the proceeds of which    | 3302 |
| are used directly or indirectly to recover, finance, or          | 3303 |
| refinance phase-in costs and financing costs, and that are       | 3304 |
| secured by or payable from revenues from phase-in-recovery       | 3305 |
| charges.   | 3306 |
| (D) "Bondholder" means any holder or owner of a phase-in-        | 3307 |
| recovery bond.   | 3308 |
| (E) "Financing costs" means any of the following:                | 3309 |
| (1) Principal, interest, and redemption premiums that are        | 3310 |
| payable on phase-in-recovery bonds;                              | 3311 |
| (2) Any payment required under an ancillary agreement;           | 3312 |

- (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; 3313  
3314  
3315  
3316
- (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; 3317  
3318  
3319  
3320
- (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; 3321  
3322  
3323  
3324  
3325  
3326
- (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; 3327  
3328  
3329  
3330  
3331  
3332
- (7) Any taxes, franchise fees, or license fees imposed on phase-in-recovery revenues; 3333  
3334
- (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; 3335  
3336  
3337  
3338  
3339  
3340
- (9) Any other similar costs that the public utilities 3341

commission finds appropriate. 3342

(F) "Financing order" means an order issued by the public 3343  
utilities commission under section 4928.232 of the Revised Code 3344  
that authorizes an electric distribution utility or an assignee 3345  
to issue phase-in-recovery bonds and recover phase-in-recovery 3346  
charges. 3347

(G) "Final financing order" means a financing order that 3348  
has become final and has taken effect as provided in section 3349  
4928.233 of the Revised Code. 3350

(H) "Financing party" means either of the following: 3351

(1) Any trustee, collateral agent, or other person acting 3352  
for the benefit of any bondholder; 3353

(2) Any party to an ancillary agreement, the rights and 3354  
obligations of which relate to or depend upon the existence of 3355  
phase-in-recovery property, the enforcement and priority of a 3356  
security interest in phase-in-recovery property, the timely 3357  
collection and payment of phase-in-recovery revenues, or a 3358  
combination of these factors. 3359

(I) "Financing statement" has the same meaning as in 3360  
section 1309.102 of the Revised Code. 3361

(J) "Phase-in costs" means costs, inclusive of carrying 3362  
charges incurred before, on, or after ~~the effective date of this~~ 3363  
~~section~~ March 22, 2012, authorized by the commission before, on, 3364  
or after ~~the effective date of this section~~ March 22, 2012, to 3365  
be securitized or deferred as regulatory assets in proceedings 3366  
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3367  
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3368  
4928.14 of the Revised Code as it existed prior to July 31, 3369  
2008, or section 4928.143 of the Revised Code as it existed 3370

prior to the effective date of the amendments to this section by 3371  
this act pursuant to a final order for which appeals have been 3372  
exhausted. "Phase-in costs" excludes the following: 3373

(1) With respect to any electric generating facility that, 3374  
on and after ~~the effective date of this section~~ March 22, 2012, 3375  
is owned, in whole or in part, by an electric distribution 3376  
utility applying for a financing order under section 4928.231 of 3377  
the Revised Code, costs that are authorized under division (B) 3378  
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3379  
section existed prior to the effective date of the amendments to 3380  
this section by this act; 3381

(2) Costs incurred after ~~the effective date of this~~ 3382  
~~section~~ March 22, 2012, related to the ongoing operation of an 3383  
electric generating facility, but not environmental clean-up or 3384  
remediation costs incurred by an electric distribution utility 3385  
because of its ownership or operation of an electric generating 3386  
facility prior to ~~the effective date of this section~~ March 22, 3387  
2012, which such clean-up or remediation costs are imposed or 3388  
incurred pursuant to federal or state law, rules, or regulations 3389  
and for which the commission approves or approved recovery in 3390  
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3391  
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3392  
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3393  
July 31, 2008, or section 4928.143 of the Revised Code as it 3394  
existed prior to the effective date of the amendments to this 3395  
section by this act. 3396

(K) "Phase-in-recovery property" means the property, 3397  
rights, and interests of an electric distribution utility or an 3398  
assignee under a final financing order, including the right to 3399  
impose, charge, and collect the phase-in-recovery charges that 3400

shall be used to pay and secure the payment of phase-in-recovery 3401  
bonds and financing costs, and including the right to obtain 3402  
adjustments to those charges, and any revenues, receipts, 3403  
collections, rights to payment, payments, moneys, claims, or 3404  
other proceeds arising from the rights and interests created 3405  
under the final financing order. 3406

(L) "Phase-in-recovery revenues" means all revenues, 3407  
receipts, collections, payments, moneys, claims, or other 3408  
proceeds arising from phase-in-recovery property. 3409

(M) "Successor" means, with respect to any entity, another 3410  
entity that succeeds by operation of law to the rights and 3411  
obligations of the first legal entity pursuant to any 3412  
bankruptcy, reorganization, restructuring, or other insolvency 3413  
proceeding, any merger, acquisition, or consolidation, or any 3414  
sale or transfer of assets, regardless of whether any of these 3415  
occur as a result of a restructuring of the electric power 3416  
industry or otherwise. 3417

**Sec. 4928.231.** (A) An electric distribution utility may 3418  
apply to the public utilities commission for a financing order 3419  
that authorizes the following: 3420

(1) The issuance of phase-in-recovery bonds, in one or 3421  
more series, to recover uncollected phase-in costs; 3422

(2) The imposition, charging, and collection of phase-in- 3423  
recovery charges, in accordance with the adjustment mechanism 3424  
approved by the commission under section 4928.232 of the Revised 3425  
Code, and consistent with the commission's authority regarding 3426  
governmental aggregation as provided in division (I) of section 3427  
4928.20 of the Revised Code, to recover both of the following: 3428

(a) Uncollected phase-in costs; 3429

|   |  |
|---|--|
| (b) Financing costs.  | 3430   |
| (3) The creation of phase-in-recovery property under the financing order.   | 3431<br>3432   |
| (B) The application shall include all of the following:   | 3433   |
| (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;  | 3434<br>3435<br>3436                                 |
| (2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;   | 3437<br>3438   |
| (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;  | 3439<br>3440<br>3441                                 |
| (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;  | 3442<br>3443<br>3444                                 |
| (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;  | 3445<br>3446<br>3447<br>3448<br>3449<br>3450         |
| (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; | 3451<br>3452<br>3453<br>3454<br>3455<br>3456<br>3457 |

(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. 3488

(B) When reviewing an application for a financing order 3489  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3490  
the commission may hold such hearings, make such inquiries or 3491  
investigations, and examine such witnesses, books, papers, 3492  
documents, and contracts as the commission considers proper to 3493  
carry out these sections. Within thirty days after the filing of 3494  
an application under section 4928.231 of the Revised Code, the 3495  
commission shall publish a schedule of the proceeding. 3496

(C) (1) Not later than one hundred thirty-five days after 3497  
the date the application is filed, the commission shall issue 3498  
either a financing order, granting the application in whole or 3499  
with modifications, or an order suspending or rejecting the 3500  
application. 3501

(2) If the commission suspends an application for a 3502  
financing order, the commission shall notify the electric 3503  
distribution utility of the suspension and may direct the 3504  
electric distribution utility to provide additional information 3505  
as the commission considers necessary to evaluate the 3506  
application. Not later than ninety days after the suspension, 3507  
the commission shall issue either a financing order, granting 3508  
the application in whole or with modifications, or an order 3509  
rejecting the application. 3510

(D) (1) The commission shall not issue a financing order 3511  
under division (C) of this section unless the commission 3512  
determines that the financing order is consistent with section 3513  
4928.02 of the Revised Code. 3514

(2) Except as provided in division (D) (1) of this section, 3515  
the commission shall issue a financing order under division (C) 3516



of this section if, at the time the financing order is issued, 3517  
the commission finds that the issuance of the phase-in-recovery 3518  
bonds and the phase-in-recovery charges authorized by the order 3519  
results in, consistent with market conditions, both measurably 3520  
enhancing cost savings to customers and mitigating rate impacts 3521  
to customers as compared with traditional financing mechanisms 3522  
or traditional cost-recovery methods available to the electric 3523  
distribution utility or, if the commission previously approved a 3524  
recovery method, as compared with that recovery method. 3525

(E) The commission shall include all of the following in a 3526  
financing order issued under division (C) of this section: 3527

(1) A determination of the maximum amount and a 3528  
description of the phase-in costs that may be recovered through 3529  
phase-in-recovery bonds issued under the financing order; 3530

(2) A description of phase-in-recovery property, the 3531  
creation of which is authorized by the financing order; 3532

(3) A description of the financing costs that may be 3533  
recovered through phase-in-recovery charges and the period over 3534  
which those costs may be recovered; 3535

(4) For phase-in-recovery charges not subject to 3536  
allocation according to an existing order, a description of the 3537  
methodology and calculation for allocating phase-in-recovery 3538  
charges among customer classes, including the allocation of such 3539  
charges, if any, to governmental aggregation customers based 3540  
upon the proportionate benefit determination made under division 3541  
(I) of section 4928.20 of the Revised Code; 3542

(5) A description of the adjustment mechanism for use in 3543  
the imposition, charging, and collection of the phase-in- 3544  
recovery charges; 3545

(6) The maximum term of the phase-in-recovery bonds; 3546

(7) Any other provision the commission considers 3547  
appropriate to ensure the full and timely imposition, charging, 3548  
collection, and adjustment, pursuant to an approved adjustment 3549  
mechanism, of the phase-in-recovery charges described in 3550  
divisions (E) (3) to (5) of this section. 3551

(F) The commission may, in a financing order, afford the 3552  
electric distribution utility flexibility in establishing the 3553  
terms and conditions for the phase-in-recovery bonds to 3554  
accommodate changes in market conditions, including repayment 3555  
schedules, interest rates, financing costs, collateral 3556  
requirements, required debt service and other reserves, and the 3557  
ability of the electric distribution utility, at its option, to 3558  
effect a series of issuances of phase-in-recovery bonds and 3559  
correlated assignments, sales, pledges, or other transfers of 3560  
phase-in-recovery property. Any changes made under this section 3561  
to terms and conditions for the phase-in-recovery bonds shall be 3562  
in conformance with the financing order. 3563

(G) A financing order may provide that the creation of 3564  
phase-in-recovery property shall be simultaneous with the sale 3565  
of that property to an assignee as provided in the application 3566  
and the pledge of the property to secure phase-in-recovery 3567  
bonds. 3568

(H) The commission shall, in a financing order, require 3569  
that after the final terms of each issuance of phase-in-recovery 3570  
bonds have been established, and prior to the issuance of those 3571  
bonds, the electric distribution utility shall determine the 3572  
resulting phase-in-recovery charges in accordance with the 3573  
adjustment mechanism described in the financing order. These 3574  
phase-in-recovery charges shall be final and effective upon the 3575

issuance of the phase-in-recovery bonds, without further 3576  
commission action. 3577

**Sec. 4928.34.** (A) The public utilities commission shall 3578  
not approve or prescribe a transition plan under division (A) or 3579  
(B) of section 4928.33 of the Revised Code unless the commission 3580  
first makes all of the following determinations: 3581

(1) The unbundled components for the electric transmission 3582  
component of retail electric service, as specified in the 3583  
utility's rate unbundling plan required by division (A) (1) of 3584  
section 4928.31 of the Revised Code, equal the tariff rates 3585  
determined by the federal energy regulatory commission that are 3586  
in effect on the date of the approval of the transition plan 3587  
under sections 4928.31 to 4928.40 of the Revised Code, as each 3588  
such rate is determined applicable to each particular customer 3589  
class and rate schedule by the commission. The unbundled 3590  
transmission component shall include a sliding scale of charges 3591  
under division (B) of section 4905.31 of the Revised Code to 3592  
ensure that refunds determined or approved by the federal energy 3593  
regulatory commission are flowed through to retail electric 3594  
customers. 3595

(2) The unbundled components for retail electric 3596  
distribution service in the rate unbundling plan equal the 3597  
difference between the costs attributable to the utility's 3598  
transmission and distribution rates and charges under its 3599  
schedule of rates and charges in effect on the effective date of 3600  
this section, based upon the record in the most recent rate 3601  
proceeding of the utility for which the utility's schedule was 3602  
established, and the tariff rates for electric transmission 3603  
service determined by the federal energy regulatory commission 3604  
as described in division (A) (1) of this section. 3605

(3) All other unbundled components required by the 3606  
commission in the rate unbundling plan equal the costs 3607  
attributable to the particular service as reflected in the 3608  
utility's schedule of rates and charges in effect on the 3609  
effective date of this section. 3610

(4) The unbundled components for retail electric 3611  
generation service in the rate unbundling plan equal the 3612  
residual amount remaining after the determination of the 3613  
transmission, distribution, and other unbundled components, and 3614  
after any adjustments necessary to reflect the effects of the 3615  
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3616  
No. 3 of the 123rd general assembly. 3617

(5) All unbundled components in the rate unbundling plan 3618  
have been adjusted to reflect any base rate reductions on file 3619  
with the commission and as scheduled to be in effect by December 3620  
31, 2005, under rate settlements in effect on the effective date 3621  
of this section. However, all earnings obligations, 3622  
restrictions, or caps imposed on an electric utility in a 3623  
commission order prior to the effective date of this section are 3624  
void. 3625

(6) Subject to division (A) (5) of this section, the total 3626  
of all unbundled components in the rate unbundling plan are 3627  
capped and shall equal during the market development period, 3628  
except as specifically provided in this chapter, the total of 3629  
all rates and charges in effect under the applicable bundled 3630  
schedule of the electric utility pursuant to section 4905.30 of 3631  
the Revised Code in effect on the day before the effective date 3632  
of this section, including the transition charge determined 3633  
under section 4928.40 of the Revised Code, adjusted for any 3634  
changes in the taxation of electric utilities and retail 3635

electric service under Sub. S.B. No. 3 of the 123rd General 3636  
Assembly, the universal service rider authorized by section 3637  
4928.51 of the Revised Code, and the temporary rider authorized 3638  
by section 4928.61 of the Revised Code. For the purpose of this 3639  
division, the rate cap applicable to a customer receiving 3640  
electric service pursuant to an arrangement approved by the 3641  
commission under section 4905.31 of the Revised Code is, for the 3642  
term of the arrangement, the total of all rates and charges in 3643  
effect under the arrangement. For any rate schedule filed 3644  
pursuant to section 4905.30 of the Revised Code or any 3645  
arrangement subject to approval pursuant to section 4905.31 of 3646  
the Revised Code, the initial tax-related adjustment to the rate 3647  
cap required by this division shall be equal to the rate of 3648  
taxation specified in section 5727.81 of the Revised Code and 3649  
applicable to the schedule or arrangement. To the extent such 3650  
total annual amount of the tax-related adjustment is greater 3651  
than or less than the comparable amount of the total annual tax 3652  
reduction experienced by the electric utility as a result of the 3653  
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3654  
such difference shall be addressed by the commission through 3655  
accounting procedures, refunds, or an annual surcharge or credit 3656  
to customers, or through other appropriate means, to avoid 3657  
placing the financial responsibility for the difference upon the 3658  
electric utility or its shareholders. Any adjustments in the 3659  
rate of taxation specified in section 5727.81 of the Revised 3660  
Code ~~section~~ shall not occur without a corresponding adjustment 3661  
to the rate cap for each such rate schedule or arrangement. The 3662  
department of taxation shall advise the commission and self- 3663  
assessors under section 5727.81 of the Revised Code prior to the 3664  
effective date of any change in the rate of taxation specified 3665  
under that section, and the commission shall modify the rate cap 3666  
to reflect that adjustment so that the rate cap adjustment is 3667

effective as of the effective date of the change in the rate of 3668  
taxation. This division shall be applied, to the extent 3669  
possible, to eliminate any increase in the price of electricity 3670  
for customers that otherwise may occur as a result of 3671  
establishing the taxes contemplated in section 5727.81 of the 3672  
Revised Code. 3673

(7) The rate unbundling plan complies with any rules 3674  
adopted by the commission under division (A) of section 4928.06 3675  
of the Revised Code. 3676

(8) The corporate separation plan required by division (A) 3677  
(2) of section 4928.31 of the Revised Code complies with section 3678  
4928.17 of the Revised Code and any rules adopted by the 3679  
commission under division (A) of section 4928.06 of the Revised 3680  
Code. 3681

(9) Any plan or plans the commission requires to address 3682  
operational support systems and any other technical 3683  
implementation issues pertaining to competitive retail electric 3684  
service comply with any rules adopted by the commission under 3685  
division (A) of section 4928.06 of the Revised Code. 3686

(10) The employee assistance plan required by division (A) 3687  
(4) of section 4928.31 of the Revised Code sufficiently provides 3688  
severance, retraining, early retirement, retention, 3689  
outplacement, and other assistance for the utility's employees 3690  
whose employment is affected by electric industry restructuring 3691  
under this chapter. 3692

(11) The consumer education plan required under division 3693  
(A) (5) of section 4928.31 of the Revised Code complies with 3694  
former section 4928.42 of the Revised Code and any rules adopted 3695  
by the commission under division (A) of section 4928.06 of the 3696

Revised Code. 3697

(12) The transition revenues for which an electric utility 3698  
is authorized a revenue opportunity under sections 4928.31 to 3699  
4928.40 of the Revised Code are the allowable transition costs 3700  
of the utility as such costs are determined by the commission 3701  
pursuant to section 4928.39 of the Revised Code, and the 3702  
transition charges for the customer classes and rate schedules 3703  
of the utility are the charges determined pursuant to section 3704  
4928.40 of the Revised Code. 3705

(13) Any independent transmission plan included in the 3706  
transition plan filed under section 4928.31 of the Revised Code 3707  
reasonably complies with section 4928.12 of the Revised Code and 3708  
any rules adopted by the commission under division (A) of 3709  
section 4928.06 of the Revised Code, unless the commission, for 3710  
good cause shown, authorizes the utility to defer compliance 3711  
until an order is issued under division (G) of section 4928.35 3712  
of the Revised Code. 3713

(14) The utility is in compliance with sections 4928.01 to 3714  
4928.11 of the Revised Code and any rules or orders of the 3715  
commission adopted or issued under those sections. 3716

(15) All unbundled components in the rate unbundling plan 3717  
have been adjusted to reflect the elimination of the tax on 3718  
gross receipts imposed by section 5727.30 of the Revised Code. 3719

In addition, a transition plan approved by the commission 3720  
under section 4928.33 of the Revised Code but not containing an 3721  
approved independent transmission plan shall contain the express 3722  
conditions that the utility will comply with an order issued 3723  
under division (G) of section 4928.35 of the Revised Code. 3724

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3725

~~Revised Code, if~~ If the commission finds that any part of the 3726  
transition plan would constitute an abandonment under sections 3727  
4905.20 and 4905.21 of the Revised Code, the commission shall 3728  
not approve that part of the transition plan unless it makes the 3729  
finding required for approval of an abandonment application 3730  
under section 4905.21 of the Revised Code. Sections 4905.20 and 3731  
4905.21 of the Revised Code otherwise shall not apply to a 3732  
transition plan under sections 4928.31 to 4928.40 of the Revised 3733  
Code. 3734

**Sec. 4928.542.** The winning bid or bids selected through 3735  
the competitive procurement process established under section 3736  
4928.54 of the Revised Code shall meet all of the following 3737  
requirements: 3738

(A) Be designed to provide reliable competitive retail 3739  
electric service to percentage of income payment plan program 3740  
customers; 3741

(B) Reduce the cost of the percentage of income payment 3742  
plan program relative to the otherwise applicable standard 3743  
service offer established under sections 4928.141, ~~and~~ 4928.142, 3744  
~~and 4928.143~~ of the Revised Code; 3745

(C) Result in the best value for persons paying the 3746  
universal service rider under section 4928.52 of the Revised 3747  
Code. 3748

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 3749  
renewable energy resource" means a renewable energy resource, as 3750  
defined in section 4928.01 of the Revised Code that: 3751

(a) Has a placed-in-service date on or after January 1, 3752  
1998; 3753

(b) Is any run-of-the-river hydroelectric facility that 3754



has an in-service date on or after January 1, 1980; 3755

(c) Is a small hydroelectric facility; 3756

(d) Is created on or after January 1, 1998, by the 3757  
modification or retrofit of any facility placed in service prior 3758  
to January 1, 1998; or 3759

(e) Is a mercantile customer-sited renewable energy 3760  
resource, whether new or existing, that the mercantile customer 3761  
commits for integration into the electric distribution utility's 3762  
demand-response, energy efficiency, or peak demand reduction 3763  
programs as provided under division (A) (2) (c) of section 4928.66 3764  
of the Revised Code, including, but not limited to, any of the 3765  
following: 3766

(i) A resource that has the effect of improving the 3767  
relationship between real and reactive power; 3768

(ii) A resource that makes efficient use of waste heat or 3769  
other thermal capabilities owned or controlled by a mercantile 3770  
customer; 3771

(iii) Storage technology that allows a mercantile customer 3772  
more flexibility to modify its demand or load and usage 3773  
characteristics; 3774

(iv) Electric generation equipment owned or controlled by 3775  
a mercantile customer that uses a renewable energy resource. 3776

(2) For the purpose of this section and as it considers 3777  
appropriate, the public utilities commission may classify any 3778  
new technology as such a qualifying renewable energy resource. 3779

(B) (1) By the end of 2026, an electric distribution 3780  
utility shall have provided from qualifying renewable energy 3781  
resources, including, at its discretion, qualifying renewable 3782

energy resources obtained pursuant to an electricity supply 3783  
contract, a portion of the electricity supply required for its 3784  
standard service offer under ~~section~~sections 4928.141 and 3785  
4928.142 of the Revised Code, and an electric services company 3786  
shall have provided a portion of its electricity supply for 3787  
retail consumers in this state from qualifying renewable energy 3788  
resources, including, at its discretion, qualifying renewable 3789  
energy resources obtained pursuant to an electricity supply 3790  
contract. That portion shall equal eight and one-half per cent 3791  
of the total number of kilowatt hours of electricity sold by the 3792  
subject utility or company to any and all retail electric 3793  
consumers whose electric load centers are served by that utility 3794  
and are located within the utility's certified territory or, in 3795  
the case of an electric services company, are served by the 3796  
company and are located within this state. However, nothing in 3797  
this section precludes a utility or company from providing a 3798  
greater percentage. 3799

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3800  
The portion required under division (B) (1) of this section shall 3801  
be generated from renewable energy resources in accordance with 3802  
the following benchmarks: 3803

|   | 1              | 2                          | 3                      |
|---|----------------|----------------------------|------------------------|
| A | By end of year | Renewable energy resources | Solar energy resources |
| B | 2009           | 0.25%                      | 0.004%                 |
| C | 2010           | 0.50%                      | 0.010%                 |
| D | 2011           | 1%                         | 0.030%                 |

|   |      |      |        |
|---|------|------|--------|
| E | 2012 | 1.5% | 0.060% |
| F | 2013 | 2%   | 0.090% |
| G | 2014 | 2.5% | 0.12%  |
| H | 2015 | 2.5% | 0.12%  |
| I | 2016 | 2.5% | 0.12%  |
| J | 2017 | 3.5% | 0.15%  |
| K | 2018 | 4.5% | 0.18%  |
| L | 2019 | 5.5% | 0.22%  |
| M | 2020 | 5.5% | 0%     |
| N | 2021 | 6%   | 0%     |
| O | 2022 | 6.5% | 0%     |
| P | 2023 | 7%   | 0%     |
| Q | 2024 | 7.5% | 0%     |
| R | 2025 | 8%   | 0%     |
| S | 2026 | 8.5% | 0%     |

(3) The qualifying renewable energy resources implemented 3805  
by the utility or company shall be met either: 3806

(a) Through facilities located in this state; or 3807

(b) With resources that can be shown to be deliverable 3808  
into this state. 3809

(C) (1) The commission annually shall review an electric 3810  
distribution utility's or electric services company's compliance 3811  
with the most recent applicable benchmark under division (B) (2) 3812  
of this section and, in the course of that review, shall 3813  
identify any undercompliance or noncompliance of the utility or 3814  
company that it determines is weather-related, related to 3815  
equipment or resource shortages for qualifying renewable energy 3816  
resources as applicable, or is otherwise outside the utility's 3817  
or company's control. 3818

(2) Subject to the cost cap provisions of division (C) (3) 3819  
of this section, if the commission determines, after notice and 3820  
opportunity for hearing, and based upon its findings in that 3821  
review regarding avoidable undercompliance or noncompliance, but 3822  
subject to division (C) (4) of this section, that the utility or 3823  
company has failed to comply with any such benchmark, the 3824  
commission shall impose a renewable energy compliance payment on 3825  
the utility or company. 3826

(a) The compliance payment pertaining to the solar energy 3827  
resource benchmarks under division (B) (2) of this section shall 3828  
be an amount per megawatt hour of undercompliance or 3829  
noncompliance in the period under review, as follows: 3830

- (i) Three hundred dollars for 2014, 2015, and 2016; 3831
- (ii) Two hundred fifty dollars for 2017 and 2018; 3832
- (iii) Two hundred dollars for 2019. 3833

(b) The compliance payment pertaining to the renewable 3834  
energy resource benchmarks under division (B) (2) of this section 3835  
shall equal the number of additional renewable energy credits 3836  
that the electric distribution utility or electric services 3837  
company would have needed to comply with the applicable 3838

benchmark in the period under review times an amount that shall 3839  
begin at forty-five dollars and shall be adjusted annually by 3840  
the commission to reflect any change in the consumer price index 3841  
~~as defined in section 101.27 of the Revised Code~~, but shall not 3842  
be less than forty-five dollars. As used in this division, 3843  
"consumer price index" means the consumer price index prepared 3844  
by the United States bureau of labor statistics (U.S. city 3845  
average for urban wage earners and clerical workers: all items, 3846  
1982-1984=100), or, if that index is no longer published, a 3847  
generally available comparable index. 3848

(c) The compliance payment shall not be passed through by 3849  
the electric distribution utility or electric services company 3850  
to consumers. The compliance payment shall be remitted to the 3851  
commission, for deposit to the credit of the advanced energy 3852  
fund created under section 4928.61 of the Revised Code. Payment 3853  
of the compliance payment shall be subject to such collection 3854  
and enforcement procedures as apply to the collection of a 3855  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3856  
Revised Code. 3857

(3) An electric distribution utility or an electric 3858  
services company need not comply with a benchmark under division 3859  
(B) (2) of this section to the extent that its reasonably 3860  
expected cost of that compliance exceeds its reasonably expected 3861  
cost of otherwise producing or acquiring the requisite 3862  
electricity by three per cent or more. The cost of compliance 3863  
shall be calculated as though any exemption from taxes and 3864  
assessments had not been granted under section 5727.75 of the 3865  
Revised Code. 3866

(4) (a) An electric distribution utility or electric 3867  
services company may request the commission to make a force 3868

majeure determination pursuant to this division regarding all or 3869  
part of the utility's or company's compliance with any minimum 3870  
benchmark under division (B) (2) of this section during the 3871  
period of review occurring pursuant to division (C) (2) of this 3872  
section. The commission may require the electric distribution 3873  
utility or electric services company to make solicitations for 3874  
renewable energy resource credits as part of its default service 3875  
before the utility's or company's request of force majeure under 3876  
this division can be made. 3877

(b) Within ninety days after the filing of a request by an 3878  
electric distribution utility or electric services company under 3879  
division (C) (4) (a) of this section, the commission shall 3880  
determine if qualifying renewable energy resources are 3881  
reasonably available in the marketplace in sufficient quantities 3882  
for the utility or company to comply with the subject minimum 3883  
benchmark during the review period. In making this 3884  
determination, the commission shall consider whether the 3885  
electric distribution utility or electric services company has 3886  
made a good faith effort to acquire sufficient qualifying 3887  
renewable energy or, as applicable, solar energy resources to so 3888  
comply, including, but not limited to, by banking or seeking 3889  
renewable energy resource credits or by seeking the resources 3890  
through long-term contracts. Additionally, the commission shall 3891  
consider the availability of qualifying renewable energy or 3892  
solar energy resources in this state and other jurisdictions in 3893  
the PJM interconnection regional transmission organization, 3894  
L.L.C., or its successor and the midcontinent independent system 3895  
operator or its successor. 3896

(c) If, pursuant to division (C) (4) (b) of this section, 3897  
the commission determines that qualifying renewable energy or 3898  
solar energy resources are not reasonably available to permit 3899

the electric distribution utility or electric services company 3900  
to comply, during the period of review, with the subject minimum 3901  
benchmark prescribed under division (B) (2) of this section, the 3902  
commission shall modify that compliance obligation of the 3903  
utility or company as it determines appropriate to accommodate 3904  
the finding. Commission modification shall not automatically 3905  
reduce the obligation for the electric distribution utility's or 3906  
electric services company's compliance in subsequent years. If 3907  
it modifies the electric distribution utility or electric 3908  
services company obligation under division (C) (4) (c) of this 3909  
section, the commission may require the utility or company, if 3910  
sufficient renewable energy resource credits exist in the 3911  
marketplace, to acquire additional renewable energy resource 3912  
credits in subsequent years equivalent to the utility's or 3913  
company's modified obligation under division (C) (4) (c) of this 3914  
section. 3915

(5) The commission shall establish a process to provide 3916  
for at least an annual review of the renewable energy resource 3917  
market in this state and in the service territories of the 3918  
regional transmission organizations that manage transmission 3919  
systems located in this state. The commission shall use the 3920  
results of this study to identify any needed changes to the 3921  
amount of the renewable energy compliance payment specified 3922  
under divisions (C) (2) (a) and (b) of this section. Specifically, 3923  
the commission may increase the amount to ensure that payment of 3924  
compliance payments is not used to achieve compliance with this 3925  
section in lieu of actually acquiring or realizing energy 3926  
derived from qualifying renewable energy resources. However, if 3927  
the commission finds that the amount of the compliance payment 3928  
should be otherwise changed, the commission shall present this 3929  
finding to the general assembly for legislative enactment. 3930

(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 3960  
in the five calendar years following the date of their purchase 3961  
or acquisition from any entity, including, but not limited to, 3962  
the following: 3963

(1) A mercantile customer; 3964

(2) An owner or operator of a hydroelectric generating 3965  
facility that is located at a dam on a river, or on any water 3966  
discharged to a river, that is within or bordering this state or 3967  
within or bordering an adjoining state, or that produces power 3968  
that can be shown to be deliverable into this state; 3969

(3) A seller of compressed natural gas that has been 3970  
produced from biologically derived methane gas, provided that 3971  
the seller may only provide renewable energy credits for metered 3972  
amounts of gas. 3973

(B) (1) The public utilities commission shall adopt rules 3974  
specifying that one unit of credit shall equal one megawatt hour 3975  
of electricity derived from renewable energy resources, except 3976  
that, for a generating facility of seventy-five megawatts or 3977  
greater that is situated within this state and has committed by 3978  
December 31, 2009, to modify or retrofit its generating unit or 3979  
units to enable the facility to generate principally from 3980  
biomass energy by June 30, 2013, each megawatt hour of 3981  
electricity generated principally from that biomass energy shall 3982  
equal, in units of credit, the product obtained by multiplying 3983  
the actual percentage of biomass feedstock heat input used to 3984  
generate such megawatt hour by the quotient obtained by dividing 3985  
the then existing unit dollar amount used to determine a 3986  
renewable energy compliance payment as provided under division 3987  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3988  
existing market value of one renewable energy credit, but such 3989

megawatt hour shall not equal less than one unit of credit. 3990  
Renewable energy resources do not have to be converted to 3991  
electricity in order to be eligible to receive renewable energy 3992  
credits. The rules shall specify that, for purposes of 3993  
converting the quantity of energy derived from biologically 3994  
derived methane gas to an electricity equivalent, one megawatt 3995  
hour equals 3,412,142 British thermal units. 3996

(2) The rules also shall provide for this state a system 3997  
of registering renewable energy credits by specifying which of 3998  
any generally available registries shall be used for that 3999  
purpose and not by creating a registry. That selected system of 4000  
registering renewable energy credits shall allow a hydroelectric 4001  
generating facility to be eligible for obtaining renewable 4002  
energy credits and shall allow customer-sited projects or 4003  
actions the broadest opportunities to be eligible for obtaining 4004  
renewable energy credits. 4005

~~(C) Beginning January 1, 2020, a qualifying solar resource 4006  
as defined in section 3706.40 of the Revised Code is not 4007  
eligible to obtain a renewable energy credit under this section 4008  
for any megawatt hour for which the resource has been issued a 4009  
solar energy credit under section 3706.45 of the Revised Code. 4010~~

~~(D) Except for compressed natural gas that has been 4011  
produced from biologically derived methane gas, energy generated 4012  
by using natural gas as a resource is not eligible to obtain a 4013  
renewable energy credit under this section. 4014~~

**Sec. 4928.73.** (A) As used in this section: 4015

(1) "Mercantile customer member" means a mercantile 4016  
customer connected to a mercantile customer self-power system. 4017

(2) "Mercantile customer self-power system" means one or 4018

more electric generation facilities, electric storage 4019  
facilities, or both, along with any associated facilities, that 4020  
meet all of the following: 4021

(a) Produce electricity primarily for the consumption of a 4022  
mercantile customer member or a group of mercantile customer 4023  
members; 4024

(b) Connect directly to the mercantile customer member's 4025  
side of the electric meter; 4026

(c) Deliver electricity to the mercantile customer 4027  
member's side of the electric meter without the use of an 4028  
electric distribution utility's or electric cooperative's 4029  
distribution system or transmission system; 4030

(d) Is located on either of the following: 4031

(i) A property owned or controlled by a mercantile 4032  
customer member or the entity that owns or operates the 4033  
mercantile customer self-power system; 4034

(ii) Land adjacent to a mercantile customer member if the 4035  
facilities connect directly with the customer; 4036

(e) Is placed into service after the effective date of 4037  
this section. 4038

(B) The mercantile customer self-power system may be owned 4039  
or operated by a mercantile customer member, group of mercantile 4040  
customer members, or an entity that is not a mercantile customer 4041  
member. 4042

(C) A mercantile customer self-power system may provide 4043  
electric generation service to one or more mercantile customers. 4044

(D) The public utilities commission shall adopt rules to 4045

implement this section that are applicable to electric 4046  
distribution utilities. 4047

(E) Nothing in this section prohibits an electric 4048  
distribution utility or an electric cooperative from charging a 4049  
mercantile customer for distribution or transmission service 4050  
used by a mercantile customer. 4051

**Sec. 4928.83.** (A) Not later than May 31, 2026, every 4052  
electric distribution utility in the state shall develop and 4053  
publicly share distribution system hosting capacity maps. The 4054  
utility shall ensure that the maps are available on the 4055  
utility's web site and shall be updated at least once per 4056  
quarter. 4057

(B) The maps described in division (A) of this section 4058  
shall include, at a minimum: 4059

(1) Total available distribution hosting capacity, 4060  
expressed in megawatts, for new loads; 4061

(2) Separate hosting capacity availability for distributed 4062  
energy resources or a separate distributed energy resource 4063  
specific map; 4064

(3) Geographic locations and voltage levels of circuits 4065  
and substations; 4066

(4) Total, existing, and queued loads or generation 4067  
exceeding one megawatt per circuit and substation; 4068

(5) Available substation and circuit capacity expressed in 4069  
megawatts. 4070

(C) The public utilities commission shall hold at least 4071  
two stakeholder meetings annually to receive input on map 4072  
design, data accuracy, and usability. In addition, the 4073

commission shall establish uniform reporting standards to ensure 4074  
consistency across all electric distribution utilities. The 4075  
commission may also require utilities to include additional data 4076  
points as necessary to improve transparency and planning. 4077

(D) Each electric distribution utility shall publish 4078  
annual reliability reports, including the following metrics, 4079  
identified per circuit: 4080

(1) The system average interruption frequency index, 4081  
representing the average number of interruptions per customer; 4082

(2) The customer average interruption duration index, 4083  
representing the average interruption duration or average time 4084  
to restore service per interrupted customer; 4085

(3) Customers experiencing multiple interruptions, which 4086  
identifies customers experiencing at least five interruptions 4087  
annually divided by the total number of customers served; 4088

(4) Customers experiencing long interruption durations, 4089  
which identifies customers that experienced outages of one or 4090  
more hours in duration divided by the total number of customers 4091  
served; 4092

(5) Average outage frequency and duration per circuit and 4093  
substation; 4094

(6) Identification of circuits and substations with 4095  
persistent reliability issues; 4096

(7) Planned and completed upgrades to enhance grid 4097  
reliability. 4098

(E) The commission shall review and publish a statewide 4099  
reliability report annually, summarizing trends and recommending 4100  
grid modernization measures. 4101

Sec. 4928.86. (A) Each entity that owns or controls 4102  
transmission facilities located in this state and is not a 4103  
regional transmission organization shall create a heat map that 4104  
includes both of the following: 4105

(1) For major transmission lines and substations, the 4106  
additional power load the lines and substations can take at the 4107  
time that the map is created, accounting for all signed electric 4108  
service agreements; 4109

(2) The amount of localized generation that can be hosted 4110  
on each transmission line. 4111

(B) If a heat map created under this section is not 4112  
critical electric infrastructure information, then the entity 4113  
that created the map shall publish the map on the entity's web 4114  
site. 4115

Sec. 4929.20. ~~(A)~~(A) (1) No governmental aggregator as 4116  
defined in division (K) (1) of section 4929.01 of the Revised 4117  
Code or no retail natural gas supplier shall provide a 4118  
competitive retail natural gas service on or after thirteen 4119  
months following ~~the effective date of this section~~ June 26, 4120  
2001, to a consumer in this state without first being certified 4121  
by the public utilities commission regarding its managerial, 4122  
technical, and financial capability to provide that service and 4123  
providing reasonable financial assurances sufficient to protect 4124  
customers and natural gas companies from default. ~~In addition, a~~ 4125  
~~retail natural gas supplier may be required to provide a~~ 4126  
~~performance bond sufficient to protect customers and natural gas~~ 4127  
~~companies from default.~~ Certification shall be granted pursuant 4128  
to procedures and standards the commission shall prescribe in 4129  
accordance with rules adopted under section 4929.10 of the 4130  
Revised Code. However, certification or certification renewal 4131

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

(2) The commission shall establish rules to require a 4138  
competitive retail natural gas supplier to maintain financial 4139  
assurances sufficient to protect customers and natural gas 4140  
companies from default. Such rules also shall specifically allow 4141  
a natural gas company to set reasonable standards for its 4142  
security and the security of its customers through financial 4143  
requirements set in its tariffs. 4144

(3) As used in division (A)(2) of this section, "retail 4145  
natural gas supplier" has the same meaning as in section 4929.01 4146  
of the Revised Code, but excludes a broker or aggregator. 4147

(B) Capability standards adopted in rules pursuant to 4148  
division (A) of this section shall be sufficient to ensure 4149  
compliance with section 4929.22 of the Revised Code and with the 4150  
minimum service requirements established under section 4929.23 4151  
of the Revised Code. The standards shall allow flexibility for 4152  
voluntary aggregation, to encourage market creativity in 4153  
responding to consumer needs and demands. The rules shall 4154  
include procedures for biennially renewing certification. 4155

(C) (1) The commission may suspend, rescind, or 4156  
conditionally rescind the certification of any retail natural 4157  
gas supplier or governmental aggregator issued under this 4158  
section if the commission determines, after reasonable notice 4159  
and opportunity for hearing, that the retail natural gas 4160  
supplier or governmental aggregator has failed to comply with 4161

any applicable certification standards prescribed in rules 4162  
adopted pursuant to this section or section 4929.22 of the 4163  
Revised Code. 4164

(2) An affected natural gas company may file an 4165  
application with the commission for approval of authority to 4166  
recover in accordance with division (C) (2) of this section 4167  
incremental costs reasonably and prudently incurred by the 4168  
company in connection with the commission's continuation, 4169  
suspension, rescission, or conditional rescission of a 4170  
particular retail natural gas supplier's certification under 4171  
division (C) (1) of this section. Upon the filing of such an 4172  
application, the commission shall conduct an audit of such 4173  
incremental costs as are specified in the application. Cost 4174  
recovery shall be through a rider on the base rates of customers 4175  
of the company for which there is a choice of supplier of 4176  
commodity sales service as a result of revised schedules 4177  
approved under division (C) of section 4929.29 of the Revised 4178  
Code, a rule or order adopted or issued by the commission under 4179  
Chapter 4905. of the Revised Code, or an exemption granted by 4180  
the commission under sections 4929.04 to 4929.08 of the Revised 4181  
Code. The rider shall take effect ninety days after the date of 4182  
the application's filing unless the commission, based on the 4183  
audit results and for good cause shown, sets the matter for 4184  
hearing. After the hearing, the commission shall approve the 4185  
application, and authorize such cost recovery rider effective on 4186  
the date specified in the order, only for such incremental costs 4187  
as the commission determines were reasonably and prudently 4188  
incurred by the company in connection with the continuation, 4189  
suspension, rescission, or conditional rescission of a retail 4190  
natural gas supplier's certification under division (C) (1) of 4191  
this section. Any proceeding under division (C) (2) of this 4192



section shall be governed by Chapter 4903. of the Revised Code. 4193

(D) No natural gas company, on and after thirteen months 4194  
following ~~the effective date of this section~~ June 26, 2001, 4195  
shall knowingly distribute natural gas, to a retail consumer in 4196  
this state, for any governmental aggregator, as defined in 4197  
division (K) (1) of section 4929.01 of the Revised Code, or 4198  
retail natural gas supplier, that has not been certified by the 4199  
commission pursuant to this section. 4200

(E) Notwithstanding any provision of section 121.95 of the 4201  
Revised Code to the contrary, a regulatory restriction contained 4202  
in a rule adopted under section 4929.20 of the Revised Code is 4203  
not subject to sections 121.95 to 121.953 of the Revised Code. 4204

Sec. 4929.221. (A) If a competitive retail natural gas 4205  
service supplier offers a residential customer or non-mercantile 4206  
commercial customer a contract for a fixed introductory rate 4207  
that converts to a variable rate upon the expiration of the 4208  
fixed rate, the supplier shall send two notices to each 4209  
residential customer and non-mercantile commercial customer that 4210  
enters into such a contract. Each notice shall provide all of 4211  
the following information to the customer: 4212

(1) The fixed rate that is expiring under the contract; 4213

(2) The expiration date of the contract's fixed rate; 4214

(3) The public utilities commission web site that, as a 4215  
comparison tool, lists rates offered by competitive retail 4216  
natural gas service suppliers. 4217

(B) The second notice shall include all the information 4218  
required under division (A) of this section and shall also 4219  
identify the initial rate to be charged upon the contract's 4220  
conversion to a variable rate. 4221

(C) The notices shall be sent by standard United States mail or electronically with a customer's verifiable consent as follows: 4222  
4223  
4224

(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. 4225  
4226  
4227

(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. 4228  
4229  
4230

(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. 4231  
4232  
4233  
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4239

(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: 4240  
4241  
4242  
4243  
4244  
4245

(1) To use clear and unambiguous language in order to enable the customer to make an informed decision; 4246  
4247

(2) To design the notices in a way to ensure that they cannot be confused with marketing materials. 4248  
4249

(F) Notwithstanding any provision of section 121.95 of the 4250

Revised Code to the contrary, a regulatory restriction contained 4251  
in a rule adopted under section 4929.221 of the Revised Code is 4252  
not subject to sections 121.95 to 121.953 of the Revised Code. 4253

**Sec. 4929.222.** (A) As used in this section, "customer 4254  
account information" means a unique natural gas company number 4255  
or other customer identification number used by the company to 4256  
identify a customer and the customer's account record. 4257

(B) The public utilities commission shall adopt rules to 4258  
ensure that a natural gas company processes a customer's change 4259  
in competitive retail natural gas supplier by using customer 4260  
account information. A customer who consents to a change of 4261  
supplier shall not be required to provide customer account 4262  
information to the supplier if the customer provides a valid 4263  
form of government-issued identification issued to the customer 4264  
or a sufficient alternative form of identification that allows 4265  
the supplier to establish the customer's identity accurately. 4266

(C) Notwithstanding any provision of section 121.95 of the 4267  
Revised Code to the contrary, a regulatory restriction contained 4268  
in a rule adopted under this section is not subject to sections 4269  
121.95 to 121.953 of the Revised Code. 4270

**Sec. 4933.81.** As used in sections 4933.81 to 4933.90 of 4271  
the Revised Code: 4272

(A) "Electric supplier" means any electric light company 4273  
as defined in section 4905.03 of the Revised Code, including 4274  
electric light companies organized as nonprofit corporations, 4275  
but not including municipal corporations or other units of local 4276  
government that provide electric service. 4277

(B) "Adequate facilities" means distribution lines or 4278  
facilities having sufficient capacity to meet the maximum 4279

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

(C) "Distribution line" means any electric line that is 4290  
being or has been used primarily to provide electric service 4291  
directly to electric load centers by the owner of such line. 4292

(D) "Existing distribution line" means any distribution 4293  
line of an electric supplier which was in existence on January 4294  
1, 1977, or under construction on that date. 4295

(E) "Electric load center" means all the electric- 4296  
consuming facilities of any type or character owned, occupied, 4297  
controlled, or used by a person at a single location, which 4298  
facilities have been, are, or will be connected to and served at 4299  
a metered point of delivery and to which electric service has 4300  
been, is, or will be rendered. 4301

(F) "Electric service" means retail electric service 4302  
furnished to an electric load center for ultimate consumption, 4303  
but excludes furnishing electric power or energy at wholesale 4304  
for resale. In the case of a for-profit electric supplier and 4305  
beginning on the starting date of competitive retail electric 4306  
service as defined in section 4928.01 of the Revised Code, 4307  
"electric service" also excludes a competitive retail electric 4308  
service—, and, starting after the effective date of amendments 4309

to this section by H.B. 15 of the 136th General Assembly, 4310  
excludes: 4311

(1) Retail electric service provided to a mercantile 4312  
customer member by its own mercantile customer self-power system 4313  
as those terms are defined in section 4928.73 of the Revised 4314  
Code; 4315

(2) Retail electric service provided to an electric load 4316  
center to the extent the center is acting as a self-generator as 4317  
defined in section 4928.01 of the Revised Code. 4318

In the case of a not-for-profit electric supplier and 4319  
beginning on that competitive retail electric service starting 4320  
date, "electric service" also excludes any service component of 4321  
competitive retail electric service that is specified in an 4322  
irrevocable filing the electric supplier makes with the public 4323  
utilities commission for informational purposes only to 4324  
eliminate permanently its certified territory under sections 4325  
4933.81 to 4933.90 of the Revised Code as to that service 4326  
component and further excludes for any new electric load centers 4327  
going into service after the effective date of amendments to 4328  
this section by H.B. 15 of the 136th general assembly retail 4329  
electric service described in divisions (F) (1) and (2) of this 4330  
section. The filing shall specify the date on which such 4331  
territory is so eliminated. Notwithstanding division (B) of 4332  
section 4928.01 of the Revised Code, such a service component 4333  
may include retail ancillary, metering, or billing and 4334  
collection service irrespective of whether that service 4335  
component has or has not been declared competitive under section 4336  
4928.04 of the Revised Code. Upon receipt of the filing by the 4337  
commission, the not-for-profit electric supplier's certified 4338  
territory shall be eliminated permanently as to the service 4339

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

(G) "Certified territory" means a geographical area the 4344  
boundaries of which have been established pursuant to sections 4345  
4933.81 to 4933.90 of the Revised Code within which an electric 4346  
supplier is authorized and required to provide electric service. 4347

(H) "Other unit of local government" means any 4348  
governmental unit or body that may come into existence after 4349  
July 12, 1978, with powers and authority similar to those of a 4350  
municipal corporation, or that is created to replace or exercise 4351  
the relevant powers of any one or more municipal corporations. 4352

Sec. 4934.01. As used in this chapter: 4353

(A) "Bill credit" means the monetary value approved or 4354  
revised under section 4934.08 or 4934.09 of the Revised Code by 4355  
the public utilities commission for each kilowatt hour of 4356  
electricity generated by a community energy facility. 4357

(B) "Certified territory," "electric distribution 4358  
utility," and "energy storage" have the same meanings as in 4359  
section 4928.01 of the Revised Code. 4360

(C) "Commercial or public sector rooftop" means either of 4361  
the following that is located within an electric distribution 4362  
utility's certified territory: 4363

(1) The roof of a building located on commercial real 4364  
estate as defined in section 1311.85 of the Revised Code; 4365

(2) Any property owned by a public authority as defined in 4366  
section 1311.25 of the Revised Code. 4367

- (D) "Community energy facility" means a single facility 4368  
that does the following: 4369
- (1) Generates electricity by means of a solar photovoltaic 4370  
device or uses as its fuel either solar, wind, biomass, landfill 4371  
gas, or hydroelectric power, or uses a microturbine, natural 4372  
gas-fired generator, energy storage system, or a fuel cell; 4373
- (2) Meets all of the following requirements: 4374
- (a) The facility is located in this state and is directly 4375  
connected to an electric distribution utility's distribution 4376  
system. 4377
- (b) The facility has at least three subscribers. 4378
- (c) The facility is located on one parcel of land and, 4379  
except as provided in section 4934.011 of the Revised Code, 4380  
there is no community energy facility on the same or a 4381  
contiguous parcel that is developed, owned, or operated by the 4382  
same entity, affiliated entity, or entity under common control. 4383
- (d) No subscriber holds more than a forty per cent 4384  
proportional interest in the output of the system, which shall 4385  
be measured as the sum total of all meters on the subscriber's 4386  
property. 4387
- (e) Not less than sixty per cent of the facility capacity 4388  
shall be subscribed by subscriptions of forty kilowatts or less 4389  
based on the average annual demand for the prior twelve-month 4390  
period. For purposes of this division, a multi-unit building 4391  
served by a single meter shall be considered a single customer 4392  
provided the average usage, based on the number of units, is 4393  
forty kilowatts or less. 4394
- (f) The facility has a nameplate capacity of ten or less 4395

megawatts, or twenty or less megawatts if the facility is on a 4396  
distressed site or one or more commercial or public sector 4397  
rooftops, as measured at the point of interconnection. 4398

(g) The facility is not under the control of an electric 4399  
distribution utility, but may be under the control of an 4400  
affiliate of the utility. 4401

(3) (a) If the facility uses either an energy storage 4402  
system or natural gas-fired generator, then the energy storage 4403  
system or generator is not sized so as to exceed the size of any 4404  
co-located facility using solar, wind, biomass, landfill gas, or 4405  
hydroelectric power as its fuel. 4406

(b) If the system uses both an energy storage system and 4407  
natural gas-fired generator, then the combined nameplate 4408  
capacity of the storage system and generator is not sized so as 4409  
to exceed the size of any co-located facility using solar, wind, 4410  
biomass, landfill gas, or hydroelectric power as its fuel. 4411

(E) "Community energy organization" means a for-profit or 4412  
nonprofit entity that operates one or more community energy 4413  
facilities. 4414

(F) "Distressed site" means a site made up of one or more 4415  
parcels of land, located within an electric distribution 4416  
utility's certified territory where the majority of the acreage 4417  
is at least one or more of the following: 4418

(1) A brownfield as defined in section 122.6511 of the 4419  
Revised Code; 4420

(2) A parcel that is within an area where an investor may 4421  
receive a new markets tax credit under section 45D of the 4422  
Internal Revenue Code; 4423



|   |      |
|---|------|
| <u>(3) A solid waste facility licensed by the environmental</u>         | 4424 |
| <u>protection agency under section 3734.02 of the Revised Code;</u>     | 4425 |
| <u>(4) A parcel of land that is described by division (b) (11)</u>      | 4426 |
| <u>(B) (iii) of section 45 of the Internal Revenue Code;</u>            | 4427 |
| <u>(5) Land or structure owned by a metropolitan housing</u>            | 4428 |
| <u>authority, as described in section 3735.27 of the Revised Code;</u>  | 4429 |
| <u>(6) Land owned by a county land reutilization corporation</u>        | 4430 |
| <u>as defined in section 1724.01 of the Revised Code.</u>               | 4431 |
| <u>(G) "Large industrial customer" means any manufacturer</u>           | 4432 |
| <u>that uses electricity primarily in a process involving a change</u>  | 4433 |
| <u>of raw or unfinished materials into another form or product, and</u> | 4434 |
| <u>that takes service from an electric distribution utility at</u>      | 4435 |
| <u>primary voltage, subtransmission voltage, or transmission</u>        | 4436 |
| <u>voltage.</u>   | 4437 |
| <u>(H) "Net crediting" means a program offered by an electric</u>       | 4438 |
| <u>distribution utility under which the electric utility does the</u>   | 4439 |
| <u>following:</u>   | 4440 |
| <u>(1) Issues a customer, who is a subscriber, a consolidated</u>       | 4441 |
| <u>electric bill that includes on the customer's monthly bill the</u>   | 4442 |
| <u>electric utility charges for electric service, the community</u>     | 4443 |
| <u>energy subscription charge, and any bill credit;</u>                 | 4444 |
| <u>(2) Remits the customer's subscription fee to the owner or</u>       | 4445 |
| <u>operator of the community energy organization to which the</u>       | 4446 |
| <u>customer subscribes.</u>   | 4447 |
| <u>(I) "Non-ministerial permit" means all necessary and</u>             | 4448 |
| <u>discretionary governmental permits and approvals to construct a</u>  | 4449 |
| <u>community energy facility notwithstanding any pending legal</u>      | 4450 |
| <u>challenge to one or more permits or approvals.</u>                   | 4451 |

(J) "Subscriber" means any retail electric customer who 4452  
meets all of the following: 4453

(1) The customer has a single unique tax identification 4454  
number; 4455

(2) The customer has an electric meter on the customer's 4456  
property; 4457

(3) The customer resides within the certified territory of 4458  
an electric distribution utility; 4459

(4) The customer contracts for a subscription from a 4460  
community energy facility located in the same certified 4461  
territory as the customer; 4462

(5) The customer is not a large industrial customer or a 4463  
mercantile customer as defined in section 4928.01 of the Revised 4464  
Code. 4465

(K) "Subscription" means the right to obtain from a 4466  
community energy organization an allocation of bill credits for 4467  
electricity generated by a community energy facility. 4468

(L) "Unsubscribed electricity" means any electricity 4469  
generated by a community energy facility that is not 4470  
attributable to a subscription. 4471

**Sec. 4934.011.** A community energy facility may be placed 4472  
on the same parcel or a contiguous parcel of land as a community 4473  
energy facility that is developed, owned, or operated by the 4474  
same entity, affiliated entity, or entity under common control 4475  
if at least one of the following is met: 4476

(A) The parcel or parcels of land are a distressed site or 4477  
the facility is on one or more commercial or public sector 4478  
rooftops, and the total capacity of all community energy 4479

facilities on the parcel or parcels does not exceed twenty 4480  
megawatts. 4481

(B) All of the following are satisfied: 4482

(1) The community energy facility is to be located on a 4483  
parcel of land, or multiple parcels of land, that were created 4484  
prior to the effective date of this section. 4485

(2) The total capacity of all community energy facilities 4486  
on the parcel or parcels of land does not exceed ten megawatts. 4487

(3) Each community energy facility has its own distinct 4488  
point of interconnection with the serving electric distribution 4489  
utility, including separate and distinct metering and the 4490  
ability to be directly connected to or disconnected from the 4491  
utility. 4492

(4) The generation components of each community energy 4493  
facility are separate, including separate fencing, and not 4494  
connected with neighboring facilities other than by the 4495  
utility's distribution system. 4496

(5) Each community energy facility shares only non- 4497  
operational infrastructure, including access roads, utility 4498  
poles, and other features necessary to provide utility and 4499  
physical access to each facility. 4500

**Sec. 4934.04.** The public utilities commission shall 4501  
establish a community energy pilot program, as described in 4502  
sections 4934.05 to 4934.14 and 4934.25 to 4934.27 of the 4503  
Revised Code, consisting of one thousand five hundred megawatts 4504  
to be implemented throughout this state. 4505

**Sec. 4934.05.** (A) The public utilities commission shall 4506  
annually certify two hundred fifty megawatts of community energy 4507

facilities, based on nameplate capacity, until one thousand 4508  
megawatts from such facilities are certified. 4509

(B) All megawatts certified pursuant to this section shall 4510  
be allocated proportionally based on the size of each utility's 4511  
retail electric sales published by the energy information 4512  
administration. 4513

(C) Any uncertified megawatts for a year carry over to the 4514  
subsequent year until all available megawatts are certified. 4515

(D) All megawatts certified pursuant to this section shall 4516  
be certified in the order that the certification applications 4517  
were received. 4518

(E) If applications for certification exceed the total 4519  
capacity available for the year, then the applications shall be 4520  
placed on a wait list as determined by the commission. Once 4521  
certification of one thousand megawatts for community energy 4522  
facilities has occurred, the wait list shall be eliminated. 4523

(F) The commission shall ensure that certification under 4524  
this section is separate from a certification process required 4525  
under sections 4928.64 to 4928.645 of the Revised Code, or any 4526  
related rules in the Ohio Administrative Code. 4527

**Sec. 4934.06.** (A) The public utilities commission shall 4528  
certify five hundred megawatts of community energy facilities, 4529  
in addition to the megawatts certified under section 4934.05 of 4530  
the Revised Code, which shall be reserved for community energy 4531  
facilities constructed exclusively on distressed sites or one or 4532  
more commercial or public sector rooftops. 4533

(B) The commission shall ensure that certification under 4534  
this section is separate from a certification process required 4535  
under sections 4928.64 to 4928.645 of the Revised Code, or any 4536

related rules in the Administrative Code. 4537

(C) After all megawatts are certified pursuant to this 4538  
section, a community energy facility on a distressed site or a 4539  
commercial or public sector rooftop may be certified from the 4540  
megawatts allocated under section 4934.05 of the Revised Code. 4541

**Sec. 4934.07.** (A) An electric distribution utility with a 4542  
community energy facility in its certified territory shall 4543  
allocate bill credits for all electricity generated by the 4544  
facility that is attributable to a subscription. 4545

(B) (1) A community energy organization may account for 4546  
unsubscribed electricity on a monthly basis and accumulate bill 4547  
credits for the unsubscribed electricity for a period of up to 4548  
twelve months after it was generated. 4549

(2) Bill credits for unsubscribed electricity accumulated 4550  
under division (B) (1) of this section shall be allocated to 4551  
future subscribers at the direction of the community energy 4552  
organization. 4553

(C) At least once annually, a community energy 4554  
organization shall furnish to the electric distribution utility 4555  
in whose certified territory the community energy facility is 4556  
located an allocation for distribution of bill credits to 4557  
subscribers for unsubscribed electricity. 4558

(D) A community energy organization shall forfeit, to the 4559  
electric distribution utility in whose certified territory the 4560  
community energy facility is located, any bill credits for 4561  
unsubscribed electricity that are not allocated pursuant to 4562  
division (B) of this section. 4563

**Sec. 4934.071.** (A) As used in this section: 4564

(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. 4565  
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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: 4570  
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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; 4575  
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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; 4579  
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4581

(c) Any voluntary emission reduction credits obtained, or obtainable, in connection with the electric generation from a community energy facility. 4582  
4583  
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(B) A regional governmental aggregator may purchase any amount of renewable attributes from a community energy facility. 4585  
4586

**Sec. 4934.072.** (A) 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. 4587  
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(B) Residential and commercial customers who do not participate in the community energy pilot program shall not be 4592  
4593

charged, directly or indirectly, for any costs related to the 4594  
community energy pilot program. 4595

**Sec. 4934.08.** (A) As used in this section, "retail rate" 4596  
means all costs of providing generation service, transmission 4597  
service, and distribution service that may be charged by an 4598  
electric distribution utility. 4599

(B) A subscriber to a community energy facility shall be 4600  
eligible for a bill credit from the subscriber's electric 4601  
distribution utility for the proportional output of a community 4602  
energy facility attributable to the subscriber. 4603

(C) The public utilities commission shall establish the 4604  
bill credit for each subscriber, subject to division (D) of this 4605  
section, that is equal to the utility's retail rate on a per- 4606  
customer class basis, minus only the utility's base charge for 4607  
distribution service approved under Chapter 4909. of the Revised 4608  
Code and the utility's distribution riders or other distribution 4609  
charges approved under Chapter 4928. of the Revised Code. 4610

(D) When determining the bill credit for each utility, the 4611  
commission shall take into account all of the following: 4612

(1) The costs and benefits provided by community energy 4613  
facilities participating in the community energy pilot program; 4614

(2) All proposed rules, fees, and charges; 4615

(3) Any other item that the commission determines is 4616  
necessary. 4617

**Sec. 4934.09.** The public utilities commission shall 4618  
approve a tariff based on the revised bill credit rate not later 4619  
than twelve months after the report under section 4934.37 of the 4620  
Revised Code is submitted. 4621

Sec. 4934.10. Any bill credit exceeding a subscriber's 4622  
monthly bill amount shall carry forward until fully allocated to 4623  
the subscriber's bill or until the termination of the 4624  
subscriber's community energy organization subscription. 4625

Sec. 4934.11. No subscriber may obtain a subscription for 4626  
electricity generated by a community energy facility 4627  
representing more than one hundred per cent of the subscriber's 4628  
average annual electricity usage. 4629

Sec. 4934.12. A subscription shall be considered one of 4630  
the following: 4631

(A) A consumer transaction subject to Chapter 1345. of the 4632  
Revised Code regarding the enrollment of residential subscribers 4633  
to obtain an allocation of bill credits; 4634

(B) Goods subject to Chapter 1302. of the Revised Code 4635  
regarding the enrollment of nonresidential subscribers to obtain 4636  
an allocation of bill credits. 4637

Sec. 4934.13. An electric distribution utility shall 4638  
interconnect a community energy facility that is in that 4639  
utility's certified territory to its distribution system within 4640  
a reasonable time after the facility is constructed and shall 4641  
ensure such interconnections are made efficiently, safely, and 4642  
in compliance with any applicable federal and state regulations 4643  
and standards. 4644

Sec. 4934.14. An electric distribution utility shall not 4645  
discriminate against community energy facilities or their 4646  
subscribers, which includes adding extraordinary fees and 4647  
charges not applied to similar facilities. 4648

Sec. 4934.17. (A) An electric distribution utility may 4649  
establish a net crediting program under which the electric 4650



distribution utility shall enter into a net crediting agreement 4651  
with a community energy organization. The terms of an agreement 4652  
shall specify that authorization by or on behalf of a subscriber 4653  
is required before a subscriber may be billed by the electric 4654  
distribution utility under the program. An agreement also shall 4655  
specify the terms for payments made by the electric distribution 4656  
utility to the community energy organization, which terms may 4657  
include a net crediting fee of not more than one per cent of the 4658  
subscription fee to be deducted from the electric distribution 4659  
utility's payment to the community energy organization. 4660

(B) Under a net crediting agreement, an electric 4661  
distribution utility shall do the following: 4662

(1) Remit, through an electronic funds transfer, the cash 4663  
value of the subscriber's subscription fee, less any net 4664  
crediting fee, to the community energy organization not later 4665  
than thirty days after the billing period; 4666

(2) Issue electric distribution utility customers who are 4667  
subscribers an itemized monthly bill that includes, in addition 4668  
to charges described in division (B)(4) of this section, the 4669  
subscriber's bill credit for the billing period and the 4670  
subscriber's subscription fee; 4671

(3) Process monthly bills for subscribers who participate 4672  
in low-income customer assistance programs or budget billing 4673  
programs in the same manner as bills for customers who are not 4674  
participating in such programs; 4675

(4) Bill for all basic electric services, including 4676  
transmission, distribution, and generation charges, consistent 4677  
with this section and commission regulations. 4678

**Sec. 4934.18.** An electric distribution utility that enters 4679

into a net crediting agreement with a community energy 4680  
organization shall prioritize payments from a customer who is a 4681  
subscriber for each billing period according to this section. 4682  
Past due subscriber fees owed to a community energy organization 4683  
shall be paid prior to payments to the electric distribution 4684  
utility for any arrearages on the customer's electric service 4685  
bill. The electric distribution utility shall not apply a 4686  
customer's bill credit to a customer's outstanding balance for 4687  
electric service for the billing period. 4688

**Sec. 4934.20.** A nonresidential customer that subscribes to 4689  
multiple community energy facilities may participate in the net 4690  
crediting program only if each facility is included in a net 4691  
crediting agreement under sections 4934.17 to 4934.23 of the 4692  
Revised Code. 4693

**Sec. 4934.21.** The minimum service requirements established 4694  
under section 4928.10 of the Revised Code apply to sections 4695  
4934.17 to 4934.23 of the Revised Code. 4696

**Sec. 4934.23.** The public utilities commission shall adopt 4697  
rules to implement net crediting programs authorized under 4698  
sections 4934.17 to 4934.23 of the Revised Code. 4699

**Sec. 4934.25.** (A) A community energy organization that 4700  
constructs a community energy facility on a distressed site that 4701  
is a brownfield, as defined in section 122.6511 of the Revised 4702  
Code, shall be eligible to receive a grant awarded by the 4703  
department of development from the brownfield remediation 4704  
program under section 122.6511 of the Revised Code for costs 4705  
associated with construction and remediation. 4706

(B) The department of development shall promulgate rules 4707  
for awarding grants described in this section. 4708

Sec. 4934.26. (A) The public utilities commission shall 4709  
convene and facilitate an ongoing stakeholder working group to 4710  
assist commission staff with effectively and efficiently 4711  
promulgating rules for the community energy pilot program. 4712

(B) The working group shall consist of the following: 4713

(1) Electric distribution utilities; 4714

(2) Consumer advocates; 4715

(3) Community energy industry representatives; 4716

(4) Other interested parties. 4717

Sec. 4934.27. Not later than six months after the 4718  
effective date of this section, the public utilities commission, 4719  
with assistance from the working group established by section 4720  
4934.26 of the Revised Code shall promulgate rules to implement 4721  
the community energy program, which shall include rules for the 4722  
creation and establishment of community energy facilities, and 4723  
the following: 4724

(A) The certification of community energy facilities, 4725  
which shall include rules for the commission to approve or deny 4726  
each facility application within ninety days, unless good cause 4727  
is shown for not meeting the deadline, as determined by the 4728  
commission; 4729

(B) Prohibit removing a subscriber from the subscriber's 4730  
applicable customer class because of the subscriber's 4731  
subscription to a community energy facility; 4732

(C) Reasonably allow for the transfer and portability of 4733  
subscriptions, including allowing a subscriber to retain a 4734  
subscription to a facility if the subscriber moves within the 4735  
same electric distribution utility's service territory; 4736

(D) Modify existing interconnection standards, fees, and processes as needed to facilitate the efficient and cost-effective interconnection of community energy facilities that allow an electric distribution utility to recover reasonable interconnection costs for each facility; 4737  
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(E) Require each electric distribution utility to efficiently connect a community energy facility to its electrical distribution grid and not to discriminate against facilities or subscribers; 4742  
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(F) Provide for consumer protection in accordance with existing laws and regulations, including any protections against disconnection of service; 4746  
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(G) Establish robust consumer protections for subscribers, including at least the following: 4749  
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(1) A standardized customer disclosure form for residential subscribers; 4751  
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(2) Prohibiting upfront sign-on fees or credit checks; 4753

(3) Preventing early termination charges to any subscriber who unsubscribes. 4754  
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(H) Allow an electric distribution utility to recover reasonable costs associated with administering the community energy pilot program; 4756  
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(I) Ensure that costs associated with the community energy pilot program only be recovered from customer classes participating in the program and that no cross-subsidization of costs between customer classes occurs; 4759  
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(J) Ensure facilities qualifying for the community energy pilot program have a signed interconnection agreement or a 4763  
4764

system impact study, as determined by the commission, can 4765  
demonstrate site control, and have received all applicable non- 4766  
ministerial permits; 4767

(K) Require each community energy organization to send a 4768  
notice in a standardized format containing information related 4769  
to subscriber enrollment to the electric distribution utility 4770  
that services the area where the organization's community energy 4771  
facility is sited; 4772

(L) Not later than nine months after the effective date of 4773  
this section, require each electric distribution utility to 4774  
publish new tariffs or update existing tariffs to implement the 4775  
community energy pilot program; 4776

(M) Require a community energy organization to be 4777  
responsible for the decommissioning of a community energy 4778  
facility pursuant to sections 4934.35 and 4934.36 of the Revised 4779  
Code. 4780

**Sec. 4934.35.** (A) Not later than eighteen months after a 4781  
community energy facility has ceased generating electricity, a 4782  
community energy organization shall commence decommissioning of 4783  
the facility. 4784

(B) The decommissioning described in division (A) of this 4785  
section shall include the following, to be mutually agreed to in 4786  
writing by the property owner or owners and the organization: 4787

(1) The removal, and potential reuse and recycling, of 4788  
solar panels and other community energy equipment, and the 4789  
remediation of the site; 4790

(2) The removal of all non-utility-owned equipment, 4791  
graveled areas, and access roads; 4792

(3) The replacement of any topsoil that was removed for the construction of the facility and reseeding of the cleared area. 4793  
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(C) Not more than twenty per cent of the total combined mass of the community energy facility may enter a landfill. 4796  
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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. 4798  
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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. 4803  
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(C) The board of county commissioners where the project is located shall be the obligee of the bond. 4807  
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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: 4809  
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(1) The number and location of operating community energy facilities; 4814  
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(2) The amount of nameplate capacity certified; 4816

(3) The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed; 4817  
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(4) Whether savings were achieved by the subscribers. 4820

(B) The commission shall promulgate rules to require 4821  
community energy organizations and electric distribution 4822  
utilities to provide the commission with a report containing the 4823  
relevant information described in division (A) of this section. 4824

Sec. 4934.38. Notwithstanding any provision of section 4825  
121.95 of the Revised Code to the contrary, a regulatory 4826  
restriction contained in a rule adopted under sections 4934.23, 4827  
4934.25, 4934.27, and 4934.37 of the Revised Code is not subject 4828  
to sections 121.95 to 121.953 of the Revised Code. 4829

**Sec. 4935.04.** (A) As used in this chapter: 4830

(1) "Major utility facility" means: 4831

(a) An electric transmission line and associated 4832  
facilities of a design capacity of one hundred twenty-five 4833  
kilovolts or more; 4834

(b) A gas or natural gas transmission line and associated 4835  
facilities designed for, or capable of, transporting gas or 4836  
natural gas at pressures in excess of one hundred twenty-five 4837  
pounds per square inch. 4838

"Major utility facility" does not include electric, gas, 4839  
or natural gas distributing lines and gas or natural gas 4840  
gathering lines and associated facilities as defined by the 4841  
public utilities commission; facilities owned or operated by 4842  
industrial firms, persons, or institutions that produce or 4843  
transmit gas or natural gas, or electricity primarily for their 4844  
own use or as a byproduct of their operations; gas or natural 4845  
gas transmission lines and associated facilities over which an 4846  
agency of the United States has certificate jurisdiction; 4847  
facilities owned or operated by a person furnishing gas or 4848  
natural gas directly to fifteen thousand or fewer customers 4849

within this state. 4850

(2) "Person" has the meaning set forth in section 4906.01 4851  
of the Revised Code. 4852

(3) "Advanced transmission technologies" has the same 4853  
meaning as in section 4906.01 of the Revised Code. 4854

(B) Each person owning or operating a gas or natural gas 4855  
transmission line and associated facilities within this state 4856  
over which an agency of the United States has certificate 4857  
jurisdiction shall furnish to the commission a copy of the 4858  
energy information filed by the person with that agency of the 4859  
United States. 4860

(C) Each person owning or operating a major utility 4861  
facility within this state, or furnishing gas, natural gas, or 4862  
electricity directly to more than fifteen thousand customers 4863  
within this state shall furnish a report to the commission for 4864  
its review. The report shall be furnished annually, except that 4865  
for a gas or natural gas company the report shall be furnished 4866  
every three years. The report shall be termed the long-term 4867  
forecast report and shall contain: 4868

(1) A year-by-year, ten-year forecast of annual energy 4869  
demand, peak load, reserves, and a general description of the 4870  
resource planning projections to meet demand; 4871

(2) A range of projected loads during the period; 4872

(3) A description of major utility facilities planned to 4873  
be added or taken out of service in the next ten years, 4874  
including, to the extent the information is available, 4875  
prospective sites for transmission line locations; 4876

(4) For gas and natural gas, a projection of anticipated 4877



supply, supply prices, and sources of supply over the forecast 4878  
period; 4879

(5) A description of proposed changes in the transmission 4880  
system planned for the next five years; 4881

(6) A month-by-month forecast of both energy demand and 4882  
peak load for electric utilities, and gas sendout for gas and 4883  
natural gas utilities, for the next two years. The report shall 4884  
describe the major utility facilities that, in the judgment of 4885  
such person, will be required to supply system demands during 4886  
the forecast period. The report from a gas or natural gas 4887  
utility shall cover the ten- and five-year periods next 4888  
succeeding the date of the report, and the report from an 4889  
electric utility shall cover the twenty-, ten-, and five-year 4890  
periods next succeeding the date of the report. Each report 4891  
shall be made available to the public and furnished upon request 4892  
to municipal corporations and governmental agencies charged with 4893  
the duty of protecting the environment or of planning land use. 4894  
The report shall be in such form and shall contain such 4895  
information as may be prescribed by the commission. 4896

Each person not owning or operating a major utility 4897  
facility within this state and serving fifteen thousand or fewer 4898  
gas or natural gas, or electric customers within this state 4899  
shall furnish such information as the commission requires. 4900

(7) For electric transmission, a person shall include an 4901  
evaluation and report of the potential use of, or investment in, 4902  
one or more advanced transmission technologies to enable the 4903  
electric utility to safely, reliably, efficiently, and cost- 4904  
effectively meet electric system demand through its major 4905  
utility facilities. 4906

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 facilities applied individually, together, or in sequence. The report shall also include an advanced transmission technology congestion mitigation study to cost-effectively maximize the delivery of energy resources in the near term that: 4907  
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(a) Identifies locations on the entity's transmission system where congestion has occurred for a total of fifty hours per year or more during the last three years or is likely to occur during the next five years, including due to planned transmission outages or other factors; 4917  
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(b) Estimates the frequency of congestion at each location and the increased cost to ratepayers resulting from the substitution of higher-priced electricity; 4922  
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(c) Evaluates the technical feasibility and estimates the cost of installing one or more advanced transmission technologies to address each instance of grid congestion identified in division (C) (7) (a) of this section and projects the grid-enhancing technology's efficacy in reducing congestion; 4925  
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(d) Analyzes the cost-effectiveness of installing grid-enhancing technologies to address each instance of congestion identified in division (C) (7) (a) of this section by using the information developed in division (C) (7) (c) of this section to calculate the payback period of each installation, using a methodology developed by the commission; 4930  
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(e) Proposes an implementation plan, including a schedule 4936  
and cost estimate, to install grid-enhancing technologies at 4937  
each congestion point at which the payback period is less than 4938  
or equal to a value determined by the commission, in order to 4939  
maximize transmission system capacity, and explains the entity's 4940  
current line rating methodology. 4941

(D) The commission shall: 4942

(1) Review and comment on the reports filed under division 4943  
(C) of this section, and make the information contained in the 4944  
reports readily available to the public and other interested 4945  
government agencies; 4946

(2) Compile and publish each year the general locations of 4947  
proposed and existing transmission line routes within its 4948  
jurisdiction as identified in the reports filed under division 4949  
(C) of this section, identifying the general location of such 4950  
sites and routes and the approximate year when construction is 4951  
expected to commence, and to make such information readily 4952  
available to the public, to each newspaper of daily or weekly 4953  
circulation within the area affected by the proposed site and 4954  
route, and to interested federal, state, and local agencies; 4955

(3) Hold a public hearing upon the showing of good cause 4956  
to the commission by an interested party. 4957

If a hearing is held, the commission shall fix a time for 4958  
the hearing, which shall be not later than ninety days after the 4959  
report is filed, and publish notice of the date, time of day, 4960  
and location of the hearing in a newspaper of general 4961  
circulation in each county in which the person furnishing the 4962  
report has or intends to locate a major utility facility and 4963  
will provide service during the period covered by the report. 4964

The notice shall be published not less than fifteen nor more than thirty days before the hearing and shall state the matters to be considered.

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

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

(6) Review and evaluate that advanced transmission technologies were properly reported in accordance with division (C) (7) of this section and allow stakeholders to provide comments.

(7) Approve advanced transmission technology congestion mitigation implementation plans, including cost recovery.

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

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

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

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

(F) Based upon the report furnished pursuant to division 4993  
(C) of this section and the hearing record, the commission, 4994  
within ninety days from the close of the record in the hearing, 4995  
shall determine if: 4996

(1) All information relating to current activities, 4997  
facilities agreements, and published energy policies of the 4998  
state has been completely and accurately represented; 4999

(2) The load requirements are based on substantially 5000  
accurate historical information and adequate methodology; 5001

(3) The forecasting methods consider the relationships 5002  
between price and energy consumption; 5003

(4) The report identifies and projects reductions in 5004  
energy demands due to energy conservation measures in the 5005  
industrial, commercial, residential, transportation, and energy 5006  
production sectors in the service area; 5007

(5) Utility company forecasts of loads and resources are 5008  
reasonable in relation to population growth estimates made by 5009  
state and federal agencies, transportation, and economic 5010  
development plans and forecasts, and make recommendations where 5011  
possible for necessary and reasonable alternatives to meet 5012  
forecasted electric power demand; 5013

(6) The report considers plans for expansion of the 5014  
regional power grid and the planned facilities of other 5015  
utilities in the state; 5016

(7) All assumptions made in the forecast are reasonable 5017  
and adequately documented. 5018

(G) The commission shall adopt rules under section 111.15 5019  
of the Revised Code to establish criteria for evaluating the 5020

long-term forecasts of needs for gas and electric transmission 5021  
service, to conduct hearings held under this section, to 5022  
establish reasonable fees to defray the direct cost of the 5023  
hearings and the review process, and such other rules as are 5024  
necessary and convenient to implement this section. 5025

(H) The hearing record produced under this section and the 5026  
determinations of the commission shall be introduced into 5027  
evidence and shall be considered in determining the basis of 5028  
need for power siting board deliberations under division (A)(1) 5029  
of section 4906.10 of the Revised Code. The hearing record 5030  
produced under this section shall be introduced into evidence 5031  
and shall be considered by the commission in its initiation of 5032  
programs, examinations, and findings under section 4905.70 of 5033  
the Revised Code, and shall be considered in the commission's 5034  
determinations with respect to the establishment of just and 5035  
reasonable rates under section 4909.15 of the Revised Code and 5036  
financing utility facilities and authorizing issuance of all 5037  
securities under sections 4905.40, 4905.401, 4905.41, and 5038  
4905.42 of the Revised Code. The forecast findings also shall 5039  
serve as the basis for all other energy planning and development 5040  
activities of the state government where electric and gas data 5041  
are required. 5042

(I)(1) No court other than the supreme court shall have 5043  
power to review, suspend, or delay any determination made by the 5044  
commission under this section, or enjoin, restrain, or interfere 5045  
with the commission in the performance of official duties. A 5046  
writ of mandamus shall not be issued against the commission by 5047  
any court other than the supreme court. 5048

(2) A final determination made by the commission shall be 5049  
reversed, vacated, or modified by the supreme court on appeal, 5050

if, upon consideration of the record, such court is of the 5051  
opinion that such determination was unreasonable or unlawful. 5052

The proceeding to obtain such reversal, vacation, or 5053  
modification shall be by notice of appeal, filed with the 5054  
commission by any party to the proceeding before it, against the 5055  
commission, setting forth the determination appealed from and 5056  
errors complained of. The notice of appeal shall be served, 5057  
unless waived, upon the commission by leaving a copy at the 5058  
office of the chairperson of the commission at Columbus. The 5059  
court may permit an interested party to intervene by cross- 5060  
appeal. 5061

(3) No proceeding to reverse, vacate, or modify a 5062  
determination of the commission is commenced unless the notice 5063  
of appeal is filed within sixty days after the date of the 5064  
determination. 5065

**Sec. 5727.01.** As used in this chapter: 5066

(A) "Public utility" means each person referred to as a 5067  
telephone company, telegraph company, electric company, natural 5068  
gas company, pipe-line company, water-works company, water 5069  
transportation company, heating company, rural electric company, 5070  
railroad company, combined company, or energy company. 5071

(B) "Gross receipts" means the entire receipts for 5072  
business done by any person from operations as a public utility, 5073  
or incidental thereto, or in connection therewith, including any 5074  
receipts received under Chapter 4928. of the Revised Code. The 5075  
gross receipts for business done by an incorporated company 5076  
engaged in operation as a public utility includes the entire 5077  
receipts for business done by such company under the exercise of 5078  
its corporate powers, whether from the operation as a public 5079

utility or from any other business. 5080

(C) "Rural electric company" means any nonprofit 5081  
corporation, organization, association, or cooperative engaged 5082  
in the business of supplying electricity to its members or 5083  
persons owning an interest therein in an area the major portion 5084  
of which is rural. "Rural electric company" excludes an energy 5085  
company. 5086

(D) Any person: 5087

(1) Is a telegraph company when engaged in the business of 5088  
transmitting telegraphic messages to, from, through, or in this 5089  
state; 5090

(2) Is a telephone company when primarily engaged in the 5091  
business of providing local exchange telephone service, 5092  
excluding cellular radio service, in this state; 5093

(3) Is an electric company when engaged in the business of 5094  
generating, transmitting, or distributing electricity within 5095  
this state for use by others, but excludes a rural electric 5096  
company or an energy company; 5097

(4) Is a natural gas company when engaged in the business 5098  
of supplying or distributing natural gas for lighting, power, or 5099  
heating purposes to consumers within this state, excluding a 5100  
person that is a governmental aggregator or retail natural gas 5101  
supplier as defined in section 4929.01 of the Revised Code; 5102

(5) Is a pipe-line company when engaged in the business of 5103  
transporting natural gas, oil, or coal or its derivatives 5104  
through pipes or tubing, either wholly or partially within this 5105  
state; 5106

(6) Is a water-works company when engaged in the business 5107



of supplying water through pipes or tubing, or in a similar 5108  
manner, to consumers within this state; 5109

(7) Is a water transportation company when engaged in the 5110  
transportation of passengers or property, by boat or other 5111  
watercraft, over any waterway, whether natural or artificial, 5112  
from one point within this state to another point within this 5113  
state, or between points within this state and points without 5114  
this state; 5115

(8) Is a heating company when engaged in the business of 5116  
supplying water, steam, or air through pipes or tubing to 5117  
consumers within this state for heating purposes; 5118

(9) Is a railroad company when engaged in the business of 5119  
owning or operating a railroad either wholly or partially within 5120  
this state on rights-of-way acquired and held exclusively by 5121  
such company, or otherwise, and includes a passenger, street, 5122  
suburban, or interurban railroad company; 5123

(10) Is an energy company when engaged in the business of 5124  
generating, transmitting, storing and releasing, or distributing 5125  
electricity within this state for use by others solely from an 5126  
energy facility with an aggregate nameplate capacity in excess 5127  
of two hundred fifty kilowatts. 5128

As used in division (D) (2) of this section, "local 5129  
exchange telephone service" means making available or furnishing 5130  
access and a dial tone to all persons within a local calling 5131  
area for use in originating and receiving voice grade 5132  
communications over a switched network operated by the provider 5133  
of the service within the area and for gaining access to other 5134  
telecommunication services. 5135

(E) "Taxable property" means the property required by 5136

section 5727.06 of the Revised Code to be assessed by the tax commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period subsequent to the effective date of an air, water, or noise pollution control certificate and continuing so long as the certificate is in force, has been certified as part of the pollution control facility with respect to which the certificate has been issued;

(2) An item of tangible personal property that during the construction of a plant or facility and until the item is first capable of operation, whether actually used in operation or not, is incorporated in or being held exclusively for incorporation in that plant or facility.

Notwithstanding section 5701.03 of the Revised Code, for tax year 2006 and thereafter, "taxable property" includes patterns, jigs, dies, and drawings of an electric company or a combined company for use in the activity of an electric company.

(F) "Taxing district" means a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform.

(G) "Telecommunications service" has the same meaning as in division (AA) of section 5739.01 of the Revised Code.

(H) "Interexchange telecommunications company" means a person that is engaged in the business of transmitting telephonic messages to, from, through, or in this state, but that is not a telephone company.

(I) "Sale and leaseback transaction" means a transaction in which a public utility or interexchange telecommunications company sells any tangible personal property to a person other

than a public utility or interexchange telecommunications 5166  
company and leases that property back from the buyer. 5167

(J) "Production equipment" means all taxable steam, 5168  
nuclear, hydraulic, renewable resource, clean coal technology, 5169  
and other production plant equipment used to generate or store 5170  
and release electricity. For tax years prior to 2001, 5171  
"production equipment" includes taxable station equipment that 5172  
is located at a production plant. 5173

(K) "Tax year" means the year for which property or gross 5174  
receipts are subject to assessment under this chapter. This 5175  
division does not limit the tax commissioner's ability to assess 5176  
and value property or gross receipts outside the tax year. 5177

(L) "Combined company" means any person engaged in the 5178  
activity of an electric company or rural electric company that 5179  
is also engaged in the activity of a heating company or a 5180  
natural gas company, or any combination thereof. 5181

(M) "Public utility property lessor" means any person, 5182  
other than a public utility or an interexchange 5183  
telecommunications company, that leases personal property, other 5184  
than in a sale and leaseback transaction, to a public utility, 5185  
other than a railroad, water transportation, telephone, or 5186  
telegraph company if the property would be taxable property if 5187  
owned by the public utility. A public utility property lessor is 5188  
subject to this chapter only for the purposes of reporting and 5189  
paying tax on taxable property it leases to a public utility 5190  
other than a telephone or telegraph company. A public utility 5191  
property lessor that leases property to a public utility other 5192  
than a telephone or telegraph company is not a public utility, 5193  
but it shall report its property and be assessed in the same 5194  
manner as the utility to which it leases the property. 5195

|  |  |
|--|--|
| (N) "Energy resource" means any of the following:  | 5196   |
| (1) "Renewable energy resource" as defined in section 4928.01 of the Revised Code;   | 5197<br>5198   |
| (2) "Clean coal technology" as described in division (A) (34) (c) of section 4928.01 of the Revised Code;  | 5199<br>5200   |
| (3) "Advanced nuclear technology" as described in division (A) (34) (d) of section 4928.01 of the Revised Code;  | 5201<br>5202   |
| (4) "Cogeneration technology" as described in division (A) (34) (b) of section 4928.01 of the Revised Code;  | 5203<br>5204   |
| <u>(5) Energy storage system.</u>  | 5205   |
| (O) "Energy conversion equipment" means tangible personal property connected to a wind turbine tower, connected to and behind solar radiation collector areas and designed to convert the radiant energy of the sun into electricity or heat, or connected to any other property used to generate <u>or store and release</u> electricity from an energy resource, through which electricity is transferred to controls, transformers, or power electronics and to the transmission interconnection point. | 5206<br>5207<br>5208<br>5209<br>5210<br>5211<br>5212<br>5213 |
| "Energy conversion equipment" includes, but is not limited to, inverters, batteries, switch gears, wiring, collection lines, substations, ancillary tangible personal property, or any lines and associated tangible personal property located between substations and the transmission interconnection point.   | 5214<br>5215<br>5216<br>5217<br>5218                         |
| (P) "Energy facility" means one or more interconnected wind turbines, solar panels, <u>energy storage systems,</u> or other tangible personal property used to generate <u>or store and release</u> electricity from an energy resource owned by the same person, including:   | 5219<br>5220<br>5221<br>5222<br>5223                         |

(1) All interconnection equipment, devices, and related apparatus connected to such tangible personal property; 5224  
5225

(2) All cables, equipment, devices, and related apparatus 5226  
that connect the generators to an electricity grid or to a 5227  
building or facility that directly consumes the electricity 5228  
produced, that facilitate the transmission of electrical energy 5229  
from the generators to the grid, building, or facility, and, 5230  
where applicable, that transform voltage before ultimate 5231  
delivery of electricity to the grid, building, or facility. 5232

"Energy facility" includes buildings, structures, 5233  
improvements, or fixtures exclusively used to house, support, or 5234  
stabilize tangible personal property constituting the facility 5235  
or that are otherwise necessary for the operation of that 5236  
property; and so much of the land on which such tangible 5237  
personal property is situated as is required for operation of 5238  
the facility and is not devoted to some other use, not to 5239  
exceed, in the case of wind turbines, one-half acre for each 5240  
wind turbine, and regardless of whether the land is owned by the 5241  
owner or lessee of the tangible personal property or by another 5242  
person. 5243

(Q) "Nameplate capacity" means the original interconnected 5244  
maximum rated alternating current output of a generator or other 5245  
electric production equipment under specific conditions 5246  
designated by the manufacturer, expressed in the number of 5247  
kilowatts or megawatts. 5248

(R) "Energy storage system" means tangible personal 5249  
property that permits the storage of energy for future use as 5250  
electricity. 5251

**Sec. 5727.111.** As used in this section, "convert" means to 5252

switch fuel input from one energy source to another and 5253  
"repower" means to upgrade or replace older generation 5254  
components with new technology to increase efficiency and 5255  
reliability. The taxable property of each public utility, except 5256  
a railroad company, and of each interexchange telecommunications 5257  
company shall be assessed at the following percentages of true 5258  
value: 5259

(A) In the case of a rural electric company, one of the 5260  
following ~~fifty~~: 5261

(1) Fifty per cent in the case of its taxable transmission 5262  
and distribution property ~~and its or energy conversion equipment~~ 5263  
first subject to taxation in this state before tax year 2027; 5264

(2) Seven per cent in the case of its taxable production 5265  
or energy conversion equipment, ~~and twenty-five~~ first subject 5266  
to taxation in this state for tax year 2027 and thereafter or 5267  
any other taxable production equipment that is either converted 5268  
or repowered; 5269

(3) Twenty-five per cent ~~for~~ in the case of all its other 5270  
taxable property. 5271

(B) In the case of a telephone or telegraph company, 5272  
twenty-five per cent for taxable property first subject to 5273  
taxation in this state for tax year 1995 or thereafter for tax 5274  
years before tax year 2007, and pursuant to division (H) of 5275  
section 5711.22 of the Revised Code for tax year 2007 and 5276  
thereafter, and the following for all other taxable property: 5277

(1) For tax years prior to 2005, eighty-eight per cent; 5278

(2) For tax year 2005, sixty-seven per cent; 5279

(3) For tax year 2006, forty-six per cent; 5280

|   |      |
|---|------|
| (4) For tax year 2007 and thereafter, pursuant to division                  | 5281 |
| (H) of section 5711.22 of the Revised Code.                                 | 5282 |
| (C) Twenty-five per cent in the case of (1) a natural gas                   | 5283 |
| company or (2) a water-works company for taxable property first             | 5284 |
| subject to taxation in this state for tax year 2017 and                     | 5285 |
| thereafter <del>;</del> .   | 5286 |
| (D) Eighty-eight per cent in the case of a <del>pipe-line</del>             | 5287 |
| <del>company,</del> a water-works company for taxable property first        | 5288 |
| subject to taxation in this state before tax year 2017, or a                | 5289 |
| heating company <del>;</del> .  | 5290 |
| <del>(E) (1) For tax year 2005, eighty-eight per cent in the</del>          | 5291 |
| <del>case of the taxable transmission and distribution property of an</del> | 5292 |
| <del>electric company, and twenty-five per cent for all its other</del>     | 5293 |
| <del>taxable property;</del>  | 5294 |
| <del>(2) For tax year 2006 and each tax year thereafter, in (E)</del>       | 5295 |
| <u>In the case of an electric company, eighty-five one of the</u>           | 5296 |
| <u>following:</u>   | 5297 |
| <u>(1) Eighty-five per cent in the case of its taxable</u>                  | 5298 |
| <u>transmission and distribution property and energy conversion</u>         | 5299 |
| <u>equipment and its energy conversion equipment, first subject to</u>      | 5300 |
| <u>taxation in this state before tax year 2027;</u>                         | 5301 |
| <u>(2) Twenty-five per cent in the case of its other taxable</u>            | 5302 |
| <u>transmission and distribution property and twenty-four;</u>              | 5303 |
| <u>(3) Seven per cent in the case of its taxable production</u>             | 5304 |
| <u>and energy conversion equipment first subject to taxation in</u>         | 5305 |
| <u>this state for tax year 2027 and thereafter or any other taxable</u>     | 5306 |
| <u>production equipment that is either converted or repowered;</u>          | 5307 |
| <u>(4) Twenty-four per cent <del>for</del> in the case of all its other</u> | 5308 |

|  |                              |
|--|------------------------------|
| taxable property.  | 5309                         |
| (F) (1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007;  | 5310<br>5311<br>5312         |
| (2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter.  | 5313<br>5314                 |
| (G) Twenty-five per cent in the case of a water transportation company.  | 5315<br>5316                 |
| (H) <del>For tax year 2011 and each tax year thereafter in</del> <u>In</u> the case of an energy company, <del>twenty-four</del> <u>one</u> of the following:  | 5317<br>5318                 |
| (1) <u>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;</u>  | 5319<br>5320<br>5321         |
| (2) <u>Twenty-five per cent in the case of its other taxable transmission and distribution property</u> <del>and eighty-five;</del>  | 5322<br>5323                 |
| (3) <u>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;</u> | 5324<br>5325<br>5326<br>5327 |
| (4) <u>Twenty-four per cent in the case of its other taxable production equipment;</u>   | 5328<br>5329                 |
| (5) <u>Eighty-five per cent</u> <del>for</del> <u>in the case of all its other</u> taxable property.   | 5330<br>5331                 |
| (I) <u>In the case of a pipeline company, one of the following:</u>  | 5332<br>5333                 |
| (1) <u>Eighty-eight per cent of its taxable property first subject to taxation in this state before tax year 2027;</u>   | 5334<br>5335                 |



(2) Twenty-five per cent in the case of all its other 5336  
taxable property. 5337

**Sec. 5727.75.** (A) For purposes of this section: 5338

(1) "Qualified energy project" means an energy project 5339  
certified by the director of development pursuant to this 5340  
section. 5341

(2) "Energy project" means a project to provide electric 5342  
power through the construction, installation, and use of an 5343  
energy facility. 5344

(3) "Alternative energy zone" means a county declared as 5345  
such by the board of county commissioners under division (E)(1) 5346  
(b) or (c) of this section. 5347

(4) "Full-time equivalent employee" means the total number 5348  
of employee-hours for which compensation was paid to individuals 5349  
employed at a qualified energy project for services performed at 5350  
the project during the calendar year divided by two thousand 5351  
eighty hours. For the purpose of this calculation, "performed at 5352  
the project" includes only hours worked at the qualified energy 5353  
project and devoted to site preparation or protection, 5354  
construction and installation, and the unloading and 5355  
distribution of materials at the project site, but does not 5356  
include hours worked by superintendents, owners, manufacturers' 5357  
representatives, persons employed in a bona fide executive, 5358  
management, supervisory, or administrative capacity, or persons 5359  
whose sole employment on the project is transporting materials 5360  
or persons to the project site. 5361

(5) "Solar energy project" means an energy project 5362  
composed of an energy facility using solar panels to generate 5363  
electricity. 5364

(6) "Internet identifier of record" has the same meaning 5365  
as in section 9.312 of the Revised Code. 5366

(7) "Applicable year" means the later of the following: 5367

(a) The tax year in which the secretary of the treasury of 5368  
the United States, or the secretary's delegate, determines, in 5369  
accordance with section 45Y of the Internal Revenue Code, that 5370  
the annual greenhouse gas emissions from the production of 5371  
electricity in the United States are equal to or less than 5372  
twenty-five per cent of the annual greenhouse gas emissions from 5373  
the production of electricity in the United States for calendar 5374  
year 2022; 5375

(b) Tax year 2029. 5376

(8) "Internal Revenue Code" means the Internal Revenue 5377  
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5378

(B) (1) Tangible personal property of a qualified energy 5379  
project using renewable energy resources is exempt from taxation 5380  
for tax years 2011 through the applicable year if all of the 5381  
following conditions are satisfied: 5382

(a) On or before the last day of the tax year preceding 5383  
the applicable year, the owner or a lessee pursuant to a sale 5384  
and leaseback transaction of the project submits an application 5385  
to the power siting board for a certificate under section 5386  
4906.20 of the Revised Code, or if that section does not apply, 5387  
submits an application for any approval, consent, permit, or 5388  
certificate or satisfies any condition required by a public 5389  
agency or political subdivision of this state for the 5390  
construction or initial operation of an energy project. 5391

(b) Construction or installation of the energy facility 5392  
begins on or after January 1, 2009, and before the first day of 5393

the applicable year. For the purposes of this division, 5394  
construction begins on the earlier of the date of application 5395  
for a certificate or other approval or permit described in 5396  
division (B) (1) (a) of this section, or the date the contract for 5397  
the construction or installation of the energy facility is 5398  
entered into. 5399

(c) For a qualified energy project with a nameplate 5400  
capacity of twenty megawatts or greater, a board of county 5401  
commissioners of a county in which property of the project is 5402  
located has adopted a resolution under division (E) (1) (b) or (c) 5403  
of this section to approve the application submitted under 5404  
division (E) of this section to exempt the property located in 5405  
that county from taxation. A board's adoption of a resolution 5406  
rejecting an application or its failure to adopt a resolution 5407  
approving the application does not affect the tax-exempt status 5408  
of the qualified energy project's property that is located in 5409  
another county. 5410

(2) If tangible personal property of a qualified energy 5411  
project using renewable energy resources was exempt from 5412  
taxation under this section beginning in any of tax years 2011 5413  
through the applicable year, and the certification under 5414  
division (E) (2) of this section has not been revoked, the 5415  
tangible personal property of the qualified energy project is 5416  
exempt from taxation for the tax year following the applicable 5417  
year and all ensuing tax years if the property was placed into 5418  
service before the first day of the tax year following the 5419  
applicable year, as certified in the construction progress 5420  
report required under division (F) (2) of this section. Tangible 5421  
personal property that has not been placed into service before 5422  
that date is taxable property subject to taxation. An energy 5423  
project for which certification has been revoked is ineligible 5424

for further exemption under this section. Revocation does not 5425  
affect the tax-exempt status of the project's tangible personal 5426  
property for the tax year in which revocation occurs or any 5427  
prior tax year. 5428

(C) Tangible personal property of a qualified energy 5429  
project using clean coal technology, advanced nuclear 5430  
technology, or cogeneration technology is exempt from taxation 5431  
for the first tax year that the property would be listed for 5432  
taxation and all subsequent years if all of the following 5433  
circumstances are met: 5434

(1) The property was placed into service before January 1, 5435  
2021. Tangible personal property that has not been placed into 5436  
service before that date is taxable property subject to 5437  
taxation. 5438

(2) For such a qualified energy project with a nameplate 5439  
capacity of twenty megawatts or greater, a board of county 5440  
commissioners of a county in which property of the qualified 5441  
energy project is located has adopted a resolution under 5442  
division (E) (1) (b) or (c) of this section to approve the 5443  
application submitted under division (E) of this section to 5444  
exempt the property located in that county from taxation. A 5445  
board's adoption of a resolution rejecting the application or 5446  
its failure to adopt a resolution approving the application does 5447  
not affect the tax-exempt status of the qualified energy 5448  
project's property that is located in another county. 5449

(3) The certification for the qualified energy project 5450  
issued under division (E) (2) of this section has not been 5451  
revoked. An energy project for which certification has been 5452  
revoked is ineligible for exemption under this section. 5453  
Revocation does not affect the tax-exempt status of the 5454

project's tangible personal property for the tax year in which 5455  
revocation occurs or any prior tax year. 5456

(D) Except as otherwise provided in this section, real 5457  
property of a qualified energy project is exempt from taxation 5458  
for any tax year for which the tangible personal property of the 5459  
qualified energy project is exempted under this section. 5460

(E) (1) (a) A person may apply to the director of 5461  
development for certification of an energy project as a 5462  
qualified energy project on or before the following dates: 5463

(i) The last day of the tax year preceding the applicable 5464  
year, for an energy project using renewable energy resources; 5465

(ii) December 31, 2017, for an energy project using clean 5466  
coal technology, advanced nuclear technology, or cogeneration 5467  
technology. 5468

(b) The director shall forward a copy of each application 5469  
for certification of an energy project with a nameplate capacity 5470  
of twenty megawatts or greater to the board of county 5471  
commissioners of each county in which the project is located and 5472  
to each taxing unit with territory located in each of the 5473  
affected counties. Any board that receives from the director a 5474  
copy of an application submitted under this division shall adopt 5475  
a resolution approving or rejecting the application unless it 5476  
has adopted a resolution under division (E) (1) (c) of this 5477  
section. A resolution adopted under division (E) (1) (b) or (c) of 5478  
this section may require an annual service payment to be made in 5479  
addition to the service payment required under division (G) of 5480  
this section. The sum of the service payment required in the 5481  
resolution and the service payment required under division (G) 5482  
of this section shall not exceed nine thousand dollars per 5483

megawatt of nameplate capacity located in the county. The 5484  
resolution shall specify the time and manner in which the 5485  
payments required by the resolution shall be paid to the county 5486  
treasurer. The county treasurer shall deposit the payment to the 5487  
credit of the county's general fund to be used for any purpose 5488  
for which money credited to that fund may be used. 5489

The board shall send copies of the resolution to the owner 5490  
of the facility and the director by certified mail or, if the 5491  
board has record of an internet identifier of record associated 5492  
with the owner or director, by ordinary mail and by that 5493  
internet identifier of record. The board shall send such notice 5494  
within thirty days after receipt of the application, or a longer 5495  
period of time if authorized by the director. 5496

(c) A board of county commissioners may adopt a resolution 5497  
declaring the county to be an alternative energy zone and 5498  
declaring all applications submitted to the director of 5499  
development under this division after the adoption of the 5500  
resolution, and prior to its repeal, to be approved by the 5501  
board. 5502

All tangible personal property and real property of an 5503  
energy project with a nameplate capacity of twenty megawatts or 5504  
greater is taxable if it is located in a county in which the 5505  
board of county commissioners adopted a resolution rejecting the 5506  
application submitted under this division or failed to adopt a 5507  
resolution approving the application under division (E) (1) (b) or 5508  
(c) of this section. 5509

(2) The director shall certify an energy project if all of 5510  
the following circumstances exist: 5511

(a) The application was timely submitted. 5512

(b) For an energy project with a nameplate capacity of 5513  
twenty megawatts or greater, a board of county commissioners of 5514  
at least one county in which the project is located has adopted 5515  
a resolution approving the application under division (E) (1) (b) 5516  
or (c) of this section. 5517

(c) No portion of the project's facility was used to 5518  
supply electricity before December 31, 2009. 5519

(d) For construction or installation of a qualified energy 5520  
project described in division (B) (1) (b) of this section, that 5521  
the project is subject to wage requirements described in section 5522  
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 5523  
requirements described in section 45(b) (8) (A) (i) of the Internal 5524  
Revenue Code, provided both of the following apply: 5525

(i) The person applies for such certificate after ~~the~~ 5526  
~~effective date of this amendment~~ October 3, 2023. 5527

(ii) A board of commissioners of at least one county in 5528  
which the project is located is required to adopt a resolution 5529  
approving the application under division (E) (1) (b) or (c) of 5530  
this section. 5531

(3) The director shall deny a certification application if 5532  
the director determines the person has failed to comply with any 5533  
requirement under this section. The director may revoke a 5534  
certification if the director determines the person, or 5535  
subsequent owner or lessee pursuant to a sale and leaseback 5536  
transaction of the qualified energy project, has failed to 5537  
comply with any requirement under this section. Upon 5538  
certification or revocation, the director shall notify the 5539  
person, owner, or lessee, the tax commissioner, and the county 5540  
auditor of a county in which the project is located of the 5541

certification or revocation. Notice shall be provided in a 5542  
manner convenient to the director. 5543

(F) The owner or a lessee pursuant to a sale and leaseback 5544  
transaction of a qualified energy project shall do each of the 5545  
following: 5546

(1) Comply with all applicable regulations; 5547

(2) File with the director of development a certified 5548  
construction progress report before the first day of March of 5549  
each year during the energy facility's construction or 5550  
installation indicating the percentage of the project completed, 5551  
and the project's nameplate capacity, as of the preceding 5552  
thirty-first day of December. Unless otherwise instructed by the 5553  
director of development, the owner or lessee of an energy 5554  
project shall file a report with the director on or before the 5555  
first day of March each year after completion of the energy 5556  
facility's construction or installation indicating the project's 5557  
nameplate capacity as of the preceding thirty-first day of 5558  
December. Not later than sixty days after June 17, 2010, the 5559  
owner or lessee of an energy project, the construction of which 5560  
was completed before June 17, 2010, shall file a certificate 5561  
indicating the project's nameplate capacity. 5562

(3) File with the director of development, in a manner 5563  
prescribed by the director, a report of the total number of 5564  
full-time equivalent employees, and the total number of full- 5565  
time equivalent employees domiciled in Ohio, who are employed in 5566  
the construction or installation of the energy facility; 5567

(4) For energy projects with a nameplate capacity of 5568  
twenty megawatts or greater, repair all roads, bridges, and 5569  
culverts affected by construction as reasonably required to 5570



restore them to their preconstruction condition, as determined 5571  
by the county engineer in consultation with the local 5572  
jurisdiction responsible for the roads, bridges, and culverts. 5573  
In the event that the county engineer deems any road, bridge, or 5574  
culvert to be inadequate to support the construction or 5575  
decommissioning of the energy facility, the road, bridge, or 5576  
culvert shall be rebuilt or reinforced to the specifications 5577  
established by the county engineer prior to the construction or 5578  
decommissioning of the facility. The owner or lessee of the 5579  
facility shall post a bond in an amount established by the 5580  
county engineer and to be held by the board of county 5581  
commissioners to ensure funding for repairs of roads, bridges, 5582  
and culverts affected during the construction. The bond shall be 5583  
released by the board not later than one year after the date the 5584  
repairs are completed. The energy facility owner or lessee 5585  
pursuant to a sale and leaseback transaction shall post a bond, 5586  
as may be required by the Ohio power siting board in the 5587  
certificate authorizing commencement of construction issued 5588  
pursuant to section 4906.10 of the Revised Code, to ensure 5589  
funding for repairs to roads, bridges, and culverts resulting 5590  
from decommissioning of the facility. The energy facility owner 5591  
or lessee and the county engineer may enter into an agreement 5592  
regarding specific transportation plans, reinforcements, 5593  
modifications, use and repair of roads, financial security to be 5594  
provided, and any other relevant issue. 5595

(5) Provide or facilitate training for fire and emergency 5596  
responders for response to emergency situations related to the 5597  
energy project and, for energy projects with a nameplate 5598  
capacity of twenty megawatts or greater, at the person's 5599  
expense, equip the fire and emergency responders with proper 5600  
equipment as reasonably required to enable them to respond to 5601

such emergency situations; 5602

(6) (a) Except as otherwise provided in this division, for 5603  
projects for which certification as a qualified energy project 5604  
was applied for, under division (E) of this section, before ~~the~~ 5605  
~~effective date of this amendment~~ October 3, 2023, maintain a 5606  
ratio of Ohio-domiciled full-time equivalent employees employed 5607  
in the construction or installation of the energy project to 5608  
total full-time equivalent employees employed in the 5609  
construction or installation of the energy project of not less 5610  
than eighty per cent in the case of a solar energy project, and 5611  
not less than fifty per cent in the case of any other energy 5612  
project. A person applying for such a qualified energy project 5613  
may certify to the director of development that the project will 5614  
be voluntarily subject to the wage requirements described in 5615  
section 45(b) (7) (A) of the Internal Revenue Code and 5616  
apprenticeship requirements described in section 45(b) (8) (A) (i) 5617  
of the Internal Revenue Code as authorized in division (F) (6) (b) 5618  
of this section. Upon receipt of that certification, the project 5619  
shall comply with division (F) (6) (b) of this section rather than 5620  
division (F) (6) (a) of this section. 5621

(b) For projects for which certification as a qualified 5622  
energy project was applied for, under division (E) of this 5623  
section, on or after ~~the effective date of this amendment~~ 5624  
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5625  
equivalent employees employed in the construction or 5626  
installation of the energy project to total full-time equivalent 5627  
employees employed in the construction or installation of the 5628  
energy project of not less than seventy per cent in the case of 5629  
a solar energy project, and not less than fifty per cent in the 5630  
case of any other energy project. 5631

(c) For purposes of divisions (F) (6) (a) and (b) of this section, in the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of twenty megawatts, establish a relationship with any of the following to educate and train individuals for careers in the wind or solar energy industry:

(a) A member of the university system of Ohio as defined in section 3345.011 of the Revised Code;

(b) A person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship

council created by section 4139.02 of the Revised Code; 5662

(c) A career-technical center, joint vocational school 5663  
district, comprehensive career-technical center, or compact 5664  
career-technical center; 5665

(d) A training center operated by a labor organization, or 5666  
with a training center operated by a for-profit or nonprofit 5667  
organization. 5668

The relationship may include endowments, cooperative 5669  
programs, internships, apprenticeships, research and development 5670  
projects, and curriculum development. 5671

(8) Offer to sell power or renewable energy credits from 5672  
the energy project to electric distribution utilities or 5673  
electric service companies subject to renewable energy resource 5674  
requirements under section 4928.64 of the Revised Code that have 5675  
issued requests for proposal for such power or renewable energy 5676  
credits. If no electric distribution utility or electric service 5677  
company issues a request for proposal on or before December 31, 5678  
2010, or accepts an offer for power or renewable energy credits 5679  
within forty-five days after the offer is submitted, power or 5680  
renewable energy credits from the energy project may be sold to 5681  
other persons. Division (F) (8) of this section does not apply 5682  
if: 5683

(a) The owner or lessee is a rural electric company or a 5684  
municipal power agency as defined in section 3734.058 of the 5685  
Revised Code. 5686

(b) The owner or lessee is a person that, before 5687  
completion of the energy project, contracted for the sale of 5688  
power or renewable energy credits with a rural electric company 5689  
or a municipal power agency. 5690

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first-day of December of the preceding tax year;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) 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 5720  
employees of not less than seventy-five per cent, six thousand 5721  
dollars per megawatt of nameplate capacity located in the county 5722  
as of the thirty-first day of December of the preceding tax 5723  
year; 5724

(b) If the project maintains during the construction or 5725  
installation of the energy facility a ratio of Ohio-domiciled 5726  
full-time equivalent employees to total full-time equivalent 5727  
employees of less than seventy-five per cent but not less than 5728  
sixty per cent, seven thousand dollars per megawatt of nameplate 5729  
capacity located in the county as of the thirty-first day of 5730  
December of the preceding tax year; 5731

(c) If the project maintains during the construction or 5732  
installation of the energy facility a ratio of Ohio-domiciled 5733  
full-time equivalent employees to total full-time equivalent 5734  
employees of less than sixty per cent but not less than fifty 5735  
per cent, eight thousand dollars per megawatt of nameplate 5736  
capacity located in the county as of the thirty-first day of 5737  
December of the preceding tax year. 5738

(3) In the case of an energy project using clean coal 5739  
technology, advanced nuclear technology, or cogeneration 5740  
technology, the following: 5741

(a) If the project maintains during the construction or 5742  
installation of the energy facility a ratio of Ohio-domiciled 5743  
full-time equivalent employees to total full-time equivalent 5744  
employees of not less than seventy-five per cent, six thousand 5745  
dollars per megawatt of nameplate capacity located in the county 5746  
as of the thirty-first day of December of the preceding tax 5747  
year; 5748

(b) If the project maintains during the construction or 5749  
installation of the energy facility a ratio of Ohio-domiciled 5750  
full-time equivalent employees to total full-time equivalent 5751  
employees of less than seventy-five per cent but not less than 5752  
sixty per cent, seven thousand dollars per megawatt of nameplate 5753  
capacity located in the county as of the thirty-first day of 5754  
December of the preceding tax year; 5755

(c) If the project maintains during the construction or 5756  
installation of the energy facility a ratio of Ohio-domiciled 5757  
full-time equivalent employees to total full-time equivalent 5758  
employees of less than sixty per cent but not less than fifty 5759  
per cent, eight thousand dollars per megawatt of nameplate 5760  
capacity located in the county as of the thirty-first day of 5761  
December of the preceding tax year. 5762

(H) The director of development in consultation with the 5763  
tax commissioner shall adopt rules pursuant to Chapter 119. of 5764  
the Revised Code to implement and enforce this section. 5765

(I) This section and any payments in lieu of taxes made as 5766  
required under this section continue to apply and be required 5767  
notwithstanding the enactment of H.B. 15 of the 136th general 5768  
assembly. 5769

**Sec. 5727.76.** (A) As used in this section, "qualifying 5770  
property" means tangible personal property that is dedicated to 5771  
transporting or transmitting electricity or natural gas and that 5772  
is placed into service in a priority investment area designated 5773  
under section 122.161 of the Revised Code during a time when 5774  
that designation is in effect. 5775

(B) Qualifying property shall be exempt from taxation for 5776  
the tax year following the year in which the property is placed 5777

into service and for the ensuing four tax years. 5778

**Section 2.** That existing sections 122.6511, 4905.03, 5779  
4906.01, 4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 4906.10, 5780  
4906.201, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 5781  
4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 5782  
4909.42, 4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 5783  
4928.142, 4928.144, 4928.151, 4928.17, 4928.20, 4928.23, 5784  
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5785  
4929.20, 4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 of the 5786  
Revised Code are hereby repealed. 5787

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 5788  
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5789  
3706.551, 3706.59, 3706.63, 3706.65, 4906.105, 4928.143, 5790  
4928.148, 4928.47, and 4928.642 of the Revised Code are hereby 5791  
repealed. 5792

**Section 4.** Beginning on the effective date of this 5793  
section, no electric distribution utility shall collect from its 5794  
retail customers in this state any charge that was authorized 5795  
under section 4928.148 of the Revised Code prior to the repeal 5796  
of that section by this act for retail recovery of prudently 5797  
incurred costs related to a legacy generation resource. 5798  
Beginning on the effective date of this section, the electric 5799  
distribution utility shall not apply for, and the public 5800  
utilities commission shall not authorize, any rider or cost 5801  
recovery mechanism for a legacy generation resource. 5802

The public utilities commission shall continue any 5803  
investigation commenced pursuant to section 4928.148 of the 5804  
Revised Code prior to the repeal of that section by this act for 5805  
purposes of determining the prudence and reasonableness of the 5806  
actions of electric distribution utilities with ownership 5807



interests in the legacy generation resource, including their 5808  
decisions related to offering the contractual commitment into 5809  
the wholesale markets, and excluding from recovery those costs 5810  
that the commission determines imprudent and unreasonable. 5811

**Section 5.** (A) Beginning on the effective date of this 5812  
section, no electric distribution utility shall collect from its 5813  
retail customers in the state any charge that was authorized 5814  
under section 3706.46 of the Revised Code to meet the revenue 5815  
requirement for disbursements from the Solar Generation Fund to 5816  
owners or operators of qualifying solar resources that was 5817  
required under section 3706.55 of the Revised Code before the 5818  
repeal of these sections by this act. 5819

(B) Except as provided for in division (C) of this 5820  
section, beginning on the effective date of this section, the 5821  
Ohio Air Quality Development Authority is prohibited from 5822  
directing the Treasurer of State to remit, and the Treasurer is 5823  
prohibited from remitting, any money from the Solar Generation 5824  
Fund to owners or operators of qualifying solar resources, which 5825  
remittance was permitted under section 3706.55 of the Revised 5826  
Code prior to the repeal of that section by this act. 5827

(C) The Ohio Air Quality Development Authority shall 5828  
direct the Treasurer of State to remit money from the Solar 5829  
Generation Fund to owners or operators of qualifying solar 5830  
resources that were operational prior to December 31, 2024, in 5831  
the same manner as provided in division (A) of section 3706.55 5832  
of the Revised Code, as that section existed prior to the 5833  
effective date of its repeal by this act. 5834

(D) Notwithstanding section 4905.32 of the Revised Code, 5835  
any amounts remaining in the Solar Generation Fund as of 5836  
December 31, 2027, minus the remittances that are required to be 5837

made between that date and January 21, 2028, shall be refunded 5838  
to customers in a manner that shall be determined by the 5839  
authority in consultation with the public utilities commission. 5840

**Section 6.** Section 4909.193 as enacted by this act and the 5841  
amendments to section 4909.42 of the Revised Code by this act 5842  
apply to applications filed under section 4909.18 of the Revised 5843  
Code on or after the effective date of this section. 5844

**Section 7.** (A) The Public Utilities Commission shall 5845  
conduct a study to evaluate the potential use or deployment of 5846  
advanced transmission technologies, as defined in section 5847  
4906.01 of the Revised Code, by public utilities to enable 5848  
public utilities to safely, reliably, efficiently, and cost- 5849  
effectively meet electric system demand and provide safe, 5850  
reliable, and affordable electric utility service to customers. 5851  
In conducting the study, the Commission shall do the following: 5852

(1) Evaluate the attributes, functions, costs, and 5853  
benefits of various advanced transmission technologies, 5854  
including grid-enhancing technologies and advanced conductors; 5855

(2) Evaluate the potential of each of the advanced 5856  
transmission technologies studied to be used or deployed by 5857  
public utilities to provide safe, reliable, and affordable 5858  
electric utility service to customers, considering existing and 5859  
planned transmission infrastructure and projected demand growth; 5860

(3) Identify the potential reductions in project costs and 5861  
project completion timelines by deploying advanced transmission 5862  
technologies, as compared to traditional transmission 5863  
infrastructure; 5864

(4) Evaluate potential ways to streamline the deployment 5865  
of advanced transmission technologies, including streamlined 5866

processes for permitting, maintenance, and upgrades; 5867

(5) Evaluate other deregulated states' policies and laws 5868  
relating to advanced transmission technologies and provide 5869  
recommendations in accordance with other states' policies and 5870  
laws to enable and encourage adoption of advanced transmission 5871  
technologies in this state; 5872

(6) Identify processes or ways that end-use customers, 5873  
such as industrial or mercantile customers, can invest and 5874  
deploy advanced transmission technologies in partnership with 5875  
their respective utility to allow for the more rapid deployment 5876  
of such technologies; 5877

(7) Identify how the Commission can support and encourage 5878  
the implementation of advanced transmission technologies in Ohio 5879  
through future rule-making or other Commission activities; 5880

(8) Evaluate any other aspect of advanced transmission 5881  
technologies that the Commission determines will assist 5882  
policymakers, public utilities, ratepayers, and other 5883  
stakeholders in understanding the potential role of advanced 5884  
transmission technologies in the transmission system serving 5885  
this state and the region; 5886

(9) Identify opportunities for the Federal Energy 5887  
Advocate, as employed under section 4928.24 of the Revised Code, 5888  
to support and advocate for the implementation of advanced 5889  
transmission technologies at the regional transmission 5890  
organization, Federal Energy Regulatory Commission, and other 5891  
relevant agencies, commissions or regulatory bodies. 5892

(B) In conducting the study required by this section, the 5893  
Commission shall consult with or invite comments from 5894  
stakeholders. The Commission shall hold a minimum of two public 5895

workshops to review public comments from stakeholders. The 5896  
Commission may incorporate any information or comments received 5897  
in its report required in division (C) of this section. 5898

(C) Not later than March 1, 2026, the Commission shall 5899  
submit a report that includes the Commission's findings with 5900  
respect to the topics outlined in this section. A copy of the 5901  
report shall be made available online and sent to all members of 5902  
the General Assembly. 5903

**Section 8.** The amendment by this act of sections 5727.01 5904  
and 5727.111 of the Revised Code applies to tax year 2027 and 5905  
every tax year thereafter. 5906

**Section 9.** Section 122.6511 of the Revised Code as 5907  
presented in this act takes effect on the later of July 1, 2025, 5908  
or the effective date of this section. July 1, 2025, is the 5909  
effective date of an earlier amendment to that section by H.B. 5910  
315 of the 135th General Assembly. 5911

**Section 10.** The General Assembly, applying the principle 5912  
stated in division (B) of section 1.52 of the Revised Code that 5913  
amendments are to be harmonized if reasonably capable of 5914  
simultaneous operation, finds that the following sections, 5915  
presented in this act as composites of the sections as amended 5916  
by the acts indicated, are the resulting versions of the 5917  
sections in effect prior to the effective date of the sections 5918  
as presented in this act: 5919

Section 4906.02 of the Revised Code is presented in this 5920  
act as a composite of the section as amended by both H.B. 110 5921  
and S.B. 52 of the 134th General Assembly. 5922

Section 4928.01 of the Revised Code is presented in this 5923  
act as a composite of the section as amended by both H.B. 308 5924

and H.B. 315 of the 135th General Assembly.

5925