As Introduced

136th General Assembly
Regular Session **H. B. No. 15**
2025-2026

Representative Klopfenstein

A BILL

To amend sections 4906.04, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 5727.111, and 5727.15; to enact sections 4928.041, 4928.081, 4928.101, 4928.102, 4928.103, 4928.149, 4929.201, 4929.221, 4929.222, 4933.51, 4933.52, 4933.54, 4933.56, 4933.58, and 4933.59; and to repeal sections 3706.40, 3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 4928.642 of the Revised Code to amend the competitive retail electric service law, make changes regarding electric company property taxation, and repeal parts of H.B. 6 of the 133rd General Assembly.

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

Section 1. That sections 4906.04, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 4928.542,

4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 5727.111, and 5727.15 be amended and sections 4928.041, 4928.081, 4928.101, 4928.102, 4928.103, 4928.149, 4929.201, 4929.221, 4929.222, 4933.51, 4933.52, 4933.54, 4933.56, 4933.58, and 4933.59 of the Revised Code be enacted to read as follows:

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

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.

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

(1) "Ancillary service" means any function necessary to the provision of electric transmission or distribution service to a retail customer and includes, but is not limited to, scheduling, system control, and dispatch services; reactive supply from generation resources and voltage control service; reactive supply from transmission resources service; regulation service; frequency response service; energy imbalance service;

operating reserve-spinning reserve service; operating reserve-supplemental reserve service; load following; back-up supply service; real-power loss replacement service; dynamic scheduling; system black start capability; and network stability service.

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

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

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

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

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service and does not own or operate an electric generating

facility.

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

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

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

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

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

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

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

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

(15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates" means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract.

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

(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to

receive transition revenues under this chapter.

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

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

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

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

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

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

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

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

(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs

currently deferred pursuant to the terms of one or more settlement agreements approved by the commission.

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

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

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

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

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

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

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

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

(d) Is intended primarily to offset part or all of the

customer-generator's 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.

(32) "Self-generator" means an entity in this state that owns or hosts on its premises 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 facility is installed or operated by the owner or by an agent under a contract.

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

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

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

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

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or

sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

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

(e) 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;

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

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

(h) Any new, retrofitted, refueled, or repowered

generating facility located in Ohio, including a simple or combined-cycle natural gas generating facility or a generating facility that uses biomass, coal, modular nuclear, or any other fuel as its input;

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

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

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

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

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

(i) Solar photovoltaic or solar thermal energy;

(ii) Wind energy;

(iii) Power produced by a hydroelectric facility;

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

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

forty or more megawatts;

(vi) Geothermal energy;

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

(viii) Biomass energy;

(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;

(x) Biologically derived methane gas;

(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;

(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.

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

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

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

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

(ii) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water

Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

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

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

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

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

(vii) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended by resource agencies, to the extent they have jurisdiction over

the facility; and the facility provides access to water to the public without fee or charge.

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

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

(38) "Waste energy recovery system" means either of the following:

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

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

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

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

(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that

improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering and automation of system functions.

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

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

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

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

(a) Releases reduced air pollutants, thereby reducing cumulative air emissions;

(b) Is more sustainable and reliable relative to some fossil fuels.

"Green energy" includes energy generated by using natural gas as a resource.

(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, the service component shall be deemed a noncompetitive retail electric service.

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

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

Sec. 4928.05. (A)(1) ~~On and after the starting date of competitive retail electric service, a~~ A competitive retail electric service supplied by an ~~electric utility or~~ electric services company, or by an electric utility consistent with

section 4928.141 of the Revised Code, shall not be subject to supervision and regulation by a municipal corporation under Chapter 743. of the Revised Code or by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except sections 4905.10 and 4905.31, division (B) of section 4905.33, and sections 4905.35 and 4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, and 4963.41 of the Revised Code only to the extent related to service reliability and public safety; and except as otherwise provided in this chapter. The commission's authority to enforce those excepted provisions with respect to a competitive retail electric service shall be such authority as is provided for their enforcement under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter. Nothing in this division shall be construed to limit the commission's authority under sections 4928.141 ~~to~~ , 4928.142, and 4928.144 of the Revised Code.

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

~~(2) On and after the starting date of competitive retail electric service, a~~ (B)(1) A noncompetitive retail electric service supplied by an electric utility shall be subject to supervision and regulation by the commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter, to the extent that authority is not preempted by federal law. The commission's authority to enforce those

provisions with respect to a noncompetitive retail electric service shall be the authority provided under those chapters and this chapter, to the extent the authority is not preempted by federal law. Notwithstanding Chapters 4905. and 4909. of the Revised Code, commission authority under this chapter shall include the authority to provide for the recovery, through a reconcilable rider on an electric distribution utility's distribution rates, of all transmission and transmission-related costs, including ancillary and congestion costs, imposed on or charged to the utility by the federal energy regulatory commission or a regional transmission organization, independent transmission operator, or similar organization approved by the federal energy regulatory commission.

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

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

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

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

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

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

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

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

(D) The commission may suspend, rescind, or conditionally rescind the certification of any electric utility, electric services company, electric cooperative, or governmental aggregator issued under this section if the commission determines, after reasonable notice and opportunity for hearing, that the utility, company, cooperative, or aggregator has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or

unconscionable acts or practices in this state.

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

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

Sec. 4928.081. The public utilities commission and the electric distribution utilities and competitive retail electric service suppliers that elect to participate in the consumer choice billing program are subject to the requirements established for that program under sections 4933.51 to 4933.59 of the Revised Code.

Sec. 4928.101. (A) As used in this section and section 4928.102 of the Revised Code:

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

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

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

(b) Has, at the customer's discretion, aggregated the

demand for the customer-managed meters.

(B) The consumer protections described in section 4928.10 of the Revised Code and the rules adopted pursuant to that section apply to small commercial customers and to all other customers as set forth in the rules.

Sec. 4928.102. (A) If a competitive retail electric service supplier offers a residential or small commercial customer a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, the supplier shall send two notices to each residential and small commercial customer that enters into such a contract. Each notice shall provide all of the following information to the customer:

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

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

(3) The rate to be charged upon the contract's conversion to a variable rate;

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

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

(B) The notices shall be sent by standard United States mail as follows:

(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.

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

(C) A competitive retail electric service supplier shall provide an annual notice, by standard United States mail, to each residential and small 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.

(D) 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 (C) of this section. The rules, at a minimum, shall include the following requirements regarding the notices required under divisions (A) to (C) of this section:

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

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

(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4928.102 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 4928.103. (A) As used in this section, "customer account information" means a unique electric distribution utility number or other customer identification number used by the utility to identify a customer and the customer's account

record.

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

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

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

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

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

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

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

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

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

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A)(1) An electric distribution utility shall provide consumers, on a comparable and nondiscriminatory basis within its certified territory, a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service. To that end, the electric distribution utility shall apply to the public utilities commission to establish the standard service offer in accordance with section 4928.142 ~~or 4928.143~~ of the Revised Code~~ and, at its discretion,~~

~~may apply simultaneously under both sections, except that the utility's first standard service offer application at minimum shall include a filing under section 4928.143 of the Revised Code~~. ~~Only~~ Except as provided in division (A)(2) of this section, a standard service offer authorized in accordance with section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as the utility's standard service offer for the purpose of compliance with this section~~;~~, and that standard service offer shall serve as the utility's default standard service offer for the purpose of section 4928.14 of the Revised Code. ~~Notwithstanding the foregoing provision, the rate~~

(2) An electric distribution utility's electric security plan ~~of an electric distribution utility~~ that was approved under section 4928.143 of the Revised Code as that section existed prior to the amendments to this section by this act shall continue for the purpose of the utility's compliance with ~~this~~ division (A)(1) of this section until a standard service offer is ~~first~~ authorized under section 4928.142 ~~or 4928.143~~ of the Revised Code~~, and, as applicable, pursuant to division (D) of section 4928.143 of the Revised Code, any rate~~. No electric security plan ~~that extends~~ approved before the effective date of the amendments to this section bythis act shall extend beyond ~~December 31, 2008, shall continue to be in effect for the subject electric distribution utility for the duration~~ the termination date of the plan's term.

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

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

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

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

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

(b) Clear product definition;

(c) Standardized bid evaluation criteria;

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

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

No generation supplier shall be prohibited from

participating in the bidding process.

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

(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A)(2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.

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

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

(2) Any such regional transmission organization has a market-monitor function and the ability to take actions to identify and mitigate market power or the electric distribution

utility's market conduct; or a similar market monitoring function exists with commensurate ability to identify and monitor market conditions and mitigate conduct associated with the exercise of market power.

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

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

(C) Upon the completion of the competitive bidding process authorized by divisions (A) and (B) of this section~~, including for the purpose of division (D) of this section~~, the commission

shall select the least-cost bid winner or winners of that process, and such selected bid or bids, as prescribed as retail rates by the commission, shall be the electric distribution utility's standard service offer unless the commission, by order issued before the third calendar day following the conclusion of the competitive bidding process for the market rate offer, determines that one or more of the following criteria were not met:

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

(2) There were four or more bidders.

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

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

(D) The ~~first~~ application filed under this section by an electric distribution utility ~~that, as of July 31, 2008, directly owns, in whole or in part, operating electric generating facilities that had been used and useful in this~~

~~state~~ shall require that ~~a portion of that~~ the utility's standard service offer load ~~for the first five years of the market rate offer~~ be competitively bid under division (A) of this section ~~as follows: ten per cent of the load in year one, not more than twenty per cent in year two, thirty per cent in year three, forty per cent in year four, and fifty per cent in year five. Consistent with those percentages, the commission shall determine the actual percentages for each year of years one through five. The standard service offer price for retail electric generation service under this first application shall be a proportionate blend of the bid price and the generation service price for the remaining standard service offer load, which latter price shall be equal to the electric distribution utility's most recent standard service offer price, adjusted upward or downward as the commission determines reasonable, relative to the jurisdictional portion of any known and measurable changes from the level of any one or more of the following costs as reflected in that most recent standard service offer price:~~

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

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

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

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

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

~~Additionally, the commission may adjust the electric distribution utility's most recent standard service offer price by such just and reasonable amount that the commission determines necessary to address any emergency that threatens the utility's financial integrity or to ensure that the resulting revenue available to the utility for providing the standard service offer is not so inadequate as to result, directly or indirectly, in a taking of property without compensation~~

~~pursuant to Section 19 of Article I, Ohio Constitution. The electric distribution utility has the burden of demonstrating that any adjustment to its most recent standard service offer price is proper in accordance with this division.~~

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

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

Sec. 4928.144. The public utilities commission by order may authorize any just and reasonable phase-in of any electric

distribution utility ~~rate or~~ price established under sections 4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and inclusive of carrying charges, as the commission considers necessary to ensure ~~rate or~~ price stability for consumers. If the commission's order includes such a phase-in, the order also shall provide for the creation of regulatory assets pursuant to generally accepted accounting principles, by authorizing the deferral of incurred costs equal to the amount not collected, plus carrying charges on that amount. Further, the order shall authorize the collection of those deferrals through a nonbypassable surcharge on any such rate or price so established for the electric distribution utility by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the Revised Code:

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

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

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

(D) "Bondholder" means any holder or owner of a phase-in-recovery bond.

(E) "Financing costs" means any of the following:

(1) Principal, interest, and redemption premiums that are payable on phase-in-recovery bonds;

(2) Any payment required under an ancillary agreement;

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

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

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

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

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

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

(9) Any other similar costs that the public utilities

commission finds appropriate.

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

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

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

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

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

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

(J) "Phase-in costs" means costs, inclusive of carrying charges incurred before, on, or after ~~the effective date of this section~~ March 22, 2012, authorized by the commission before, on, or after ~~the effective date of this section~~ March 22, 2012, to be securitized or deferred as regulatory assets in proceedings under section 4909.18 ~~of the Revised Code~~, ~~sections~~ 4928.141 ~~to 4928.143~~, 4928.142, or 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 effective date of the amendments to this section by this act pursuant to a final order for which appeals have been exhausted. "Phase-in costs" excludes the following:

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

(2) Costs incurred after ~~the effective date of this section~~ March 22, 2012, related to the ongoing operation of an electric generating facility, but not environmental clean-up or remediation costs incurred by an electric distribution utility because of its ownership or operation of an electric generating facility prior to ~~the effective date of this section~~ March 22, 2012, which such clean-up or remediation costs are imposed or incurred pursuant to federal or state law, rules, or regulations and for which the commission approves or approved recovery in accordance with section 4909.18 ~~of the Revised Code~~, ~~sections~~ 4928.141 ~~to 4928.143~~, 4928.142, or 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 effective date of the amendments to this section by this act.

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

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

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

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

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

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

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

(a) Uncollected phase-in costs;

(b) Financing costs.

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

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

(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;

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

(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;

(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;

(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;

(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;

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Is a small hydroelectric facility;

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

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

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

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

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

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

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

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

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

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

	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 by the utility or company shall be met either:

(a) Through facilities located in this state; or

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

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

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

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

(i) Three hundred dollars for 2014, 2015, and 2016;

(ii) Two hundred fifty dollars for 2017 and 2018;

(iii) Two hundred dollars for 2019.

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

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

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

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

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

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

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

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

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

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

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

(1) A mercantile customer;

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

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

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

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

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

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

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

Sec. 4929.20. ~~(A)~~ (A)(1) No governmental aggregator as defined in division (K)(1) of section 4929.01 of the Revised Code or no retail natural gas supplier shall provide a competitive retail natural gas service on or after thirteen months following ~~the effective date of this section~~ June 26,

2001, to a consumer in this state without first being certified by the public utilities commission regarding its managerial, technical, and financial capability to provide that service and providing reasonable financial assurances sufficient to protect customers and natural gas companies from default. ~~In addition, a retail natural gas supplier may be required to provide a performance bond sufficient to protect customers and natural gas companies from default.~~ Certification shall be granted pursuant to procedures and standards the commission shall prescribe in accordance with rules adopted under section 4929.10 of the Revised Code. However, certification or certification renewal shall be deemed approved thirty days after the filing of an application with the commission unless the commission suspends that approval for good cause shown. In the case of such a suspension, the commission shall act to approve or deny certification or certification renewal to the applicant not later than ninety days after the date of the suspension.

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

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

(B) Capability standards adopted in rules pursuant to division (A) of this section shall be sufficient to ensure compliance with section 4929.22 of the Revised Code and with the

minimum service requirements established under section 4929.23 of the Revised Code. The standards shall allow flexibility for voluntary aggregation, to encourage market creativity in responding to consumer needs and demands. The rules shall include procedures for biennially renewing certification.

(C)(1) The commission may suspend, rescind, or conditionally rescind the certification of any retail natural gas supplier or governmental aggregator issued under this section if the commission determines, after reasonable notice and opportunity for hearing, that the retail natural gas supplier or governmental aggregator has failed to comply with any applicable certification standards prescribed in rules adopted pursuant to this section or section 4929.22 of the Revised Code.

(2) An affected natural gas company may file an application with the commission for approval of authority to recover in accordance with division (C)(2) of this section incremental costs reasonably and prudently incurred by the company in connection with the commission's continuation, suspension, rescission, or conditional rescission of a particular retail natural gas supplier's certification under division (C)(1) of this section. Upon the filing of such an application, the commission shall conduct an audit of such incremental costs as are specified in the application. Cost recovery shall be through a rider on the base rates of customers of the company for which there is a choice of supplier of commodity sales service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised

Code. The rider shall take effect ninety days after the date of the application's filing unless the commission, based on the audit results and for good cause shown, sets the matter for hearing. After the hearing, the commission shall approve the application, and authorize such cost recovery rider effective on the date specified in the order, only for such incremental costs as the commission determines were reasonably and prudently incurred by the company in connection with the continuation, suspension, rescission, or conditional rescission of a retail natural gas supplier's certification under division (C)(1) of this section. Any proceeding under division (C)(2) of this section shall be governed by Chapter 4903. of the Revised Code.

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

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

Sec. 4929.201. The public utilities commission and the natural gas companies and competitive retail natural gas suppliers that elect to participate in the consumer choice billing program are subject to the requirements established for that program under sections 4933.51 to 4933.59 of the Revised Code.

Sec. 4929.221. (A) If a competitive retail natural gas

service supplier offers a residential customer or non-mercantile commercial customer a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, the supplier shall send two notices to each residential customer and non-mercantile commercial customer that enters into such a contract. Each notice shall provide all of the following information to the customer:

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

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

(3) The rate to be charged upon the contract's conversion to a variable rate;

(4) The public utilities commission web site that, as a comparison tool, lists rates offered by competitive retail natural gas service suppliers;

(5) A statement explaining that appearing on each customer's bill is a price-to-compare notice that lists the natural gas company's default rate for natural gas charged to customers who decide not to shop for a competitive supplier.

(B) The notices shall be sent by standard United States mail as follows:

(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.

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

(C) A competitive retail natural gas service supplier shall provide an annual notice, by standard United States mail,

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.

(D) 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 (C) of this section. The rules, at a minimum, shall include the following requirements regarding the notices required under divisions (A) to (C) of this section:

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

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

(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4929.221 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

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

(B) The public utilities commission shall adopt rules to ensure that a natural gas company processes a customer's change in competitive retail natural gas supplier by using customer account information. A customer who consents to a change of supplier shall not be required to provide customer account

information to the supplier if the customer provides a valid form of government-issued identification issued to the customer or a sufficient alternative form of identification that allows the supplier to establish the customer's identity accurately.

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

Sec. 4933.51. As used in sections 4933.51 to 4933.59 of the Revised Code:

(A) "Applicant" means a supplier that has applied for certification under the consumer choice billing program established under sections 4933.51 to 4933.59 of the Revised Code.

(B) "Consumer" means a residential, commercial, or industrial customer of retail electric service or retail natural gas service.

(C) "Competitive retail electric service" and "electric distribution utility" have the same meanings as in section 4928.01 of the Revised Code.

(D) "Competitive retail natural gas supplier" and "natural gas company" have the same meanings as in section 4929.01 of the Revised Code.

(E) "Supplier" means a supplier of competitive retail electric service or a competitive retail natural gas supplier.

Sec. 4933.52. (A) There is created the consumer choice billing program, which shall be administered by the public utilities commission. The purpose of the program is to do the

following:

(1) Permit suppliers to offer consumers consolidated billing of retail electric services or retail natural gas services for all electric or natural gas charges, including an electric distribution utility's or natural gas company's distribution and transmission charges;

(2) Enhance consumer protections for consumers who select a supplier and elect to be billed by that supplier for all charges for electric service or natural gas service;

(3) Increase competition in supplier marketplaces;

(4) Develop direct and transparent relationships between consumers and suppliers.

(B) The commission shall adopt rules to authorize consumer choice billing and accomplish the purposes described in division (A) of this section.

Sec. 4933.54. (A) The public utilities commission shall adopt rules to implement the consumer choice billing program created under section 4933.52 of the Revised Code. The rules shall require a supplier to do the following:

(1) Apply for a new or amended certification under section 4928.08 or 4929.20 of the Revised Code, as applicable, that also authorizes the supplier's participation in the consumer choice billing program;

(2) If the applicant is applying for an amended certification, maintain a current, valid certification under section 4928.08 or 4929.20 of the Revised Code and, prior to offering or providing consumer choice billing, submit to the commission a statement affirming that the applicant will not

offer or provide consumer choice billing without such certification and commission authorization to provide such billing under the program;

(3) Maintain the following, in addition to meeting applicable financial assurances required under section 4928.08 or 4929.20 of the Revised Code:

(a) If the applicant is a competitive retail electric supplier, bonding or financial assurances with the commission for sales of electricity in the amount of two hundred fifty thousand dollars or ten per cent of the applicant's annual gross receipts, whichever is greater;

(b) If the applicant is a competitive retail natural gas supplier, bonding or financial assurances with each natural gas company in the service territory where the applicant provides service;

(c) Bonding or financial assurances with each electric distribution utility and natural gas company where the applicant plans to offer consumer choice billing in an amount equal to the sum of the two highest months of utility receivables in the previous twelve months.

(4)(a) Certify that the applicant has not had its certification under section 4928.08 or 4929.20 revoked during the previous five-year period;

(b) Certify that, for bills that include supplier charges and electric distribution utility or natural gas company charges, the applicant will comply with the standards for billing practices and minimum service requirements under sections 4928.10 and 4929.22 of the Revised Code, as applicable;

(c) Demonstrate that the applicant is able to meet the

demands of increased consumer service and dispute resolution functions, including the operation of call centers, support of complex billing requirements, responsible execution of collections functions, quality assurance, and recordkeeping necessary to handle electric distribution utility and natural gas company charges that contribute to potential electric or natural gas service disconnections;

(d) Attest to the applicant's ability to comply with applicable requirements related to payment plans for utility service and to assist consumers with other payment plan options by employing new or existing consumer assistance programs prior to initiating the process for service termination;

(e) Agree to purchase the receivables for regulated charges of an electric distribution utility or natural gas distribution company, as applicable;

(f) Agree to timely inform the commission of any material change or the cancellation of the bonding or assurances required under division (A)(3) of this section;

(g) Agree to comply with Ohio administrative rules regarding standards of conduct for suppliers and disclosures, marketing, and sales practice requirements for suppliers.

(B) The commission also shall adopt rules that do the following:

(1) Establish a process for an applicant to petition the commission for authorization to provide consumer choice billing through a third party if the applicant meets the qualifications under divisions (A)(3) and (4) of this section;

(2) Authorize a mechanism to create a bypassable billing service charge that:

(a) Is wholly based on the fully unbundled direct and indirect costs of an electric distribution utility's or a natural gas company's billing system;

(b) Guarantees the recovery of all prudent investments in billing infrastructure;

(c) May be imposed only after a commission-imposed prudency review that occurs prior to the implementation of consumer choice billing.

(3) Require an electric distribution utility and a natural gas company to timely furnish necessary billing data to suppliers participating in the consumer choice billing program;

(4) Create a standardized form of consumer notice to be used when a supplier ceases to provide a particular type of billing or other service;

(5) Establish a consumer choice billing working group for stakeholders to draft tariff provisions, collect data, design business processes, configure electronic transactions, review similar consumer choice billing programs in other states, define a comprehensive consumer choice billing education program to support the launch of consumer choice billing in the state, and consider any other relevant matters, including the process for disconnection or termination of utility service;

(6) Establish an electronic data exchange working group to develop proposed electronic transactions for an electric distribution utility, natural gas company, or supplier to exchange necessary consumption, billing, payment, and related data;

(7) Prohibit an electric distribution utility or natural gas company from requiring a supplier to purchase a consumer's

arrears from the electric distribution utility or natural gas company;

(8) Prohibit an electric distribution utility or natural gas company from utilizing consumer information to do the following:

(a) Market the standard service offer for electric service or the standard choice offer for natural gas service;

(b) Research or market other electric distribution utility or natural gas company services;

(c) Share information the electric distribution utility or natural gas company acquires through electronic transactions that facilitate consumer choice billing with unregulated affiliates of the electric distribution utility, natural gas company, or any other nongovernmental entity.

(9) Establish the terms and conditions for the following:

(a) A supplier to change a consumer's billing method to or from consumer choice billing and the corresponding content and timing of notifications to consumers;

(b) For a consumer that is on budget billing with an electric distribution utility or natural gas company at the time of the switch to consumer choice billing;

(c) A supplier's purchase of an electric distribution utility's or natural gas company's receivables, including prioritization for partial payments and a dispute resolution process;

(d) Nonpayment by a consumer choice billing consumer, including the content of collection notices, purchase of arrears, unpaid charges, and limitations.

(10) A consumer choice billing consumer's participation in the percentage of income assistance program under section 4928.53 of the Revised Code.

(C) In addition to the penalties described in divisions (A)(1) and (2) of section 4933.59 of the Revised Code, the commission shall adopt rules to establish fines or other penalties for violations of requirements established under sections 4933.52 to 4933.58 of the Revised Code.

(D) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4933.54 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 4933.56. (A) Not later than forty-five days after the effective date of this section, the public utilities commission shall issue an order requiring electric distribution utilities and natural gas companies to prepare a consumer choice billing implementation plan, which shall be subject to commission approval. Each electric distribution utility and natural gas company shall submit its implementation plan to the commission not later than one hundred eighty days after the commission has adopted the consumer choice billing rules pursuant to section 4933.54 of the Revised Code.

The implementation plan shall demonstrate how the electric distribution utility or natural gas company will meet the consumer choice billing requirements established by rule pursuant to section 4933.54 of the Revised Code and shall include all tariffs, agreements, processes, proposed cost recovery mechanisms, and other components that will require commission approval in accordance with the commission's consumer choice billing order.

If necessary, the commission may approve an implementation plan on an expedited basis.

(B) An electric distribution utility or natural gas company shall maintain a record of recoverable consumer choice billing costs as regulatory assets. Such regulatory assets shall be recovered in the utility's or company's next rate case application under section 4909.18 of the Revised Code.

Sec. 4933.58. Not later than one year after the effective date of the consumer choice billing rules adopted pursuant to section 4933.54 of the Revised Code, the public utilities commission shall issue a consumer choice billing report to the standing committees of the house of representatives and the senate with primary responsibility for utility legislation. The report shall detail the status of the consumer choice billing program in the state and shall include the following information regarding the program:

(A) Statistics for the number of consumers who shop for retail electric and natural gas service;

(B) The number and description of consumer complaints;

(C) The number of billing disputes;

(D) The number of service terminations;

(E) Any other information needed to determine whether modifications to consumer choice billing qualifications or requirements are necessary to improve shopping for retail electric and natural gas service in the state.

Sec. 4933.59. (A) If a supplier violates a provision of the consumer choice billing program under sections 4933.51 to 4933.58 of the Revised Code, the public utilities commission may

impose any of the following penalties, subject to notice and a hearing:

(1) A suspension or revocation of the supplier's participation in the consumer choice billing program;

(2) A suspension or revocation of the supplier's certification under section 4928.08 or 4928.20 of the Revised Code, as applicable;

(3) A fine in an amount determined and imposed by the commission, on a supplier for marketing practices that are fraudulent, deceptive, or otherwise unlawful.

(B) A supplier shall be responsible for fraudulent, deceptive, or other unlawful marketing acts performed by an agent of the supplier. The commission may impose on the supplier the penalties described in division (A) of this section if the agent of a supplier violates a provision of the consumer choice billing program under sections 4933.51 to 4933.58 of the Revised Code.

(C) The commission may impose penalties on an electric distribution utility or a natural gas company that violates requirements adopted pursuant to section 4933.54 of the Revised Code.

Sec. 5727.01. As used in this chapter:

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

(B) "Gross receipts" means the entire receipts for

business done by any person from operations as a public utility, or incidental thereto, or in connection therewith, including any receipts received under Chapter 4928. of the Revised Code. The gross receipts for business done by an incorporated company engaged in operation as a public utility includes the entire receipts for business done by such company under the exercise of its corporate powers, whether from the operation as a public utility or from any other business.

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

(D) Any person:

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

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

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

(4) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas

supplier as defined in section 4929.01 of the Revised Code;

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

(6) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

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

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

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

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

As used in division (D)(2) of this section, "local exchange telephone service" means making available or furnishing

access and a dial tone to all persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and for gaining access to other telecommunication services.

(E) "Taxable property" means the property required by 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 company and leases that property back from the buyer.

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

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

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

(M) "Public utility property lessor" means any person, other than a public utility or an interexchange telecommunications company, that leases personal property, other than in a sale and leaseback transaction, to a public utility, other than a railroad, water transportation, telephone, or telegraph company if the property would be taxable property if owned by the public utility. A public utility property lessor is

subject to this chapter only for the purposes of reporting and paying tax on taxable property it leases to a public utility other than a telephone or telegraph company. A public utility property lessor that leases property to a public utility other than a telephone or telegraph company is not a public utility, but it shall report its property and be assessed in the same manner as the utility to which it leases the property.

(N) "Energy resource" means any of the following:

(1) "Renewable energy resource" as defined in section 4928.01 of the Revised Code;

(2) "Clean coal technology" as described in division (A)(34)(c) of section 4928.01 of the Revised Code;

(3) "Advanced nuclear technology" as described in division (A)(34)(d) of section 4928.01 of the Revised Code;

(4) "Cogeneration technology" as described in division (A)(34)(b) of section 4928.01 of the Revised Code.

(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 electricity from an energy resource, through which electricity is transferred to controls, transformers, or power electronics and to the transmission interconnection point.

"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.

(P) "Energy facility" means one or more interconnected wind turbines, solar panels, or other tangible personal property used to generate electricity from an energy resource owned by the same person, including:

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

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

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

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

(R) "Qualifying production equipment" means production equipment that is owned by or leased to an electric company or energy company or that is owned by or leased to a combined company for use in the activity of an electric company.

Sec. 5727.031. (A) A person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall file a report under section 5727.08 of the Revised Code as an electric company but shall only report therein as taxable property the amounts required in divisions (B) and (C) of this section. All time limits and other procedural requirements of this chapter for the reporting and assessment of property of electric companies apply to persons required to file a report under this section. For the purposes of this section, "the supplying of electricity to others" shall not include donating all of the electricity a person generates to a political subdivision of the state.

(B) A person subject to this section shall report the true value of ~~the boilers, machinery, equipment, and~~ any personal property that is used to supply electricity to others~~, which shall be the sum of the following:~~

~~(1) The true value of the property that is production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it; plus~~

~~(2) The true value of the property~~ and that is not production equipment, as ~~it~~ such true value would be determined for an electric company under section 5727.11 of the Revised Code, multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who

generated it.

(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the ~~sum of the products determined under divisions (C)(1) and (2) of this section.~~

~~(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;~~

~~(2) Multiply the portion of~~ product obtained by multiplying the true value determined under division ~~(B)(2)~~ (B) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the taxable property of an electric company ~~that is not production equipment~~.

Sec. 5727.06. (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner:

(1) For tax years before tax year 2006:

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(i) Owned by the public utility or interexchange telecommunications company; or

(ii) Leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction.

(2) For tax years 2006, 2007, and 2008:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction.

(3) For tax year 2009 and each tax year thereafter:

(a) In the case of a railroad company, all real property

used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property except qualifying production equipment that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction, and that is not exempted from taxation under section 5727.75 of the Revised Code;

(d) In the case of a public utility property lessor, all personal property except qualifying production equipment that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to a public utility other than a railroad, telephone, telegraph, or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the public utility owned the property, and that is not exempted from taxation under section 5727.75 of the Revised Code.

(4) For tax years 2005 and 2006, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property that on the thirty-first day of

December of the preceding year was both located in this state and either owned by the telephone, telegraph, or interexchange telecommunications company or leased by the telephone, telegraph, or interexchange telecommunications company under a sale and leaseback transaction.

(5)(a) For tax year 2007 and thereafter, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property shall be listed and assessed for taxation under Chapter 5711. of the Revised Code, but the tangible personal property shall be valued in accordance with this chapter using the composite annual allowances and other valuation procedures prescribed under section 5727.11 of the Revised Code by the tax commissioner for such property for tax year 2006, notwithstanding any section of Chapter 5711. of the Revised Code to the contrary.

(b) A telephone, telegraph, or interexchange telecommunications company subject to division (A)(5)(a) of this section shall file a combined return with the tax commissioner in accordance with section 5711.13 of the Revised Code even if the company has tangible personal property in only one county. Such a company also is subject to the issuance of a preliminary assessment certificate by the tax commissioner under section 5711.25 of the Revised Code. Such a company is not required to file a county supplemental return under section 5711.131 of the Revised Code.

(6) In the case of an energy company, for tax year 2011 and each tax year thereafter, all tangible personal property except qualifying production equipment that on the thirty-first day of December of the preceding year was both located in this state and either owned by the company or leased by the company

under a sale and leaseback transaction, and that is not exempted from taxation under section 5727.75 of the Revised Code.

(B) This division applies to tax years before tax year 2007.

In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies and on the personal property of public utility property lessors shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The ten-thousand-dollar exemption provided for in division (C)(3) of section 5709.01 of the Revised Code does not apply to any personal property that is valued under this chapter.

(F) The tax commissioner may adopt rules governing the

listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

Sec. 5727.11. (A) Except as otherwise provided in this section, the true value of all taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B)(1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of current gas stored underground is the quotient obtained by dividing (a) the average value of the current gas stored underground, which shall be determined by adding the value of the gas on hand at the end of each calendar month in the calendar year preceding the tax year, or, if applicable, the last day of business of each month for a partial month, divided by (b) the total number of months the natural gas company was in business during the calendar year prior to the beginning of the tax year. With the approval of the tax commissioner, a natural gas company may use a date other than the end of a calendar

month to value its current gas stored underground.

(C) The true value of noncurrent gas stored underground is thirty-five per cent of the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(D)(1) Except as provided in division (D)(2) of this section, the true value of ~~the production equipment of an electric company and the true value of~~ all taxable property of a rural electric company is the equipment's or property's cost as capitalized on the company's books and records less fifty per cent of that cost as an allowance for depreciation and obsolescence.

(2) The true value of the production equipment of a rural electric company or energy conversion equipment of an electric company, rural electric company, or energy company purchased, transferred, or placed into service after October 5, 1999, is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property

was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as capitalized costs of taxable personal property.

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following

percentages of true value:

(A) In the case of a rural electric company, fifty per cent in the case of its taxable transmission and distribution property and its energy conversion equipment, and twenty-five per cent for all its other taxable property;

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

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

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

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

(4) For tax year 2007 and thereafter, pursuant to division (H) of section 5711.22 of the Revised Code.

(C) Twenty-five per cent in the case of (1) a natural gas company or (2) a water-works company for taxable property first subject to taxation in this state for tax year 2017 and thereafter;

(D) Eighty-eight per cent in the case of a pipe-line company, a water-works company for taxable property first subject to taxation in this state before tax year 2017, or a heating company;

(E)(1) For tax year 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

(2) ~~For tax year 2006 and each tax year thereafter, in~~ In the case of an electric company, ~~eighty-five~~ eighty-nine per cent in the case of its taxable transmission and distribution property and its energy conversion equipment, and twenty-four per cent for all its other taxable property.

(F)(1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007;

(2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter.

(G) Twenty-five per cent in the case of a water transportation company;

(H) ~~For tax year 2011 and each tax year thereafter~~ Eighty-nine per cent in the case of an energy company~~, twenty-four per cent in the case of its taxable production equipment, and eighty-five per cent for all its other taxable property~~.

Sec. 5727.15. When all the taxable property of a public utility is located in one taxing district, the tax commissioner shall apportion the total taxable value thereof to that taxing district.

When taxable property of a public utility is located in more than one taxing district, the commissioner shall apportion the total taxable value thereof among the taxing districts as follows:

(A)(1) In the case of a telegraph, interexchange telecommunications, or telephone company that owns miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the miles of wire owned by the company

within the taxing district are to the total miles of wire owned by the company within this state;

(2) In the case of a telegraph, interexchange telecommunications, or telephone company that does not own miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the cost of the taxable property physically located in the taxing district is of the total cost of all taxable property physically located in this state.

(B) In the case of a railroad company:

(1) The taxable value of real and personal property not used in railroad operations shall be apportioned according to its situs;

(2) The taxable value of personal property used in railroad operations shall be apportioned to each taxing district in proportion to the miles of track and trackage rights, weighted to reflect the relative use of such personal property in each taxing district;

(3) The taxable value of real property used in railroad operations shall be apportioned to each taxing district in proportion to its relative value in each taxing district.

~~(C)(1) Prior to tax year 2001, in the case of an electric company:~~

~~(a) Seventy per cent of the taxable value of all production equipment and of all station equipment that is not production equipment shall be apportioned to the taxing district in which such property is physically located; and~~

~~(b) The remaining value of such property, together with the value of all other taxable personal property, shall be apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the taxing district is of the total cost of all transmission and distribution property physically located in this state.~~

~~(c) If an electric company's taxable value for the current year includes the value of any production equipment at a plant at which the initial cost of the plant's production equipment exceeded one billion dollars, then prior to making the apportionments required for that company by division (C)(1)(a) and (b) of this section, the tax commissioner shall do the following:~~

~~(i) Subtract four hundred twenty million dollars from the total taxable value of the production equipment at that plant for the current tax year.~~

~~(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year;~~

~~(iii) Apportion the product thus obtained to taxing districts in the manner prescribed in division (C)(1)(b) of this section.~~

~~(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to making the apportionments required by divisions (C)(1)(a) and~~

~~(b) of this section.~~

~~For purposes of division (C)(1)(c) of this section, "initial cost" applies only to production equipment of plants placed in commercial operation on or after January 1, 1987, and means the cost of all production equipment at a plant for the first year the plant's equipment was subject to taxation.~~

~~(2) For tax year 2001 and thereafter, in the case of an electric company:~~

~~(a) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located; and~~

~~(b) The value of taxable personal property, including energy conversion equipment but excluding production equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable personal property physically located in each taxing district is of the total cost of such other taxable personal property physically located in this state.~~

~~(D) For tax year 2011 and thereafter, in the case of the taxable property of an energy company:~~

~~(1) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located.~~

~~(2) The taxable value of all other taxable property, including energy conversion equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable property physically located in each taxing district is of the total cost of such other taxable property physically located in this state.~~

~~(E)~~ (C) In the case of all other public utilities, the taxable value of the property to be apportioned shall be apportioned to each taxing district in the proportion ~~to~~ that the cost of such property physically located in that taxing district is of the entire cost of such property physically located within this state.

Section 2. That existing sections 4906.04, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 5727.111, and 5727.15 of the Revised Code are hereby repealed.

Section 3. That sections 3706.40, 3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 4928.642 of the Revised Code are hereby repealed.

Section 4. (A) Notwithstanding the repeal by this act of section 4928.148 of the Revised Code, a rider or cost recovery mechanism for a legacy generation resource authorized under an electric distribution utility's electric security plan in effect on the effective date of this section shall remain in effect until the termination date of the electric security plan. After the termination date of the electric security plan, the electric distribution utility shall not apply for, and the public utilities commission shall not authorize, any rider or cost recovery mechanism for a legacy generation resource.

(B) Beginning on the effective date of this section, no electric distribution utility shall collect from its retail customers in the state any charge that was authorized under section 3706.46 of the Revised Code to meet the revenue

requirement for disbursements from the Solar Generation Fund to owners or operators of qualifying solar resources that was required under section 3706.55 of the Revised Code before the repeal of these sections by this act.

Beginning on the effective date of this section, the Ohio Air Quality Development Authority is prohibited from directing the Treasurer of State to remit, and the Treasurer is prohibited from remitting, any money from the Solar Generation Fund to owners or operators of qualifying solar resources, which remittance was permitted under section 3706.55 of the Revised Code prior to the repeal of that section by this act.

Section 5. The amendment by this act of sections 5727.01, 5727.031, 5727.06, 5727.11, 5727.111, and 5727.15 of the Revised Code applies to tax years beginning on or after the effective date of this section.