

**As Introduced**

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

**H. B. No. 15**

**Representative Klopfenstein**

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**A BILL**

To amend sections 4906.04, 4928.01, 4928.05, 1  
4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 2  
4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 3  
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 4  
5727.01, 5727.031, 5727.06, 5727.11, 5727.111, 5  
and 5727.15; to enact sections 4928.041, 6  
4928.081, 4928.101, 4928.102, 4928.103, 7  
4928.149, 4929.201, 4929.221, 4929.222, 4933.51, 8  
4933.52, 4933.54, 4933.56, 4933.58, and 4933.59; 9  
and to repeal sections 3706.40, 3706.41, 10  
3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 11  
3706.491, 3706.55, 3706.551, 3706.59, 3706.63, 12  
3706.65, 4928.143, 4928.148, and 4928.642 of the 13  
Revised Code to amend the competitive retail 14  
electric service law, make changes regarding 15  
electric company property taxation, and repeal 16  
parts of H.B. 6 of the 133rd General Assembly. 17

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

**Section 1.** That sections 4906.04, 4928.01, 4928.05, 18  
4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 19  
4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 4928.542, 20

4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 21  
5727.111, and 5727.15 be amended and sections 4928.041, 22  
4928.081, 4928.101, 4928.102, 4928.103, 4928.149, 4929.201, 23  
4929.221, 4929.222, 4933.51, 4933.52, 4933.54, 4933.56, 4933.58, 24  
and 4933.59 of the Revised Code be enacted to read as follows: 25

**Sec. 4906.04.** No person shall commence to construct a 26  
major utility facility in this state without first having 27  
obtained a certificate for the facility. The replacement of an 28  
existing facility with a like facility, as determined by the 29  
power siting board, ~~shall not constitute~~ constitutes the 30  
construction of a major utility facility that requires a 31  
certificate. ~~Such replacement of a like facility is not exempt~~ 32  
~~from any other requirements of state or local laws or~~ 33  
~~regulations.~~ Any facility, with respect to which such a 34  
certificate is required, shall thereafter be constructed, 35  
operated, and maintained in conformity with such certificate and 36  
any terms, conditions, and modifications contained therein. A 37  
certificate may only be issued pursuant to Chapter 4906. of the 38  
Revised Code. 39

A certificate may be transferred, subject to the approval 40  
of the board, to a person who agrees to comply with the terms, 41  
conditions, and modifications contained therein. 42

**Sec. 4928.01.** (A) As used in this chapter: 43

(1) "Ancillary service" means any function necessary to 44  
the provision of electric transmission or distribution service 45  
to a retail customer and includes, but is not limited to, 46  
scheduling, system control, and dispatch services; reactive 47  
supply from generation resources and voltage control service; 48  
reactive supply from transmission resources service; regulation 49  
service; frequency response service; energy imbalance service; 50

operating reserve-spinning reserve service; operating reserve- 51  
supplemental reserve service; load following; back-up supply 52  
service; real-power loss replacement service; dynamic 53  
scheduling; system black start capability; and network stability 54  
service. 55

(2) "Billing and collection agent" means a fully 56  
independent agent, not affiliated with or otherwise controlled 57  
by an electric utility, electric services company, electric 58  
cooperative, or governmental aggregator subject to certification 59  
under section 4928.08 of the Revised Code, to the extent that 60  
the agent is under contract with such utility, company, 61  
cooperative, or aggregator solely to provide billing and 62  
collection for retail electric service on behalf of the utility 63  
company, cooperative, or aggregator. 64

(3) "Certified territory" means the certified territory 65  
established for an electric supplier under sections 4933.81 to 66  
4933.90 of the Revised Code. 67

(4) "Competitive retail electric service" means a 68  
component of retail electric service that is competitive as 69  
provided under division (B) of this section. 70

(5) "Electric cooperative" means a not-for-profit electric 71  
light company that both is or has been financed in whole or in 72  
part under the "Rural Electrification Act of 1936," 49 Stat. 73  
1363, 7 U.S.C. 901, and owns or operates facilities in this 74  
state to generate, transmit, or distribute electricity, or a 75  
not-for-profit successor of such company. 76

(6) "Electric distribution utility" means an electric 77  
utility that supplies at least retail electric distribution 78  
service and does not own or operate an electric generating 79

facility. 80

(7) "Electric light company" has the same meaning as in 81  
section 4905.03 of the Revised Code and includes an electric 82  
services company, but excludes any self-generator to the extent 83  
that it consumes electricity it so produces, sells that 84  
electricity for resale, or obtains electricity from a generating 85  
facility it hosts on its premises. 86

(8) "Electric load center" has the same meaning as in 87  
section 4933.81 of the Revised Code. 88

(9) "Electric services company" means an electric light 89  
company that is engaged on a for-profit or not-for-profit basis 90  
in the business of supplying or arranging for the supply of only 91  
a competitive retail electric service in this state. "Electric 92  
services company" includes a power marketer, power broker, 93  
aggregator, or independent power producer but excludes an 94  
electric cooperative, municipal electric utility, governmental 95  
aggregator, or billing and collection agent. 96

(10) "Electric supplier" has the same meaning as in 97  
section 4933.81 of the Revised Code. 98

(11) "Electric utility" means an electric light company 99  
that has a certified territory and is engaged on a for-profit 100  
basis ~~either~~ in the business of supplying at least a 101  
noncompetitive retail electric service in this state ~~or in the~~ 102  
~~businesses of supplying both a noncompetitive and a competitive~~ 103  
~~retail electric service in this state.~~ "Electric utility" 104  
excludes a municipal electric utility or a billing and 105  
collection agent. 106

(12) "Firm electric service" means electric service other 107  
than nonfirm electric service. 108

(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.	139
(18) "Market power" means the ability to impose on	140
customers a sustained price for a product or service above the	141
price that would prevail in a competitive market.	142
(19) "Mercantile customer" means a commercial or	143
industrial customer if the electricity consumed is for	144
nonresidential use and the customer consumes more than seven	145
hundred thousand kilowatt hours per year or is part of a	146
national account involving multiple facilities in one or more	147
states.	148
(20) "Municipal electric utility" means a municipal	149
corporation that owns or operates facilities to generate,	150
transmit, or distribute electricity.	151
(21) "Noncompetitive retail electric service" means a	152
component of retail electric service that is noncompetitive as	153
provided under division (B) of this section.	154
(22) "Nonfirm electric service" means electric service	155
provided pursuant to a schedule filed under section 4905.30 of	156
the Revised Code or pursuant to an arrangement under section	157
4905.31 of the Revised Code, which schedule or arrangement	158
includes conditions that may require the customer to curtail or	159
interrupt electric usage during nonemergency circumstances upon	160
notification by an electric utility.	161
(23) "Percentage of income payment plan arrears" means	162
funds eligible for collection through the percentage of income	163
payment plan rider, but uncollected as of July 1, 2000.	164
(24) "Person" has the same meaning as in section 1.59 of	165
the Revised Code.	166

(25) "Advanced energy project" means any technologies, 167  
products, activities, or management practices or strategies that 168  
facilitate the generation or use of electricity or energy and 169  
that reduce or support the reduction of energy consumption or 170  
support the production of clean, renewable energy for 171  
industrial, distribution, commercial, institutional, 172  
governmental, research, not-for-profit, or residential energy 173  
users, including, but not limited to, advanced energy resources 174  
and renewable energy resources. "Advanced energy project" also 175  
includes any project described in division (A), (B), or (C) of 176  
section 4928.621 of the Revised Code. 177

(26) "Regulatory assets" means the unamortized net 178  
regulatory assets that are capitalized or deferred on the 179  
regulatory books of the electric utility, pursuant to an order 180  
or practice of the public utilities commission or pursuant to 181  
generally accepted accounting principles as a result of a prior 182  
commission rate-making decision, and that would otherwise have 183  
been charged to expense as incurred or would not have been 184  
capitalized or otherwise deferred for future regulatory 185  
consideration absent commission action. "Regulatory assets" 186  
includes, but is not limited to, all deferred demand-side 187  
management costs; all deferred percentage of income payment plan 188  
arrears; post-in-service capitalized charges and assets 189  
recognized in connection with statement of financial accounting 190  
standards no. 109 (receivables from customers for income taxes); 191  
future nuclear decommissioning costs and fuel disposal costs as 192  
those costs have been determined by the commission in the 193  
electric utility's most recent rate or accounting application 194  
proceeding addressing such costs; the undepreciated costs of 195  
safety and radiation control equipment on nuclear generating 196  
plants owned or leased by an electric utility; and fuel costs 197

currently deferred pursuant to the terms of one or more 198  
settlement agreements approved by the commission. 199

(27) "Retail electric service" means any service involved 200  
in supplying or arranging for the supply of electricity to 201  
ultimate consumers in this state, from the point of generation 202  
to the point of consumption. For the purposes of this chapter, 203  
retail electric service includes one or more of the following 204  
"service components": generation service, aggregation service, 205  
power marketing service, power brokerage service, transmission 206  
service, distribution service, ancillary service, metering 207  
service, and billing and collection service. 208

(28) "Starting date of competitive retail electric 209  
service" means January 1, 2001. 210

(29) "Customer-generator" means a user of a net metering 211  
system. 212

(30) "Net metering" means measuring the difference in an 213  
applicable billing period between the electricity supplied by an 214  
electric service provider and the electricity generated by a 215  
customer-generator that is fed back to the electric service 216  
provider. 217

(31) "Net metering system" means a facility for the 218  
production of electrical energy that does all of the following: 219

(a) Uses as its fuel either solar, wind, biomass, landfill 220  
gas, or hydropower, or uses a microturbine or a fuel cell; 221

(b) Is located on a customer-generator's premises; 222

(c) Operates in parallel with the electric utility's 223  
transmission and distribution facilities; 224

(d) Is intended primarily to offset part or all of the 225



customer-generator's requirements for electricity. For an 226  
industrial customer-generator with a net metering system that 227  
has a capacity of less than twenty megawatts and uses wind as 228  
energy, this means the net metering system was sized so as to 229  
not exceed one hundred per cent of the customer-generator's 230  
annual requirements for electric energy at the time of 231  
interconnection. 232

(32) "Self-generator" means an entity in this state that 233  
owns or hosts on its premises an electric generation facility 234  
that produces electricity primarily for the owner's consumption 235  
and that may provide any such excess electricity to another 236  
entity, whether the facility is installed or operated by the 237  
owner or by an agent under a contract. 238

(33) "Rate plan" means the standard service offer in 239  
effect on the effective date of the amendment of this section by 240  
S.B. 221 of the 127th general assembly, July 31, 2008. 241

(34) "Advanced energy resource" means any of the 242  
following: 243

(a) Any method or any modification or replacement of any 244  
property, process, device, structure, or equipment that 245  
increases the generation output of an electric generating 246  
facility to the extent such efficiency is achieved without 247  
additional carbon dioxide emissions by that facility; 248

(b) Any distributed generation system consisting of 249  
customer cogeneration technology; 250

(c) Clean coal technology that includes a carbon-based 251  
product that is chemically altered before combustion to 252  
demonstrate a reduction, as expressed as ash, in emissions of 253  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 254

sulfur trioxide in accordance with the American society of 255  
testing and materials standard D1757A or a reduction of metal 256  
oxide emissions in accordance with standard D5142 of that 257  
society, or clean coal technology that includes the design 258  
capability to control or prevent the emission of carbon dioxide, 259  
which design capability the commission shall adopt by rule and 260  
shall be based on economically feasible best available 261  
technology or, in the absence of a determined best available 262  
technology, shall be of the highest level of economically 263  
feasible design capability for which there exists generally 264  
accepted scientific opinion; 265

(d) Advanced nuclear energy technology consisting of 266  
generation III technology as defined by the nuclear regulatory 267  
commission; other, later technology; or significant improvements 268  
to existing facilities; 269

(e) Any fuel cell used in the generation of electricity, 270  
including, but not limited to, a proton exchange membrane fuel 271  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 272  
solid oxide fuel cell; 273

(f) Advanced solid waste or construction and demolition 274  
debris conversion technology, including, but not limited to, 275  
advanced stoker technology, and advanced fluidized bed 276  
gasification technology, that results in measurable greenhouse 277  
gas emissions reductions as calculated pursuant to the United 278  
States environmental protection agency's waste reduction model 279  
(WARM); 280

(g) Demand-side management and any energy efficiency 281  
improvement; 282

(h) Any new, retrofitted, refueled, or repowered 283

generating facility located in Ohio, including a simple or	284
combined-cycle natural gas generating facility or a generating	285
facility that uses biomass, coal, modular nuclear, or any other	286
fuel as its input;	287
(i) Any uprated capacity of an existing electric	288
generating facility if the uprated capacity results from the	289
deployment of advanced technology.	290
"Advanced energy resource" does not include a waste energy	291
recovery system that is, or has been, included in an energy	292
efficiency program of an electric distribution utility pursuant	293
to requirements under section 4928.66 of the Revised Code.	294
(35) "Air contaminant source" has the same meaning as in	295
section 3704.01 of the Revised Code.	296
(36) "Cogeneration technology" means technology that	297
produces electricity and useful thermal output simultaneously.	298
(37) (a) "Renewable energy resource" means any of the	299
following:	300
(i) Solar photovoltaic or solar thermal energy;	301
(ii) Wind energy;	302
(iii) Power produced by a hydroelectric facility;	303
(iv) Power produced by a small hydroelectric facility,	304
which is a facility that operates, or is rated to operate, at an	305
aggregate capacity of less than six megawatts;	306
(v) Power produced by a run-of-the-river hydroelectric	307
facility placed in service on or after January 1, 1980, that is	308
located within this state, relies upon the Ohio river, and	309
operates, or is rated to operate, at an aggregate capacity of	310

forty or more megawatts;	311
(vi) Geothermal energy;	312
(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;	313 314 315 316
(viii) Biomass energy;	317
(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;	318 319 320 321 322 323 324 325 326 327
(x) Biologically derived methane gas;	328
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	329 330 331
(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.	332 333 334
"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	335 336 337 338

solid oxide fuel cell; wind turbine located in the state's 339  
territorial waters of Lake Erie; methane gas emitted from an 340  
abandoned coal mine; waste energy recovery system placed into 341  
service or retrofitted on or after the effective date of the 342  
amendment of this section by S.B. 315 of the 129th general 343  
assembly, September 10, 2012, except that a waste energy 344  
recovery system described in division (A) (38) (b) of this section 345  
may be included only if it was placed into service between 346  
January 1, 2002, and December 31, 2004; storage facility that 347  
will promote the better utilization of a renewable energy 348  
resource; or distributed generation system used by a customer to 349  
generate electricity from any such energy. 350

"Renewable energy resource" does not include a waste 351  
energy recovery system that is, or was, on or after January 1, 352  
2012, included in an energy efficiency program of an electric 353  
distribution utility pursuant to requirements under section 354  
4928.66 of the Revised Code. 355

(b) As used in division (A) (37) of this section, 356  
"hydroelectric facility" means a hydroelectric generating 357  
facility that is located at a dam on a river, or on any water 358  
discharged to a river, that is within or bordering this state or 359  
within or bordering an adjoining state and meets all of the 360  
following standards: 361

(i) The facility provides for river flows that are not 362  
detrimental for fish, wildlife, and water quality, including 363  
seasonal flow fluctuations as defined by the applicable 364  
licensing agency for the facility. 365

(ii) The facility demonstrates that it complies with the 366  
water quality standards of this state, which compliance may 367  
consist of certification under Section 401 of the "Clean Water 368

Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 369  
demonstrates that it has not contributed to a finding by this 370  
state that the river has impaired water quality under Section 371  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 372  
U.S.C. 1313. 373

(iii) The facility complies with mandatory prescriptions 374  
regarding fish passage as required by the federal energy 375  
regulatory commission license issued for the project, regarding 376  
fish protection for riverine, anadromous, and catadromous fish. 377

(iv) The facility complies with the recommendations of the 378  
Ohio environmental protection agency and with the terms of its 379  
federal energy regulatory commission license regarding watershed 380  
protection, mitigation, or enhancement, to the extent of each 381  
agency's respective jurisdiction over the facility. 382

(v) The facility complies with provisions of the 383  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 384  
to 1544, as amended. 385

(vi) The facility does not harm cultural resources of the 386  
area. This can be shown through compliance with the terms of its 387  
federal energy regulatory commission license or, if the facility 388  
is not regulated by that commission, through development of a 389  
plan approved by the Ohio historic preservation office, to the 390  
extent it has jurisdiction over the facility. 391

(vii) The facility complies with the terms of its federal 392  
energy regulatory commission license or exemption that are 393  
related to recreational access, accommodation, and facilities 394  
or, if the facility is not regulated by that commission, the 395  
facility complies with similar requirements as are recommended 396  
by resource agencies, to the extent they have jurisdiction over 397

the facility; and the facility provides access to water to the public without fee or charge. 398  
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(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. 400  
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(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. 403  
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(38) "Waste energy recovery system" means either of the following: 406  
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(a) A facility that generates electricity through the conversion of energy from either of the following: 408  
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(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; 410  
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(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. 414  
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(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. 418  
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(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that 424  
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improve reliability, efficiency, resiliency, or reduce energy 426  
demand or use, including, but not limited to, advanced metering 427  
and automation of system functions. 428

(40) "Combined heat and power system" means the 429  
coproduction of electricity and useful thermal energy from the 430  
same fuel source designed to achieve thermal-efficiency levels 431  
of at least sixty per cent, with at least twenty per cent of the 432  
system's total useful energy in the form of thermal energy. 433

~~(41) "Legacy generation resource" means all generating 434  
facilities owned directly or indirectly by a corporation that 435  
was formed prior to 1960 by investor-owned utilities for the 436  
original purpose of providing power to the federal government 437  
for use in the nation's defense or in furtherance of national 438  
interests, including the Ohio valley electric corporation. 439~~

~~(42) "Prudently incurred costs related to a legacy 440  
generation resource" means costs, including deferred costs, 441  
allocated pursuant to a power agreement approved by the federal 442  
energy regulatory commission that relates to a legacy generation 443  
resource, less any revenues realized from offering the 444  
contractual commitment for the power agreement into the 445  
wholesale markets, provided that where the net revenues exceed 446  
net costs, those excess revenues shall be credited to customers. 447  
Such costs shall exclude any return on investment in common 448  
equity and, in the event of a premature retirement of a legacy 449  
generation resource, shall exclude any recovery of remaining 450  
debt. Such costs shall include any incremental costs resulting 451  
from the bankruptcy of a current or former sponsor under such 452  
power agreement or co-owner of the legacy generation resource if 453  
not otherwise recovered through a utility rate cost recovery 454  
mechanism. 455~~



~~(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 485  
supervision and regulation by a municipal corporation under 486  
Chapter 743. of the Revised Code or by the public utilities 487  
commission under Chapters 4901. to 4909., 4933., 4935., and 488  
4963. of the Revised Code, except sections 4905.10 and 4905.31, 489  
division (B) of section 4905.33, and sections 4905.35 and 490  
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 491  
and 4963.41 of the Revised Code only to the extent related to 492  
service reliability and public safety; and except as otherwise 493  
provided in this chapter. The commission's authority to enforce 494  
those excepted provisions with respect to a competitive retail 495  
electric service shall be such authority as is provided for 496  
their enforcement under Chapters 4901. to 4909., 4933., 4935., 497  
and 4963. of the Revised Code and this chapter. Nothing in this 498  
division shall be construed to limit the commission's authority 499  
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 500  
Revised Code. 501

~~On and after the starting date of competitive retail~~ 502  
~~electric service, a~~ (2) A competitive retail electric service 503  
supplied by an electric cooperative shall not be subject to 504  
supervision and regulation by the commission under Chapters 505  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 506  
except as otherwise expressly provided in sections 4928.01 to 507  
4928.10 and 4928.16 of the Revised Code. 508

~~(2) On and after the starting date of competitive retail~~ 509  
~~electric service, a~~ (B) (1) A noncompetitive retail electric 510  
service supplied by an electric utility shall be subject to 511  
supervision and regulation by the commission under Chapters 512  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 513  
this chapter, to the extent that authority is not preempted by 514  
federal law. The commission's authority to enforce those 515

provisions with respect to a noncompetitive retail electric 516  
service shall be the authority provided under those chapters and 517  
this chapter, to the extent the authority is not preempted by 518  
federal law. Notwithstanding Chapters 4905. and 4909. of the 519  
Revised Code, commission authority under this chapter shall 520  
include the authority to provide for the recovery, through a 521  
reconcilable rider on an electric distribution utility's 522  
distribution rates, of all transmission and transmission-related 523  
costs, including ancillary and congestion costs, imposed on or 524  
charged to the utility by the federal energy regulatory 525  
commission or a regional transmission organization, independent 526  
transmission operator, or similar organization approved by the 527  
federal energy regulatory commission. 528

(2) The commission shall exercise its jurisdiction with 529  
respect to the delivery of electricity by an electric utility in 530  
this state ~~on or after the starting date of competitive retail~~ 531  
~~electric service~~ so as to ensure that no aspect of the delivery 532  
of electricity by the utility to consumers in this state that 533  
consists of a noncompetitive retail electric service is 534  
unregulated. 535

~~On and after that starting date, a~~ (3) A noncompetitive 536  
retail electric service supplied by an electric cooperative 537  
shall not be subject to supervision and regulation by the 538  
commission under Chapters 4901. to 4909., 4933., 4935., and 539  
4963. of the Revised Code, except sections 4933.81 to 4933.90 540  
and 4935.03 of the Revised Code. The commission's authority to 541  
enforce those excepted sections with respect to a noncompetitive 542  
retail electric service of an electric cooperative shall be such 543  
authority as is provided for their enforcement under Chapters 544  
4933. and 4935. of the Revised Code. 545

~~(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 576  
to require an electric services company to maintain financial 577  
assurances sufficient to protect customers and electric 578  
distribution utilities from default. Such rules also shall 579  
specifically allow an electric distribution utility to set 580  
reasonable standards for its security and the security of its 581  
customers through financial requirements set in its tariffs. 582

(3) As used in division (B) (2) of this section, an 583  
"electric services company" has the same meaning as in section 584  
4928.01 of the Revised Code, but excludes a power broker or 585  
aggregator. 586

(C) Capability standards adopted in rules under division 587  
(B) of this section shall be sufficient to ensure compliance 588  
with the minimum service requirements established under section 589  
4928.10 of the Revised Code and with section 4928.09 of the 590  
Revised Code. The standards shall allow flexibility for 591  
voluntary aggregation, to encourage market creativity in 592  
responding to consumer needs and demands, and shall allow 593  
flexibility for electric services companies that exclusively 594  
provide installation of small electric generation facilities, to 595  
provide ease of market access. The rules shall include 596  
procedures for biennially renewing certification. 597

(D) The commission may suspend, rescind, or conditionally 598  
rescind the certification of any electric utility, electric 599  
services company, electric cooperative, or governmental 600  
aggregator issued under this section if the commission 601  
determines, after reasonable notice and opportunity for hearing, 602  
that the utility, company, cooperative, or aggregator has failed 603  
to comply with any applicable certification standards or has 604  
engaged in anticompetitive or unfair, deceptive, or 605

unconscionable acts or practices in this state. 606

(E) No electric distribution utility on and after the 607  
starting date of competitive retail electric service shall 608  
knowingly distribute electricity, to a retail consumer in this 609  
state, for any supplier of electricity that has not been 610  
certified by the commission pursuant to this section. 611

(F) Notwithstanding any provision of section 121.95 of the 612  
Revised Code to the contrary, a regulatory restriction contained 613  
in a rule adopted under section 4928.08 of the Revised Code is 614  
not subject to sections 121.95 to 121.953 of the Revised Code. 615

Sec. 4928.081. The public utilities commission and the 616  
electric distribution utilities and competitive retail electric 617  
service suppliers that elect to participate in the consumer 618  
choice billing program are subject to the requirements 619  
established for that program under sections 4933.51 to 4933.59 620  
of the Revised Code. 621

Sec. 4928.101. (A) As used in this section and section 622  
4928.102 of the Revised Code: 623

(1) "Small commercial customer" means any customer that 624  
receives electric service pursuant to a nonresidential tariff if 625  
the customer's demand for electricity does not exceed twenty- 626  
five kilowatts within the last twelve months. 627

(2) "Small commercial customer" excludes any customer that 628  
does one or both of the following: 629

(a) Manages multiple electric meters and, within the last 630  
twelve months, the electricity demand for at least one of the 631  
meters is twenty-five kilowatts or more; 632

(b) Has, at the customer's discretion, aggregated the 633

demand for the customer-managed meters. 634

(B) The consumer protections described in section 4928.10 635  
of the Revised Code and the rules adopted pursuant to that 636  
section apply to small commercial customers and to all other 637  
customers as set forth in the rules. 638

**Sec. 4928.102.** (A) If a competitive retail electric 639  
service supplier offers a residential or small commercial 640  
customer a contract for a fixed introductory rate that converts 641  
to a variable rate upon the expiration of the fixed rate, the 642  
supplier shall send two notices to each residential and small 643  
commercial customer that enters into such a contract. Each 644  
notice shall provide all of the following information to the 645  
customer: 646

(1) The fixed rate that is expiring under the contract; 647

(2) The expiration date of the contract's fixed rate; 648

(3) The rate to be charged upon the contract's conversion 649  
to a variable rate; 650

(4) The public utilities commission web site that, as a 651  
comparison tool, lists rates offered by competitive retail 652  
electric service suppliers; 653

(5) A statement explaining that appearing on each 654  
customer's bill is a price-to-compare notice that lists the 655  
utility's standard service offer price. 656

(B) The notices shall be sent by standard United States 657  
mail as follows: 658

(1) The supplier shall send the first notice not earlier 659  
than ninety days, and not later than sixty days, prior to the 660  
expiration of the fixed rate. 661

(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. 662  
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(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. 665  
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(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: 673  
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(1) To use clear and unambiguous language in order to enable the customer to make an informed decision; 679  
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(2) To design the notices in a way to ensure that they cannot be confused with marketing materials. 681  
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(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. 683  
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**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 687  
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record. 691

(B) The public utilities commission shall adopt rules to 692  
ensure that an electric distribution utility processes a 693  
customer's change in competitive retail electric supplier by 694  
using customer account information. A customer who consents to a 695  
change of supplier shall not be required to provide customer 696  
account information to the supplier if the customer provides a 697  
valid form of government-issued identification issued to the 698  
customer or a sufficient alternative form of identification that 699  
allows the supplier to establish the customer's identity 700  
accurately. 701

(C) Notwithstanding any provision of section 121.95 of the 702  
Revised Code to the contrary, a regulatory restriction contained 703  
in a rule adopted under this section is not subject to sections 704  
121.95 to 121.953 of the Revised Code. 705

**Sec. 4928.14.** ~~The~~ (A) Except as provided in division (C) 706  
of this section, the failure of a supplier to provide retail 707  
electric generation service to customers within the certified 708  
territory of an electric distribution utility shall result in 709  
the supplier's customers, after reasonable notice, defaulting to 710  
the utility's standard service offer under sections 4928.141, 711  
and 4928.142, and 4928.143 of the Revised Code until the 712  
customer chooses an alternative supplier. A 713

(B) A supplier is deemed under this section to have failed 714  
to provide ~~such~~ retail electric generation service if the 715  
commission finds, after reasonable notice and opportunity for 716  
hearing, that any of the following conditions are met: 717

~~(A)~~ (1) The supplier has defaulted on its contracts with 718  
customers, is in receivership, or has filed for bankruptcy. 719

~~(B)~~ (2) The supplier is no longer capable of providing the service. 720  
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~~(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. 722  
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~~(D)~~ (4) The supplier's certification has been suspended, conditionally rescinded, or rescinded under division (D) of section 4928.08 of the Revised Code. 726  
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(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. 729  
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**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,~~ 740  
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~~may apply simultaneously under both sections, except that the~~ 750  
~~utility's first standard service offer application at minimum~~ 751  
~~shall include a filing under section 4928.143 of the Revised~~ 752  
~~Code. Only~~ Except as provided in division (A) (2) of this 753  
section, a standard service offer authorized in accordance with 754  
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 755  
the utility's standard service offer for the purpose of 756  
compliance with this section~~+~~, and that standard service offer 757  
shall serve as the utility's default standard service offer for 758  
the purpose of section 4928.14 of the Revised Code. 759  
~~Notwithstanding the foregoing provision, the rate~~ 760

(2) An electric distribution utility's electric security 761  
plan of an electric distribution utility that was approved under 762  
section 4928.143 of the Revised Code as that section existed 763  
prior to the amendments to this section by this act shall 764  
continue for the purpose of the utility's compliance with ~~this~~ 765  
division (A) (1) of this section until a standard service offer 766  
is ~~first~~ authorized under section 4928.142 ~~or 4928.143~~ of the 767  
Revised Code, and, as applicable, pursuant to division (D) of 768  
~~section 4928.143 of the Revised Code, any rate~~. No electric 769  
security plan that extends approved before the effective date of 770  
the amendments to this section by this act shall extend beyond 771  
~~December 31, 2008, shall continue to be in effect for the~~ 772  
~~subject electric distribution utility for the duration the~~ 773  
termination date of the plan's term. 774

(3) A standard service offer under section 4928.142 ~~or~~ 775  
~~4928.143~~ of the Revised Code shall exclude any previously 776  
authorized allowances for transition costs, with such exclusion 777  
being effective on and after the date that the allowance is 778  
scheduled to end under the utility's ~~rate~~ electric security 779  
plan. 780

(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. 809

(2) The public utilities commission shall modify rules, or 810  
adopt new rules as necessary, concerning the conduct of the 811  
competitive bidding process and the qualifications of bidders, 812  
which rules shall foster supplier participation in the bidding 813  
process and shall be consistent with the requirements of 814  
division (A) (1) of this section. 815

(B) Prior to initiating a competitive bidding process for 816  
a market-rate offer under division (A) of this section, the 817  
electric distribution utility shall file an application with the 818  
commission. An electric distribution utility may file its 819  
application with the commission prior to the effective date of 820  
the commission rules required under division (A) (2) of this 821  
section, and, as the commission determines necessary, the 822  
utility shall immediately conform its filing to the rules upon 823  
their taking effect. 824

An application under this division shall detail the 825  
electric distribution utility's proposed compliance with the 826  
requirements of division (A) (1) of this section and with 827  
commission rules under division (A) (2) of this section and 828  
demonstrate that all of the following requirements are met: 829

(1) The electric distribution utility or its transmission 830  
service affiliate belongs to at least one regional transmission 831  
organization that has been approved by the federal energy 832  
regulatory commission; or there otherwise is comparable and 833  
nondiscriminatory access to the electric transmission grid. 834

(2) Any such regional transmission organization has a 835  
market-monitor function and the ability to take actions to 836  
identify and mitigate market power or the electric distribution 837

utility's market conduct; or a similar market monitoring 838  
function exists with commensurate ability to identify and 839  
monitor market conditions and mitigate conduct associated with 840  
the exercise of market power. 841

(3) A published source of information is available 842  
publicly or through subscription that identifies pricing 843  
information for traded electricity on- and off-peak energy 844  
products that are contracts for delivery beginning at least two 845  
years from the date of the publication and is updated on a 846  
regular basis. 847

The commission shall initiate a proceeding and, within 848  
ninety days after the application's filing date, shall determine 849  
by order whether the electric distribution utility and its 850  
market-rate offer meet all of the foregoing requirements. If the 851  
finding is positive, the electric distribution utility ~~may~~ shall 852  
initiate its competitive bidding process. If the finding is 853  
negative as to one or more requirements, the commission in the 854  
order shall direct the electric distribution utility regarding 855  
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 856  
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 857  
~~distribution utility shall withdraw the application. However, if~~ 858  
~~such remedy is made and the subsequent finding is positive and~~ 859  
~~also if the electric distribution utility made a simultaneous~~ 860  
~~filing under this section and section 4928.143 of the Revised~~ 861  
~~Code, the utility shall not initiate its competitive bid until~~ 862  
~~at least one hundred fifty days after the filing date of those~~ 863  
~~applications.~~ 864

(C) Upon the completion of the competitive bidding process 865  
authorized by divisions (A) and (B) of this section, ~~including~~ 866  
~~for the purpose of division (D) of this section,~~ the commission 867

shall select the least-cost bid winner or winners of that 868  
process, and such selected bid or bids, as prescribed as retail 869  
rates by the commission, shall be the electric distribution 870  
utility's standard service offer unless the commission, by order 871  
issued before the third calendar day following the conclusion of 872  
the competitive bidding process for the market rate offer, 873  
determines that one or more of the following criteria were not 874  
met: 875

(1) Each portion of the bidding process was 876  
oversubscribed, such that the amount of supply bid upon was 877  
greater than the amount of the load bid out. 878

(2) There were four or more bidders. 879

(3) At least twenty-five per cent of the load is bid upon 880  
by one or more persons other than the electric distribution 881  
utility. 882

All costs incurred by the electric distribution utility as 883  
a result of or related to the competitive bidding process or to 884  
procuring generation service to provide the standard service 885  
offer, including the costs of energy and capacity and the costs 886  
of all other products and services procured as a result of the 887  
competitive bidding process, shall be timely recovered through 888  
the standard service offer price, and, for that purpose, the 889  
commission shall approve a reconciliation mechanism, other 890  
recovery mechanism, or a combination of such mechanisms for the 891  
utility. 892

(D) The ~~first~~ application filed under this section by an 893  
electric distribution utility ~~that, as of July 31, 2008,~~ 894  
~~directly owns, in whole or in part, operating electric~~ 895  
~~generating facilities that had been used and useful in this~~ 896

~~state shall require that a portion of that the utility's~~ 897  
~~standard service offer load for the first five years of the~~ 898  
~~market rate offer be competitively bid under division (A) of~~ 899  
~~this section as follows: ten per cent of the load in year one,~~ 900  
~~not more than twenty per cent in year two, thirty per cent in~~ 901  
~~year three, forty per cent in year four, and fifty per cent in~~ 902  
~~year five. Consistent with those percentages, the commission~~ 903  
~~shall determine the actual percentages for each year of years~~ 904  
~~one through five. The standard service offer price for retail~~ 905  
~~electric generation service under this first application shall~~ 906  
~~be a proportionate blend of the bid price and the generation~~ 907  
~~service price for the remaining standard service offer load,~~ 908  
~~which latter price shall be equal to the electric distribution~~ 909  
~~utility's most recent standard service offer price, adjusted~~ 910  
~~upward or downward as the commission determines reasonable,~~ 911  
~~relative to the jurisdictional portion of any known and~~ 912  
~~measurable changes from the level of any one or more of the~~ 913  
~~following costs as reflected in that most recent standard~~ 914  
~~service offer price:~~ 915

~~(1) The electric distribution utility's prudently incurred~~ 916  
~~cost of fuel used to produce electricity;~~ 917

~~(2) Its prudently incurred purchased power costs;~~ 918

~~(3) Its prudently incurred costs of satisfying the supply~~ 919  
~~and demand portfolio requirements of this state, including, but~~ 920  
~~not limited to, renewable energy resource and energy efficiency~~ 921  
~~requirements;~~ 922

~~(4) Its costs prudently incurred to comply with~~ 923  
~~environmental laws and regulations, with consideration of the~~ 924  
~~derating of any facility associated with those costs.~~ 925



~~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.~~

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~~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.~~

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~~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.~~ 957  
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~~(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.~~ 961  
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~~(F) An electric distribution utility that has received commission approval of its first application under division (C) of this section shall not, nor ever shall be authorized or required by the commission to, file an application under section 4928.143 of the Revised Code.~~ 980  
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**Sec. 4928.144.** The public utilities commission by order may authorize any just and reasonable phase-in of any electric 985  
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distribution utility ~~rate or price~~ established under sections 987  
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 988  
inclusive of carrying charges, as the commission considers 989  
necessary to ensure ~~rate or price~~ stability for consumers. If 990  
the commission's order includes such a phase-in, the order also 991  
shall provide for the creation of regulatory assets pursuant to 992  
generally accepted accounting principles, by authorizing the 993  
deferral of incurred costs equal to the amount not collected, 994  
plus carrying charges on that amount. Further, the order shall 995  
authorize the collection of those deferrals through a 996  
nonbypassable surcharge on any such rate or price so established 997  
for the electric distribution utility by the commission. 998

Sec. 4928.149. No electric distribution utility may use 999  
any electric energy storage system to participate in the 1000  
wholesale market, if the utility purchased or acquired that 1001  
system for distribution service. 1002

Sec. 4928.17. (A) Except as otherwise provided in sections 1003  
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 1004  
Revised Code ~~and beginning on the starting date of competitive~~ 1005  
~~retail electric service~~, no electric utility shall engage in 1006  
this state, either directly or through an affiliate, ~~in the~~ 1007  
~~businesses of supplying a noncompetitive retail electric service~~ 1008  
~~and supplying a competitive retail electric service, or in the~~ 1009  
businesses of supplying a noncompetitive retail electric service 1010  
and supplying a product or service other than retail electric 1011  
service, unless the utility implements and operates under a 1012  
corporate separation plan that is approved by the public 1013  
utilities commission under this section, is consistent with the 1014  
policy specified in section 4928.02 of the Revised Code, and 1015  
achieves all of the following: 1016

(1) The plan provides, at minimum, for the provision of 1017  
~~the competitive retail electric service or~~ the nonelectric 1018  
product or service through a fully separated affiliate of the 1019  
utility, and the plan includes separate accounting requirements, 1020  
the code of conduct as ordered by the commission pursuant to a 1021  
rule it shall adopt under division (A) of section 4928.06 of the 1022  
Revised Code, and such other measures as are necessary to 1023  
effectuate the policy specified in section 4928.02 of the 1024  
Revised Code. 1025

(2) The plan satisfies the public interest in ~~preventing~~ 1026  
~~unfair competitive advantage and~~ preventing the abuse of market 1027  
power. 1028

(3) The plan is sufficient to ensure that the utility will 1029  
not extend any undue preference or advantage to any affiliate, 1030  
division, or part of its own business engaged in the business of 1031  
supplying the ~~competitive retail electric service or~~ nonelectric 1032  
product or service, including, but not limited to, utility 1033  
resources such as trucks, tools, office equipment, office space, 1034  
supplies, customer and marketing information, advertising, 1035  
billing and mailing systems, personnel, and training, without 1036  
compensation based upon fully loaded embedded costs charged to 1037  
the affiliate; and to ensure that any such affiliate, division, 1038  
or part will not receive undue preference or advantage from any 1039  
affiliate, division, or part of the business engaged in business 1040  
of supplying the noncompetitive retail electric service. No such 1041  
utility, affiliate, division, or part shall extend such undue 1042  
preference. ~~Notwithstanding any other division of this section,~~ 1043  
~~a utility's obligation under division (A)(3) of this section~~ 1044  
~~shall be effective January 1, 2000.~~ 1045

(B) The commission may approve, modify and approve, or 1046

disapprove a corporate separation plan filed with the commission 1047  
under division (A) of this section. As part of the code of 1048  
conduct required under division (A) (1) of this section, the 1049  
commission shall adopt rules pursuant to division (A) of section 1050  
4928.06 of the Revised Code regarding corporate separation and 1051  
procedures for plan filing and approval. The rules shall include 1052  
limitations on affiliate practices solely for the purpose of 1053  
maintaining a separation of the affiliate's business from the 1054  
business of the utility to prevent ~~unfair competitive advantage~~ 1055  
abuse of market power by virtue of that relationship. The rules 1056  
also shall include an opportunity for any person having a real 1057  
and substantial interest in the corporate separation plan to 1058  
file specific objections to the plan and propose specific 1059  
responses to issues raised in the objections, which objections 1060  
and responses the commission shall address in its final order. 1061  
Prior to commission approval of the plan, the commission shall 1062  
afford a hearing upon those aspects of the plan that the 1063  
commission determines reasonably require a hearing. The 1064  
commission may reject and require refiling of a substantially 1065  
inadequate plan under this section. 1066

(C) The commission shall issue an order approving or 1067  
modifying and approving a corporate separation plan under this 1068  
section, to be effective on the date specified in the order, 1069  
only upon findings that the plan reasonably complies with the 1070  
requirements of division (A) of this section and will provide 1071  
for ongoing compliance with the policy specified in section 1072  
4928.02 of the Revised Code. However, for good cause shown, the 1073  
commission may issue an order approving or modifying and 1074  
approving a corporate separation plan under this section that 1075  
does not comply with division (A) (1) of this section but 1076  
complies with such functional separation requirements as the 1077

commission authorizes to apply for an interim period prescribed 1078  
in the order, upon a finding that such alternative plan will 1079  
provide for ongoing compliance with the policy specified in 1080  
section 4928.02 of the Revised Code. 1081

(D) Any party may seek an amendment to a corporate 1082  
separation plan approved under this section, and the commission, 1083  
pursuant to a request from any party or on its own initiative, 1084  
may order as it considers necessary the filing of an amended 1085  
corporate separation plan to reflect changed circumstances. 1086

~~(E) No electric distribution utility shall sell or 1087  
transfer any generating asset it wholly or partly owns at any 1088  
time without obtaining prior commission approval. 1089~~

**Sec. 4928.20.** (A) The legislative authority of a municipal 1090  
corporation may adopt an ordinance, or the board of township 1091  
trustees of a township or the board of county commissioners of a 1092  
county may adopt a resolution, under which, ~~on or after the~~ 1093  
~~starting date of competitive retail electric service,~~ it may 1094  
aggregate in accordance with this section the retail electrical 1095  
loads located, respectively, within the municipal corporation, 1096  
township, or unincorporated area of the county and, for that 1097  
purpose, may enter into service agreements to facilitate for 1098  
those loads the sale and purchase of electricity. The 1099  
legislative authority or board also may exercise such authority 1100  
jointly with any other such legislative authority or board. For 1101  
customers that are not mercantile customers, an ordinance or 1102  
resolution under this division shall specify whether the 1103  
aggregation will occur only with the prior, affirmative consent 1104  
of each person owning, occupying, controlling, or using an 1105  
electric load center proposed to be aggregated or will occur 1106  
automatically for all such persons pursuant to the opt-out 1107

requirements of division (D) of this section. The aggregation of 1108  
mercantile customers shall occur only with the prior, 1109  
affirmative consent of each such person owning, occupying, 1110  
controlling, or using an electric load center proposed to be 1111  
aggregated. Nothing in this division, however, authorizes the 1112  
aggregation of the retail electric loads of an electric load 1113  
center, as defined in section 4933.81 of the Revised Code, that 1114  
is located in the certified territory of a nonprofit electric 1115  
supplier under sections 4933.81 to 4933.90 of the Revised Code 1116  
or an electric load center served by transmission or 1117  
distribution facilities of a municipal electric utility. 1118

(B) If an ordinance or resolution adopted under division 1119  
(A) of this section specifies that aggregation of customers that 1120  
are not mercantile customers will occur automatically as 1121  
described in that division, the ordinance or resolution shall 1122  
direct the board of elections to submit the question of the 1123  
authority to aggregate to the electors of the respective 1124  
municipal corporation, township, or unincorporated area of a 1125  
county at a special election on the day of the next primary or 1126  
general election in the municipal corporation, township, or 1127  
county. The legislative authority or board shall certify a copy 1128  
of the ordinance or resolution to the board of elections not 1129  
less than ninety days before the day of the special election. No 1130  
ordinance or resolution adopted under division (A) of this 1131  
section that provides for an election under this division shall 1132  
take effect unless approved by a majority of the electors voting 1133  
upon the ordinance or resolution at the election held pursuant 1134  
to this division. 1135

(C) Upon the applicable requisite authority under 1136  
divisions (A) and (B) of this section, the legislative authority 1137  
or board shall develop a plan of operation and governance for 1138

the aggregation program so authorized. Before adopting a plan 1139  
under this division, the legislative authority or board shall 1140  
hold at least two public hearings on the plan. Before the first 1141  
hearing, the legislative authority or board shall publish notice 1142  
of the hearings once a week for two consecutive weeks in a 1143  
newspaper of general circulation in the jurisdiction or as 1144  
provided in section 7.16 of the Revised Code. The notice shall 1145  
summarize the plan and state the date, time, and location of 1146  
each hearing. 1147

(D) No legislative authority or board, pursuant to an 1148  
ordinance or resolution under divisions (A) and (B) of this 1149  
section that provides for automatic aggregation of customers 1150  
that are not mercantile customers as described in division (A) 1151  
of this section, shall aggregate the electrical load of any 1152  
electric load center located within its jurisdiction unless it 1153  
in advance clearly discloses to the person owning, occupying, 1154  
controlling, or using the load center that the person will be 1155  
enrolled automatically in the aggregation program and will 1156  
remain so enrolled unless the person affirmatively elects by a 1157  
stated procedure not to be so enrolled. The disclosure shall 1158  
state prominently the rates, charges, and other terms and 1159  
conditions of enrollment. The stated procedure shall allow any 1160  
person enrolled in the aggregation program the opportunity to 1161  
opt out of the program every three years, without paying a 1162  
switching fee. Any such person that opts out before the 1163  
commencement of the aggregation program pursuant to the stated 1164  
procedure shall default to the standard service offer provided 1165  
under section 4928.14 or division (D) of section 4928.35 of the 1166  
Revised Code until the person chooses an alternative supplier. 1167

(E) (1) With respect to a governmental aggregation for a 1168  
municipal corporation that is authorized pursuant to divisions 1169



(A) to (D) of this section, resolutions may be proposed by 1170  
initiative or referendum petitions in accordance with sections 1171  
731.28 to 731.41 of the Revised Code. 1172

(2) With respect to a governmental aggregation for a 1173  
township or the unincorporated area of a county, which 1174  
aggregation is authorized pursuant to divisions (A) to (D) of 1175  
this section, resolutions may be proposed by initiative or 1176  
referendum petitions in accordance with sections 731.28 to 1177  
731.40 of the Revised Code, except that: 1178

(a) The petitions shall be filed, respectively, with the 1179  
township fiscal officer or the board of county commissioners, 1180  
who shall perform those duties imposed under those sections upon 1181  
the city auditor or village clerk. 1182

(b) The petitions shall contain the signatures of not less 1183  
than ten per cent of the total number of electors in, 1184  
respectively, the township or the unincorporated area of the 1185  
county who voted for the office of governor at the preceding 1186  
general election for that office in that area. 1187

(F) A governmental aggregator under division (A) of this 1188  
section is not a public utility engaging in the wholesale 1189  
purchase and resale of electricity, and provision of the 1190  
aggregated service is not a wholesale utility transaction. A 1191  
governmental aggregator shall be subject to supervision and 1192  
regulation by the public utilities commission only to the extent 1193  
of any competitive retail electric service it provides and 1194  
commission authority under this chapter. 1195

(G) This section does not apply in the case of a municipal 1196  
corporation that supplies such aggregated service to electric 1197  
load centers to which its municipal electric utility also 1198

supplies a noncompetitive retail electric service through 1199  
transmission or distribution facilities the utility singly or 1200  
jointly owns or operates. 1201

(H) A governmental aggregator shall not include in its 1202  
aggregation the accounts of any of the following: 1203

(1) A customer that has opted out of the aggregation; 1204

(2) A customer in contract with a certified electric 1205  
services company; 1206

(3) A customer that has a special contract with an 1207  
electric distribution utility; 1208

(4) A customer that is not located within the governmental 1209  
aggregator's governmental boundaries; 1210

(5) Subject to division (C) of section 4928.21 of the 1211  
Revised Code, a customer who appears on the "do not aggregate" 1212  
list maintained under that section. 1213

(I) Customers that are part of a governmental aggregation 1214  
under this section shall be responsible only for such portion of 1215  
a surcharge under section 4928.144 of the Revised Code that is 1216  
proportionate to the benefits, as determined by the commission, 1217  
that electric load centers within the jurisdiction of the 1218  
governmental aggregation as a group receive. The proportionate 1219  
surcharge so established shall apply to each customer of the 1220  
governmental aggregation while the customer is part of that 1221  
aggregation. If a customer ceases being such a customer, the 1222  
otherwise applicable surcharge shall apply. Nothing in this 1223  
section shall result in less than full recovery by an electric 1224  
distribution utility of any surcharge authorized under section 1225  
4928.144 of the Revised Code. Nothing in this section shall 1226  
result in less than the full and timely imposition, charging, 1227

collection, and adjustment by an electric distribution utility, 1228  
its assignee, or any collection agent, of the phase-in-recovery 1229  
charges authorized pursuant to a final financing order issued 1230  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 1231

~~(J) On behalf of the customers that are part of a 1232  
governmental aggregation under this section and by filing 1233  
written notice with the public utilities commission, the 1234  
legislative authority that formed or is forming that 1235  
governmental aggregation may elect not to receive standby 1236  
service within the meaning of division (B) (2) (d) of section 1237  
4928.143 of the Revised Code from an electric distribution 1238  
utility in whose certified territory the governmental 1239  
aggregation is located and that operates under an approved 1240  
electric security plan under that section. Upon the filing of 1241  
that notice, the electric distribution utility shall not charge 1242  
any such customer to whom competitive retail electric generation 1243  
service is provided by another supplier under the governmental 1244  
aggregation for the standby service. Any such consumer that 1245  
returns to the utility for competitive retail electric service 1246  
shall pay the market price of power incurred by the utility to 1247  
serve that consumer plus any amount attributable to the 1248  
utility's cost of compliance with the renewable energy resource 1249  
provisions of section 4928.64 of the Revised Code to serve the 1250  
consumer. Such market price shall include, but not be limited 1251  
to, capacity and energy charges; all charges associated with the 1252  
provision of that power supply through the regional transmission 1253  
organization, including, but not limited to, transmission, 1254  
ancillary services, congestion, and settlement and 1255  
administrative charges; and all other costs incurred by the 1256  
utility that are associated with the procurement, provision, and 1257  
administration of that power supply, as such costs may be 1258~~

~~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.~~ 1259  
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~~(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.~~ 1267  
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**Sec. 4928.23.** As used in sections 4928.23 to 4928.2318 of 1289

the Revised Code:	1290
(A) "Ancillary agreement" means any bond insurance policy,	1291
letter of credit, reserve account, surety bond, swap	1292
arrangement, hedging arrangement, liquidity or credit support	1293
arrangement, or other similar agreement or arrangement entered	1294
into in connection with the issuance of phase-in-recovery bonds	1295
that is designed to promote the credit quality and marketability	1296
of the bonds or to mitigate the risk of an increase in interest	1297
rates.	1298
(B) "Assignee" means any person or entity to which an	1299
interest in phase-in-recovery property is sold, assigned,	1300
transferred, or conveyed, other than as security, and any	1301
successor to or subsequent assignee of such a person or entity.	1302
(C) "Bond" includes debentures, notes, certificates of	1303
participation, certificates of beneficial interest, certificates	1304
of ownership or other evidences of indebtedness or ownership	1305
that are issued by an electric distribution utility or an	1306
assignee under a final financing order, the proceeds of which	1307
are used directly or indirectly to recover, finance, or	1308
refinance phase-in costs and financing costs, and that are	1309
secured by or payable from revenues from phase-in-recovery	1310
charges.	1311
(D) "Bondholder" means any holder or owner of a phase-in-	1312
recovery bond.	1313
(E) "Financing costs" means any of the following:	1314
(1) Principal, interest, and redemption premiums that are	1315
payable on phase-in-recovery bonds;	1316
(2) Any payment required under an ancillary agreement;	1317

(3) Any amount required to fund or replenish a reserve	1318
account or another account established under any indenture,	1319
ancillary agreement, or other financing document relating to	1320
phase-in-recovery bonds;	1321
(4) Any costs of retiring or refunding any existing debt	1322
and equity securities of an electric distribution utility in	1323
connection with either the issuance of, or the use of proceeds	1324
from, phase-in-recovery bonds;	1325
(5) Any costs incurred by an electric distribution utility	1326
to obtain modifications of or amendments to any indenture,	1327
financing agreement, security agreement, or similar agreement or	1328
instrument relating to any existing secured or unsecured	1329
obligation of the electric distribution utility in connection	1330
with the issuance of phase-in-recovery bonds;	1331
(6) Any costs incurred by an electric distribution utility	1332
to obtain any consent, release, waiver, or approval from any	1333
holder of an obligation described in division (E) (5) of this	1334
section that are necessary to be incurred for the electric	1335
distribution utility to issue or cause the issuance of phase-in-	1336
recovery bonds;	1337
(7) Any taxes, franchise fees, or license fees imposed on	1338
phase-in-recovery revenues;	1339
(8) Any costs related to issuing or servicing phase-in-	1340
recovery bonds or related to obtaining a financing order,	1341
including servicing fees and expenses, trustee fees and	1342
expenses, legal, accounting, or other professional fees and	1343
expenses, administrative fees, placement fees, underwriting	1344
fees, capitalized interest and equity, and rating-agency fees;	1345
(9) Any other similar costs that the public utilities	1346

commission finds appropriate. 1347

(F) "Financing order" means an order issued by the public 1348  
utilities commission under section 4928.232 of the Revised Code 1349  
that authorizes an electric distribution utility or an assignee 1350  
to issue phase-in-recovery bonds and recover phase-in-recovery 1351  
charges. 1352

(G) "Final financing order" means a financing order that 1353  
has become final and has taken effect as provided in section 1354  
4928.233 of the Revised Code. 1355

(H) "Financing party" means either of the following: 1356

(1) Any trustee, collateral agent, or other person acting 1357  
for the benefit of any bondholder; 1358

(2) Any party to an ancillary agreement, the rights and 1359  
obligations of which relate to or depend upon the existence of 1360  
phase-in-recovery property, the enforcement and priority of a 1361  
security interest in phase-in-recovery property, the timely 1362  
collection and payment of phase-in-recovery revenues, or a 1363  
combination of these factors. 1364

(I) "Financing statement" has the same meaning as in 1365  
section 1309.102 of the Revised Code. 1366

(J) "Phase-in costs" means costs, inclusive of carrying 1367  
charges incurred before, on, or after ~~the effective date of this~~ 1368  
~~section~~ March 22, 2012, authorized by the commission before, on, 1369  
or after ~~the effective date of this section~~ March 22, 2012, to 1370  
be securitized or deferred as regulatory assets in proceedings 1371  
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 1372  
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 1373  
4928.14 of the Revised Code as it existed prior to July 31, 1374  
2008, or section 4928.143 of the Revised Code as it existed 1375

prior to the effective date of the amendments to this section by 1376  
this act pursuant to a final order for which appeals have been 1377  
exhausted. "Phase-in costs" excludes the following: 1378

(1) With respect to any electric generating facility that, 1379  
on and after ~~the effective date of this section~~ March 22, 2012, 1380  
is owned, in whole or in part, by an electric distribution 1381  
utility applying for a financing order under section 4928.231 of 1382  
the Revised Code, costs that are authorized under division (B) 1383  
(2) (b) or (c) of section 4928.143 of the Revised Code as that 1384  
section existed prior to the effective date of the amendments to 1385  
this section by this act; 1386

(2) Costs incurred after ~~the effective date of this~~ 1387  
~~section~~ March 22, 2012, related to the ongoing operation of an 1388  
electric generating facility, but not environmental clean-up or 1389  
remediation costs incurred by an electric distribution utility 1390  
because of its ownership or operation of an electric generating 1391  
facility prior to ~~the effective date of this section~~ March 22, 1392  
2012, which such clean-up or remediation costs are imposed or 1393  
incurred pursuant to federal or state law, rules, or regulations 1394  
and for which the commission approves or approved recovery in 1395  
accordance with section 4909.18 ~~of the Revised Code, sections~~ 1396  
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 1397  
~~or~~ section 4928.14 of the Revised Code as it existed prior to 1398  
July 31, 2008, or section 4928.143 of the Revised Code as it 1399  
existed prior to the effective date of the amendments to this 1400  
section by this act. 1401

(K) "Phase-in-recovery property" means the property, 1402  
rights, and interests of an electric distribution utility or an 1403  
assignee under a final financing order, including the right to 1404  
impose, charge, and collect the phase-in-recovery charges that 1405



shall be used to pay and secure the payment of phase-in-recovery 1406  
bonds and financing costs, and including the right to obtain 1407  
adjustments to those charges, and any revenues, receipts, 1408  
collections, rights to payment, payments, moneys, claims, or 1409  
other proceeds arising from the rights and interests created 1410  
under the final financing order. 1411

(L) "Phase-in-recovery revenues" means all revenues, 1412  
receipts, collections, payments, moneys, claims, or other 1413  
proceeds arising from phase-in-recovery property. 1414

(M) "Successor" means, with respect to any entity, another 1415  
entity that succeeds by operation of law to the rights and 1416  
obligations of the first legal entity pursuant to any 1417  
bankruptcy, reorganization, restructuring, or other insolvency 1418  
proceeding, any merger, acquisition, or consolidation, or any 1419  
sale or transfer of assets, regardless of whether any of these 1420  
occur as a result of a restructuring of the electric power 1421  
industry or otherwise. 1422

**Sec. 4928.231.** (A) An electric distribution utility may 1423  
apply to the public utilities commission for a financing order 1424  
that authorizes the following: 1425

(1) The issuance of phase-in-recovery bonds, in one or 1426  
more series, to recover uncollected phase-in costs; 1427

(2) The imposition, charging, and collection of phase-in- 1428  
recovery charges, in accordance with the adjustment mechanism 1429  
approved by the commission under section 4928.232 of the Revised 1430  
Code, and consistent with the commission's authority regarding 1431  
governmental aggregation as provided in division (I) of section 1432  
4928.20 of the Revised Code, to recover both of the following: 1433

(a) Uncollected phase-in costs; 1434

(b) Financing costs.	1435
(3) The creation of phase-in-recovery property under the financing order.	1436 1437
(B) The application shall include all of the following:	1438
(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;	1439 1440 1441
(2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;	1442 1443
(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;	1444 1445 1446
(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;	1447 1448 1449
(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;	1450 1451 1452 1453 1454 1455
(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;	1456 1457 1458 1459 1460 1461 1462

(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.	1493
(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.	1494 1495 1496 1497 1498 1499 1500 1501
(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.	1502 1503 1504 1505 1506
(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.	1507 1508 1509 1510 1511 1512 1513 1514 1515
(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.	1516 1517 1518 1519
(2) Except as provided in division (D) (1) of this section, the commission shall issue a financing order under division (C)	1520 1521

of this section if, at the time the financing order is issued, 1522  
the commission finds that the issuance of the phase-in-recovery 1523  
bonds and the phase-in-recovery charges authorized by the order 1524  
results in, consistent with market conditions, both measurably 1525  
enhancing cost savings to customers and mitigating rate impacts 1526  
to customers as compared with traditional financing mechanisms 1527  
or traditional cost-recovery methods available to the electric 1528  
distribution utility or, if the commission previously approved a 1529  
recovery method, as compared with that recovery method. 1530

(E) The commission shall include all of the following in a 1531  
financing order issued under division (C) of this section: 1532

(1) A determination of the maximum amount and a 1533  
description of the phase-in costs that may be recovered through 1534  
phase-in-recovery bonds issued under the financing order; 1535

(2) A description of phase-in-recovery property, the 1536  
creation of which is authorized by the financing order; 1537

(3) A description of the financing costs that may be 1538  
recovered through phase-in-recovery charges and the period over 1539  
which those costs may be recovered; 1540

(4) For phase-in-recovery charges not subject to 1541  
allocation according to an existing order, a description of the 1542  
methodology and calculation for allocating phase-in-recovery 1543  
charges among customer classes, including the allocation of such 1544  
charges, if any, to governmental aggregation customers based 1545  
upon the proportionate benefit determination made under division 1546  
(I) of section 4928.20 of the Revised Code; 1547

(5) A description of the adjustment mechanism for use in 1548  
the imposition, charging, and collection of the phase-in- 1549  
recovery charges; 1550

(6) The maximum term of the phase-in-recovery bonds; 1551

(7) Any other provision the commission considers 1552  
appropriate to ensure the full and timely imposition, charging, 1553  
collection, and adjustment, pursuant to an approved adjustment 1554  
mechanism, of the phase-in-recovery charges described in 1555  
divisions (E) (3) to (5) of this section. 1556

(F) The commission may, in a financing order, afford the 1557  
electric distribution utility flexibility in establishing the 1558  
terms and conditions for the phase-in-recovery bonds to 1559  
accommodate changes in market conditions, including repayment 1560  
schedules, interest rates, financing costs, collateral 1561  
requirements, required debt service and other reserves, and the 1562  
ability of the electric distribution utility, at its option, to 1563  
effect a series of issuances of phase-in-recovery bonds and 1564  
correlated assignments, sales, pledges, or other transfers of 1565  
phase-in-recovery property. Any changes made under this section 1566  
to terms and conditions for the phase-in-recovery bonds shall be 1567  
in conformance with the financing order. 1568

(G) A financing order may provide that the creation of 1569  
phase-in-recovery property shall be simultaneous with the sale 1570  
of that property to an assignee as provided in the application 1571  
and the pledge of the property to secure phase-in-recovery 1572  
bonds. 1573

(H) The commission shall, in a financing order, require 1574  
that after the final terms of each issuance of phase-in-recovery 1575  
bonds have been established, and prior to the issuance of those 1576  
bonds, the electric distribution utility shall determine the 1577  
resulting phase-in-recovery charges in accordance with the 1578  
adjustment mechanism described in the financing order. These 1579  
phase-in-recovery charges shall be final and effective upon the 1580

issuance of the phase-in-recovery bonds, without further 1581  
commission action. 1582

**Sec. 4928.34.** (A) The public utilities commission shall 1583  
not approve or prescribe a transition plan under division (A) or 1584  
(B) of section 4928.33 of the Revised Code unless the commission 1585  
first makes all of the following determinations: 1586

(1) The unbundled components for the electric transmission 1587  
component of retail electric service, as specified in the 1588  
utility's rate unbundling plan required by division (A) (1) of 1589  
section 4928.31 of the Revised Code, equal the tariff rates 1590  
determined by the federal energy regulatory commission that are 1591  
in effect on the date of the approval of the transition plan 1592  
under sections 4928.31 to 4928.40 of the Revised Code, as each 1593  
such rate is determined applicable to each particular customer 1594  
class and rate schedule by the commission. The unbundled 1595  
transmission component shall include a sliding scale of charges 1596  
under division (B) of section 4905.31 of the Revised Code to 1597  
ensure that refunds determined or approved by the federal energy 1598  
regulatory commission are flowed through to retail electric 1599  
customers. 1600

(2) The unbundled components for retail electric 1601  
distribution service in the rate unbundling plan equal the 1602  
difference between the costs attributable to the utility's 1603  
transmission and distribution rates and charges under its 1604  
schedule of rates and charges in effect on the effective date of 1605  
this section, based upon the record in the most recent rate 1606  
proceeding of the utility for which the utility's schedule was 1607  
established, and the tariff rates for electric transmission 1608  
service determined by the federal energy regulatory commission 1609  
as described in division (A) (1) of this section. 1610

(3) All other unbundled components required by the 1611  
commission in the rate unbundling plan equal the costs 1612  
attributable to the particular service as reflected in the 1613  
utility's schedule of rates and charges in effect on the 1614  
effective date of this section. 1615

(4) The unbundled components for retail electric 1616  
generation service in the rate unbundling plan equal the 1617  
residual amount remaining after the determination of the 1618  
transmission, distribution, and other unbundled components, and 1619  
after any adjustments necessary to reflect the effects of the 1620  
amendment of section 5727.111 of the Revised Code by Sub. S.B. 1621  
No. 3 of the 123rd general assembly. 1622

(5) All unbundled components in the rate unbundling plan 1623  
have been adjusted to reflect any base rate reductions on file 1624  
with the commission and as scheduled to be in effect by December 1625  
31, 2005, under rate settlements in effect on the effective date 1626  
of this section. However, all earnings obligations, 1627  
restrictions, or caps imposed on an electric utility in a 1628  
commission order prior to the effective date of this section are 1629  
void. 1630

(6) Subject to division (A) (5) of this section, the total 1631  
of all unbundled components in the rate unbundling plan are 1632  
capped and shall equal during the market development period, 1633  
except as specifically provided in this chapter, the total of 1634  
all rates and charges in effect under the applicable bundled 1635  
schedule of the electric utility pursuant to section 4905.30 of 1636  
the Revised Code in effect on the day before the effective date 1637  
of this section, including the transition charge determined 1638  
under section 4928.40 of the Revised Code, adjusted for any 1639  
changes in the taxation of electric utilities and retail 1640



electric service under Sub. S.B. No. 3 of the 123rd General 1641  
Assembly, the universal service rider authorized by section 1642  
4928.51 of the Revised Code, and the temporary rider authorized 1643  
by section 4928.61 of the Revised Code. For the purpose of this 1644  
division, the rate cap applicable to a customer receiving 1645  
electric service pursuant to an arrangement approved by the 1646  
commission under section 4905.31 of the Revised Code is, for the 1647  
term of the arrangement, the total of all rates and charges in 1648  
effect under the arrangement. For any rate schedule filed 1649  
pursuant to section 4905.30 of the Revised Code or any 1650  
arrangement subject to approval pursuant to section 4905.31 of 1651  
the Revised Code, the initial tax-related adjustment to the rate 1652  
cap required by this division shall be equal to the rate of 1653  
taxation specified in section 5727.81 of the Revised Code and 1654  
applicable to the schedule or arrangement. To the extent such 1655  
total annual amount of the tax-related adjustment is greater 1656  
than or less than the comparable amount of the total annual tax 1657  
reduction experienced by the electric utility as a result of the 1658  
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 1659  
such difference shall be addressed by the commission through 1660  
accounting procedures, refunds, or an annual surcharge or credit 1661  
to customers, or through other appropriate means, to avoid 1662  
placing the financial responsibility for the difference upon the 1663  
electric utility or its shareholders. Any adjustments in the 1664  
rate of taxation specified in section 5727.81 of the Revised 1665  
Code ~~section~~ shall not occur without a corresponding adjustment 1666  
to the rate cap for each such rate schedule or arrangement. The 1667  
department of taxation shall advise the commission and self- 1668  
assessors under section 5727.81 of the Revised Code prior to the 1669  
effective date of any change in the rate of taxation specified 1670  
under that section, and the commission shall modify the rate cap 1671  
to reflect that adjustment so that the rate cap adjustment is 1672

effective as of the effective date of the change in the rate of 1673  
taxation. This division shall be applied, to the extent 1674  
possible, to eliminate any increase in the price of electricity 1675  
for customers that otherwise may occur as a result of 1676  
establishing the taxes contemplated in section 5727.81 of the 1677  
Revised Code. 1678

(7) The rate unbundling plan complies with any rules 1679  
adopted by the commission under division (A) of section 4928.06 1680  
of the Revised Code. 1681

(8) The corporate separation plan required by division (A) 1682  
(2) of section 4928.31 of the Revised Code complies with section 1683  
4928.17 of the Revised Code and any rules adopted by the 1684  
commission under division (A) of section 4928.06 of the Revised 1685  
Code. 1686

(9) Any plan or plans the commission requires to address 1687  
operational support systems and any other technical 1688  
implementation issues pertaining to competitive retail electric 1689  
service comply with any rules adopted by the commission under 1690  
division (A) of section 4928.06 of the Revised Code. 1691

(10) The employee assistance plan required by division (A) 1692  
(4) of section 4928.31 of the Revised Code sufficiently provides 1693  
severance, retraining, early retirement, retention, 1694  
outplacement, and other assistance for the utility's employees 1695  
whose employment is affected by electric industry restructuring 1696  
under this chapter. 1697

(11) The consumer education plan required under division 1698  
(A) (5) of section 4928.31 of the Revised Code complies with 1699  
former section 4928.42 of the Revised Code and any rules adopted 1700  
by the commission under division (A) of section 4928.06 of the 1701

Revised Code. 1702

(12) The transition revenues for which an electric utility 1703  
is authorized a revenue opportunity under sections 4928.31 to 1704  
4928.40 of the Revised Code are the allowable transition costs 1705  
of the utility as such costs are determined by the commission 1706  
pursuant to section 4928.39 of the Revised Code, and the 1707  
transition charges for the customer classes and rate schedules 1708  
of the utility are the charges determined pursuant to section 1709  
4928.40 of the Revised Code. 1710

(13) Any independent transmission plan included in the 1711  
transition plan filed under section 4928.31 of the Revised Code 1712  
reasonably complies with section 4928.12 of the Revised Code and 1713  
any rules adopted by the commission under division (A) of 1714  
section 4928.06 of the Revised Code, unless the commission, for 1715  
good cause shown, authorizes the utility to defer compliance 1716  
until an order is issued under division (G) of section 4928.35 1717  
of the Revised Code. 1718

(14) The utility is in compliance with sections 4928.01 to 1719  
4928.11 of the Revised Code and any rules or orders of the 1720  
commission adopted or issued under those sections. 1721

(15) All unbundled components in the rate unbundling plan 1722  
have been adjusted to reflect the elimination of the tax on 1723  
gross receipts imposed by section 5727.30 of the Revised Code. 1724

In addition, a transition plan approved by the commission 1725  
under section 4928.33 of the Revised Code but not containing an 1726  
approved independent transmission plan shall contain the express 1727  
conditions that the utility will comply with an order issued 1728  
under division (G) of section 4928.35 of the Revised Code. 1729

(B) ~~Subject to division (E) of section 4928.17 of the~~ 1730

~~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; 1760

(c) Is a small hydroelectric facility; 1761

(d) Is created on or after January 1, 1998, by the 1762  
modification or retrofit of any facility placed in service prior 1763  
to January 1, 1998; or 1764

(e) Is a mercantile customer-sited renewable energy 1765  
resource, whether new or existing, that the mercantile customer 1766  
commits for integration into the electric distribution utility's 1767  
demand-response, energy efficiency, or peak demand reduction 1768  
programs as provided under division (A) (2) (c) of section 4928.66 1769  
of the Revised Code, including, but not limited to, any of the 1770  
following: 1771

(i) A resource that has the effect of improving the 1772  
relationship between real and reactive power; 1773

(ii) A resource that makes efficient use of waste heat or 1774  
other thermal capabilities owned or controlled by a mercantile 1775  
customer; 1776

(iii) Storage technology that allows a mercantile customer 1777  
more flexibility to modify its demand or load and usage 1778  
characteristics; 1779

(iv) Electric generation equipment owned or controlled by 1780  
a mercantile customer that uses a renewable energy resource. 1781

(2) For the purpose of this section and as it considers 1782  
appropriate, the public utilities commission may classify any 1783  
new technology as such a qualifying renewable energy resource. 1784

(B) (1) By the end of 2026, an electric distribution 1785  
utility shall have provided from qualifying renewable energy 1786  
resources, including, at its discretion, qualifying renewable 1787

energy resources obtained pursuant to an electricity supply 1788  
 contract, a portion of the electricity supply required for its 1789  
 standard service offer under ~~section~~sections 4928.141 and 1790  
4928.142 of the Revised Code, and an electric services company 1791  
 shall have provided a portion of its electricity supply for 1792  
 retail consumers in this state from qualifying renewable energy 1793  
 resources, including, at its discretion, qualifying renewable 1794  
 energy resources obtained pursuant to an electricity supply 1795  
 contract. That portion shall equal eight and one-half per cent 1796  
 of the total number of kilowatt hours of electricity sold by the 1797  
 subject utility or company to any and all retail electric 1798  
 consumers whose electric load centers are served by that utility 1799  
 and are located within the utility's certified territory or, in 1800  
 the case of an electric services company, are served by the 1801  
 company and are located within this state. However, nothing in 1802  
 this section precludes a utility or company from providing a 1803  
 greater percentage. 1804

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 1805  
The portion required under division (B) (1) of this section shall 1806  
 be generated from renewable energy resources in accordance with 1807  
 the following benchmarks: 1808

	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%

1809

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 1810  
by the utility or company shall be met either: 1811

(a) Through facilities located in this state; or 1812

(b) With resources that can be shown to be deliverable 1813  
into this state. 1814

(C) (1) The commission annually shall review an electric 1815  
distribution utility's or electric services company's compliance 1816  
with the most recent applicable benchmark under division (B) (2) 1817  
of this section and, in the course of that review, shall 1818  
identify any undercompliance or noncompliance of the utility or 1819  
company that it determines is weather-related, related to 1820  
equipment or resource shortages for qualifying renewable energy 1821  
resources as applicable, or is otherwise outside the utility's 1822  
or company's control. 1823

(2) Subject to the cost cap provisions of division (C) (3) 1824  
of this section, if the commission determines, after notice and 1825  
opportunity for hearing, and based upon its findings in that 1826  
review regarding avoidable undercompliance or noncompliance, but 1827  
subject to division (C) (4) of this section, that the utility or 1828  
company has failed to comply with any such benchmark, the 1829  
commission shall impose a renewable energy compliance payment on 1830  
the utility or company. 1831

(a) The compliance payment pertaining to the solar energy 1832  
resource benchmarks under division (B) (2) of this section shall 1833  
be an amount per megawatt hour of undercompliance or 1834  
noncompliance in the period under review, as follows: 1835

- (i) Three hundred dollars for 2014, 2015, and 2016; 1836
- (ii) Two hundred fifty dollars for 2017 and 2018; 1837
- (iii) Two hundred dollars for 2019. 1838

(b) The compliance payment pertaining to the renewable 1839  
energy resource benchmarks under division (B) (2) of this section 1840  
shall equal the number of additional renewable energy credits 1841  
that the electric distribution utility or electric services 1842  
company would have needed to comply with the applicable 1843



benchmark in the period under review times an amount that shall 1844  
begin at forty-five dollars and shall be adjusted annually by 1845  
the commission to reflect any change in the consumer price index 1846  
~~as defined in section 101.27 of the Revised Code~~, but shall not 1847  
be less than forty-five dollars. As used in this division, 1848  
"consumer price index" means the consumer price index prepared 1849  
by the United States bureau of labor statistics (U.S. city 1850  
average for urban wage earners and clerical workers: all items, 1851  
1982-1984=100), or, if that index is no longer published, a 1852  
generally available comparable index. 1853

(c) The compliance payment shall not be passed through by 1854  
the electric distribution utility or electric services company 1855  
to consumers. The compliance payment shall be remitted to the 1856  
commission, for deposit to the credit of the advanced energy 1857  
fund created under section 4928.61 of the Revised Code. Payment 1858  
of the compliance payment shall be subject to such collection 1859  
and enforcement procedures as apply to the collection of a 1860  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 1861  
Revised Code. 1862

(3) An electric distribution utility or an electric 1863  
services company need not comply with a benchmark under division 1864  
(B) (2) of this section to the extent that its reasonably 1865  
expected cost of that compliance exceeds its reasonably expected 1866  
cost of otherwise producing or acquiring the requisite 1867  
electricity by three per cent or more. The cost of compliance 1868  
shall be calculated as though any exemption from taxes and 1869  
assessments had not been granted under section 5727.75 of the 1870  
Revised Code. 1871

(4) (a) An electric distribution utility or electric 1872  
services company may request the commission to make a force 1873

majeure determination pursuant to this division regarding all or 1874  
part of the utility's or company's compliance with any minimum 1875  
benchmark under division (B) (2) of this section during the 1876  
period of review occurring pursuant to division (C) (2) of this 1877  
section. The commission may require the electric distribution 1878  
utility or electric services company to make solicitations for 1879  
renewable energy resource credits as part of its default service 1880  
before the utility's or company's request of force majeure under 1881  
this division can be made. 1882

(b) Within ninety days after the filing of a request by an 1883  
electric distribution utility or electric services company under 1884  
division (C) (4) (a) of this section, the commission shall 1885  
determine if qualifying renewable energy resources are 1886  
reasonably available in the marketplace in sufficient quantities 1887  
for the utility or company to comply with the subject minimum 1888  
benchmark during the review period. In making this 1889  
determination, the commission shall consider whether the 1890  
electric distribution utility or electric services company has 1891  
made a good faith effort to acquire sufficient qualifying 1892  
renewable energy or, as applicable, solar energy resources to so 1893  
comply, including, but not limited to, by banking or seeking 1894  
renewable energy resource credits or by seeking the resources 1895  
through long-term contracts. Additionally, the commission shall 1896  
consider the availability of qualifying renewable energy or 1897  
solar energy resources in this state and other jurisdictions in 1898  
the PJM interconnection regional transmission organization, 1899  
L.L.C., or its successor and the midcontinent independent system 1900  
operator or its successor. 1901

(c) If, pursuant to division (C) (4) (b) of this section, 1902  
the commission determines that qualifying renewable energy or 1903  
solar energy resources are not reasonably available to permit 1904

the electric distribution utility or electric services company 1905  
to comply, during the period of review, with the subject minimum 1906  
benchmark prescribed under division (B) (2) of this section, the 1907  
commission shall modify that compliance obligation of the 1908  
utility or company as it determines appropriate to accommodate 1909  
the finding. Commission modification shall not automatically 1910  
reduce the obligation for the electric distribution utility's or 1911  
electric services company's compliance in subsequent years. If 1912  
it modifies the electric distribution utility or electric 1913  
services company obligation under division (C) (4) (c) of this 1914  
section, the commission may require the utility or company, if 1915  
sufficient renewable energy resource credits exist in the 1916  
marketplace, to acquire additional renewable energy resource 1917  
credits in subsequent years equivalent to the utility's or 1918  
company's modified obligation under division (C) (4) (c) of this 1919  
section. 1920

(5) The commission shall establish a process to provide 1921  
for at least an annual review of the renewable energy resource 1922  
market in this state and in the service territories of the 1923  
regional transmission organizations that manage transmission 1924  
systems located in this state. The commission shall use the 1925  
results of this study to identify any needed changes to the 1926  
amount of the renewable energy compliance payment specified 1927  
under divisions (C) (2) (a) and (b) of this section. Specifically, 1928  
the commission may increase the amount to ensure that payment of 1929  
compliance payments is not used to achieve compliance with this 1930  
section in lieu of actually acquiring or realizing energy 1931  
derived from qualifying renewable energy resources. However, if 1932  
the commission finds that the amount of the compliance payment 1933  
should be otherwise changed, the commission shall present this 1934  
finding to the general assembly for legislative enactment. 1935

(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 1965  
in the five calendar years following the date of their purchase 1966  
or acquisition from any entity, including, but not limited to, 1967  
the following: 1968

(1) A mercantile customer; 1969

(2) An owner or operator of a hydroelectric generating 1970  
facility that is located at a dam on a river, or on any water 1971  
discharged to a river, that is within or bordering this state or 1972  
within or bordering an adjoining state, or that produces power 1973  
that can be shown to be deliverable into this state; 1974

(3) A seller of compressed natural gas that has been 1975  
produced from biologically derived methane gas, provided that 1976  
the seller may only provide renewable energy credits for metered 1977  
amounts of gas. 1978

(B) (1) The public utilities commission shall adopt rules 1979  
specifying that one unit of credit shall equal one megawatt hour 1980  
of electricity derived from renewable energy resources, except 1981  
that, for a generating facility of seventy-five megawatts or 1982  
greater that is situated within this state and has committed by 1983  
December 31, 2009, to modify or retrofit its generating unit or 1984  
units to enable the facility to generate principally from 1985  
biomass energy by June 30, 2013, each megawatt hour of 1986  
electricity generated principally from that biomass energy shall 1987  
equal, in units of credit, the product obtained by multiplying 1988  
the actual percentage of biomass feedstock heat input used to 1989  
generate such megawatt hour by the quotient obtained by dividing 1990  
the then existing unit dollar amount used to determine a 1991  
renewable energy compliance payment as provided under division 1992  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 1993  
existing market value of one renewable energy credit, but such 1994

megawatt hour shall not equal less than one unit of credit. 1995  
Renewable energy resources do not have to be converted to 1996  
electricity in order to be eligible to receive renewable energy 1997  
credits. The rules shall specify that, for purposes of 1998  
converting the quantity of energy derived from biologically 1999  
derived methane gas to an electricity equivalent, one megawatt 2000  
hour equals 3,412,142 British thermal units. 2001

(2) The rules also shall provide for this state a system 2002  
of registering renewable energy credits by specifying which of 2003  
any generally available registries shall be used for that 2004  
purpose and not by creating a registry. That selected system of 2005  
registering renewable energy credits shall allow a hydroelectric 2006  
generating facility to be eligible for obtaining renewable 2007  
energy credits and shall allow customer-sited projects or 2008  
actions the broadest opportunities to be eligible for obtaining 2009  
renewable energy credits. 2010

~~(C) Beginning January 1, 2020, a qualifying solar resource 2011  
as defined in section 3706.40 of the Revised Code is not 2012  
eligible to obtain a renewable energy credit under this section 2013  
for any megawatt hour for which the resource has been issued a 2014  
solar energy credit under section 3706.45 of the Revised Code. 2015~~

~~(D) Except for compressed natural gas that has been 2016  
produced from biologically derived methane gas, energy generated 2017  
by using natural gas as a resource is not eligible to obtain a 2018  
renewable energy credit under this section. 2019~~

**Sec. 4929.20.** ~~(A)~~ (A) (1) No governmental aggregator as 2020  
defined in division (K) (1) of section 4929.01 of the Revised 2021  
Code or no retail natural gas supplier shall provide a 2022  
competitive retail natural gas service on or after thirteen 2023  
months following ~~the effective date of this section~~ June 26, 2024

2001, to a consumer in this state without first being certified 2025  
by the public utilities commission regarding its managerial, 2026  
technical, and financial capability to provide that service and 2027  
providing reasonable financial assurances sufficient to protect 2028  
customers and natural gas companies from default. ~~In addition, a~~ 2029  
~~retail natural gas supplier may be required to provide a~~ 2030  
~~performance bond sufficient to protect customers and natural gas~~ 2031  
~~companies from default.~~ Certification shall be granted pursuant 2032  
to procedures and standards the commission shall prescribe in 2033  
accordance with rules adopted under section 4929.10 of the 2034  
Revised Code. However, certification or certification renewal 2035  
shall be deemed approved thirty days after the filing of an 2036  
application with the commission unless the commission suspends 2037  
that approval for good cause shown. In the case of such a 2038  
suspension, the commission shall act to approve or deny 2039  
certification or certification renewal to the applicant not 2040  
later than ninety days after the date of the suspension. 2041

(2) The commission shall establish rules to require a 2042  
competitive retail natural gas supplier to maintain financial 2043  
assurances sufficient to protect customers and natural gas 2044  
companies from default. Such rules also shall specifically allow 2045  
a natural gas company to set reasonable standards for its 2046  
security and the security of its customers through financial 2047  
requirements set in its tariffs. 2048

(3) As used in division (A)(2) of this section, "retail 2049  
natural gas supplier" has the same meaning as in section 4929.01 2050  
of the Revised Code, but excludes a broker or aggregator. 2051

(B) Capability standards adopted in rules pursuant to 2052  
division (A) of this section shall be sufficient to ensure 2053  
compliance with section 4929.22 of the Revised Code and with the 2054

minimum service requirements established under section 4929.23 2055  
of the Revised Code. The standards shall allow flexibility for 2056  
voluntary aggregation, to encourage market creativity in 2057  
responding to consumer needs and demands. The rules shall 2058  
include procedures for biennially renewing certification. 2059

(C) (1) The commission may suspend, rescind, or 2060  
conditionally rescind the certification of any retail natural 2061  
gas supplier or governmental aggregator issued under this 2062  
section if the commission determines, after reasonable notice 2063  
and opportunity for hearing, that the retail natural gas 2064  
supplier or governmental aggregator has failed to comply with 2065  
any applicable certification standards prescribed in rules 2066  
adopted pursuant to this section or section 4929.22 of the 2067  
Revised Code. 2068

(2) An affected natural gas company may file an 2069  
application with the commission for approval of authority to 2070  
recover in accordance with division (C) (2) of this section 2071  
incremental costs reasonably and prudently incurred by the 2072  
company in connection with the commission's continuation, 2073  
suspension, rescission, or conditional rescission of a 2074  
particular retail natural gas supplier's certification under 2075  
division (C) (1) of this section. Upon the filing of such an 2076  
application, the commission shall conduct an audit of such 2077  
incremental costs as are specified in the application. Cost 2078  
recovery shall be through a rider on the base rates of customers 2079  
of the company for which there is a choice of supplier of 2080  
commodity sales service as a result of revised schedules 2081  
approved under division (C) of section 4929.29 of the Revised 2082  
Code, a rule or order adopted or issued by the commission under 2083  
Chapter 4905. of the Revised Code, or an exemption granted by 2084  
the commission under sections 4929.04 to 4929.08 of the Revised 2085



Code. The rider shall take effect ninety days after the date of 2086  
the application's filing unless the commission, based on the 2087  
audit results and for good cause shown, sets the matter for 2088  
hearing. After the hearing, the commission shall approve the 2089  
application, and authorize such cost recovery rider effective on 2090  
the date specified in the order, only for such incremental costs 2091  
as the commission determines were reasonably and prudently 2092  
incurred by the company in connection with the continuation, 2093  
suspension, rescission, or conditional rescission of a retail 2094  
natural gas supplier's certification under division (C) (1) of 2095  
this section. Any proceeding under division (C) (2) of this 2096  
section shall be governed by Chapter 4903. of the Revised Code. 2097

(D) No natural gas company, on and after thirteen months 2098  
following ~~the effective date of this section~~ June 26, 2001, 2099  
shall knowingly distribute natural gas, to a retail consumer in 2100  
this state, for any governmental aggregator, as defined in 2101  
division (K) (1) of section 4929.01 of the Revised Code, or 2102  
retail natural gas supplier, that has not been certified by the 2103  
commission pursuant to this section. 2104

(E) Notwithstanding any provision of section 121.95 of the 2105  
Revised Code to the contrary, a regulatory restriction contained 2106  
in a rule adopted under section 4929.20 of the Revised Code is 2107  
not subject to sections 121.95 to 121.953 of the Revised Code. 2108

**Sec. 4929.201.** The public utilities commission and the 2109  
natural gas companies and competitive retail natural gas 2110  
suppliers that elect to participate in the consumer choice 2111  
billing program are subject to the requirements established for 2112  
that program under sections 4933.51 to 4933.59 of the Revised 2113  
Code. 2114

**Sec. 4929.221.** (A) If a competitive retail natural gas 2115

service supplier offers a residential customer or non-mercantile 2116  
commercial customer a contract for a fixed introductory rate 2117  
that converts to a variable rate upon the expiration of the 2118  
fixed rate, the supplier shall send two notices to each 2119  
residential customer and non-mercantile commercial customer that 2120  
enters into such a contract. Each notice shall provide all of 2121  
the following information to the customer: 2122

(1) The fixed rate that is expiring under the contract; 2123

(2) The expiration date of the contract's fixed rate; 2124

(3) The rate to be charged upon the contract's conversion 2125  
to a variable rate; 2126

(4) The public utilities commission web site that, as a 2127  
comparison tool, lists rates offered by competitive retail 2128  
natural gas service suppliers; 2129

(5) A statement explaining that appearing on each 2130  
customer's bill is a price-to-compare notice that lists the 2131  
natural gas company's default rate for natural gas charged to 2132  
customers who decide not to shop for a competitive supplier. 2133

(B) The notices shall be sent by standard United States 2134  
mail as follows: 2135

(1) The supplier shall send the first notice not earlier 2136  
than ninety days and not later than sixty days prior to the 2137  
expiration of the fixed rate. 2138

(2) The supplier shall send the second notice not earlier 2139  
than forty-five days and not later than thirty days prior to the 2140  
expiration of the fixed rate. 2141

(C) A competitive retail natural gas service supplier 2142  
shall provide an annual notice, by standard United States mail, 2143

to each residential customer and non-mercantile commercial 2144  
customer that has entered into a contract with the supplier that 2145  
has converted to a variable rate upon the expiration of the 2146  
contract's fixed introductory rate. The notice shall inform the 2147  
customer that the customer is currently subject to a variable 2148  
rate and that other fixed rate contracts are available. 2149

(D) Not later than one hundred fifty days after the 2150  
effective date of this section, the commission shall adopt rules 2151  
in order to implement divisions (A) to (C) of this section. The 2152  
rules, at a minimum, shall include the following requirements 2153  
regarding the notices required under divisions (A) to (C) of 2154  
this section: 2155

(1) To use clear and unambiguous language in order to 2156  
enable the customer to make an informed decision; 2157

(2) To design the notices in a way to ensure that they 2158  
cannot be confused with marketing materials. 2159

(E) Notwithstanding any provision of section 121.95 of the 2160  
Revised Code to the contrary, a regulatory restriction contained 2161  
in a rule adopted under section 4929.221 of the Revised Code is 2162  
not subject to sections 121.95 to 121.953 of the Revised Code. 2163

**Sec. 4929.222.** (A) As used in this section, "customer 2164  
account information" means a unique natural gas company number 2165  
or other customer identification number used by the company to 2166  
identify a customer and the customer's account record. 2167

(B) The public utilities commission shall adopt rules to 2168  
ensure that a natural gas company processes a customer's change 2169  
in competitive retail natural gas supplier by using customer 2170  
account information. A customer who consents to a change of 2171  
supplier shall not be required to provide customer account 2172

information to the supplier if the customer provides a valid 2173  
form of government-issued identification issued to the customer 2174  
or a sufficient alternative form of identification that allows 2175  
the supplier to establish the customer's identity accurately. 2176

(C) Notwithstanding any provision of section 121.95 of the 2177  
Revised Code to the contrary, a regulatory restriction contained 2178  
in a rule adopted under this section is not subject to sections 2179  
121.95 to 121.953 of the Revised Code. 2180

**Sec. 4933.51.** As used in sections 4933.51 to 4933.59 of 2181  
the Revised Code: 2182

(A) "Applicant" means a supplier that has applied for 2183  
certification under the consumer choice billing program 2184  
established under sections 4933.51 to 4933.59 of the Revised 2185  
Code. 2186

(B) "Consumer" means a residential, commercial, or 2187  
industrial customer of retail electric service or retail natural 2188  
gas service. 2189

(C) "Competitive retail electric service" and "electric 2190  
distribution utility" have the same meanings as in section 2191  
4928.01 of the Revised Code. 2192

(D) "Competitive retail natural gas supplier" and "natural 2193  
gas company" have the same meanings as in section 4929.01 of the 2194  
Revised Code. 2195

(E) "Supplier" means a supplier of competitive retail 2196  
electric service or a competitive retail natural gas supplier. 2197

**Sec. 4933.52.** (A) There is created the consumer choice 2198  
billing program, which shall be administered by the public 2199  
utilities commission. The purpose of the program is to do the 2200

<u>following:</u>	2201
<u>(1) Permit suppliers to offer consumers consolidated</u>	2202
<u>billing of retail electric services or retail natural gas</u>	2203
<u>services for all electric or natural gas charges, including an</u>	2204
<u>electric distribution utility's or natural gas company's</u>	2205
<u>distribution and transmission charges;</u>	2206
<u>(2) Enhance consumer protections for consumers who select</u>	2207
<u>a supplier and elect to be billed by that supplier for all</u>	2208
<u>charges for electric service or natural gas service;</u>	2209
<u>(3) Increase competition in supplier marketplaces;</u>	2210
<u>(4) Develop direct and transparent relationships between</u>	2211
<u>consumers and suppliers.</u>	2212
<u>(B) The commission shall adopt rules to authorize consumer</u>	2213
<u>choice billing and accomplish the purposes described in division</u>	2214
<u>(A) of this section.</u>	2215
<b>Sec. 4933.54.</b> <u>(A) The public utilities commission shall</u>	2216
<u>adopt rules to implement the consumer choice billing program</u>	2217
<u>created under section 4933.52 of the Revised Code. The rules</u>	2218
<u>shall require a supplier to do the following:</u>	2219
<u>(1) Apply for a new or amended certification under section</u>	2220
<u>4928.08 or 4929.20 of the Revised Code, as applicable, that also</u>	2221
<u>authorizes the supplier's participation in the consumer choice</u>	2222
<u>billing program;</u>	2223
<u>(2) If the applicant is applying for an amended</u>	2224
<u>certification, maintain a current, valid certification under</u>	2225
<u>section 4928.08 or 4929.20 of the Revised Code and, prior to</u>	2226
<u>offering or providing consumer choice billing, submit to the</u>	2227
<u>commission a statement affirming that the applicant will not</u>	2228

offer or provide consumer choice billing without such 2229  
certification and commission authorization to provide such 2230  
billing under the program; 2231

(3) Maintain the following, in addition to meeting 2232  
applicable financial assurances required under section 4928.08 2233  
or 4929.20 of the Revised Code: 2234

(a) If the applicant is a competitive retail electric 2235  
supplier, bonding or financial assurances with the commission 2236  
for sales of electricity in the amount of two hundred fifty 2237  
thousand dollars or ten per cent of the applicant's annual gross 2238  
receipts, whichever is greater; 2239

(b) If the applicant is a competitive retail natural gas 2240  
supplier, bonding or financial assurances with each natural gas 2241  
company in the service territory where the applicant provides 2242  
service; 2243

(c) Bonding or financial assurances with each electric 2244  
distribution utility and natural gas company where the applicant 2245  
plans to offer consumer choice billing in an amount equal to the 2246  
sum of the two highest months of utility receivables in the 2247  
previous twelve months. 2248

(4) (a) Certify that the applicant has not had its 2249  
certification under section 4928.08 or 4929.20 revoked during 2250  
the previous five-year period; 2251

(b) Certify that, for bills that include supplier charges 2252  
and electric distribution utility or natural gas company 2253  
charges, the applicant will comply with the standards for 2254  
billing practices and minimum service requirements under 2255  
sections 4928.10 and 4929.22 of the Revised Code, as applicable; 2256

(c) Demonstrate that the applicant is able to meet the 2257

demands of increased consumer service and dispute resolution 2258  
functions, including the operation of call centers, support of 2259  
complex billing requirements, responsible execution of 2260  
collections functions, quality assurance, and recordkeeping 2261  
necessary to handle electric distribution utility and natural 2262  
gas company charges that contribute to potential electric or 2263  
natural gas service disconnections; 2264

(d) Attest to the applicant's ability to comply with 2265  
applicable requirements related to payment plans for utility 2266  
service and to assist consumers with other payment plan options 2267  
by employing new or existing consumer assistance programs prior 2268  
to initiating the process for service termination; 2269

(e) Agree to purchase the receivables for regulated 2270  
charges of an electric distribution utility or natural gas 2271  
distribution company, as applicable; 2272

(f) Agree to timely inform the commission of any material 2273  
change or the cancellation of the bonding or assurances required 2274  
under division (A) (3) of this section; 2275

(g) Agree to comply with Ohio administrative rules 2276  
regarding standards of conduct for suppliers and disclosures, 2277  
marketing, and sales practice requirements for suppliers. 2278

(B) The commission also shall adopt rules that do the 2279  
following: 2280

(1) Establish a process for an applicant to petition the 2281  
commission for authorization to provide consumer choice billing 2282  
through a third party if the applicant meets the qualifications 2283  
under divisions (A) (3) and (4) of this section; 2284

(2) Authorize a mechanism to create a bypassable billing 2285  
service charge that: 2286

<u>(a) Is wholly based on the fully unbundled direct and</u>	2287
<u>indirect costs of an electric distribution utility's or a</u>	2288
<u>natural gas company's billing system;</u>	2289
<u>(b) Guarantees the recovery of all prudent investments in</u>	2290
<u>billing infrastructure;</u>	2291
<u>(c) May be imposed only after a commission-imposed</u>	2292
<u>prudency review that occurs prior to the implementation of</u>	2293
<u>consumer choice billing.</u>	2294
<u>(3) Require an electric distribution utility and a natural</u>	2295
<u>gas company to timely furnish necessary billing data to</u>	2296
<u>suppliers participating in the consumer choice billing program;</u>	2297
<u>(4) Create a standardized form of consumer notice to be</u>	2298
<u>used when a supplier ceases to provide a particular type of</u>	2299
<u>billing or other service;</u>	2300
<u>(5) Establish a consumer choice billing working group for</u>	2301
<u>stakeholders to draft tariff provisions, collect data, design</u>	2302
<u>business processes, configure electronic transactions, review</u>	2303
<u>similar consumer choice billing programs in other states, define</u>	2304
<u>a comprehensive consumer choice billing education program to</u>	2305
<u>support the launch of consumer choice billing in the state, and</u>	2306
<u>consider any other relevant matters, including the process for</u>	2307
<u>disconnection or termination of utility service;</u>	2308
<u>(6) Establish an electronic data exchange working group to</u>	2309
<u>develop proposed electronic transactions for an electric</u>	2310
<u>distribution utility, natural gas company, or supplier to</u>	2311
<u>exchange necessary consumption, billing, payment, and related</u>	2312
<u>data;</u>	2313
<u>(7) Prohibit an electric distribution utility or natural</u>	2314
<u>gas company from requiring a supplier to purchase a consumer's</u>	2315



<u>arrears from the electric distribution utility or natural gas</u>	2316
<u>company;</u>	2317
<u>(8) Prohibit an electric distribution utility or natural</u>	2318
<u>gas company from utilizing consumer information to do the</u>	2319
<u>following:</u>	2320
<u>(a) Market the standard service offer for electric service</u>	2321
<u>or the standard choice offer for natural gas service;</u>	2322
<u>(b) Research or market other electric distribution utility</u>	2323
<u>or natural gas company services;</u>	2324
<u>(c) Share information the electric distribution utility or</u>	2325
<u>natural gas company acquires through electronic transactions</u>	2326
<u>that facilitate consumer choice billing with unregulated</u>	2327
<u>affiliates of the electric distribution utility, natural gas</u>	2328
<u>company, or any other nongovernmental entity.</u>	2329
<u>(9) Establish the terms and conditions for the following:</u>	2330
<u>(a) A supplier to change a consumer's billing method to or</u>	2331
<u>from consumer choice billing and the corresponding content and</u>	2332
<u>timing of notifications to consumers;</u>	2333
<u>(b) For a consumer that is on budget billing with an</u>	2334
<u>electric distribution utility or natural gas company at the time</u>	2335
<u>of the switch to consumer choice billing;</u>	2336
<u>(c) A supplier's purchase of an electric distribution</u>	2337
<u>utility's or natural gas company's receivables, including</u>	2338
<u>prioritization for partial payments and a dispute resolution</u>	2339
<u>process;</u>	2340
<u>(d) Nonpayment by a consumer choice billing consumer,</u>	2341
<u>including the content of collection notices, purchase of</u>	2342
<u>arrears, unpaid charges, and limitations.</u>	2343

(10) A consumer choice billing consumer's participation in 2344  
the percentage of income assistance program under section 2345  
4928.53 of the Revised Code. 2346

(C) In addition to the penalties described in divisions 2347  
(A) (1) and (2) of section 4933.59 of the Revised Code, the 2348  
commission shall adopt rules to establish fines or other 2349  
penalties for violations of requirements established under 2350  
sections 4933.52 to 4933.58 of the Revised Code. 2351

(D) Notwithstanding any provision of section 121.95 of the 2352  
Revised Code to the contrary, a regulatory restriction contained 2353  
in a rule adopted under section 4933.54 of the Revised Code is 2354  
not subject to sections 121.95 to 121.953 of the Revised Code. 2355

**Sec. 4933.56.** (A) Not later than forty-five days after the 2356  
effective date of this section, the public utilities commission 2357  
shall issue an order requiring electric distribution utilities 2358  
and natural gas companies to prepare a consumer choice billing 2359  
implementation plan, which shall be subject to commission 2360  
approval. Each electric distribution utility and natural gas 2361  
company shall submit its implementation plan to the commission 2362  
not later than one hundred eighty days after the commission has 2363  
adopted the consumer choice billing rules pursuant to section 2364  
4933.54 of the Revised Code. 2365

The implementation plan shall demonstrate how the electric 2366  
distribution utility or natural gas company will meet the 2367  
consumer choice billing requirements established by rule 2368  
pursuant to section 4933.54 of the Revised Code and shall 2369  
include all tariffs, agreements, processes, proposed cost 2370  
recovery mechanisms, and other components that will require 2371  
commission approval in accordance with the commission's consumer 2372  
choice billing order. 2373

If necessary, the commission may approve an implementation plan on an expedited basis. 2374  
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(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. 2376  
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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: 2381  
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(A) Statistics for the number of consumers who shop for retail electric and natural gas service; 2390  
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(B) The number and description of consumer complaints; 2392

(C) The number of billing disputes; 2393

(D) The number of service terminations; 2394

(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. 2395  
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2397  
2398

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 2399  
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impose any of the following penalties, subject to notice and a hearing: 2402  
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(1) A suspension or revocation of the supplier's participation in the consumer choice billing program; 2404  
2405

(2) A suspension or revocation of the supplier's certification under section 4928.08 or 4928.20 of the Revised Code, as applicable; 2406  
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(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. 2409  
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(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. 2412  
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(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. 2419  
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**Sec. 5727.01.** As used in this chapter: 2423

(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. 2424  
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(B) "Gross receipts" means the entire receipts for 2429

business done by any person from operations as a public utility, 2430  
or incidental thereto, or in connection therewith, including any 2431  
receipts received under Chapter 4928. of the Revised Code. The 2432  
gross receipts for business done by an incorporated company 2433  
engaged in operation as a public utility includes the entire 2434  
receipts for business done by such company under the exercise of 2435  
its corporate powers, whether from the operation as a public 2436  
utility or from any other business. 2437

(C) "Rural electric company" means any nonprofit 2438  
corporation, organization, association, or cooperative engaged 2439  
in the business of supplying electricity to its members or 2440  
persons owning an interest therein in an area the major portion 2441  
of which is rural. "Rural electric company" excludes an energy 2442  
company. 2443

(D) Any person: 2444

(1) Is a telegraph company when engaged in the business of 2445  
transmitting telegraphic messages to, from, through, or in this 2446  
state; 2447

(2) Is a telephone company when primarily engaged in the 2448  
business of providing local exchange telephone service, 2449  
excluding cellular radio service, in this state; 2450

(3) Is an electric company when engaged in the business of 2451  
generating, transmitting, or distributing electricity within 2452  
this state for use by others, but excludes a rural electric 2453  
company or an energy company; 2454

(4) Is a natural gas company when engaged in the business 2455  
of supplying or distributing natural gas for lighting, power, or 2456  
heating purposes to consumers within this state, excluding a 2457  
person that is a governmental aggregator or retail natural gas 2458

supplier as defined in section 4929.01 of the Revised Code;	2459
(5) Is a pipe-line company when engaged in the business of	2460
transporting natural gas, oil, or coal or its derivatives	2461
through pipes or tubing, either wholly or partially within this	2462
state;	2463
(6) Is a water-works company when engaged in the business	2464
of supplying water through pipes or tubing, or in a similar	2465
manner, to consumers within this state;	2466
(7) Is a water transportation company when engaged in the	2467
transportation of passengers or property, by boat or other	2468
watercraft, over any waterway, whether natural or artificial,	2469
from one point within this state to another point within this	2470
state, or between points within this state and points without	2471
this state;	2472
(8) Is a heating company when engaged in the business of	2473
supplying water, steam, or air through pipes or tubing to	2474
consumers within this state for heating purposes;	2475
(9) Is a railroad company when engaged in the business of	2476
owning or operating a railroad either wholly or partially within	2477
this state on rights-of-way acquired and held exclusively by	2478
such company, or otherwise, and includes a passenger, street,	2479
suburban, or interurban railroad company;	2480
(10) Is an energy company when engaged in the business of	2481
generating, transmitting, or distributing electricity within	2482
this state for use by others solely from an energy facility with	2483
an aggregate nameplate capacity in excess of two hundred fifty	2484
kilowatts.	2485
As used in division (D) (2) of this section, "local	2486
exchange telephone service" means making available or furnishing	2487

access and a dial tone to all persons within a local calling 2488  
area for use in originating and receiving voice grade 2489  
communications over a switched network operated by the provider 2490  
of the service within the area and for gaining access to other 2491  
telecommunication services. 2492

(E) "Taxable property" means the property required by 2493  
section 5727.06 of the Revised Code to be assessed by the tax 2494  
commissioner, but does not include either of the following: 2495

(1) An item of tangible personal property that for the 2496  
period subsequent to the effective date of an air, water, or 2497  
noise pollution control certificate and continuing so long as 2498  
the certificate is in force, has been certified as part of the 2499  
pollution control facility with respect to which the certificate 2500  
has been issued; 2501

(2) An item of tangible personal property that during the 2502  
construction of a plant or facility and until the item is first 2503  
capable of operation, whether actually used in operation or not, 2504  
is incorporated in or being held exclusively for incorporation 2505  
in that plant or facility. 2506

Notwithstanding section 5701.03 of the Revised Code, for 2507  
tax year 2006 and thereafter, "taxable property" includes 2508  
patterns, jigs, dies, and drawings of an electric company or a 2509  
combined company for use in the activity of an electric company. 2510

(F) "Taxing district" means a municipal corporation or 2511  
township, or part thereof, in which the aggregate rate of 2512  
taxation is uniform. 2513

(G) "Telecommunications service" has the same meaning as 2514  
in division (AA) of section 5739.01 of the Revised Code. 2515

(H) "Interexchange telecommunications company" means a 2516

person that is engaged in the business of transmitting 2517  
telephonic messages to, from, through, or in this state, but 2518  
that is not a telephone company. 2519

(I) "Sale and leaseback transaction" means a transaction 2520  
in which a public utility or interexchange telecommunications 2521  
company sells any tangible personal property to a person other 2522  
than a public utility or interexchange telecommunications 2523  
company and leases that property back from the buyer. 2524

(J) "Production equipment" means all taxable steam, 2525  
nuclear, hydraulic, renewable resource, clean coal technology, 2526  
and other production plant equipment used to generate 2527  
electricity. For tax years prior to 2001, "production equipment" 2528  
includes taxable station equipment that is located at a 2529  
production plant. 2530

(K) "Tax year" means the year for which property or gross 2531  
receipts are subject to assessment under this chapter. This 2532  
division does not limit the tax commissioner's ability to assess 2533  
and value property or gross receipts outside the tax year. 2534

(L) "Combined company" means any person engaged in the 2535  
activity of an electric company or rural electric company that 2536  
is also engaged in the activity of a heating company or a 2537  
natural gas company, or any combination thereof. 2538

(M) "Public utility property lessor" means any person, 2539  
other than a public utility or an interexchange 2540  
telecommunications company, that leases personal property, other 2541  
than in a sale and leaseback transaction, to a public utility, 2542  
other than a railroad, water transportation, telephone, or 2543  
telegraph company if the property would be taxable property if 2544  
owned by the public utility. A public utility property lessor is 2545



subject to this chapter only for the purposes of reporting and 2546  
paying tax on taxable property it leases to a public utility 2547  
other than a telephone or telegraph company. A public utility 2548  
property lessor that leases property to a public utility other 2549  
than a telephone or telegraph company is not a public utility, 2550  
but it shall report its property and be assessed in the same 2551  
manner as the utility to which it leases the property. 2552

(N) "Energy resource" means any of the following: 2553

(1) "Renewable energy resource" as defined in section 2554  
4928.01 of the Revised Code; 2555

(2) "Clean coal technology" as described in division (A) 2556  
(34) (c) of section 4928.01 of the Revised Code; 2557

(3) "Advanced nuclear technology" as described in division 2558  
(A) (34) (d) of section 4928.01 of the Revised Code; 2559

(4) "Cogeneration technology" as described in division (A) 2560  
(34) (b) of section 4928.01 of the Revised Code. 2561

(O) "Energy conversion equipment" means tangible personal 2562  
property connected to a wind turbine tower, connected to and 2563  
behind solar radiation collector areas and designed to convert 2564  
the radiant energy of the sun into electricity or heat, or 2565  
connected to any other property used to generate electricity 2566  
from an energy resource, through which electricity is 2567  
transferred to controls, transformers, or power electronics and 2568  
to the transmission interconnection point. 2569

"Energy conversion equipment" includes, but is not limited 2570  
to, inverters, batteries, switch gears, wiring, collection 2571  
lines, substations, ancillary tangible personal property, or any 2572  
lines and associated tangible personal property located between 2573  
substations and the transmission interconnection point. 2574

(P) "Energy facility" means one or more interconnected 2575  
wind turbines, solar panels, or other tangible personal property 2576  
used to generate electricity from an energy resource owned by 2577  
the same person, including: 2578

(1) All interconnection equipment, devices, and related 2579  
apparatus connected to such tangible personal property; 2580

(2) All cables, equipment, devices, and related apparatus 2581  
that connect the generators to an electricity grid or to a 2582  
building or facility that directly consumes the electricity 2583  
produced, that facilitate the transmission of electrical energy 2584  
from the generators to the grid, building, or facility, and, 2585  
where applicable, that transform voltage before ultimate 2586  
delivery of electricity to the grid, building, or facility. 2587

"Energy facility" includes buildings, structures, 2588  
improvements, or fixtures exclusively used to house, support, or 2589  
stabilize tangible personal property constituting the facility 2590  
or that are otherwise necessary for the operation of that 2591  
property; and so much of the land on which such tangible 2592  
personal property is situated as is required for operation of 2593  
the facility and is not devoted to some other use, not to 2594  
exceed, in the case of wind turbines, one-half acre for each 2595  
wind turbine, and regardless of whether the land is owned by the 2596  
owner or lessee of the tangible personal property or by another 2597  
person. 2598

(Q) "Nameplate capacity" means the original interconnected 2599  
maximum rated alternating current output of a generator or other 2600  
electric production equipment under specific conditions 2601  
designated by the manufacturer, expressed in the number of 2602  
kilowatts or megawatts. 2603

(R) "Qualifying production equipment" means production 2604  
equipment that is owned by or leased to an electric company or 2605  
energy company or that is owned by or leased to a combined 2606  
company for use in the activity of an electric company. 2607

**Sec. 5727.031.** (A) A person that is engaged in some other 2608  
primary business to which the supplying of electricity to others 2609  
is incidental shall file a report under section 5727.08 of the 2610  
Revised Code as an electric company but shall only report 2611  
therein as taxable property the amounts required in divisions 2612  
(B) and (C) of this section. All time limits and other 2613  
procedural requirements of this chapter for the reporting and 2614  
assessment of property of electric companies apply to persons 2615  
required to file a report under this section. For the purposes 2616  
of this section, "the supplying of electricity to others" shall 2617  
not include donating all of the electricity a person generates 2618  
to a political subdivision of the state. 2619

(B) A person subject to this section shall report the true 2620  
value of ~~the boilers, machinery, equipment, and any personal~~ 2621  
property that is used to supply electricity to others, ~~which~~ 2622  
~~shall be the sum of the following:~~ 2623

~~(1) The true value of the property that is production~~ 2624  
~~equipment as it would be determined for an electric company~~ 2625  
~~under section 5727.11 of the Revised Code multiplied by the per~~ 2626  
~~cent of the electricity generated in the preceding calendar year~~ 2627  
~~that was not used by the person who generated it; plus~~ 2628

~~(2) The true value of the property~~ and that is not 2629  
production equipment, ~~as it~~ such true value would be determined 2630  
for an electric company under section 5727.11 of the Revised 2631  
Code, multiplied by the per cent of the electricity generated in 2632  
the preceding calendar year that was not used by the person who 2633

generated it. 2634

(C) The property reported under division (B) of this 2635  
section shall be listed and assessed at an amount equal to the 2636  
~~sum of the products determined under divisions (C) (1) and (2) of~~ 2637  
~~this section.~~ 2638

~~(1) Multiply the portion of the true value determined~~ 2639  
~~under division (B) (1) of this section by the assessment rate in~~ 2640  
~~section 5727.111 of the Revised Code that is applicable to the~~ 2641  
~~production equipment of an electric company;~~ 2642

~~(2) Multiply the portion of product obtained by~~ 2643  
~~multiplying the true value determined under division (B) (2) (B)~~ 2644  
~~of this section by the assessment rate in section 5727.111 of~~ 2645  
~~the Revised Code that is applicable to the taxable property of~~ 2646  
~~an electric company that is not production equipment.~~ 2647

**Sec. 5727.06.** (A) Except as otherwise provided by law, the 2648  
following constitutes the taxable property of a public utility, 2649  
interexchange telecommunications company, or public utility 2650  
property lessor that shall be assessed by the tax commissioner: 2651

(1) For tax years before tax year 2006: 2652

(a) In the case of a railroad company, all real property 2653  
and tangible personal property owned or operated by the railroad 2654  
company in this state on the thirty-first day of December of the 2655  
preceding year; 2656

(b) In the case of a water transportation company, all 2657  
tangible personal property, except watercraft, owned or operated 2658  
by the water transportation company in this state on the thirty- 2659  
first day of December of the preceding year and all watercraft 2660  
owned or operated by the water transportation company in this 2661  
state during the preceding calendar year; 2662

(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:	2663 2664 2665 2666
(i) Owned by the public utility or interexchange telecommunications company; or	2667 2668
(ii) Leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction.	2669 2670 2671
(2) For tax years 2006, 2007, and 2008:	2672
(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;	2673 2674 2675 2676
(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;	2677 2678 2679 2680 2681 2682
(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.	2683 2684 2685 2686 2687 2688
(3) For tax year 2009 and each tax year thereafter:	2689
(a) In the case of a railroad company, all real property	2690

used in railroad operations and tangible personal property owned 2691  
or operated by the railroad company in this state on the thirty- 2692  
first day of December of the preceding year; 2693

(b) In the case of a water transportation company, all 2694  
tangible personal property, except watercraft, owned or operated 2695  
by the water transportation company in this state on the thirty- 2696  
first day of December of the preceding year and all watercraft 2697  
owned or operated by the water transportation company in this 2698  
state during the preceding calendar year; 2699

(c) In the case of all other public utilities except 2700  
telephone and telegraph companies, all tangible personal 2701  
property except qualifying production equipment that on the 2702  
thirty-first day of December of the preceding year was both 2703  
located in this state and either owned by the public utility or 2704  
leased by the public utility under a sale and leaseback 2705  
transaction, and that is not exempted from taxation under 2706  
section 5727.75 of the Revised Code; 2707

(d) In the case of a public utility property lessor, all 2708  
personal property except qualifying production equipment that on 2709  
the thirty-first day of December of the preceding year was both 2710  
located in this state and leased, in other than a sale and 2711  
leaseback transaction, to a public utility other than a 2712  
railroad, telephone, telegraph, or water transportation company. 2713  
The assessment rate used under section 5727.111 of the Revised 2714  
Code shall be based on the assessment rate that would apply if 2715  
the public utility owned the property, and that is not exempted 2716  
from taxation under section 5727.75 of the Revised Code. 2717

(4) For tax years 2005 and 2006, in the case of telephone, 2718  
telegraph, or interexchange telecommunications companies, all 2719  
tangible personal property that on the thirty-first day of 2720

December of the preceding year was both located in this state 2721  
and either owned by the telephone, telegraph, or interexchange 2722  
telecommunications company or leased by the telephone, 2723  
telegraph, or interexchange telecommunications company under a 2724  
sale and leaseback transaction. 2725

(5) (a) For tax year 2007 and thereafter, in the case of 2726  
telephone, telegraph, or interexchange telecommunications 2727  
companies, all tangible personal property shall be listed and 2728  
assessed for taxation under Chapter 5711. of the Revised Code, 2729  
but the tangible personal property shall be valued in accordance 2730  
with this chapter using the composite annual allowances and 2731  
other valuation procedures prescribed under section 5727.11 of 2732  
the Revised Code by the tax commissioner for such property for 2733  
tax year 2006, notwithstanding any section of Chapter 5711. of 2734  
the Revised Code to the contrary. 2735

(b) A telephone, telegraph, or interexchange 2736  
telecommunications company subject to division (A) (5) (a) of this 2737  
section shall file a combined return with the tax commissioner 2738  
in accordance with section 5711.13 of the Revised Code even if 2739  
the company has tangible personal property in only one county. 2740  
Such a company also is subject to the issuance of a preliminary 2741  
assessment certificate by the tax commissioner under section 2742  
5711.25 of the Revised Code. Such a company is not required to 2743  
file a county supplemental return under section 5711.131 of the 2744  
Revised Code. 2745

(6) In the case of an energy company, for tax year 2011 2746  
and each tax year thereafter, all tangible personal property 2747  
except qualifying production equipment that on the thirty-first 2748  
day of December of the preceding year was both located in this 2749  
state and either owned by the company or leased by the company 2750

under a sale and leaseback transaction, and that is not exempted 2751  
from taxation under section 5727.75 of the Revised Code. 2752

(B) This division applies to tax years before tax year 2753  
2007. 2754

In the case of an interexchange telecommunications 2755  
company, all taxable property shall be subject to the provisions 2756  
of this chapter and shall be valued by the commissioner in 2757  
accordance with division (A) of section 5727.11 of the Revised 2758  
Code. A person described by this division shall file the report 2759  
required by section 5727.08 of the Revised Code. Persons 2760  
described in this division shall not be considered taxpayers, as 2761  
defined in division (B) of section 5711.01 of the Revised Code, 2762  
and shall not be required to file a return and list their 2763  
taxable property under any provision of Chapter 5711. of the 2764  
Revised Code. 2765

(C) The lien of the state for taxes levied each year on 2766  
the real and personal property of public utilities and 2767  
interexchange telecommunications companies and on the personal 2768  
property of public utility property lessors shall attach thereto 2769  
on the thirty-first day of December of the preceding year. 2770

(D) Property that is required by division (A) (3) (b) of 2771  
this section to be assessed by the tax commissioner under this 2772  
chapter shall not be listed by the owner of the property under 2773  
Chapter 5711. of the Revised Code. 2774

(E) The ten-thousand-dollar exemption provided for in 2775  
division (C) (3) of section 5709.01 of the Revised Code does not 2776  
apply to any personal property that is valued under this 2777  
chapter. 2778

(F) The tax commissioner may adopt rules governing the 2779



listing of the taxable property of public utilities and 2780  
interexchange telecommunications companies and the determination 2781  
of true value. 2782

**Sec. 5727.11.** (A) Except as otherwise provided in this 2783  
section, the true value of all taxable property, except property 2784  
of a railroad company, required by section 5727.06 of the 2785  
Revised Code to be assessed by the tax commissioner shall be 2786  
determined by a method of valuation using cost as capitalized on 2787  
the public utility's books and records less composite annual 2788  
allowances as prescribed by the commissioner. If the 2789  
commissioner finds that application of this method will not 2790  
result in the determination of true value of the public 2791  
utility's taxable property, the commissioner may use another 2792  
method of valuation. 2793

(B) (1) Except as provided in division (B) (2) of this 2794  
section, the true value of current gas stored underground is the 2795  
cost of that gas shown on the books and records of the public 2796  
utility on the thirty-first day of December of the preceding 2797  
year. 2798

(2) For tax year 2001 and thereafter, the true value of 2799  
current gas stored underground is the quotient obtained by 2800  
dividing (a) the average value of the current gas stored 2801  
underground, which shall be determined by adding the value of 2802  
the gas on hand at the end of each calendar month in the 2803  
calendar year preceding the tax year, or, if applicable, the 2804  
last day of business of each month for a partial month, divided 2805  
by (b) the total number of months the natural gas company was in 2806  
business during the calendar year prior to the beginning of the 2807  
tax year. With the approval of the tax commissioner, a natural 2808  
gas company may use a date other than the end of a calendar 2809

month to value its current gas stored underground. 2810

(C) The true value of noncurrent gas stored underground is 2811  
thirty-five per cent of the cost of that gas shown on the books 2812  
and records of the public utility on the thirty-first day of 2813  
December of the preceding year. 2814

(D) (1) Except as provided in division (D) (2) of this 2815  
section, the true value of ~~the production equipment of an~~ 2816  
~~electric company and the true value of all~~ taxable property of a 2817  
rural electric company is the equipment's or property's cost as 2818  
capitalized on the company's books and records less fifty per 2819  
cent of that cost as an allowance for depreciation and 2820  
obsolescence. 2821

(2) The true value of the production equipment of a rural 2822  
electric company or energy conversion equipment of an electric 2823  
company, rural electric company, or energy company purchased, 2824  
transferred, or placed into service after October 5, 1999, is 2825  
the purchase price of the equipment as capitalized on the 2826  
company's books and records less composite annual allowances as 2827  
prescribed by the tax commissioner. 2828

(E) The true value of taxable property, except property of 2829  
a railroad company, required by section 5727.06 of the Revised 2830  
Code to be assessed by the tax commissioner shall not include 2831  
the allowance for funds used during construction or interest 2832  
during construction that has been capitalized on the public 2833  
utility's books and records as part of the total cost of the 2834  
taxable property. This division shall not apply to the taxable 2835  
property of an electric company or a rural electric company, 2836  
excluding transmission and distribution property, first placed 2837  
into service after December 31, 2000, or to the taxable property 2838  
a person purchases, which includes transfers, if that property 2839

was used in business by the seller prior to the purchase. 2840

(F) The true value of watercraft owned or operated by a 2841  
water transportation company shall be determined by multiplying 2842  
the true value of the watercraft as determined under division 2843  
(A) of this section by a fraction, the numerator of which is the 2844  
number of revenue-earning miles traveled by the watercraft in 2845  
the waters of this state and the denominator of which is the 2846  
number of revenue-earning miles traveled by the watercraft in 2847  
all waters. 2848

(G) The cost of property subject to a sale and leaseback 2849  
transaction is the cost of the property as capitalized on the 2850  
books and records of the public utility owning the property 2851  
immediately prior to the sale and leaseback transaction. 2852

(H) The cost as capitalized on the books and records of a 2853  
public utility includes amounts capitalized that represent 2854  
regulatory assets, if such amounts previously were included on 2855  
the company's books and records as capitalized costs of taxable 2856  
personal property. 2857

(I) Any change in the composite annual allowances as 2858  
prescribed by the commissioner on a prospective basis shall not 2859  
be admissible in any judicial or administrative action or 2860  
proceeding as evidence of value with regard to prior years' 2861  
taxes. Information about the business, property, or transactions 2862  
of any taxpayer obtained by the commissioner for the purpose of 2863  
adopting or modifying the composite annual allowances shall not 2864  
be subject to discovery or disclosure. 2865

**Sec. 5727.111.** The taxable property of each public 2866  
utility, except a railroad company, and of each interexchange 2867  
telecommunications company shall be assessed at the following 2868

percentages of true value:	2869
(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;	2870 2871 2872 2873
(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:	2874 2875 2876 2877 2878 2879
(1) For tax years prior to 2005, eighty-eight per cent;	2880
(2) For tax year 2005, sixty-seven per cent;	2881
(3) For tax year 2006, forty-six per cent;	2882
(4) For tax year 2007 and thereafter, pursuant to division (H) of section 5711.22 of the Revised Code.	2883 2884
(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;	2885 2886 2887 2888
(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;	2889 2890 2891 2892
(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;	2893 2894 2895 2896

~~(2) For tax year 2006 and each tax year thereafter, in~~ 2897  
the case of an electric company, ~~eighty-five~~ eighty-nine per 2898  
cent in the case of its taxable transmission and distribution 2899  
property and its energy conversion equipment, and twenty-four 2900  
per cent for all its other taxable property. 2901

(F) (1) Twenty-five per cent in the case of an 2902  
interexchange telecommunications company for tax years before 2903  
tax year 2007; 2904

(2) Pursuant to division (H) of section 5711.22 of the 2905  
Revised Code for tax year 2007 and thereafter. 2906

(G) Twenty-five per cent in the case of a water 2907  
transportation company; 2908

~~(H) For tax year 2011 and each tax year thereafter~~ Eighty- 2909  
nine per cent in the case of an energy company, ~~twenty-four per~~ 2910  
~~cent in the case of its taxable production equipment, and~~ 2911  
~~eighty-five per cent for all its other taxable property.~~ 2912

**Sec. 5727.15.** When all the taxable property of a public 2913  
utility is located in one taxing district, the tax commissioner 2914  
shall apportion the total taxable value thereof to that taxing 2915  
district. 2916

When taxable property of a public utility is located in 2917  
more than one taxing district, the commissioner shall apportion 2918  
the total taxable value thereof among the taxing districts as 2919  
follows: 2920

(A) (1) In the case of a telegraph, interexchange 2921  
telecommunications, or telephone company that owns miles of wire 2922  
in this state, the value apportioned to each taxing district 2923  
shall be the same percentage of the total value apportioned to 2924  
all taxing districts as the miles of wire owned by the company 2925

within the taxing district are to the total miles of wire owned 2926  
by the company within this state; 2927

(2) In the case of a telegraph, interexchange 2928  
telecommunications, or telephone company that does not own miles 2929  
of wire in this state, the value apportioned to each taxing 2930  
district shall be the same percentage of the total value 2931  
apportioned to all taxing districts as the cost of the taxable 2932  
property physically located in the taxing district is of the 2933  
total cost of all taxable property physically located in this 2934  
state. 2935

(B) In the case of a railroad company: 2936

(1) The taxable value of real and personal property not 2937  
used in railroad operations shall be apportioned according to 2938  
its situs; 2939

(2) The taxable value of personal property used in 2940  
railroad operations shall be apportioned to each taxing district 2941  
in proportion to the miles of track and trackage rights, 2942  
weighted to reflect the relative use of such personal property 2943  
in each taxing district; 2944

(3) The taxable value of real property used in railroad 2945  
operations shall be apportioned to each taxing district in 2946  
proportion to its relative value in each taxing district. 2947

~~(C) (1) Prior to tax year 2001, in the case of an electric 2948  
company: 2949~~

~~(a) Seventy per cent of the taxable value of all 2950  
production equipment and of all station equipment that is not 2951  
production equipment shall be apportioned to the taxing district 2952  
in which such property is physically located; and 2953~~

~~(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.~~ 2954  
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~~(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:~~ 2961  
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~~(i) Subtract four hundred twenty million dollars from the  
total taxable value of the production equipment at that plant  
for the current tax year.~~ 2968  
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~~(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;~~ 2971  
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~~(iii) Apportion the product thus obtained to taxing  
districts in the manner prescribed in division (C) (1) (b) of this  
section.~~ 2977  
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~~(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~~ 2980  
2981  
2982

~~(b) of this section.~~ 2983

~~For purposes of division (C) (1) (c) of this section,~~ 2984  
~~"initial cost" applies only to production equipment of plants~~ 2985  
~~placed in commercial operation on or after January 1, 1987, and~~ 2986  
~~means the cost of all production equipment at a plant for the~~ 2987  
~~first year the plant's equipment was subject to taxation.~~ 2988

~~(2) For tax year 2001 and thereafter, in the case of an~~ 2989  
~~electric company:~~ 2990

~~(a) The taxable value of all production equipment shall be~~ 2991  
~~apportioned to the taxing district in which such property is~~ 2992  
~~physically located; and~~ 2993

~~(b) The value of taxable personal property, including~~ 2994  
~~energy conversion equipment but excluding production equipment,~~ 2995  
~~shall be apportioned to each taxing district in the proportion~~ 2996  
~~that the cost of such other taxable personal property physically~~ 2997  
~~located in each taxing district is of the total cost of such~~ 2998  
~~other taxable personal property physically located in this~~ 2999  
~~state.~~ 3000

~~(D) For tax year 2011 and thereafter, in the case of the~~ 3001  
~~taxable property of an energy company:~~ 3002

~~(1) The taxable value of all production equipment shall be~~ 3003  
~~apportioned to the taxing district in which such property is~~ 3004  
~~physically located.~~ 3005

~~(2) The taxable value of all other taxable property,~~ 3006  
~~including energy conversion equipment, shall be apportioned to~~ 3007  
~~each taxing district in the proportion that the cost of such~~ 3008  
~~other taxable property physically located in each taxing~~ 3009  
~~district is of the total cost of such other taxable property~~ 3010  
~~physically located in this state.~~ 3011



~~(E)~~ (C) In the case of all other public utilities, the 3012  
taxable value of the property to be apportioned shall be 3013  
apportioned to each taxing district in the proportion to that 3014  
the cost of such property physically located in that taxing 3015  
district is of the entire cost of such property physically 3016  
located within this state. 3017

**Section 2.** That existing sections 4906.04, 4928.01, 3018  
4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 3019  
4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 3020  
4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 3021  
5727.06, 5727.11, 5727.111, and 5727.15 of the Revised Code are 3022  
hereby repealed. 3023

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 3024  
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 3025  
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 3026  
4928.642 of the Revised Code are hereby repealed. 3027

**Section 4.** (A) Notwithstanding the repeal by this act of 3028  
section 4928.148 of the Revised Code, a rider or cost recovery 3029  
mechanism for a legacy generation resource authorized under an 3030  
electric distribution utility's electric security plan in effect 3031  
on the effective date of this section shall remain in effect 3032  
until the termination date of the electric security plan. After 3033  
the termination date of the electric security plan, the electric 3034  
distribution utility shall not apply for, and the public 3035  
utilities commission shall not authorize, any rider or cost 3036  
recovery mechanism for a legacy generation resource. 3037

(B) Beginning on the effective date of this section, no 3038  
electric distribution utility shall collect from its retail 3039  
customers in the state any charge that was authorized under 3040  
section 3706.46 of the Revised Code to meet the revenue 3041

requirement for disbursements from the Solar Generation Fund to 3042  
owners or operators of qualifying solar resources that was 3043  
required under section 3706.55 of the Revised Code before the 3044  
repeal of these sections by this act. 3045

Beginning on the effective date of this section, the Ohio 3046  
Air Quality Development Authority is prohibited from directing 3047  
the Treasurer of State to remit, and the Treasurer is prohibited 3048  
from remitting, any money from the Solar Generation Fund to 3049  
owners or operators of qualifying solar resources, which 3050  
remittance was permitted under section 3706.55 of the Revised 3051  
Code prior to the repeal of that section by this act. 3052

**Section 5.** The amendment by this act of sections 5727.01, 3053  
5727.031, 5727.06, 5727.11, 5727.111, and 5727.15 of the Revised 3054  
Code applies to tax years beginning on or after the effective 3055  
date of this section. 3056