

As Reported by the House Energy Committee

136th General Assembly

Regular Session

2025-2026

Sub. H. B. No. 15

Representative Klopfenstein

Cosponsors: Representatives Brennan, Dovilla, Rogers, Thomas, D., Williams

To amend sections 122.6511, 4905.03, 4906.01, 1
4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 2
4906.10, 4906.201, 4909.04, 4909.05, 4909.052, 3
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4
4909.173, 4909.174, 4909.18, 4909.19, 4909.42, 5
4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 6
4928.141, 4928.142, 4928.144, 4928.151, 4928.17, 7
4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 8
4928.542, 4928.64, 4928.645, 4929.20, 4933.81, 9
4935.04, 5727.01, 5727.111, and 5727.75; to 10
enact new section 4906.105 and sections 1.66, 11
122.161, 4903.27, 4905.321, 4905.331, 4909.041, 12
4909.042, 4909.159, 4909.181, 4909.192, 13
4909.193, 4928.041, 4928.101, 4928.102, 14
4928.149, 4928.73, 4928.83, 4928.86, 4929.221, 15
4929.222, 4934.01, 4934.011, 4934.04, 4934.05, 16
4934.06, 4934.07, 4934.071, 4934.072, 4934.08, 17
4934.09, 4934.10, 4934.11, 4934.12, 4934.13, 18
4934.14, 4934.17, 4934.18, 4934.20, 4934.21, 19
4934.23, 4934.25, 4934.26, 4934.27, 4934.35, 20
4934.36, 4934.37, 4934.38, and 5727.76; and to 21
repeal sections 3706.40, 3706.41, 3706.43, 22
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 23
3706.55, 3706.551, 3706.59, 3706.63, 3706.65, 24
4906.105, 4928.143, 4928.148, 4928.47, and 25

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

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

Section 1. That sections 122.6511, 4905.03, 4906.01, 31
4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 4906.10, 4906.201, 32
4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 33
4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 4909.42, 34
4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 35
4928.144, 4928.151, 4928.17, 4928.20, 4928.23, 4928.231, 36
4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 37
4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 be amended and 38
new section 4906.105 and sections 1.66, 122.161, 4903.27, 39
4905.321, 4905.331, 4909.041, 4909.042, 4909.159, 4909.181, 40
4909.192, 4909.193, 4928.041, 4928.101, 4928.102, 4928.149, 41
4928.73, 4928.83, 4928.86, 4929.221, 4929.222, 4934.01, 42
4934.011, 4934.04, 4934.05, 4934.06, 4934.07, 4934.071, 43
4934.072, 4934.08, 4934.09, 4934.10, 4934.11, 4934.12, 4934.13, 44
4934.14, 4934.17, 4934.18, 4934.20, 4934.21, 4934.23, 4934.25, 45
4934.26, 4934.27, 4934.35, 4934.36, 4934.37, 4934.38, and 46
5727.76 of the Revised Code be enacted to read as follows: 47

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

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

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

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

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

Sec. 122.6511. (A) As used in this section and section 96
122.6512 of the Revised Code: 97

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

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

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

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

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

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

(a) Environmental or cultural resource site assessments; 121

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

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

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

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

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

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

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

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

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

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

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

(D) Funds from an appropriation not reserved under 165

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A pipe-line company, when engaged in the business of	255
transporting natural gas, oil, or coal or its derivatives	256
through pipes or tubing, either wholly or partly within this	257
state, but not when engaged in the business of the transport	258
associated with gathering lines, raw natural gas liquids, or	259
finished product natural gas liquids;	260
(G) A water-works company, when engaged in the business of	261
supplying water through pipes or tubing, or in a similar manner,	262
to consumers within this state;	263
(H) A heating or cooling company, when engaged in the	264
business of supplying water, steam, or air through pipes or	265
tubing to consumers within this state for heating or cooling	266
purposes;	267
(I) A messenger company, when engaged in the business of	268
supplying messengers for any purpose;	269
(J) A street railway company, when engaged in the business	270
of operating as a common carrier, a railway, wholly or partly	271
within this state, with one or more tracks upon, along, above,	272
or below any public road, street, alleyway, or ground, within	273
any municipal corporation, operated by any motive power other	274
than steam and not a part of an interurban railroad, whether the	275
railway is termed street, inclined-plane, elevated, or	276
underground railway;	277
(K) A suburban railroad company, when engaged in the	278
business of operating as a common carrier, whether wholly or	279
partially within this state, a part of a street railway	280
constructed or extended beyond the limits of a municipal	281
corporation, and not a part of an interurban railroad;	282
(L) An interurban railroad company, when engaged in the	283

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Reasonably allocate costs among rate schedules; 352

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

produces finished product natural gas liquids. 452

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

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

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

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

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

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

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

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

serving at the time of appointment. A quorum of the board is a 512
majority of its voting members. 513

The representative of the public and, notwithstanding 514
section 101.26 of the Revised Code, legislative members of the 515
board or their designated alternates, when engaged in their 516
duties as members of the board, shall be paid at the per diem 517
rate of step 1, pay range 32, under schedule B of section 124.15 518
of the Revised Code and shall be reimbursed for the actual and 519
necessary expenses they incur in the discharge of their official 520
duties. 521

(2) In all cases involving an application for a 522
certificate or a material amendment to an existing certificate 523
for a utility facility, as defined in section 303.57 of the 524
Revised Code, the board shall include two voting ad hoc members, 525
as described in section 4906.021 of the Revised Code. 526

(B) The chairperson shall keep a complete record of all 527
proceedings of the board, issue all necessary process, writs, 528
warrants, and notices, keep all books, maps, documents, and 529
papers ordered filed by the board, conduct investigations 530
pursuant to section 4906.07 of the Revised Code, and perform 531
such other duties as the board may prescribe. 532

(C) The chairperson of the public utilities commission may 533
assign or transfer duties among the commission's staff and may 534
also hire technical or legal staff as full-time employees of the 535
board. Such technical or legal staff shall be funded through 536
application fees or, if necessary, an additional fee assessment 537
on applicants for a certificate. However, the board's authority 538
to grant certificates under section 4906.10 of the Revised Code 539
shall not be exercised by any officer, employee, or body other 540
than the board itself. 541

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

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

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

Sec. 4906.03. The power siting board shall: 565

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

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

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

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

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

(1) An electric transmission line that is: 612

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

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

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

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

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

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

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

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

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

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

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

(3) Gas Pipeline infrastructure. 645

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) That other alternatives to the transmission project 862

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

governor and the general assembly. 1037

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

Sec. 4909.05. As used in this section: 1043

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

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

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

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

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

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

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

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

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

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

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

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

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

determined to be reasonable by the commission; 1126

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~revenue effect of the plant in service exclusion. Carrying~~ 1332
~~charges calculated in a manner similar to allowance for funds~~ 1333
~~used during construction shall accrue on that portion of the~~ 1334
~~project in service but not reflected in rates as plant in~~ 1335
~~service, and such accrued carrying charges shall be included in~~ 1336
~~the valuation of the property at the conclusion of the offset~~ 1337
~~period for purposes of division (C) (9) of section 4909.05 of the~~ 1338
~~Revised Code.~~ 1339

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

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

~~In the event that such period expires before the project~~ 1356
~~goes into service, the commission shall exclude, from the date~~ 1357
~~of expiration, the allowance for the project as construction~~ 1358
~~work in progress from rates, except that the commission may~~ 1359
~~extend the expiration date up to twelve months for good cause~~ 1360
~~shown.~~ 1361

~~In the event that a utility has permanently canceled, abandoned, or terminated construction of a project for which it was previously permitted a construction work in progress allowance, the commission immediately shall exclude the allowance for the project from the valuation.~~ 1362
1363
1364
1365
1366

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

~~In no event shall the total revenue effect of any offset or offsets provided under division (A) (1) of this section exceed the total revenue effect of any construction work in progress allowance.~~ 1376
1377
1378
1379

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

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

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

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

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

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

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

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

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

(a) Electric light companies may propose a forecasted test 1434
period. If the company proposes a forecasted test period, the 1435
company shall propose annual base rates for three consecutive 1436
twelve-month periods in a single forecasted test period 1437
application. 1438

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

under the application filed; 1689

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code, that align retail rate recovery with how 1808
transmission costs are incurred by or charged to the electric 1809
distribution utility, as defined in section 4928.01 of the 1810
Revised Code, or programs that allow customers to be billed 1811
directly for transmission service by a competitive retail 1812
electric service provider. 1813

Sec. 4909.193. The public utilities commission shall 1814
determine whether an application filed under section 4909.18 of 1815
the Revised Code is complete not more than forty-five days after 1816
the application is filed. If the commission does not issue a 1817
determination within the time period required by this section, 1818
the application shall be deemed complete by operation of law. 1819

Sec. 4909.42. If the proceeding on an application filed 1820
with the public utilities commission under section 4909.18 of 1821
the Revised Code by any public utility requesting an increase on 1822
any rate, rate mechanism, joint rate, toll, classification, 1823
charge, or rental or requesting a change in a regulation or 1824
practice affecting the same has not been concluded and an 1825
opinion and an order entered pursuant to section 4909.19 of the 1826
Revised Code at the expiration of two hundred seventy-five days 1827
from the date of filing the application is deemed complete, an 1828
the public utility may request a temporary increase not to 1829
exceed the proposed increase, and any party to the proceeding 1830
may request a temporary decrease, which shall go into effect 1831
upon the filing of a bond or a letter of credit by the public 1832
utility and remain in effect until modified in accordance with 1833
the commission's order based upon the merits of the application. 1834
The bond or letter of credit shall be filed with the commission 1835
and shall be payable to the state for the use and benefit of the 1836
customers affected by the proposed increase or change 1837

Not later than three hundred sixty days from the date an 1838
application is determined complete, the commission shall issue 1839
an order to approve, deny, or modify an application filed under 1840
section 4909.18 of the Revised Code. If the commission does not 1841
issue an order within three hundred sixty days after the 1842
application is determined complete, the application shall be 1843
deemed approved by operation of law. A temporary increase or 1844
decrease under this section shall not exceed the midpoint of the 1845
rates recommended in the staff report filed pursuant to section 1846
4909.19 of the Revised Code and shall be subject to 1847
reconciliation and refund. 1848

~~An affidavit attached to the bond or letter of credit must~~ 1849
~~be signed by two of the officers of the utility, under oath, and~~ 1850
~~must contain a promise on behalf of the utility to refund any~~ 1851
~~amounts collected by the utility over the rate, joint rate,~~ 1852
~~toll, classification, charge, or rental, as determined in the~~ 1853
~~final order of the commission. All refunds shall include~~ 1854
~~interest at the rate stated in section 1343.03 of the Revised~~ 1855
~~Code. The refund shall be in the form of a temporary reduction~~ 1856
~~in rates following the final order of the commission, and shall~~ 1857
~~be accomplished in such manner as shall be prescribed by the~~ 1858
~~commission in its final order. The commission shall exercise~~ 1859
~~continuing and exclusive jurisdiction over such refunds.~~ 1860

~~If the public utilities commission has not entered a final~~ 1861
~~order within five hundred forty-five days from the date of the~~ 1862
~~filing of an application for an increase in rates under section~~ 1863
~~4909.18 of the Revised Code, a public utility shall have no~~ 1864
~~obligation to make a refund of amounts collected after the five~~ 1865
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1866
~~the commission's final order.~~ 1867

Nothing in this section shall be construed to mitigate any 1868
duty of the commission to issue a final order under section 1869
4909.19 of the Revised Code. 1870

Sec. 4928.01. (A) As used in this chapter: 1871

(1) "Ancillary service" means any function necessary to 1872
the provision of electric transmission or distribution service 1873
to a retail customer and includes, but is not limited to, 1874
scheduling, system control, and dispatch services; reactive 1875
supply from generation resources and voltage control service; 1876
reactive supply from transmission resources service; regulation 1877
service; frequency response service; energy imbalance service; 1878
operating reserve-spinning reserve service; operating reserve- 1879
supplemental reserve service; load following; back-up supply 1880
service; real-power loss replacement service; dynamic 1881
scheduling; system black start capability; and network stability 1882
service. 1883

(2) "Billing and collection agent" means a fully 1884
independent agent, not affiliated with or otherwise controlled 1885
by an electric utility, electric services company, electric 1886
cooperative, or governmental aggregator subject to certification 1887
under section 4928.08 of the Revised Code, to the extent that 1888
the agent is under contract with such utility, company, 1889
cooperative, or aggregator solely to provide billing and 1890
collection for retail electric service on behalf of the utility 1891
company, cooperative, or aggregator. 1892

(3) "Certified territory" means the certified territory 1893
established for an electric supplier under sections 4933.81 to 1894
4933.90 of the Revised Code. 1895

(4) "Competitive retail electric service" means a 1896

component of retail electric service that is competitive as 1897
provided under division (B) of this section. 1898

(5) "Electric cooperative" means a not-for-profit electric 1899
light company that both is or has been financed in whole or in 1900
part under the "Rural Electrification Act of 1936," 49 Stat. 1901
1363, 7 U.S.C. 901, and owns or operates facilities in this 1902
state to generate, transmit, or distribute electricity, or a 1903
not-for-profit successor of such company. 1904

(6) "Electric distribution utility" means an electric 1905
utility that supplies at least retail electric distribution 1906
service and does not own or operate an electric generating 1907
facility. 1908

(7) "Electric light company" has the same meaning as in 1909
section 4905.03 of the Revised Code and includes an electric 1910
services company, but excludes any self-generator to the extent 1911
that it consumes electricity it so produces, sells that 1912
electricity for resale, or obtains electricity from a generating 1913
facility it hosts on its premises. 1914

(8) "Electric load center" has the same meaning as in 1915
section 4933.81 of the Revised Code. 1916

(9) "Electric services company" means an electric light 1917
company that is engaged on a for-profit or not-for-profit basis 1918
in the business of supplying or arranging for the supply of only 1919
a competitive retail electric service in this state. "Electric 1920
services company" includes a power marketer, power broker, 1921
aggregator, or independent power producer but excludes an 1922
electric cooperative, municipal electric utility, governmental 1923
aggregator, or billing and collection agent. 1924

(10) "Electric supplier" has the same meaning as in 1925

section 4933.81 of the Revised Code. 1926

(11) "Electric utility" means an electric light company 1927
that has a certified territory and is engaged on a for-profit 1928
basis ~~either~~ in the business of supplying at least a 1929
noncompetitive retail electric service in this state ~~or in the~~ 1930
~~businesses of supplying both a noncompetitive and a competitive~~ 1931
~~retail electric service in this state.~~ "Electric utility" 1932
excludes a municipal electric utility or a billing and 1933
collection agent. 1934

(12) "Firm electric service" means electric service other 1935
than nonfirm electric service. 1936

(13) "Governmental aggregator" means a legislative 1937
authority of a municipal corporation, a board of township 1938
trustees, or a board of county commissioners acting as an 1939
aggregator for the provision of a competitive retail electric 1940
service under authority conferred under section 4928.20 of the 1941
Revised Code. 1942

(14) A person acts "knowingly," regardless of the person's 1943
purpose, when the person is aware that the person's conduct will 1944
probably cause a certain result or will probably be of a certain 1945
nature. A person has knowledge of circumstances when the person 1946
is aware that such circumstances probably exist. 1947

(15) "Level of funding for low-income customer energy 1948
efficiency programs provided through electric utility rates" 1949
means the level of funds specifically included in an electric 1950
utility's rates on October 5, 1999, pursuant to an order of the 1951
public utilities commission issued under Chapter 4905. or 4909. 1952
of the Revised Code and in effect on October 4, 1999, for the 1953
purpose of improving the energy efficiency of housing for the 1954

utility's low-income customers. The term excludes the level of 1955
any such funds committed to a specific nonprofit organization or 1956
organizations pursuant to a stipulation or contract. 1957

(16) "Low-income customer assistance programs" means the 1958
percentage of income payment plan program, the home energy 1959
assistance program, the home weatherization assistance program, 1960
and the targeted energy efficiency and weatherization program. 1961

(17) "Market development period" for an electric utility 1962
means the period of time beginning on the starting date of 1963
competitive retail electric service and ending on the applicable 1964
date for that utility as specified in section 4928.40 of the 1965
Revised Code, irrespective of whether the utility applies to 1966
receive transition revenues under this chapter. 1967

(18) "Market power" means the ability to impose on 1968
customers a sustained price for a product or service above the 1969
price that would prevail in a competitive market. 1970

(19) "Mercantile customer" means a commercial or 1971
industrial customer if the electricity consumed is for 1972
nonresidential use and the customer consumes more than seven 1973
hundred thousand kilowatt hours per year or is part of a 1974
national account involving multiple facilities in one or more 1975
states. 1976

(20) "Municipal electric utility" means a municipal 1977
corporation that owns or operates facilities to generate, 1978
transmit, or distribute electricity. 1979

(21) "Noncompetitive retail electric service" means a 1980
component of retail electric service that is noncompetitive as 1981
provided under division (B) of this section. 1982

(22) "Nonfirm electric service" means electric service 1983

provided pursuant to a schedule filed under section 4905.30 of 1984
the Revised Code or pursuant to an arrangement under section 1985
4905.31 of the Revised Code, which schedule or arrangement 1986
includes conditions that may require the customer to curtail or 1987
interrupt electric usage during nonemergency circumstances upon 1988
notification by an electric utility. 1989

(23) "Percentage of income payment plan arrears" means 1990
funds eligible for collection through the percentage of income 1991
payment plan rider, but uncollected as of July 1, 2000. 1992

(24) "Person" has the same meaning as in section 1.59 of 1993
the Revised Code. 1994

(25) "Advanced energy project" means any technologies, 1995
products, activities, or management practices or strategies that 1996
facilitate the generation or use of electricity or energy and 1997
that reduce or support the reduction of energy consumption or 1998
support the production of clean, renewable energy for 1999
industrial, distribution, commercial, institutional, 2000
governmental, research, not-for-profit, or residential energy 2001
users, including, but not limited to, advanced energy resources 2002
and renewable energy resources. "Advanced energy project" also 2003
includes any project described in division (A), (B), or (C) of 2004
section 4928.621 of the Revised Code. 2005

(26) "Regulatory assets" means the unamortized net 2006
regulatory assets that are capitalized or deferred on the 2007
regulatory books of the electric utility, pursuant to an order 2008
or practice of the public utilities commission or pursuant to 2009
generally accepted accounting principles as a result of a prior 2010
commission rate-making decision, and that would otherwise have 2011
been charged to expense as incurred or would not have been 2012
capitalized or otherwise deferred for future regulatory 2013

consideration absent commission action. "Regulatory assets" 2014
includes, but is not limited to, all deferred demand-side 2015
management costs; all deferred percentage of income payment plan 2016
arrears; post-in-service capitalized charges and assets 2017
recognized in connection with statement of financial accounting 2018
standards no. 109 (receivables from customers for income taxes); 2019
future nuclear decommissioning costs and fuel disposal costs as 2020
those costs have been determined by the commission in the 2021
electric utility's most recent rate or accounting application 2022
proceeding addressing such costs; the undepreciated costs of 2023
safety and radiation control equipment on nuclear generating 2024
plants owned or leased by an electric utility; and fuel costs 2025
currently deferred pursuant to the terms of one or more 2026
settlement agreements approved by the commission. 2027

(27) "Retail electric service" means any service involved 2028
in supplying or arranging for the supply of electricity to 2029
ultimate consumers in this state, from the point of generation 2030
to the point of consumption. For the purposes of this chapter, 2031
retail electric service includes one or more of the following 2032
"service components": generation service, aggregation service, 2033
power marketing service, power brokerage service, transmission 2034
service, distribution service, ancillary service, metering 2035
service, and billing and collection service. 2036

(28) "Starting date of competitive retail electric 2037
service" means January 1, 2001. 2038

(29) "Customer-generator" means a user of a net metering 2039
system. 2040

(30) "Net metering" means measuring the difference in an 2041
applicable billing period between the electricity supplied by an 2042
electric service provider and the electricity generated by a 2043

customer-generator that is fed back to the electric service provider. 2044
2045

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following: 2046
2047

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell; 2048
2049

(b) Is located on a customer-generator's premises; 2050

(c) Operates in parallel with the electric utility's transmission and distribution facilities; 2051
2052

(d) Is intended primarily to offset part or all of the customer-generator's annual requirements for electricity. ~~For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection~~electric energy. 2053
2054
2055
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(32) "Self-generator" means an entity in this state that owns or hosts on ~~its premises~~ property the entity controls an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, ~~whether the~~ and that meet all the following: 2061
2062
2063
2064
2065
2066

(a) The facility is installed or operated by the owner or by an agent a third party under a contract, including a lease, purchase power agreement, or other service contract; 2067
2068
2069

(b) The facility connects directly to the owner's side of the electric meter; 2070
2071

(c) The facility delivers electricity to the owner's side 2072
of the electric meter without the use of an electric 2073
distribution utility's or electric cooperative's distribution 2074
system or transmission system. 2075

(33) "Rate plan" means the standard service offer in 2076
effect on the effective date of the amendment of this section by 2077
S.B. 221 of the 127th general assembly, July 31, 2008. 2078

(34) "Advanced energy resource" means any of the 2079
following: 2080

(a) Any method or any modification or replacement of any 2081
property, process, device, structure, or equipment that 2082
increases the generation output of an electric generating 2083
facility to the extent such efficiency is achieved without 2084
additional carbon dioxide emissions by that facility; 2085

(b) Any distributed generation system consisting of 2086
customer cogeneration technology; 2087

(c) Clean coal technology that includes a carbon-based 2088
product that is chemically altered before combustion to 2089
demonstrate a reduction, as expressed as ash, in emissions of 2090
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2091
sulfur trioxide in accordance with the American society of 2092
testing and materials standard D1757A or a reduction of metal 2093
oxide emissions in accordance with standard D5142 of that 2094
society, or clean coal technology that includes the design 2095
capability to control or prevent the emission of carbon dioxide, 2096
which design capability the commission shall adopt by rule and 2097
shall be based on economically feasible best available 2098
technology or, in the absence of a determined best available 2099
technology, shall be of the highest level of economically 2100

feasible design capability for which there exists generally 2101
accepted scientific opinion; 2102

(d) Advanced nuclear energy technology consisting of 2103
generation III technology as defined by the nuclear regulatory 2104
commission; other, later technology; or significant improvements 2105
to existing facilities; 2106

(e) Any fuel cell used in the generation of electricity, 2107
including, but not limited to, a proton exchange membrane fuel 2108
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2109
solid oxide fuel cell; 2110

(f) Advanced solid waste or construction and demolition 2111
debris conversion technology, including, but not limited to, 2112
advanced stoker technology, and advanced fluidized bed 2113
gasification technology, that results in measurable greenhouse 2114
gas emissions reductions as calculated pursuant to the United 2115
States environmental protection agency's waste reduction model 2116
(WARM); 2117

(g) Demand-side management and any energy efficiency 2118
improvement; 2119

(h) Any new, retrofitted, refueled, or repowered 2120
generating facility located in Ohio, including a simple or 2121
combined-cycle natural gas generating facility or a generating 2122
facility that uses biomass, coal, modular nuclear, or any other 2123
fuel as its input; 2124

(i) Any uprated capacity of an existing electric 2125
generating facility if the uprated capacity results from the 2126
deployment of advanced technology. 2127

"Advanced energy resource" does not include a waste energy 2128
recovery system that is, or has been, included in an energy 2129

efficiency program of an electric distribution utility pursuant	2130
to requirements under section 4928.66 of the Revised Code.	2131
(35) "Air contaminant source" has the same meaning as in	2132
section 3704.01 of the Revised Code.	2133
(36) "Cogeneration technology" means technology that	2134
produces electricity and useful thermal output simultaneously.	2135
(37) (a) "Renewable energy resource" means any of the	2136
following:	2137
(i) Solar photovoltaic or solar thermal energy;	2138
(ii) Wind energy;	2139
(iii) Power produced by a hydroelectric facility;	2140
(iv) Power produced by a small hydroelectric facility,	2141
which is a facility that operates, or is rated to operate, at an	2142
aggregate capacity of less than six megawatts;	2143
(v) Power produced by a run-of-the-river hydroelectric	2144
facility placed in service on or after January 1, 1980, that is	2145
located within this state, relies upon the Ohio river, and	2146
operates, or is rated to operate, at an aggregate capacity of	2147
forty or more megawatts;	2148
(vi) Geothermal energy;	2149
(vii) Fuel derived from solid wastes, as defined in	2150
section 3734.01 of the Revised Code, through fractionation,	2151
biological decomposition, or other process that does not	2152
principally involve combustion;	2153
(viii) Biomass energy;	2154
(ix) Energy produced by cogeneration technology that is	2155
placed into service on or before December 31, 2015, and for	2156

which more than ninety per cent of the total annual energy input 2157
is from combustion of a waste or byproduct gas from an air 2158
contaminant source in this state, which source has been in 2159
operation since on or before January 1, 1985, provided that the 2160
cogeneration technology is a part of a facility located in a 2161
county having a population of more than three hundred sixty-five 2162
thousand but less than three hundred seventy thousand according 2163
to the most recent federal decennial census; 2164

(x) Biologically derived methane gas; 2165

(xi) Heat captured from a generator of electricity, 2166
boiler, or heat exchanger fueled by biologically derived methane 2167
gas; 2168

(xii) Energy derived from nontreated by-products of the 2169
pulping process or wood manufacturing process, including bark, 2170
wood chips, sawdust, and lignin in spent pulping liquors. 2171

"Renewable energy resource" includes, but is not limited 2172
to, any fuel cell used in the generation of electricity, 2173
including, but not limited to, a proton exchange membrane fuel 2174
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2175
solid oxide fuel cell; a linear generator; wind turbine located 2176
in the state's territorial waters of Lake Erie; methane gas 2177
emitted from an abandoned coal mine; waste energy recovery 2178
system placed into service or retrofitted on or after the 2179
effective date of the amendment of this section by S.B. 315 of 2180
the 129th general assembly, September 10, 2012, except that a 2181
waste energy recovery system described in division (A) (38) (b) of 2182
this section may be included only if it was placed into service 2183
between January 1, 2002, and December 31, 2004; storage facility 2184
that will promote the better utilization of a renewable energy 2185
resource; or distributed generation system used by a customer to 2186

generate electricity from any such energy. 2187

"Renewable energy resource" does not include a waste 2188
energy recovery system that is, or was, on or after January 1, 2189
2012, included in an energy efficiency program of an electric 2190
distribution utility pursuant to requirements under section 2191
4928.66 of the Revised Code. 2192

(b) As used in division (A) (37) of this section, 2193
"hydroelectric facility" means a hydroelectric generating 2194
facility that is located at a dam on a river, or on any water 2195
discharged to a river, that is within or bordering this state or 2196
within or bordering an adjoining state and meets all of the 2197
following standards: 2198

(i) The facility provides for river flows that are not 2199
detrimental for fish, wildlife, and water quality, including 2200
seasonal flow fluctuations as defined by the applicable 2201
licensing agency for the facility. 2202

(ii) The facility demonstrates that it complies with the 2203
water quality standards of this state, which compliance may 2204
consist of certification under Section 401 of the "Clean Water 2205
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2206
demonstrates that it has not contributed to a finding by this 2207
state that the river has impaired water quality under Section 2208
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2209
U.S.C. 1313. 2210

(iii) The facility complies with mandatory prescriptions 2211
regarding fish passage as required by the federal energy 2212
regulatory commission license issued for the project, regarding 2213
fish protection for riverine, anadromous, and catadromous fish. 2214

(iv) The facility complies with the recommendations of the 2215

Ohio environmental protection agency and with the terms of its 2216
federal energy regulatory commission license regarding watershed 2217
protection, mitigation, or enhancement, to the extent of each 2218
agency's respective jurisdiction over the facility. 2219

(v) The facility complies with provisions of the 2220
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2221
to 1544, as amended. 2222

(vi) The facility does not harm cultural resources of the 2223
area. This can be shown through compliance with the terms of its 2224
federal energy regulatory commission license or, if the facility 2225
is not regulated by that commission, through development of a 2226
plan approved by the Ohio historic preservation office, to the 2227
extent it has jurisdiction over the facility. 2228

(vii) The facility complies with the terms of its federal 2229
energy regulatory commission license or exemption that are 2230
related to recreational access, accommodation, and facilities 2231
or, if the facility is not regulated by that commission, the 2232
facility complies with similar requirements as are recommended 2233
by resource agencies, to the extent they have jurisdiction over 2234
the facility; and the facility provides access to water to the 2235
public without fee or charge. 2236

(viii) The facility is not recommended for removal by any 2237
federal agency or agency of any state, to the extent the 2238
particular agency has jurisdiction over the facility. 2239

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2240
this section do not apply to a small hydroelectric facility 2241
under division (A) (37) (a) (iv) of this section. 2242

(38) "Waste energy recovery system" means any of the 2243
following: 2244

(a) A facility that generates electricity through the 2245
conversion of energy from either of the following: 2246

(i) Exhaust heat from engines or manufacturing, 2247
industrial, commercial, or institutional sites, except for 2248
exhaust heat from a facility whose primary purpose is the 2249
generation of electricity; 2250

(ii) Reduction of pressure in gas pipelines before gas is 2251
distributed through the pipeline, provided that the conversion 2252
of energy to electricity is achieved without using additional 2253
fossil fuels. 2254

(b) A facility at a state institution of higher education 2255
as defined in section 3345.011 of the Revised Code that recovers 2256
waste heat from electricity-producing engines or combustion 2257
turbines and that simultaneously uses the recovered heat to 2258
produce steam, provided that the facility was placed into 2259
service between January 1, 2002, and December 31, 2004; 2260

(c) A facility that produces steam from recovered waste 2261
heat from a manufacturing process and uses that steam, or 2262
transfers that steam to another facility, to provide heat to 2263
another manufacturing process or to generate electricity. 2264

(39) "Smart grid" means capital improvements to an 2265
electric distribution utility's distribution infrastructure that 2266
improve reliability, efficiency, resiliency, or reduce energy 2267
demand or use, including, but not limited to, advanced metering 2268
and automation of system functions. 2269

(40) "Combined heat and power system" means the 2270
coproduction of electricity and useful thermal energy from the 2271
same fuel source designed to achieve thermal-efficiency levels 2272
of at least sixty per cent, with at least twenty per cent of the 2273

system's total useful energy in the form of thermal energy. 2274

~~(41) "Legacy generation resource" means all generating facilities owned directly or indirectly by a corporation that was formed prior to 1960 by investor-owned utilities for the original purpose of providing power to the federal government for use in the nation's defense or in furtherance of national interests, including the Ohio valley electric corporation.~~ 2275
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~~(42) "Prudently incurred costs related to a legacy generation resource" means costs, including deferred costs, allocated pursuant to a power agreement approved by the federal energy regulatory commission that relates to a legacy generation resource, less any revenues realized from offering the contractual commitment for the power agreement into the wholesale markets, provided that where the net revenues exceed net costs, those excess revenues shall be credited to customers. Such costs shall exclude any return on investment in common equity and, in the event of a premature retirement of a legacy generation resource, shall exclude any recovery of remaining debt. Such costs shall include any incremental costs resulting from the bankruptcy of a current or former sponsor under such power agreement or co-owner of the legacy generation resource if not otherwise recovered through a utility rate cost recovery mechanism.~~ 2281
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~~(43) (a) (41) (a)~~ "Green energy" means any energy generated by using an energy resource that does one or more of the following: 2297
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(i) Releases reduced air pollutants, thereby reducing cumulative air emissions; 2300
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(ii) Is more sustainable and reliable relative to some 2302

fossil fuels.	2303
(b) "Green energy" includes energy generated using the following:	2304
(i) Natural gas as a resource;	2305
(ii) Nuclear reaction.	2306
<u>(42) "Energy storage" means electrical generation and storage performed by a distributed energy system connected battery.</u>	2307
<u>(43) "Linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria:</u>	2308
<u>(a) Converts the linear motion of oscillators directly into electricity without the use of a flame or spark;</u>	2309
<u>(b) Is dispatchable with the ability to vary power output across all loads;</u>	2310
<u>(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas.</u>	2311
(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.	2312
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Sec. 4928.02. It is the policy of this state to do the	2329

following throughout this state:	2330
(A) Ensure the availability to consumers of adequate,	2331
reliable, safe, efficient, nondiscriminatory, and reasonably	2332
priced retail electric service;	2333
(B) Ensure the availability of unbundled and comparable	2334
retail electric service that provides consumers with the	2335
supplier, price, terms, conditions, and quality options they	2336
elect to meet their respective needs;	2337
(C) Ensure diversity of electricity supplies and	2338
suppliers, by giving consumers effective choices over the	2339
selection of those supplies and suppliers and by encouraging the	2340
development of distributed and small generation facilities;	2341
(D) Encourage innovation and market access for cost-	2342
effective supply- and demand-side retail electric service	2343
including, but not limited to, demand-side management, time-	2344
differentiated pricing, waste energy recovery systems, smart	2345
grid programs, and implementation of advanced metering	2346
infrastructure;	2347
(E) Encourage cost-effective and efficient access to	2348
information regarding the operation of the transmission and	2349
distribution systems of electric utilities in order to promote	2350
both effective customer choice of retail electric service and	2351
the development of performance standards and targets for service	2352
quality for all consumers, including annual achievement reports	2353
written in plain language;	2354
(F) Ensure that an electric utility's transmission and	2355
distribution systems are available to a customer-generator or	2356
owner of distributed generation, so that the customer-generator	2357
or owner can market and deliver the electricity it produces;	2358

(G) Recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;	2359 2360 2361
(H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;	2362 2363 2364 2365 2366 2367 2368
(I) Ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power;	2369 2370 2371
(J) Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates;	2372 2373 2374
(K) Encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;	2375 2376 2377 2378 2379
(L) Protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource;	2380 2381 2382
(M) Encourage the education of small business owners in this state regarding the use of, and encourage the use of, energy efficiency programs and alternative energy resources in their businesses;	2383 2384 2385 2386
(N) Facilitate the state's effectiveness in the global	2387

economy.	2388
(O) Encourage cost-effective, timely, and efficient access to and sharing of customer usage data with customers and competitive suppliers to promote customer choice and grid modernization.	2389 2390 2391 2392
(P) Ensure that a customer's data is provided in a standard format and provided to third parties in as close to real time as is economically justifiable in order to spur economic investment and improve the energy options of individual customers.	2393 2394 2395 2396 2397
<u>(Q) Encourage the development of community energy facilities, as defined in section 4934.01 of the Revised Code, for the benefit of customers in this state and to facilitate participation by customers with the facilities.</u>	2398 2399 2400 2401
<u>(R) Establish a community energy pilot program, pursuant to sections 4934.04 to 4934.17 and 4934.25 to 4934.27 of the Revised Code.</u>	2402 2403 2404
<u>(S) Establish program evaluations and consumer protections ensuring community energy subscribers are effectively and equitably receiving savings from participating in the community energy pilot program.</u>	2405 2406 2407 2408
In carrying out this policy, the commission shall consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in this state.	2409 2410 2411 2412
<u>Sec. 4928.041. (A) Except as provided in section 4905.31 or Chapter 4928. 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</u>	2413 2414 2415 2416

classified as competitive prior to the effective date of this 2417
section. 2418

(B) The standard service offer under section 4928.141 of 2419
the Revised Code shall continue to be provided to consumers in 2420
this state by electric utilities. 2421

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2422
~~competitive retail electric service, a~~ A competitive retail 2423
electric service supplied by an ~~electric utility or electric~~ 2424
services company, or by an electric utility consistent with 2425
section 4928.141 of the Revised Code, shall not be subject to 2426
supervision and regulation by a municipal corporation under 2427
Chapter 743. of the Revised Code or by the public utilities 2428
commission under Chapters 4901. to 4909., 4933., 4935., and 2429
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2430
division (B) of section 4905.33, and sections 4905.35 and 2431
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2432
and 4963.41 of the Revised Code only to the extent related to 2433
service reliability and public safety; and except as otherwise 2434
provided in this chapter. The commission's authority to enforce 2435
those excepted provisions with respect to a competitive retail 2436
electric service shall be such authority as is provided for 2437
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2438
and 4963. of the Revised Code and this chapter. Nothing in this 2439
division shall be construed to limit the commission's authority 2440
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2441
Revised Code. 2442

~~On and after the starting date of competitive retail~~ 2443
~~electric service, a~~ (2) A competitive retail electric service 2444
supplied by an electric cooperative shall not be subject to 2445
supervision and regulation by the commission under Chapters 2446

4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2447
except as otherwise expressly provided in sections 4928.01 to 2448
4928.10 and 4928.16 of the Revised Code. 2449

~~(2) On and after the starting date of competitive retail~~ 2450
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2451
service supplied by an electric utility shall be subject to 2452
supervision and regulation by the commission under Chapters 2453
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2454
this chapter, to the extent that authority is not preempted by 2455
federal law. The commission's authority to enforce those 2456
provisions with respect to a noncompetitive retail electric 2457
service shall be the authority provided under those chapters and 2458
this chapter, to the extent the authority is not preempted by 2459
federal law. Notwithstanding Chapters 4905. and 4909. of the 2460
Revised Code, commission authority under this chapter shall 2461
include the authority to provide for the recovery, through a 2462
reconcilable rider on an electric distribution utility's 2463
distribution rates, of all transmission and transmission-related 2464
costs, including ancillary and congestion costs, imposed on or 2465
charged to the utility by the federal energy regulatory 2466
commission or a regional transmission organization, independent 2467
transmission operator, or similar organization approved by the 2468
federal energy regulatory commission. 2469

The commission shall adopt, for each electric distribution 2470
utility that provides customers with a standard service offer in 2471
compliance with sections 4928.141 and 4928.142 of the Revised 2472
Code, a bypassable cost recovery mechanism relating to 2473
transmission, ancillary, congestion, or any related service 2474
required for such standard service offer that includes 2475
provisions for the recovery of any cost of such service that the 2476
electric distribution utility incurs pursuant to the standard 2477

service offer. 2478

(2) The commission shall exercise its jurisdiction with 2479
respect to the delivery of electricity by an electric utility in 2480
this state ~~on or after the starting date of competitive retail~~ 2481
~~electric service~~ so as to ensure that no aspect of the delivery 2482
of electricity by the utility to consumers in this state that 2483
consists of a noncompetitive retail electric service is 2484
unregulated. 2485

~~On and after that starting date, a~~ (3) A noncompetitive 2486
retail electric service supplied by an electric cooperative 2487
shall not be subject to supervision and regulation by the 2488
commission under Chapters 4901. to 4909., 4933., 4935., and 2489
4963. of the Revised Code, except sections 4933.81 to 4933.90 2490
and 4935.03 of the Revised Code. The commission's authority to 2491
enforce those excepted sections with respect to a noncompetitive 2492
retail electric service of an electric cooperative shall be such 2493
authority as is provided for their enforcement under Chapters 2494
4933. and 4935. of the Revised Code. 2495

~~(B) Nothing in this chapter affects the authority of the~~ 2496
~~commission under Title XLIX of the Revised Code to regulate an~~ 2497
~~electric light company in this state or an electric service~~ 2498
~~supplied in this state prior to the starting date of competitive~~ 2499
~~retail electric service.~~ 2500

Sec. 4928.08. (A) This section applies to an electric 2501
cooperative, or to a governmental aggregator that is a municipal 2502
electric utility, only to the extent of a competitive retail 2503
electric service it provides to a customer to whom it does not 2504
provide a noncompetitive retail electric service through 2505
transmission or distribution facilities it singly or jointly 2506
owns or operates. 2507

~~(B)~~—(B) (1) No electric utility, electric services company, 2508
electric cooperative, or governmental aggregator shall provide a 2509
competitive retail electric service to a consumer in this state 2510
on and after the starting date of competitive retail electric 2511
service without first being certified by the public utilities 2512
commission regarding its managerial, technical, and financial 2513
capability to provide that service and providing a financial 2514
guarantee sufficient to protect customers and electric 2515
distribution utilities from default. Certification shall be 2516
granted pursuant to procedures and standards the commission 2517
shall prescribe in accordance with division (C) of this section, 2518
except that certification or certification renewal shall be 2519
deemed approved thirty days after the filing of an application 2520
with the commission unless the commission suspends that approval 2521
for good cause shown. In the case of such a suspension, the 2522
commission shall act to approve or deny certification or 2523
certification renewal to the applicant not later than ninety 2524
days after the date of the suspension. 2525

(2) The public utilities commission shall establish rules 2526
to require an electric services company to maintain financial 2527
assurances sufficient to protect customers and electric 2528
distribution utilities from default. Such rules also shall 2529
specifically allow an electric distribution utility to set 2530
reasonable standards for its security and the security of its 2531
customers through financial requirements set in its tariffs. 2532

(3) As used in division (B) (2) of this section, an 2533
"electric services company" has the same meaning as in section 2534
4928.01 of the Revised Code, but excludes a power broker or 2535
aggregator. 2536

(C) Capability standards adopted in rules under division 2537

(B) of this section shall be sufficient to ensure compliance 2538
with the minimum service requirements established under section 2539
4928.10 of the Revised Code and with section 4928.09 of the 2540
Revised Code. The standards shall allow flexibility for 2541
voluntary aggregation, to encourage market creativity in 2542
responding to consumer needs and demands, and shall allow 2543
flexibility for electric services companies that exclusively 2544
provide installation of small electric generation facilities, to 2545
provide ease of market access. The rules shall include 2546
procedures for biennially renewing certification. 2547

(D) The commission may suspend, rescind, or conditionally 2548
rescind the certification of any electric utility, electric 2549
services company, electric cooperative, or governmental 2550
aggregator issued under this section if the commission 2551
determines, after reasonable notice and opportunity for hearing, 2552
that the utility, company, cooperative, or aggregator has failed 2553
to comply with any applicable certification standards or has 2554
engaged in anticompetitive or unfair, deceptive, or 2555
unconscionable acts or practices in this state. 2556

(E) No electric distribution utility on and after the 2557
starting date of competitive retail electric service shall 2558
knowingly distribute electricity, to a retail consumer in this 2559
state, for any supplier of electricity that has not been 2560
certified by the commission pursuant to this section. 2561

(F) Notwithstanding any provision of section 121.95 of the 2562
Revised Code to the contrary, a regulatory restriction contained 2563
in a rule adopted under section 4928.08 of the Revised Code is 2564
not subject to sections 121.95 to 121.953 of the Revised Code. 2565

Sec. 4928.101. (A) As used in this section: 2566

(1) "Small commercial customer" means any customer that 2567
receives electric service pursuant to a nonresidential tariff if 2568
the customer's demand for electricity does not exceed twenty- 2569
five kilowatts within the last twelve months. 2570

(2) "Small commercial customer" excludes any customer that 2571
does one or both of the following: 2572

(a) Manages multiple electric meters and, within the last 2573
twelve months, the electricity demand for at least one of the 2574
meters is twenty-five kilowatts or more; 2575

(b) Has, at the customer's discretion, aggregated the 2576
demand for the customer-managed meters. 2577

(B) If a competitive retail electric service supplier 2578
offers a residential or small commercial customer a contract for 2579
a fixed introductory rate that converts to a variable rate upon 2580
the expiration of the fixed rate, the supplier shall send two 2581
notices to each residential and small commercial customer that 2582
enters into such a contract. Each notice shall provide all of 2583
the following information to the customer: 2584

(1) The fixed rate that is expiring under the contract; 2585

(2) The expiration date of the contract's fixed rate; 2586

(3) The public utilities commission web site that, as a 2587
comparison tool, lists rates offered by competitive retail 2588
electric service suppliers; 2589

(4) A statement explaining that appearing on each 2590
customer's bill is a price-to-compare notice that lists the 2591
utility's standard service offer price. 2592

(C) The second notice shall include all the requirements 2593
as stated in division (B) of this section and shall also 2594

identify the initial rate to be charged upon the contract's 2595
conversion to a variable rate. 2596

(D) The notices shall be sent by standard United States 2597
mail or electronically with a customer's verifiable consent as 2598
follows: 2599

(1) The supplier shall send the first notice not earlier 2600
than ninety days, and not later than sixty days, prior to the 2601
expiration of the fixed rate. 2602

(2) The supplier shall send the second notice not earlier 2603
than forty-five days, and not later than fifteen days, prior to 2604
the expiration of the fixed rate. 2605

(E) A competitive retail electric service supplier shall 2606
provide an annual notice, by standard United States mail or 2607
electronically with a customer's verifiable consent, to each 2608
residential and small commercial customer that has entered into 2609
a contract with the supplier that has converted to a variable 2610
rate upon the expiration of the contract's fixed introductory 2611
rate. The notice shall inform the customer that the customer is 2612
currently subject to a variable rate and that other fixed rate 2613
contracts are available. 2614

(F) Not later than one hundred fifty days after the 2615
effective date of this section, the commission shall adopt rules 2616
in order to implement divisions (B) to (E) of this section. The 2617
rules, at a minimum, shall include the following requirements 2618
regarding the notices required under divisions (B) to (E) of 2619
this section: 2620

(1) To use clear and unambiguous language in order to 2621
enable the customer to make an informed decision; 2622

(2) To design the notices in a way to ensure that they 2623

cannot be confused with marketing materials. 2624

(G) Notwithstanding any provision of section 121.95 of the 2625
Revised Code to the contrary, a regulatory restriction contained 2626
in a rule adopted under section 4928.101 of the Revised Code is 2627
not subject to sections 121.95 to 121.953 of the Revised Code. 2628

Sec. 4928.102. (A) As used in this section, "customer 2629
account information" means a unique electric distribution 2630
utility number or other customer identification number used by 2631
the utility to identify a customer and the customer's account 2632
record. 2633

(B) The public utilities commission shall adopt rules to 2634
ensure that an electric distribution utility processes a 2635
customer's change in competitive retail electric supplier by 2636
using customer account information. A customer who consents to a 2637
change of supplier shall not be required to provide customer 2638
account information to the supplier if the customer provides a 2639
valid form of government-issued identification issued to the 2640
customer or a sufficient alternative form of identification that 2641
allows the supplier to establish the customer's identity 2642
accurately. 2643

(C) Notwithstanding any provision of section 121.95 of the 2644
Revised Code to the contrary, a regulatory restriction contained 2645
in a rule adopted under this section is not subject to sections 2646
121.95 to 121.953 of the Revised Code. 2647

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2648
of this section, the failure of a supplier to provide retail 2649
electric generation service to customers within the certified 2650
territory of an electric distribution utility shall result in 2651
the supplier's customers, after reasonable notice, defaulting to 2652

the utility's standard service offer under sections 4928.141~~7~~7
and 4928.142~~7~~, and ~~4928.143~~ of the Revised Code until the
customer chooses an alternative supplier. ~~A~~

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

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

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

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

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

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

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2682
electric distribution utility shall provide consumers, on a 2683
comparable and nondiscriminatory basis within its certified 2684
territory, a standard service offer of all competitive retail 2685
electric services necessary to maintain essential electric 2686
service to consumers, including a firm supply of electric 2687
generation service. To that end, the electric distribution 2688
utility shall apply to the public utilities commission to 2689
establish the standard service offer in accordance with section 2690
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2691
~~may apply simultaneously under both sections, except that the~~ 2692
~~utility's first standard service offer application at minimum~~ 2693
~~shall include a filing under section 4928.143 of the Revised~~ 2694
~~Code. Only~~ Except as provided in division (A) (2) of this 2695
section, a standard service offer authorized in accordance with 2696
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2697
the utility's standard service offer for the purpose of 2698
compliance with this section~~+~~, and that standard service offer 2699
shall serve as the utility's default standard service offer for 2700
the purpose of section 4928.14 of the Revised Code. 2701
~~Notwithstanding the foregoing provision, the rate~~ 2702

(2) An electric distribution utility's electric security 2703
plan of an electric distribution utility that was approved under 2704
section 4928.143 of the Revised Code as that section existed 2705
prior to the amendments to this section by this act shall 2706
continue for the purpose of the utility's compliance with ~~this~~ 2707
division (A) (1) of this section until a standard service offer 2708
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2709
4928.143 of the Revised Code, ~~and, as applicable, pursuant to~~ 2710
~~division (D) of section 4928.143 of the Revised Code, any rate.~~ 2711
Each security plan that extends approved before the effective 2712

date of the amendments to this section by this act shall extend 2713
beyond December 31, 2008, shall continue to be in effect for the 2714
subject electric distribution utility for the duration of the 2715
plan's termthrough the final standard service offer auction 2716
delivery period approved by the public utilities commission 2717
under the plan as of the effective date of the amendments to 2718
this section by this act and thereafter shall terminate. 2719

(3) A standard service offer under section 4928.142 ~~or~~ 2720
~~4928.143~~ of the Revised Code shall exclude any previously 2721
authorized allowances for transition costs, with such exclusion 2722
being effective on and after the date that the allowance is 2723
scheduled to end under the utility's ~~rate~~ electric security 2724
plan. 2725

(B) The commission shall set the time for hearing of a 2726
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2727
send written notice of the hearing to the electric distribution 2728
utility, and publish notice in a newspaper of general 2729
circulation in each county in the utility's certified territory. 2730
The commission shall adopt rules regarding filings under ~~those~~
~~sections~~ the section. 2732

Sec. 4928.142. (A) For the purpose of complying with 2733
section 4928.141 of the Revised Code and subject to division (D) 2734
of this section and, as applicable, subject to the ~~rate plan~~
~~requirement~~ requirements of division (A) of section 4928.141 of 2735
the Revised Code, an electric distribution utility ~~may~~ shall 2736
establish a standard service offer price for retail electric 2737
generation service that is delivered to the utility under a 2738
market-rate offer. 2739
2740

(1) The market-rate offer shall be determined through a 2741
competitive bidding process that provides for all of the 2742

following:	2743
(a) Open, fair, and transparent competitive solicitation;	2744
(b) Clear product definition;	2745
(c) Standardized bid evaluation criteria;	2746
(d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division <u>divisions</u> (A) (1) (a) to (c) of this section are met;	2747 2748 2749 2750
(e) Evaluation of the submitted bids prior to the selection of the least-cost bid winner or winners.	2751 2752
No generation supplier shall be prohibited from participating in the bidding process.	2753 2754
(2) The public utilities commission shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process and shall be consistent with the requirements of division (A) (1) of this section.	2755 2756 2757 2758 2759 2760
(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A) (2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.	2761 2762 2763 2764 2765 2766 2767 2768 2769
An application under this division shall detail the	2770

electric distribution utility's proposed compliance with the 2771
requirements of division (A) (1) of this section and with 2772
commission rules under division (A) (2) of this section and 2773
demonstrate that all of the following requirements are met: 2774

(1) The electric distribution utility or its transmission 2775
service affiliate belongs to at least one regional transmission 2776
organization that has been approved by the federal energy 2777
regulatory commission; or there otherwise is comparable and 2778
nondiscriminatory access to the electric transmission grid. 2779

(2) Any such regional transmission organization has a 2780
market-monitor function and the ability to take actions to 2781
identify and mitigate market power or the electric distribution 2782
utility's market conduct; or a similar market monitoring 2783
function exists with commensurate ability to identify and 2784
monitor market conditions and mitigate conduct associated with 2785
the exercise of market power. 2786

(3) A published source of information is available 2787
publicly or through subscription that identifies pricing 2788
information for traded electricity on- and off-peak energy 2789
products that are contracts for delivery beginning at least two 2790
years from the date of the publication and is updated on a 2791
regular basis. 2792

The commission shall initiate a proceeding and, within 2793
ninety days after the application's filing date, shall determine 2794
by order whether the electric distribution utility and its 2795
market-rate offer meet all of the foregoing requirements. If the 2796
finding is positive, the electric distribution utility ~~may~~ shall 2797
initiate its competitive bidding process. If the finding is 2798
negative as to one or more requirements, the commission in the 2799
order shall direct the electric distribution utility regarding 2800

how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2801
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2802
~~distribution utility shall withdraw the application. However, if~~ 2803
~~such remedy is made and the subsequent finding is positive and~~ 2804
~~also if the electric distribution utility made a simultaneous~~ 2805
~~filing under this section and section 4928.143 of the Revised~~ 2806
~~Code, the utility shall not initiate its competitive bid until~~ 2807
~~at least one hundred fifty days after the filing date of those~~ 2808
~~applications.~~ 2809

(C) Upon the completion of the competitive bidding process 2810
authorized by divisions (A) and (B) of this section, ~~including~~ 2811
~~for the purpose of division (D) of this section,~~ the commission 2812
shall select the least-cost bid winner or winners of that 2813
process, and such selected bid or bids, as prescribed as retail 2814
rates by the commission, shall be the electric distribution 2815
utility's standard service offer unless the commission, by order 2816
issued before the third calendar day following the conclusion of 2817
the competitive bidding process for the market rate offer, 2818
determines that one or more of the following criteria were not 2819
met: 2820

(1) Each portion of the bidding process was 2821
oversubscribed, such that the amount of supply bid upon was 2822
greater than the amount of the load bid out. 2823

(2) There were four or more bidders. 2824

(3) At least twenty-five per cent of the load is bid upon 2825
by one or more persons other than the electric distribution 2826
utility. 2827

All costs incurred by the electric distribution utility as 2828
a result of or related to the competitive bidding process or to 2829

procuring generation service to provide the standard service 2830
offer, including the costs of energy and capacity and the costs 2831
of all other products and services procured as a result of the 2832
competitive bidding process, shall be timely recovered through 2833
the standard service offer price, and, for that purpose, the 2834
commission shall approve a reconciliation mechanism, other 2835
recovery mechanism, or a combination of such mechanisms for the 2836
utility. 2837

(D) The ~~first~~ application filed under this section by an 2838
electric distribution utility ~~that, as of July 31, 2008,~~ 2839
~~directly owns, in whole or in part, operating electric~~ 2840
~~generating facilities that had been used and useful in this~~ 2841
~~state shall require that a portion of that the utility's~~ 2842
~~standard service offer load for the first five years of the~~ 2843
~~market rate offer be competitively bid under division (A) of~~ 2844
~~this section as follows: ten per cent of the load in year one,~~ 2845
~~not more than twenty per cent in year two, thirty per cent in~~ 2846
~~year three, forty per cent in year four, and fifty per cent in~~ 2847
~~year five. Consistent with those percentages, the commission~~ 2848
~~shall determine the actual percentages for each year of years~~ 2849
~~one through five. The standard service offer price for retail~~ 2850
~~electric generation service under this first application shall~~ 2851
~~be a proportionate blend of the bid price and the generation~~ 2852
~~service price for the remaining standard service offer load,~~ 2853
~~which latter price shall be equal to the electric distribution~~ 2854
~~utility's most recent standard service offer price, adjusted~~ 2855
~~upward or downward as the commission determines reasonable,~~ 2856
~~relative to the jurisdictional portion of any known and~~ 2857
~~measurable changes from the level of any one or more of the~~ 2858
~~following costs as reflected in that most recent standard~~ 2859
~~service offer price:~~ 2860

~~(1) The electric distribution utility's prudently incurred cost of fuel used to produce electricity;~~ 2861
2862

~~(2) Its prudently incurred purchased power costs;~~ 2863

~~(3) Its prudently incurred costs of satisfying the supply and demand portfolio requirements of this state, including, but not limited to, renewable energy resource and energy efficiency requirements;~~ 2864
2865
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2867

~~(4) Its costs prudently incurred to comply with environmental laws and regulations, with consideration of the derating of any facility associated with those costs.~~ 2868
2869
2870

~~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~~ 2871
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~~as may be appropriate. The burden of proof for demonstrating~~ 2891
~~that significantly excessive earnings will not occur shall be on~~ 2892
~~the electric distribution utility.~~ 2893

~~Additionally, the commission may adjust the electric~~ 2894
~~distribution utility's most recent standard service offer price~~ 2895
~~by such just and reasonable amount that the commission~~ 2896
~~determines necessary to address any emergency that threatens the~~ 2897
~~utility's financial integrity or to ensure that the resulting~~ 2898
~~revenue available to the utility for providing the standard~~ 2899
~~service offer is not so inadequate as to result, directly or~~ 2900
~~indirectly, in a taking of property without compensation~~ 2901
~~pursuant to Section 19 of Article I, Ohio Constitution. The~~ 2902
~~electric distribution utility has the burden of demonstrating~~ 2903
~~that any adjustment to its most recent standard service offer~~ 2904
~~price is proper in accordance with this division.~~ 2905

~~(E) Beginning in the second year of a blended price under~~ 2906
~~division (D) of this section and notwithstanding any other~~ 2907
~~requirement of this section, the commission may alter~~ 2908
~~prospectively the proportions specified in that division to~~ 2909
~~mitigate any effect of an abrupt or significant change in the~~ 2910
~~electric distribution utility's standard service offer price~~ 2911
~~that would otherwise result in general or with respect to any~~ 2912
~~rate group or rate schedule but for such alteration. Any such~~ 2913
~~alteration shall be made not more often than annually, and the~~ 2914
~~commission shall not, by altering those proportions and in any~~ 2915
~~event, including because of the length of time, as authorized~~ 2916
~~under division (C) of this section, taken to approve the market~~ 2917
~~rate offer, cause the duration of the blending period to exceed~~ 2918
~~ten years as counted from the effective date of the approved~~ 2919
~~market rate offer. Additionally, any such alteration shall be~~ 2920
~~limited to an alteration affecting the prospective proportions~~ 2921

~~used during the blending period and shall not affect any~~ 2922
~~blending proportion previously approved and applied by the~~ 2923
~~commission under this division.~~ 2924

~~(F) An electric distribution utility that has received~~ 2925
~~commission approval of its first application under division (C)~~ 2926
~~of this section shall not, nor ever shall be authorized or~~ 2927
~~required by the commission to, file an application under section~~ 2928
~~4928.143 of the Revised Code.~~ 2929

Sec. 4928.144. The public utilities commission by order 2930
may authorize any just and reasonable phase-in of any electric 2931
distribution utility ~~rate or price~~ established under sections 2932
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2933
inclusive of carrying charges, as the commission considers 2934
necessary to ensure ~~rate or price~~ stability for consumers. If 2935
the commission's order includes such a phase-in, the order also 2936
shall provide for the creation of regulatory assets pursuant to 2937
generally accepted accounting principles, by authorizing the 2938
deferral of incurred costs equal to the amount not collected, 2939
plus carrying charges on that amount. Further, the order shall 2940
authorize the collection of those deferrals through a 2941
nonbypassable surcharge on any such rate or price so established 2942
for the electric distribution utility by the commission. 2943

Sec. 4928.149. No electric distribution utility may use 2944
any electric energy storage system to participate in the 2945
wholesale market, if the utility purchased or acquired that 2946
system for distribution service. 2947

Sec. 4928.151. The public utilities commission shall adopt 2948
and enforce rules prescribing a uniform, statewide policy 2949
regarding electric transmission and distribution line extensions 2950
and requisite substations and related facilities that are 2951

requested by nonresidential customers of electric utilities, so 2952
that, on and after the effective date of the initial rules so 2953
adopted, all such utilities apply the same policies and charges 2954
to those customers. ~~Initial rules shall be adopted not later~~ 2955
~~than six months after the effective date of this section.~~ The 2956
rules shall address the just and reasonable allocation to and 2957
utility recovery from the requesting customer or other customers 2958
of the utility of all costs of any such line extension and any 2959
requisite substation or related facility, including, but not 2960
limited to, the costs of necessary technical studies, operations 2961
and maintenance costs, and capital costs, including a return on 2962
capital costs. The rules shall also include the following: 2963

(A) Require nonresidential customers to be responsible for 2964
the actual cost of necessary technical studies regarding the 2965
customer's requested transmission and distribution line 2966
extensions; 2967

(B) Require the utility to give nonresidential customers 2968
taking service at greater than thirty-four thousand volts the 2969
option to self-build any such transmission and distribution line 2970
extensions and related facilities that are dedicated to the 2971
nonresidential customer's new service. Related facilities may 2972
include any requisite substation, switching station, breaker 2973
station, or other related system upgrades. If the nonresidential 2974
customer elects to self-build, the customer is responsible for 2975
one hundred per cent of the costs and shall build the system to 2976
the utility's published engineering and construction standards 2977
using contractors that have been approved by the utility. Such 2978
standards are subject to approval by the public utilities 2979
commission, and the utility shall publish such standards and 2980
approved contractors on a public web site. A nonresidential 2981
customer who elects to self-build the line extension and related 2982

facilities shall transfer ownership and operation of the 2983
facilities to the utility to own, operate, and maintain the 2984
facility. 2985

(C) Require nonresidential customers that take service at 2986
greater than thirty-four thousand volts and do not elect to 2987
self-build to provide credit support or reimbursement to the 2988
utility for one hundred per cent of the utility's costs of any 2989
such line extension and any requisite substations and related 2990
facilities, including the costs of necessary technical studies, 2991
operations and maintenance costs, and capital costs, including a 2992
return on capital costs. 2993

Sec. 4928.17. (A) Except as otherwise provided in sections 2994
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2995
Revised Code ~~and beginning on the starting date of competitive~~ 2996
~~retail electric service,~~ no electric utility shall engage in 2997
this state, either directly or through an affiliate, ~~in the~~ 2998
~~businesses of supplying a noncompetitive retail electric service~~ 2999
~~and supplying a competitive retail electric service, or in the~~ 3000
businesses of supplying a noncompetitive retail electric service 3001
and supplying a product or service other than retail electric 3002
service, unless the utility implements and operates under a 3003
corporate separation plan that is approved by the public 3004
utilities commission under this section, is consistent with the 3005
policy specified in section 4928.02 of the Revised Code, and 3006
achieves all of the following: 3007

(1) The plan provides, at minimum, for the provision of 3008
~~the competitive retail electric service or the nonelectric~~ 3009
product or service through a fully separated affiliate of the 3010
utility, and the plan includes separate accounting requirements, 3011
the code of conduct as ordered by the commission pursuant to a 3012

rule it shall adopt under division (A) of section 4928.06 of the Revised Code, and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.

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

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

(B) The commission may approve, modify and approve, or disapprove a corporate separation plan filed with the commission under division (A) of this section. As part of the code of conduct required under division (A) (1) of this section, the commission shall adopt rules pursuant to division (A) of section 4928.06 of the Revised Code regarding corporate separation and

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

(C) The commission shall issue an order approving or 3058
modifying and approving a corporate separation plan under this 3059
section, to be effective on the date specified in the order, 3060
only upon findings that the plan reasonably complies with the 3061
requirements of division (A) of this section and will provide 3062
for ongoing compliance with the policy specified in section 3063
4928.02 of the Revised Code. However, for good cause shown, the 3064
commission may issue an order approving or modifying and 3065
approving a corporate separation plan under this section that 3066
does not comply with division (A)(1) of this section but 3067
complies with such functional separation requirements as the 3068
commission authorizes to apply for an interim period prescribed 3069
in the order, upon a finding that such alternative plan will 3070
provide for ongoing compliance with the policy specified in 3071
section 4928.02 of the Revised Code. 3072

(D) Any party may seek an amendment to a corporate 3073

separation plan approved under this section, and the commission, 3074
pursuant to a request from any party or on its own initiative, 3075
may order as it considers necessary the filing of an amended 3076
corporate separation plan to reflect changed circumstances. 3077

~~(E) No electric distribution utility shall sell or 3078
transfer any generating asset it wholly or partly owns at any 3079
time without obtaining prior commission approval. 3080~~

Sec. 4928.20. (A) The legislative authority of a municipal 3081
corporation may adopt an ordinance, or the board of township 3082
trustees of a township or the board of county commissioners of a 3083
county may adopt a resolution, under which, ~~on or after the 3084
starting date of competitive retail electric service,~~ it may 3085
aggregate in accordance with this section the retail electrical 3086
loads located, respectively, within the municipal corporation, 3087
township, or unincorporated area of the county and, for that 3088
purpose, may enter into service agreements to facilitate for 3089
those loads the sale and purchase of electricity. The 3090
legislative authority or board also may exercise such authority 3091
jointly with any other such legislative authority or board. For 3092
customers that are not mercantile customers, an ordinance or 3093
resolution under this division shall specify whether the 3094
aggregation will occur only with the prior, affirmative consent 3095
of each person owning, occupying, controlling, or using an 3096
electric load center proposed to be aggregated or will occur 3097
automatically for all such persons pursuant to the opt-out 3098
requirements of division (D) of this section. The aggregation of 3099
mercantile customers shall occur only with the prior, 3100
affirmative consent of each such person owning, occupying, 3101
controlling, or using an electric load center proposed to be 3102
aggregated. Nothing in this division, however, authorizes the 3103
aggregation of the retail electric loads of an electric load 3104

center, as defined in section 4933.81 of the Revised Code, that 3105
is located in the certified territory of a nonprofit electric 3106
supplier under sections 4933.81 to 4933.90 of the Revised Code 3107
or an electric load center served by transmission or 3108
distribution facilities of a municipal electric utility. 3109

(B) If an ordinance or resolution adopted under division 3110
(A) of this section specifies that aggregation of customers that 3111
are not mercantile customers will occur automatically as 3112
described in that division, the ordinance or resolution shall 3113
direct the board of elections to submit the question of the 3114
authority to aggregate to the electors of the respective 3115
municipal corporation, township, or unincorporated area of a 3116
county at a special election on the day of the next primary or 3117
general election in the municipal corporation, township, or 3118
county. The legislative authority or board shall certify a copy 3119
of the ordinance or resolution to the board of elections not 3120
less than ninety days before the day of the special election. No 3121
ordinance or resolution adopted under division (A) of this 3122
section that provides for an election under this division shall 3123
take effect unless approved by a majority of the electors voting 3124
upon the ordinance or resolution at the election held pursuant 3125
to this division. 3126

(C) Upon the applicable requisite authority under 3127
divisions (A) and (B) of this section, the legislative authority 3128
or board shall develop a plan of operation and governance for 3129
the aggregation program so authorized. Before adopting a plan 3130
under this division, the legislative authority or board shall 3131
hold at least two public hearings on the plan. Before the first 3132
hearing, the legislative authority or board shall publish notice 3133
of the hearings once a week for two consecutive weeks in a 3134
newspaper of general circulation in the jurisdiction or as 3135

provided in section 7.16 of the Revised Code. The notice shall 3136
summarize the plan and state the date, time, and location of 3137
each hearing. 3138

(D) No legislative authority or board, pursuant to an 3139
ordinance or resolution under divisions (A) and (B) of this 3140
section that provides for automatic aggregation of customers 3141
that are not mercantile customers as described in division (A) 3142
of this section, shall aggregate the electrical load of any 3143
electric load center located within its jurisdiction unless it 3144
in advance clearly discloses to the person owning, occupying, 3145
controlling, or using the load center that the person will be 3146
enrolled automatically in the aggregation program and will 3147
remain so enrolled unless the person affirmatively elects by a 3148
stated procedure not to be so enrolled. The disclosure shall 3149
state prominently the rates, charges, and other terms and 3150
conditions of enrollment. The stated procedure shall allow any 3151
person enrolled in the aggregation program the opportunity to 3152
opt out of the program every three years, without paying a 3153
switching fee. Any such person that opts out before the 3154
commencement of the aggregation program pursuant to the stated 3155
procedure shall default to the standard service offer provided 3156
under section 4928.14 or division (D) of section 4928.35 of the 3157
Revised Code until the person chooses an alternative supplier. 3158

(E) (1) With respect to a governmental aggregation for a 3159
municipal corporation that is authorized pursuant to divisions 3160
(A) to (D) of this section, resolutions may be proposed by 3161
initiative or referendum petitions in accordance with sections 3162
731.28 to 731.41 of the Revised Code. 3163

(2) With respect to a governmental aggregation for a 3164
township or the unincorporated area of a county, which 3165

aggregation is authorized pursuant to divisions (A) to (D) of 3166
this section, resolutions may be proposed by initiative or 3167
referendum petitions in accordance with sections 731.28 to 3168
731.40 of the Revised Code, except that: 3169

(a) The petitions shall be filed, respectively, with the 3170
township fiscal officer or the board of county commissioners, 3171
who shall perform those duties imposed under those sections upon 3172
the city auditor or village clerk. 3173

(b) The petitions shall contain the signatures of not less 3174
than ten per cent of the total number of electors in, 3175
respectively, the township or the unincorporated area of the 3176
county who voted for the office of governor at the preceding 3177
general election for that office in that area. 3178

(F) A governmental aggregator under division (A) of this 3179
section is not a public utility engaging in the wholesale 3180
purchase and resale of electricity, and provision of the 3181
aggregated service is not a wholesale utility transaction. A 3182
governmental aggregator shall be subject to supervision and 3183
regulation by the public utilities commission only to the extent 3184
of any competitive retail electric service it provides and 3185
commission authority under this chapter. 3186

(G) This section does not apply in the case of a municipal 3187
corporation that supplies such aggregated service to electric 3188
load centers to which its municipal electric utility also 3189
supplies a noncompetitive retail electric service through 3190
transmission or distribution facilities the utility singly or 3191
jointly owns or operates. 3192

(H) A governmental aggregator shall not include in its 3193
aggregation the accounts of any of the following: 3194

(1) A customer that has opted out of the aggregation;	3195
(2) A customer in contract with a certified electric services company;	3196 3197
(3) A customer that has a special contract with an electric distribution utility;	3198 3199
(4) A customer that is not located within the governmental aggregator's governmental boundaries;	3200 3201
(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.	3202 3203 3204
(I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code. Nothing in this section shall result in less than the full and timely imposition, charging, collection, and adjustment by an electric distribution utility, its assignee, or any collection agent, of the phase-in-recovery charges authorized pursuant to a final financing order issued pursuant to sections 4928.23 to 4928.2318 of the Revised Code.	3205 3206 3207 3208 3209 3210 3211 3212 3213 3214 3215 3216 3217 3218 3219 3220 3221 3222
(J) On behalf of the customers that are part of a	3223

~~governmental aggregation under this section and by filing~~ 3224
~~written notice with the public utilities commission, the~~ 3225
~~legislative authority that formed or is forming that~~ 3226
~~governmental aggregation may elect not to receive standby~~ 3227
~~service within the meaning of division (B)(2)(d) of section~~ 3228
~~4928.143 of the Revised Code from an electric distribution~~ 3229
~~utility in whose certified territory the governmental~~ 3230
~~aggregation is located and that operates under an approved~~ 3231
~~electric security plan under that section. Upon the filing of~~ 3232
~~that notice, the electric distribution utility shall not charge~~ 3233
~~any such customer to whom competitive retail electric generation~~ 3234
~~service is provided by another supplier under the governmental~~ 3235
~~aggregation for the standby service. Any such consumer that~~ 3236
~~returns to the utility for competitive retail electric service~~ 3237
~~shall pay the market price of power incurred by the utility to~~ 3238
~~serve that consumer plus any amount attributable to the~~ 3239
~~utility's cost of compliance with the renewable energy resource~~ 3240
~~provisions of section 4928.64 of the Revised Code to serve the~~ 3241
~~consumer. Such market price shall include, but not be limited~~ 3242
~~to, capacity and energy charges; all charges associated with the~~ 3243
~~provision of that power supply through the regional transmission~~ 3244
~~organization, including, but not limited to, transmission,~~ 3245
~~ancillary services, congestion, and settlement and~~ 3246
~~administrative charges; and all other costs incurred by the~~ 3247
~~utility that are associated with the procurement, provision, and~~ 3248
~~administration of that power supply, as such costs may be~~ 3249
~~approved by the commission. The period of time during which the~~ 3250
~~market price and renewable energy resource amount shall be so~~ 3251
~~assessed on the consumer shall be from the time the consumer so~~ 3252
~~returns to the electric distribution utility until the~~ 3253
~~expiration of the electric security plan. However, if that~~ 3254
~~period of time is expected to be more than two years, the~~ 3255

~~commission may reduce the time period to a period of not less than two years.~~ 3256
3257

~~(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~~ 3258
~~The~~ 3259
~~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~~ 3260
~~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~~ 3261
~~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.~~ 3262
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Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of the Revised Code: 3280
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(A) "Ancillary agreement" means any bond insurance policy, 3282
letter of credit, reserve account, surety bond, swap 3283
arrangement, hedging arrangement, liquidity or credit support 3284
arrangement, or other similar agreement or arrangement entered 3285

into in connection with the issuance of phase-in-recovery bonds 3286
that is designed to promote the credit quality and marketability 3287
of the bonds or to mitigate the risk of an increase in interest 3288
rates. 3289

(B) "Assignee" means any person or entity to which an 3290
interest in phase-in-recovery property is sold, assigned, 3291
transferred, or conveyed, other than as security, and any 3292
successor to or subsequent assignee of such a person or entity. 3293

(C) "Bond" includes debentures, notes, certificates of 3294
participation, certificates of beneficial interest, certificates 3295
of ownership or other evidences of indebtedness or ownership 3296
that are issued by an electric distribution utility or an 3297
assignee under a final financing order, the proceeds of which 3298
are used directly or indirectly to recover, finance, or 3299
refinance phase-in costs and financing costs, and that are 3300
secured by or payable from revenues from phase-in-recovery 3301
charges. 3302

(D) "Bondholder" means any holder or owner of a phase-in- 3303
recovery bond. 3304

(E) "Financing costs" means any of the following: 3305

(1) Principal, interest, and redemption premiums that are 3306
payable on phase-in-recovery bonds; 3307

(2) Any payment required under an ancillary agreement; 3308

(3) Any amount required to fund or replenish a reserve 3309
account or another account established under any indenture, 3310
ancillary agreement, or other financing document relating to 3311
phase-in-recovery bonds; 3312

(4) Any costs of retiring or refunding any existing debt 3313

and equity securities of an electric distribution utility in 3314
connection with either the issuance of, or the use of proceeds 3315
from, phase-in-recovery bonds; 3316

(5) Any costs incurred by an electric distribution utility 3317
to obtain modifications of or amendments to any indenture, 3318
financing agreement, security agreement, or similar agreement or 3319
instrument relating to any existing secured or unsecured 3320
obligation of the electric distribution utility in connection 3321
with the issuance of phase-in-recovery bonds; 3322

(6) Any costs incurred by an electric distribution utility 3323
to obtain any consent, release, waiver, or approval from any 3324
holder of an obligation described in division (E) (5) of this 3325
section that are necessary to be incurred for the electric 3326
distribution utility to issue or cause the issuance of phase-in- 3327
recovery bonds; 3328

(7) Any taxes, franchise fees, or license fees imposed on 3329
phase-in-recovery revenues; 3330

(8) Any costs related to issuing or servicing phase-in- 3331
recovery bonds or related to obtaining a financing order, 3332
including servicing fees and expenses, trustee fees and 3333
expenses, legal, accounting, or other professional fees and 3334
expenses, administrative fees, placement fees, underwriting 3335
fees, capitalized interest and equity, and rating-agency fees; 3336

(9) Any other similar costs that the public utilities 3337
commission finds appropriate. 3338

(F) "Financing order" means an order issued by the public 3339
utilities commission under section 4928.232 of the Revised Code 3340
that authorizes an electric distribution utility or an assignee 3341
to issue phase-in-recovery bonds and recover phase-in-recovery 3342

charges. 3343

(G) "Final financing order" means a financing order that 3344
has become final and has taken effect as provided in section 3345
4928.233 of the Revised Code. 3346

(H) "Financing party" means either of the following: 3347

(1) Any trustee, collateral agent, or other person acting 3348
for the benefit of any bondholder; 3349

(2) Any party to an ancillary agreement, the rights and 3350
obligations of which relate to or depend upon the existence of 3351
phase-in-recovery property, the enforcement and priority of a 3352
security interest in phase-in-recovery property, the timely 3353
collection and payment of phase-in-recovery revenues, or a 3354
combination of these factors. 3355

(I) "Financing statement" has the same meaning as in 3356
section 1309.102 of the Revised Code. 3357

(J) "Phase-in costs" means costs, inclusive of carrying 3358
charges incurred before, on, or after ~~the effective date of this~~ 3359
~~section~~ March 22, 2012, authorized by the commission before, on, 3360
or after ~~the effective date of this section~~ March 22, 2012, to 3361
be securitized or deferred as regulatory assets in proceedings 3362
under section 4909.18 ~~of the Revised Code~~, ~~sections 4928.141 to~~ 3363
~~4928.143~~, 4928.142, or 4928.144 of the Revised Code, ~~or~~ section 3364
4928.14 of the Revised Code as it existed prior to July 31, 3365
2008, or section 4928.143 of the Revised Code as it existed 3366
prior to the effective date of the amendments to this section by 3367
this act pursuant to a final order for which appeals have been 3368
exhausted. "Phase-in costs" excludes the following: 3369

(1) With respect to any electric generating facility that, 3370
on and after ~~the effective date of this section~~ March 22, 2012, 3371

is owned, in whole or in part, by an electric distribution 3372
utility applying for a financing order under section 4928.231 of 3373
the Revised Code, costs that are authorized under division (B) 3374
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3375
section existed prior to the effective date of the amendments to 3376
this section by this act; 3377

(2) Costs incurred after ~~the effective date of this~~ 3378
~~section~~ March 22, 2012, related to the ongoing operation of an 3379
electric generating facility, but not environmental clean-up or 3380
remediation costs incurred by an electric distribution utility 3381
because of its ownership or operation of an electric generating 3382
facility prior to ~~the effective date of this section~~ March 22, 3383
2012, which such clean-up or remediation costs are imposed or 3384
incurred pursuant to federal or state law, rules, or regulations 3385
and for which the commission approves or approved recovery in 3386
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3387
~~4928.141 to 4928.143, 4928.142, or 4928.144~~ of the Revised Code, 3388
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3389
July 31, 2008, or section 4928.143 of the Revised Code as it 3390
existed prior to the effective date of the amendments to this 3391
section by this act. 3392

(K) "Phase-in-recovery property" means the property, 3393
rights, and interests of an electric distribution utility or an 3394
assignee under a final financing order, including the right to 3395
impose, charge, and collect the phase-in-recovery charges that 3396
shall be used to pay and secure the payment of phase-in-recovery 3397
bonds and financing costs, and including the right to obtain 3398
adjustments to those charges, and any revenues, receipts, 3399
collections, rights to payment, payments, moneys, claims, or 3400
other proceeds arising from the rights and interests created 3401
under the final financing order. 3402

(L) "Phase-in-recovery revenues" means all revenues, 3403
receipts, collections, payments, moneys, claims, or other 3404
proceeds arising from phase-in-recovery property. 3405

(M) "Successor" means, with respect to any entity, another 3406
entity that succeeds by operation of law to the rights and 3407
obligations of the first legal entity pursuant to any 3408
bankruptcy, reorganization, restructuring, or other insolvency 3409
proceeding, any merger, acquisition, or consolidation, or any 3410
sale or transfer of assets, regardless of whether any of these 3411
occur as a result of a restructuring of the electric power 3412
industry or otherwise. 3413

Sec. 4928.231. (A) An electric distribution utility may 3414
apply to the public utilities commission for a financing order 3415
that authorizes the following: 3416

(1) The issuance of phase-in-recovery bonds, in one or 3417
more series, to recover uncollected phase-in costs; 3418

(2) The imposition, charging, and collection of phase-in- 3419
recovery charges, in accordance with the adjustment mechanism 3420
approved by the commission under section 4928.232 of the Revised 3421
Code, and consistent with the commission's authority regarding 3422
governmental aggregation as provided in division (I) of section 3423
4928.20 of the Revised Code, to recover both of the following: 3424

(a) Uncollected phase-in costs; 3425

(b) Financing costs. 3426

(3) The creation of phase-in-recovery property under the 3427
financing order. 3428

(B) The application shall include all of the following: 3429

(1) A description of the uncollected phase-in costs that 3430

the electric distribution utility seeks to recover through the 3431
issuance of phase-in-recovery bonds; 3432

(2) An estimate of the date each series of phase-in- 3433
recovery bonds are expected to be issued; 3434

(3) The expected term during which the phase-in costs 3435
associated with the issuance of each series of phase-in-recovery 3436
bonds are expected to be recovered; 3437

(4) An estimate of the financing costs, as described in 3438
section 4928.23 of the Revised Code, associated with the 3439
issuance of each series of phase-in-recovery bonds; 3440

(5) An estimate of the amount of phase-in-recovery charges 3441
necessary to recover the phase-in costs and financing costs set 3442
forth in the application and the calculation for that estimate, 3443
which calculation shall take into account the estimated date or 3444
dates of issuance and the estimated principal amount of each 3445
series of phase-in-recovery bonds; 3446

(6) For phase-in-recovery charges not subject to 3447
allocation according to an existing order, a proposed 3448
methodology for allocating phase-in-recovery charges among 3449
customer classes, including a proposed methodology for 3450
allocating such charges to governmental aggregation customers 3451
based upon the proportionate benefit determination made under 3452
division (I) of section 4928.20 of the Revised Code; 3453

(7) A description of a proposed adjustment mechanism for 3454
use as described in division (A) (2) of this section; 3455

(8) A description and valuation of how the issuance of the 3456
phase-in-recovery bonds, including financing costs, will both 3457
result in cost savings to customers and mitigate rate impacts to 3458
customers when compared to the use of other financing mechanisms 3459

or cost-recovery methods available to the electric distribution utility; 3460
3461

(9) Any other information required by the commission. 3462

(C) The electric distribution utility may restate or 3463
incorporate by reference in the application any information 3464
required under division (B) (9) of this section that the electric 3465
distribution utility filed with the commission under section 3466
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3467
, section 4928.14 of the Revised Code as it existed prior to 3468
July 31, 2008, or section 4928.143 of the Revised Code as it 3469
existed prior to the amendments to this section by this act. 3470

Sec. 4928.232. (A) Proceedings before the public utilities 3471
commission on an application submitted by an electric 3472
distribution utility under section 4928.231 of the Revised Code 3473
shall be governed by Chapter 4903. of the Revised Code, but only 3474
to the extent that chapter is not inconsistent with this section 3475
or section 4928.233 of the Revised Code. Any party that 3476
participated in the proceeding in which phase-in costs were 3477
approved under section 4909.18 or sections 4928.141 to 4928.144 3478
of the Revised Code ~~or~~, section 4928.14 of the Revised Code as 3479
it existed prior to July 31, 2008, or section 4928.143 of the 3480
Revised Code as it existed prior to the amendments to this 3481
section by this act shall have standing to participate in 3482
proceedings under sections 4928.23 to 4928.2318 of the Revised 3483
Code. 3484

(B) When reviewing an application for a financing order 3485
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3486
the commission may hold such hearings, make such inquiries or 3487
investigations, and examine such witnesses, books, papers, 3488
documents, and contracts as the commission considers proper to 3489

carry out these sections. Within thirty days after the filing of 3490
an application under section 4928.231 of the Revised Code, the 3491
commission shall publish a schedule of the proceeding. 3492

(C) (1) Not later than one hundred thirty-five days after 3493
the date the application is filed, the commission shall issue 3494
either a financing order, granting the application in whole or 3495
with modifications, or an order suspending or rejecting the 3496
application. 3497

(2) If the commission suspends an application for a 3498
financing order, the commission shall notify the electric 3499
distribution utility of the suspension and may direct the 3500
electric distribution utility to provide additional information 3501
as the commission considers necessary to evaluate the 3502
application. Not later than ninety days after the suspension, 3503
the commission shall issue either a financing order, granting 3504
the application in whole or with modifications, or an order 3505
rejecting the application. 3506

(D) (1) The commission shall not issue a financing order 3507
under division (C) of this section unless the commission 3508
determines that the financing order is consistent with section 3509
4928.02 of the Revised Code. 3510

(2) Except as provided in division (D) (1) of this section, 3511
the commission shall issue a financing order under division (C) 3512
of this section if, at the time the financing order is issued, 3513
the commission finds that the issuance of the phase-in-recovery 3514
bonds and the phase-in-recovery charges authorized by the order 3515
results in, consistent with market conditions, both measurably 3516
enhancing cost savings to customers and mitigating rate impacts 3517
to customers as compared with traditional financing mechanisms 3518
or traditional cost-recovery methods available to the electric 3519

distribution utility or, if the commission previously approved a recovery method, as compared with that recovery method. 3520
3521

(E) The commission shall include all of the following in a financing order issued under division (C) of this section: 3522
3523

(1) A determination of the maximum amount and a description of the phase-in costs that may be recovered through phase-in-recovery bonds issued under the financing order; 3524
3525
3526

(2) A description of phase-in-recovery property, the creation of which is authorized by the financing order; 3527
3528

(3) A description of the financing costs that may be recovered through phase-in-recovery charges and the period over which those costs may be recovered; 3529
3530
3531

(4) For phase-in-recovery charges not subject to allocation according to an existing order, a description of the methodology and calculation for allocating phase-in-recovery charges among customer classes, including the allocation of such charges, if any, to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code; 3532
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(5) A description of the adjustment mechanism for use in the imposition, charging, and collection of the phase-in-recovery charges; 3539
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(6) The maximum term of the phase-in-recovery bonds; 3542

(7) Any other provision the commission considers appropriate to ensure the full and timely imposition, charging, collection, and adjustment, pursuant to an approved adjustment mechanism, of the phase-in-recovery charges described in divisions (E) (3) to (5) of this section. 3543
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(F) The commission may, in a financing order, afford the electric distribution utility flexibility in establishing the terms and conditions for the phase-in-recovery bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves, and the ability of the electric distribution utility, at its option, to effect a series of issuances of phase-in-recovery bonds and correlated assignments, sales, pledges, or other transfers of phase-in-recovery property. Any changes made under this section to terms and conditions for the phase-in-recovery bonds shall be in conformance with the financing order.

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

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

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

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

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

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

(4) The unbundled components for retail electric

generation service in the rate unbundling plan equal the 3608
residual amount remaining after the determination of the 3609
transmission, distribution, and other unbundled components, and 3610
after any adjustments necessary to reflect the effects of the 3611
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3612
No. 3 of the 123rd general assembly. 3613

(5) All unbundled components in the rate unbundling plan 3614
have been adjusted to reflect any base rate reductions on file 3615
with the commission and as scheduled to be in effect by December 3616
31, 2005, under rate settlements in effect on the effective date 3617
of this section. However, all earnings obligations, 3618
restrictions, or caps imposed on an electric utility in a 3619
commission order prior to the effective date of this section are 3620
void. 3621

(6) Subject to division (A) (5) of this section, the total 3622
of all unbundled components in the rate unbundling plan are 3623
capped and shall equal during the market development period, 3624
except as specifically provided in this chapter, the total of 3625
all rates and charges in effect under the applicable bundled 3626
schedule of the electric utility pursuant to section 4905.30 of 3627
the Revised Code in effect on the day before the effective date 3628
of this section, including the transition charge determined 3629
under section 4928.40 of the Revised Code, adjusted for any 3630
changes in the taxation of electric utilities and retail 3631
electric service under Sub. S.B. No. 3 of the 123rd General 3632
Assembly, the universal service rider authorized by section 3633
4928.51 of the Revised Code, and the temporary rider authorized 3634
by section 4928.61 of the Revised Code. For the purpose of this 3635
division, the rate cap applicable to a customer receiving 3636
electric service pursuant to an arrangement approved by the 3637
commission under section 4905.31 of the Revised Code is, for the 3638

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

(7) The rate unbundling plan complies with any rules	3670
adopted by the commission under division (A) of section 4928.06	3671
of the Revised Code.	3672
(8) The corporate separation plan required by division (A)	3673
(2) of section 4928.31 of the Revised Code complies with section	3674
4928.17 of the Revised Code and any rules adopted by the	3675
commission under division (A) of section 4928.06 of the Revised	3676
Code.	3677
(9) Any plan or plans the commission requires to address	3678
operational support systems and any other technical	3679
implementation issues pertaining to competitive retail electric	3680
service comply with any rules adopted by the commission under	3681
division (A) of section 4928.06 of the Revised Code.	3682
(10) The employee assistance plan required by division (A)	3683
(4) of section 4928.31 of the Revised Code sufficiently provides	3684
severance, retraining, early retirement, retention,	3685
outplacement, and other assistance for the utility's employees	3686
whose employment is affected by electric industry restructuring	3687
under this chapter.	3688
(11) The consumer education plan required under division	3689
(A) (5) of section 4928.31 of the Revised Code complies with	3690
former section 4928.42 of the Revised Code and any rules adopted	3691
by the commission under division (A) of section 4928.06 of the	3692
Revised Code.	3693
(12) The transition revenues for which an electric utility	3694
is authorized a revenue opportunity under sections 4928.31 to	3695
4928.40 of the Revised Code are the allowable transition costs	3696
of the utility as such costs are determined by the commission	3697
pursuant to section 4928.39 of the Revised Code, and the	3698

transition charges for the customer classes and rate schedules 3699
of the utility are the charges determined pursuant to section 3700
4928.40 of the Revised Code. 3701

(13) Any independent transmission plan included in the 3702
transition plan filed under section 4928.31 of the Revised Code 3703
reasonably complies with section 4928.12 of the Revised Code and 3704
any rules adopted by the commission under division (A) of 3705
section 4928.06 of the Revised Code, unless the commission, for 3706
good cause shown, authorizes the utility to defer compliance 3707
until an order is issued under division (G) of section 4928.35 3708
of the Revised Code. 3709

(14) The utility is in compliance with sections 4928.01 to 3710
4928.11 of the Revised Code and any rules or orders of the 3711
commission adopted or issued under those sections. 3712

(15) All unbundled components in the rate unbundling plan 3713
have been adjusted to reflect the elimination of the tax on 3714
gross receipts imposed by section 5727.30 of the Revised Code. 3715

In addition, a transition plan approved by the commission 3716
under section 4928.33 of the Revised Code but not containing an 3717
approved independent transmission plan shall contain the express 3718
conditions that the utility will comply with an order issued 3719
under division (G) of section 4928.35 of the Revised Code. 3720

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3721
~~Revised Code, if~~ If the commission finds that any part of the 3722
transition plan would constitute an abandonment under sections 3723
4905.20 and 4905.21 of the Revised Code, the commission shall 3724
not approve that part of the transition plan unless it makes the 3725
finding required for approval of an abandonment application 3726
under section 4905.21 of the Revised Code. Sections 4905.20 and 3727

4905.21 of the Revised Code otherwise shall not apply to a 3728
transition plan under sections 4928.31 to 4928.40 of the Revised 3729
Code. 3730

Sec. 4928.542. The winning bid or bids selected through 3731
the competitive procurement process established under section 3732
4928.54 of the Revised Code shall meet all of the following 3733
requirements: 3734

(A) Be designed to provide reliable competitive retail 3735
electric service to percentage of income payment plan program 3736
customers; 3737

(B) Reduce the cost of the percentage of income payment 3738
plan program relative to the otherwise applicable standard 3739
service offer established under sections 4928.141~~7~~ and 4928.142~~7~~ 3740
and ~~4928.143~~ of the Revised Code; 3741

(C) Result in the best value for persons paying the 3742
universal service rider under section 4928.52 of the Revised 3743
Code. 3744

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3745
renewable energy resource" means a renewable energy resource, as 3746
defined in section 4928.01 of the Revised Code that: 3747

(a) Has a placed-in-service date on or after January 1, 3748
1998; 3749

(b) Is any run-of-the-river hydroelectric facility that 3750
has an in-service date on or after January 1, 1980; 3751

(c) Is a small hydroelectric facility; 3752

(d) Is created on or after January 1, 1998, by the 3753
modification or retrofit of any facility placed in service prior 3754
to January 1, 1998; or 3755

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

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

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

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

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

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

(B) (1) By the end of 2026, an electric distribution utility shall have provided from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under ~~section~~sections 4928.141 and 4928.142 of the Revised Code, and an electric services company shall have provided a portion of its electricity supply for retail consumers in this state from qualifying renewable energy

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

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3796
The portion required under division (B)(1) of this section shall 3797
be generated from renewable energy resources in accordance with 3798
the following benchmarks: 3799

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%

3800

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 3801
by the utility or company shall be met either: 3802

(a) Through facilities located in this state; or 3803

(b) With resources that can be shown to be deliverable 3804
into this state. 3805

(C) (1) The commission annually shall review an electric 3806
distribution utility's or electric services company's compliance 3807
with the most recent applicable benchmark under division (B) (2) 3808
of this section and, in the course of that review, shall 3809
identify any undercompliance or noncompliance of the utility or 3810
company that it determines is weather-related, related to 3811

equipment or resource shortages for qualifying renewable energy 3812
resources as applicable, or is otherwise outside the utility's 3813
or company's control. 3814

(2) Subject to the cost cap provisions of division (C) (3) 3815
of this section, if the commission determines, after notice and 3816
opportunity for hearing, and based upon its findings in that 3817
review regarding avoidable undercompliance or noncompliance, but 3818
subject to division (C) (4) of this section, that the utility or 3819
company has failed to comply with any such benchmark, the 3820
commission shall impose a renewable energy compliance payment on 3821
the utility or company. 3822

(a) The compliance payment pertaining to the solar energy 3823
resource benchmarks under division (B) (2) of this section shall 3824
be an amount per megawatt hour of undercompliance or 3825
noncompliance in the period under review, as follows: 3826

(i) Three hundred dollars for 2014, 2015, and 2016; 3827

(ii) Two hundred fifty dollars for 2017 and 2018; 3828

(iii) Two hundred dollars for 2019. 3829

(b) The compliance payment pertaining to the renewable 3830
energy resource benchmarks under division (B) (2) of this section 3831
shall equal the number of additional renewable energy credits 3832
that the electric distribution utility or electric services 3833
company would have needed to comply with the applicable 3834
benchmark in the period under review times an amount that shall 3835
begin at forty-five dollars and shall be adjusted annually by 3836
the commission to reflect any change in the consumer price index 3837
~~as defined in section 101.27 of the Revised Code~~, but shall not 3838
be less than forty-five dollars. As used in this division, 3839
"consumer price index" means the consumer price index prepared 3840

by the United States bureau of labor statistics (U.S. city 3841
average for urban wage earners and clerical workers: all items, 3842
1982-1984=100), or, if that index is no longer published, a 3843
generally available comparable index. 3844

(c) The compliance payment shall not be passed through by 3845
the electric distribution utility or electric services company 3846
to consumers. The compliance payment shall be remitted to the 3847
commission, for deposit to the credit of the advanced energy 3848
fund created under section 4928.61 of the Revised Code. Payment 3849
of the compliance payment shall be subject to such collection 3850
and enforcement procedures as apply to the collection of a 3851
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3852
Revised Code. 3853

(3) An electric distribution utility or an electric 3854
services company need not comply with a benchmark under division 3855
(B) (2) of this section to the extent that its reasonably 3856
expected cost of that compliance exceeds its reasonably expected 3857
cost of otherwise producing or acquiring the requisite 3858
electricity by three per cent or more. The cost of compliance 3859
shall be calculated as though any exemption from taxes and 3860
assessments had not been granted under section 5727.75 of the 3861
Revised Code. 3862

(4) (a) An electric distribution utility or electric 3863
services company may request the commission to make a force 3864
majeure determination pursuant to this division regarding all or 3865
part of the utility's or company's compliance with any minimum 3866
benchmark under division (B) (2) of this section during the 3867
period of review occurring pursuant to division (C) (2) of this 3868
section. The commission may require the electric distribution 3869
utility or electric services company to make solicitations for 3870

renewable energy resource credits as part of its default service 3871
before the utility's or company's request of force majeure under 3872
this division can be made. 3873

(b) Within ninety days after the filing of a request by an 3874
electric distribution utility or electric services company under 3875
division (C) (4) (a) of this section, the commission shall 3876
determine if qualifying renewable energy resources are 3877
reasonably available in the marketplace in sufficient quantities 3878
for the utility or company to comply with the subject minimum 3879
benchmark during the review period. In making this 3880
determination, the commission shall consider whether the 3881
electric distribution utility or electric services company has 3882
made a good faith effort to acquire sufficient qualifying 3883
renewable energy or, as applicable, solar energy resources to so 3884
comply, including, but not limited to, by banking or seeking 3885
renewable energy resource credits or by seeking the resources 3886
through long-term contracts. Additionally, the commission shall 3887
consider the availability of qualifying renewable energy or 3888
solar energy resources in this state and other jurisdictions in 3889
the PJM interconnection regional transmission organization, 3890
L.L.C., or its successor and the midcontinent independent system 3891
operator or its successor. 3892

(c) If, pursuant to division (C) (4) (b) of this section, 3893
the commission determines that qualifying renewable energy or 3894
solar energy resources are not reasonably available to permit 3895
the electric distribution utility or electric services company 3896
to comply, during the period of review, with the subject minimum 3897
benchmark prescribed under division (B) (2) of this section, the 3898
commission shall modify that compliance obligation of the 3899
utility or company as it determines appropriate to accommodate 3900
the finding. Commission modification shall not automatically 3901

reduce the obligation for the electric distribution utility's or 3902
electric services company's compliance in subsequent years. If 3903
it modifies the electric distribution utility or electric 3904
services company obligation under division (C) (4) (c) of this 3905
section, the commission may require the utility or company, if 3906
sufficient renewable energy resource credits exist in the 3907
marketplace, to acquire additional renewable energy resource 3908
credits in subsequent years equivalent to the utility's or 3909
company's modified obligation under division (C) (4) (c) of this 3910
section. 3911

(5) The commission shall establish a process to provide 3912
for at least an annual review of the renewable energy resource 3913
market in this state and in the service territories of the 3914
regional transmission organizations that manage transmission 3915
systems located in this state. The commission shall use the 3916
results of this study to identify any needed changes to the 3917
amount of the renewable energy compliance payment specified 3918
under divisions (C) (2) (a) and (b) of this section. Specifically, 3919
the commission may increase the amount to ensure that payment of 3920
compliance payments is not used to achieve compliance with this 3921
section in lieu of actually acquiring or realizing energy 3922
derived from qualifying renewable energy resources. However, if 3923
the commission finds that the amount of the compliance payment 3924
should be otherwise changed, the commission shall present this 3925
finding to the general assembly for legislative enactment. 3926

(D) The commission annually shall submit to the general 3927
assembly in accordance with section 101.68 of the Revised Code a 3928
report describing all of the following: 3929

(1) The compliance of electric distribution utilities and 3930
electric services companies with division (B) of this section; 3931

(2) The average annual cost of renewable energy credits 3932
purchased by utilities and companies for the year covered in the 3933
report; 3934

(3) Any strategy for utility and company compliance or for 3935
encouraging the use of qualifying renewable energy resources in 3936
supplying this state's electricity needs in a manner that 3937
considers available technology, costs, job creation, and 3938
economic impacts. 3939

The commission shall begin providing the information 3940
described in division (D) (2) of this section in each report 3941
submitted after September 10, 2012. The commission shall allow 3942
and consider public comments on the report prior to its 3943
submission to the general assembly. Nothing in the report shall 3944
be binding on any person, including any utility or company for 3945
the purpose of its compliance with any benchmark under division 3946
(B) of this section, or the enforcement of that provision under 3947
division (C) of this section. 3948

(E) All costs incurred by an electric distribution utility 3949
in complying with the requirements of this section shall be 3950
bypassable by any consumer that has exercised choice of supplier 3951
under section 4928.03 of the Revised Code. 3952

Sec. 4928.645. (A) An electric distribution utility or 3953
electric services company may use, for the purpose of complying 3954
with the requirements under divisions (B) (1) and (2) of section 3955
4928.64 of the Revised Code, renewable energy credits any time 3956
in the five calendar years following the date of their purchase 3957
or acquisition from any entity, including, but not limited to, 3958
the following: 3959

(1) A mercantile customer; 3960

(2) An owner or operator of a hydroelectric generating 3961
facility that is located at a dam on a river, or on any water 3962
discharged to a river, that is within or bordering this state or 3963
within or bordering an adjoining state, or that produces power 3964
that can be shown to be deliverable into this state; 3965

(3) A seller of compressed natural gas that has been 3966
produced from biologically derived methane gas, provided that 3967
the seller may only provide renewable energy credits for metered 3968
amounts of gas. 3969

(B) (1) The public utilities commission shall adopt rules 3970
specifying that one unit of credit shall equal one megawatt hour 3971
of electricity derived from renewable energy resources, except 3972
that, for a generating facility of seventy-five megawatts or 3973
greater that is situated within this state and has committed by 3974
December 31, 2009, to modify or retrofit its generating unit or 3975
units to enable the facility to generate principally from 3976
biomass energy by June 30, 2013, each megawatt hour of 3977
electricity generated principally from that biomass energy shall 3978
equal, in units of credit, the product obtained by multiplying 3979
the actual percentage of biomass feedstock heat input used to 3980
generate such megawatt hour by the quotient obtained by dividing 3981
the then existing unit dollar amount used to determine a 3982
renewable energy compliance payment as provided under division 3983
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3984
existing market value of one renewable energy credit, but such 3985
megawatt hour shall not equal less than one unit of credit. 3986
Renewable energy resources do not have to be converted to 3987
electricity in order to be eligible to receive renewable energy 3988
credits. The rules shall specify that, for purposes of 3989
converting the quantity of energy derived from biologically 3990
derived methane gas to an electricity equivalent, one megawatt 3991

hour equals 3,412,142 British thermal units. 3992

(2) The rules also shall provide for this state a system 3993
of registering renewable energy credits by specifying which of 3994
any generally available registries shall be used for that 3995
purpose and not by creating a registry. That selected system of 3996
registering renewable energy credits shall allow a hydroelectric 3997
generating facility to be eligible for obtaining renewable 3998
energy credits and shall allow customer-sited projects or 3999
actions the broadest opportunities to be eligible for obtaining 4000
renewable energy credits. 4001

~~(C) Beginning January 1, 2020, a qualifying solar resource 4002
as defined in section 3706.40 of the Revised Code is not 4003
eligible to obtain a renewable energy credit under this section 4004
for any megawatt hour for which the resource has been issued a 4005
solar energy credit under section 3706.45 of the Revised Code. 4006~~

~~(D) Except for compressed natural gas that has been 4007
produced from biologically derived methane gas, energy generated 4008
by using natural gas as a resource is not eligible to obtain a 4009
renewable energy credit under this section. 4010~~

Sec. 4928.73. (A) As used in this section: 4011

(1) "Mercantile customer member" means a mercantile 4012
customer connected to a mercantile customer self-power system. 4013

(2) "Mercantile customer self-power system" means one or 4014
more electric generation facilities, electric storage 4015
facilities, or both, along with any associated facilities, that 4016
meet all of the following: 4017

(a) Produce electricity primarily for the consumption of a 4018
mercantile customer member or a group of mercantile customer 4019
members; 4020

<u>(b) Connect directly to the mercantile customer member's</u>	4021
<u>side of the electric meter;</u>	4022
<u>(c) Deliver electricity to the mercantile customer</u>	4023
<u>member's side of the electric meter without the use of an</u>	4024
<u>electric distribution utility's or electric cooperative's</u>	4025
<u>distribution system or transmission system;</u>	4026
<u>(d) Is located on either of the following:</u>	4027
<u>(i) A property owned or controlled by a mercantile</u>	4028
<u>customer member or the entity that owns or operates the</u>	4029
<u>mercantile customer self-power system;</u>	4030
<u>(ii) Land adjacent to a mercantile customer member if the</u>	4031
<u>facilities connect directly with the customer.</u>	4032
<u>(B) The mercantile customer self-power system may be owned</u>	4033
<u>or operated by a mercantile customer member, group of mercantile</u>	4034
<u>customer members, or an entity that is not a mercantile customer</u>	4035
<u>member.</u>	4036
<u>(C) A mercantile customer self-power system may provide</u>	4037
<u>electric generation service to one or more mercantile customers.</u>	4038
<u>(D) The public utilities commission shall adopt rules to</u>	4039
<u>implement this section that are applicable to electric</u>	4040
<u>distribution utilities.</u>	4041
<u>(E) Nothing in this section prohibits an electric</u>	4042
<u>distribution utility or an electric cooperative from charging a</u>	4043
<u>mercantile customer for distribution or transmission service</u>	4044
<u>used by a mercantile customer.</u>	4045
<u>Sec. 4928.83.</u> (A) <u>Not later than May 31, 2026, every</u>	4046
<u>electric distribution utility in the state shall develop and</u>	4047
<u>publicly share distribution system hosting capacity maps. The</u>	4048

utility shall ensure that the maps are available on the 4049
utility's web site and shall be updated at least once per 4050
quarter. 4051

(B) The maps described in division (A) of this section 4052
shall include, at a minimum: 4053

(1) Total available distribution hosting capacity, 4054
expressed in megawatts, for new loads; 4055

(2) Separate hosting capacity availability for distributed 4056
energy resources or a separate distributed energy resource 4057
specific map; 4058

(3) Geographic locations and voltage levels of circuits 4059
and substations; 4060

(4) Total, existing, and queued loads or generation 4061
exceeding one megawatt per circuit and substation; 4062

(5) Available substation and circuit capacity expressed in 4063
megawatts. 4064

(C) The public utilities commission shall hold at least 4065
two stakeholder meetings annually to receive input on map 4066
design, data accuracy, and usability. In addition, the 4067
commission shall establish uniform reporting standards to ensure 4068
consistency across all electric distribution utilities. The 4069
commission may also require utilities to include additional data 4070
points as necessary to improve transparency and planning. 4071

(D) Each electric distribution utility shall publish 4072
annual reliability reports, including the following metrics, 4073
identified per circuit: 4074

(1) The system average interruption frequency index, 4075
representing the average number of interruptions per customer; 4076

(2) The customer average interruption duration index, 4077
representing the average interruption duration or average time 4078
to restore service per interrupted customer; 4079

(3) Customers experiencing multiple interruptions, which 4080
identifies customers experiencing at least five interruptions 4081
annually divided by the total number of customers served; 4082

(4) Customers experiencing long interruption durations, 4083
which identifies customers that experienced outages of one or 4084
more hours in duration divided by the total number of customers 4085
served; 4086

(5) Average outage frequency and duration per circuit and 4087
substation; 4088

(6) Identification of circuits and substations with 4089
persistent reliability issues; 4090

(7) Planned and completed upgrades to enhance grid 4091
reliability. 4092

(E) The commission shall review and publish a statewide 4093
reliability report annually, summarizing trends and recommending 4094
grid modernization measures. 4095

Sec. 4928.86. (A) Each entity that owns or controls 4096
transmission facilities located in this state and is not a 4097
regional transmission organization shall create a heat map that 4098
includes both of the following: 4099

(1) For major transmission lines and substations, the 4100
additional power load the lines and substations can take at the 4101
time that the map is created, accounting for all signed electric 4102
service agreements; 4103

(2) The amount of localized generation that can be hosted 4104

on each transmission line. 4105

(B) If a heat map created under this section is not 4106
critical electric infrastructure information, then the entity 4107
that created the map shall publish the map on the entity's web 4108
site. 4109

Sec. 4929.20. ~~(A)~~ (A) (1) No governmental aggregator as 4110
defined in division (K) (1) of section 4929.01 of the Revised 4111
Code or no retail natural gas supplier shall provide a 4112
competitive retail natural gas service on or after thirteen 4113
months following ~~the effective date of this section~~ June 26, 4114
2001, to a consumer in this state without first being certified 4115
by the public utilities commission regarding its managerial, 4116
technical, and financial capability to provide that service and 4117
providing reasonable financial assurances sufficient to protect 4118
customers and natural gas companies from default. ~~In addition, a~~ 4119
~~retail natural gas supplier may be required to provide a~~ 4120
~~performance bond sufficient to protect customers and natural gas~~ 4121
~~companies from default.~~ Certification shall be granted pursuant 4122
to procedures and standards the commission shall prescribe in 4123
accordance with rules adopted under section 4929.10 of the 4124
Revised Code. However, certification or certification renewal 4125
shall be deemed approved thirty days after the filing of an 4126
application with the commission unless the commission suspends 4127
that approval for good cause shown. In the case of such a 4128
suspension, the commission shall act to approve or deny 4129
certification or certification renewal to the applicant not 4130
later than ninety days after the date of the suspension. 4131

(2) The commission shall establish rules to require a 4132
competitive retail natural gas supplier to maintain financial 4133
assurances sufficient to protect customers and natural gas 4134

companies from default. Such rules also shall specifically allow 4135
a natural gas company to set reasonable standards for its 4136
security and the security of its customers through financial 4137
requirements set in its tariffs. 4138

(3) As used in division (A) (2) of this section, "retail 4139
natural gas supplier" has the same meaning as in section 4929.01 4140
of the Revised Code, but excludes a broker or aggregator. 4141

(B) Capability standards adopted in rules pursuant to 4142
division (A) of this section shall be sufficient to ensure 4143
compliance with section 4929.22 of the Revised Code and with the 4144
minimum service requirements established under section 4929.23 4145
of the Revised Code. The standards shall allow flexibility for 4146
voluntary aggregation, to encourage market creativity in 4147
responding to consumer needs and demands. The rules shall 4148
include procedures for biennially renewing certification. 4149

(C) (1) The commission may suspend, rescind, or 4150
conditionally rescind the certification of any retail natural 4151
gas supplier or governmental aggregator issued under this 4152
section if the commission determines, after reasonable notice 4153
and opportunity for hearing, that the retail natural gas 4154
supplier or governmental aggregator has failed to comply with 4155
any applicable certification standards prescribed in rules 4156
adopted pursuant to this section or section 4929.22 of the 4157
Revised Code. 4158

(2) An affected natural gas company may file an 4159
application with the commission for approval of authority to 4160
recover in accordance with division (C) (2) of this section 4161
incremental costs reasonably and prudently incurred by the 4162
company in connection with the commission's continuation, 4163
suspension, rescission, or conditional rescission of a 4164

particular retail natural gas supplier's certification under 4165
division (C) (1) of this section. Upon the filing of such an 4166
application, the commission shall conduct an audit of such 4167
incremental costs as are specified in the application. Cost 4168
recovery shall be through a rider on the base rates of customers 4169
of the company for which there is a choice of supplier of 4170
commodity sales service as a result of revised schedules 4171
approved under division (C) of section 4929.29 of the Revised 4172
Code, a rule or order adopted or issued by the commission under 4173
Chapter 4905. of the Revised Code, or an exemption granted by 4174
the commission under sections 4929.04 to 4929.08 of the Revised 4175
Code. The rider shall take effect ninety days after the date of 4176
the application's filing unless the commission, based on the 4177
audit results and for good cause shown, sets the matter for 4178
hearing. After the hearing, the commission shall approve the 4179
application, and authorize such cost recovery rider effective on 4180
the date specified in the order, only for such incremental costs 4181
as the commission determines were reasonably and prudently 4182
incurred by the company in connection with the continuation, 4183
suspension, rescission, or conditional rescission of a retail 4184
natural gas supplier's certification under division (C) (1) of 4185
this section. Any proceeding under division (C) (2) of this 4186
section shall be governed by Chapter 4903. of the Revised Code. 4187

(D) No natural gas company, on and after thirteen months 4188
~~following the effective date of this section~~ June 26, 2001, 4189
shall knowingly distribute natural gas, to a retail consumer in 4190
this state, for any governmental aggregator, as defined in 4191
division (K) (1) of section 4929.01 of the Revised Code, or 4192
retail natural gas supplier, that has not been certified by the 4193
commission pursuant to this section. 4194

(E) Notwithstanding any provision of section 121.95 of the 4195

Revised Code to the contrary, a regulatory restriction contained 4196
in a rule adopted under section 4929.20 of the Revised Code is 4197
not subject to sections 121.95 to 121.953 of the Revised Code. 4198

Sec. 4929.221. (A) If a competitive retail natural gas 4199
service supplier offers a residential customer or non-mercantile 4200
commercial customer a contract for a fixed introductory rate 4201
that converts to a variable rate upon the expiration of the 4202
fixed rate, the supplier shall send two notices to each 4203
residential customer and non-mercantile commercial customer that 4204
enters into such a contract. Each notice shall provide all of 4205
the following information to the customer: 4206

(1) The fixed rate that is expiring under the contract; 4207

(2) The expiration date of the contract's fixed rate; 4208

(3) The public utilities commission web site that, as a 4209
comparison tool, lists rates offered by competitive retail 4210
natural gas service suppliers. 4211

(B) The second notice shall include all the information 4212
required under division (A) of this section and shall also 4213
identify the initial rate to be charged upon the contract's 4214
conversion to a variable rate. 4215

(C) The notices shall be sent by standard United States 4216
mail or electronically with a customer's verifiable consent as 4217
follows: 4218

(1) The supplier shall send the first notice not earlier 4219
than ninety days and not later than sixty days prior to the 4220
expiration of the fixed rate. 4221

(2) The supplier shall send the second notice not earlier 4222
than forty-five days and not later than fifteen days prior to 4223

the expiration of the fixed rate. 4224

(D) A competitive retail natural gas service supplier 4225
shall provide an annual notice, by standard United States mail 4226
or electronically with a customer's verifiable consent, to each 4227
residential customer and non-mercantile commercial customer that 4228
has entered into a contract with the supplier that has converted 4229
to a variable rate upon the expiration of the contract's fixed 4230
introductory rate. The notice shall inform the customer that the 4231
customer is currently subject to a variable rate and that other 4232
fixed rate contracts are available. 4233

(E) Not later than one hundred fifty days after the 4234
effective date of this section, the commission shall adopt rules 4235
in order to implement divisions (A) to (D) of this section. The 4236
rules, at a minimum, shall include the following requirements 4237
regarding the notices required under divisions (A) to (D) of 4238
this section: 4239

(1) To use clear and unambiguous language in order to 4240
enable the customer to make an informed decision; 4241

(2) To design the notices in a way to ensure that they 4242
cannot be confused with marketing materials. 4243

(F) Notwithstanding any provision of section 121.95 of the 4244
Revised Code to the contrary, a regulatory restriction contained 4245
in a rule adopted under section 4929.221 of the Revised Code is 4246
not subject to sections 121.95 to 121.953 of the Revised Code. 4247

Sec. 4929.222. (A) As used in this section, "customer 4248
account information" means a unique natural gas company number 4249
or other customer identification number used by the company to 4250
identify a customer and the customer's account record. 4251

(B) The public utilities commission shall adopt rules to 4252

ensure that a natural gas company processes a customer's change 4253
in competitive retail natural gas supplier by using customer 4254
account information. A customer who consents to a change of 4255
supplier shall not be required to provide customer account 4256
information to the supplier if the customer provides a valid 4257
form of government-issued identification issued to the customer 4258
or a sufficient alternative form of identification that allows 4259
the supplier to establish the customer's identity accurately. 4260

(C) Notwithstanding any provision of section 121.95 of the 4261
Revised Code to the contrary, a regulatory restriction contained 4262
in a rule adopted under this section is not subject to sections 4263
121.95 to 121.953 of the Revised Code. 4264

Sec. 4933.81. As used in sections 4933.81 to 4933.90 of 4265
the Revised Code: 4266

(A) "Electric supplier" means any electric light company 4267
as defined in section 4905.03 of the Revised Code, including 4268
electric light companies organized as nonprofit corporations, 4269
but not including municipal corporations or other units of local 4270
government that provide electric service. 4271

(B) "Adequate facilities" means distribution lines or 4272
facilities having sufficient capacity to meet the maximum 4273
estimated electric service requirements of its existing 4274
customers and of any new customer occurring during the year 4275
following the commencement of permanent electric service, and to 4276
assure all such customers of reasonable continuity and quality 4277
of service. Distribution facilities and lines of an electric 4278
supplier shall be considered "adequate facilities" if such 4279
supplier offers to undertake to make its distribution facilities 4280
and lines meet such service requirements and, in the 4281
determination of the public utilities commission, can do so 4282

within a reasonable time. 4283

(C) "Distribution line" means any electric line that is 4284
being or has been used primarily to provide electric service 4285
directly to electric load centers by the owner of such line. 4286

(D) "Existing distribution line" means any distribution 4287
line of an electric supplier which was in existence on January 4288
1, 1977, or under construction on that date. 4289

(E) "Electric load center" means all the electric- 4290
consuming facilities of any type or character owned, occupied, 4291
controlled, or used by a person at a single location, which 4292
facilities have been, are, or will be connected to and served at 4293
a metered point of delivery and to which electric service has 4294
been, is, or will be rendered. 4295

(F) "Electric service" means retail electric service 4296
furnished to an electric load center for ultimate consumption, 4297
but excludes furnishing electric power or energy at wholesale 4298
for resale. In the case of a for-profit electric supplier and 4299
beginning on the starting date of competitive retail electric 4300
service as defined in section 4928.01 of the Revised Code, 4301
"electric service" also excludes a competitive retail electric 4302
service—, and, starting after the effective date of amendments 4303
to this section by H.B. 15 of the 136th General Assembly, 4304
excludes: 4305

(1) Retail electric service provided to a mercantile 4306
customer member by a mercantile customer self-power system 4307
connected to that mercantile customer member as those terms are 4308
defined in section 4928.73 of the Revised Code; 4309

(2) Retail electric service provided to an electric load 4310
center to the extent the center is acting as a self-generator as 4311

defined in section 4928.01 of the Revised Code. 4312

In the case of a not-for-profit electric supplier and 4313
beginning on that competitive retail electric service starting 4314
date, "electric service" also excludes any service component of 4315
competitive retail electric service that is specified in an 4316
irrevocable filing the electric supplier makes with the public 4317
utilities commission for informational purposes only to 4318
eliminate permanently its certified territory under sections 4319
4933.81 to 4933.90 of the Revised Code as to that service 4320
component and further excludes for any new electric load centers 4321
going into service after the effective date of amendments to 4322
this section by H.B. 15 of the 136th general assembly retail 4323
electric service described in divisions (F) (1) and (2) of this 4324
section. The filing shall specify the date on which such 4325
territory is so eliminated. Notwithstanding division (B) of 4326
section 4928.01 of the Revised Code, such a service component 4327
may include retail ancillary, metering, or billing and 4328
collection service irrespective of whether that service 4329
component has or has not been declared competitive under section 4330
4928.04 of the Revised Code. Upon receipt of the filing by the 4331
commission, the not-for-profit electric supplier's certified 4332
territory shall be eliminated permanently as to the service 4333
component specified in the filing as of the date specified in 4334
the filing. As used in this division, "competitive retail 4335
electric service" and "retail electric service" have the same 4336
meanings as in section 4928.01 of the Revised Code. 4337

(G) "Certified territory" means a geographical area the 4338
boundaries of which have been established pursuant to sections 4339
4933.81 to 4933.90 of the Revised Code within which an electric 4340
supplier is authorized and required to provide electric service. 4341

(H) "Other unit of local government" means any 4342
governmental unit or body that may come into existence after 4343
July 12, 1978, with powers and authority similar to those of a 4344
municipal corporation, or that is created to replace or exercise 4345
the relevant powers of any one or more municipal corporations. 4346

Sec. 4934.01. As used in this chapter: 4347

(A) "Bill credit" means the monetary value approved or 4348
revised under section 4934.08 or 4934.09 of the Revised Code by 4349
the public utilities commission for each kilowatt hour of 4350
electricity generated by a community energy facility. 4351

(B) "Certified territory," "electric distribution 4352
utility," and "energy storage" have the same meanings as in 4353
section 4928.01 of the Revised Code. 4354

(C) "Commercial or public sector rooftop" means either of 4355
the following that is located within an electric distribution 4356
utility's certified territory: 4357

(1) The roof of a building located on commercial real 4358
estate as defined in section 1311.85 of the Revised Code; 4359

(2) Any property owned by a public authority as defined in 4360
section 1311.25 of the Revised Code. 4361

(D) "Community energy facility" means a single facility 4362
that does the following: 4363

(1) Generates electricity by means of a solar photovoltaic 4364
device or uses as its fuel either solar, wind, biomass, landfill 4365
gas, or hydroelectric power, or uses a microturbine, natural 4366
gas-fired generator, energy storage system, or a fuel cell; 4367

(2) Meets all of the following requirements: 4368

(a) The facility is located in this state and is directly 4369
connected to an electric distribution utility's distribution 4370
system. 4371

(b) The facility has at least three subscribers. 4372

(c) The facility is located on one parcel of land and, 4373
except as provided in section 4934.011 of the Revised Code, 4374
there is no community energy facility on the same or a 4375
contiguous parcel that is developed, owned, or operated by the 4376
same entity, affiliated entity, or entity under common control. 4377

(d) No subscriber holds more than a forty per cent 4378
proportional interest in the output of the system, which shall 4379
be measured as the sum total of all meters on the subscriber's 4380
property. 4381

(e) Not less than sixty per cent of the facility capacity 4382
shall be subscribed by subscriptions of forty kilowatts or less 4383
based on the average annual demand for the prior twelve-month 4384
period. For purposes of this division, a multi-unit building 4385
served by a single meter shall be considered a single customer 4386
provided the average usage, based on the number of units, is 4387
forty kilowatts or less. 4388

(f) The facility has a nameplate capacity of ten or less 4389
megawatts, or twenty or less megawatts if the facility is on a 4390
distressed site or one or more commercial or public sector 4391
rooftops, as measured at the point of interconnection. 4392

(g) The facility is not under the control of an electric 4393
distribution utility, but may be under the control of an 4394
affiliate of the utility. 4395

(3) (a) If the facility uses either an energy storage 4396
system or natural gas-fired generator, then the energy storage 4397

system or generator is not sized so as to exceed the size of any 4398
co-located facility using solar, wind, biomass, landfill gas, or 4399
hydroelectric power as its fuel. 4400

(b) If the system uses both an energy storage system and 4401
natural gas-fired generator, then the combined nameplate 4402
capacity of the storage system and generator is not sized so as 4403
to exceed the size of any co-located facility using solar, wind, 4404
biomass, landfill gas, or hydroelectric power as its fuel. 4405

(E) "Community energy organization" means a for-profit or 4406
nonprofit entity that operates one or more community energy 4407
facilities. 4408

(F) "Distressed site" means a site made up of one or more 4409
parcels of land, located within an electric distribution 4410
utility's certified territory where the majority of the acreage 4411
is at least one or more of the following: 4412

(1) A brownfield as defined in section 122.6511 of the 4413
Revised Code; 4414

(2) A parcel that is within an area where an investor may 4415
receive a new markets tax credit under section 45D of the 4416
Internal Revenue Code; 4417

(3) A solid waste facility licensed by the environmental 4418
protection agency under section 3734.02 of the Revised Code; 4419

(4) A parcel of land that is described by division (b) (11) 4420
(B) (iii) of section 45 of the Internal Revenue Code; 4421

(5) Land or structure owned by a metropolitan housing 4422
authority, as described in section 3735.27 of the Revised Code; 4423

(6) Land owned by a county land reutilization corporation 4424
as defined in section 1724.01 of the Revised Code. 4425

(G) "Large industrial customer" means any manufacturer 4426
that uses electricity primarily in a process involving a change 4427
of raw or unfinished materials into another form or product, and 4428
that takes service from an electric distribution utility at 4429
primary voltage, subtransmission voltage, or transmission 4430
voltage. 4431

(H) "Net crediting" means a program offered by an electric 4432
distribution utility under which the electric utility does the 4433
following: 4434

(1) Issues a customer, who is a subscriber, a consolidated 4435
electric bill that includes on the customer's monthly bill the 4436
electric utility charges for electric service, the community 4437
energy subscription charge, and any bill credit; 4438

(2) Remits the customer's subscription fee to the owner or 4439
operator of the community energy organization to which the 4440
customer subscribes. 4441

(I) "Non-ministerial permit" means all necessary and 4442
discretionary governmental permits and approvals to construct a 4443
community energy facility notwithstanding any pending legal 4444
challenge to one or more permits or approvals. 4445

(J) "Subscriber" means any retail electric customer who 4446
meets all of the following: 4447

(1) The customer has a single unique tax identification 4448
number; 4449

(2) The customer has an electric meter on the customer's 4450
property; 4451

(3) The customer resides within the certified territory of 4452
an electric distribution utility; 4453

(4) The customer contracts for a subscription from a 4454
community energy facility located in the same certified 4455
territory as the customer; 4456

(5) The customer is not a large industrial customer or a 4457
mercantile customer as defined in section 4928.01 of the Revised 4458
Code. 4459

(K) "Subscription" means the right to obtain from a 4460
community energy organization an allocation of bill credits for 4461
electricity generated by a community energy facility. 4462

(L) "Unsubscribed electricity" means any electricity 4463
generated by a community energy facility that is not 4464
attributable to a subscription. 4465

Sec. 4934.011. A community energy facility may be placed 4466
on the same parcel or a contiguous parcel of land as a community 4467
energy facility that is developed, owned, or operated by the 4468
same entity, affiliated entity, or entity under common control 4469
if at least one of the following is met: 4470

(A) The parcel or parcels of land are a distressed site or 4471
the facility is on one or more commercial or public sector 4472
rooftops, and the total capacity of all community energy 4473
facilities on the parcel or parcels does not exceed twenty 4474
megawatts. 4475

(B) All of the following are satisfied: 4476

(1) The community energy facility is to be located on a 4477
parcel of land, or multiple parcels of land, that were created 4478
prior to the effective date of this section. 4479

(2) The total capacity of all community energy facilities 4480
on the parcel or parcels of land does not exceed ten megawatts. 4481

(3) Each community energy facility has its own distinct point of interconnection with the serving electric distribution utility, including separate and distinct metering and the ability to be directly connected to or disconnected from the utility. 4482
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(4) The generation components of each community energy facility are separate, including separate fencing, and not connected with neighboring facilities other than by the utility's distribution system. 4487
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(5) Each community energy facility shares only non-operational infrastructure, including access roads, utility poles, and other features necessary to provide utility and physical access to each facility. 4491
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Sec. 4934.04. The public utilities commission shall establish a community energy pilot program, as described in sections 4934.05 to 4934.14 and 4934.25 to 4934.27 of the Revised Code, consisting of one thousand five hundred megawatts to be implemented throughout this state. 4495
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Sec. 4934.05. (A) The public utilities commission shall annually certify two hundred fifty megawatts of community energy facilities, based on nameplate capacity, until one thousand megawatts from such facilities are certified. 4500
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(B) All megawatts certified pursuant to this section shall be allocated proportionally based on the size of each utility's retail electric sales published by the energy information administration. 4504
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(C) Any uncertified megawatts for a year carry over to the subsequent year until all available megawatts are certified. 4508
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(D) All megawatts certified pursuant to this section shall 4510

be certified in the order that the certification applications 4511
were received. 4512

(E) If applications for certification exceed the total 4513
capacity available for the year, then the applications shall be 4514
placed on a wait list as determined by the commission. Once 4515
certification of one thousand megawatts for community energy 4516
facilities has occurred, the wait list shall be eliminated. 4517

(F) The commission shall ensure that certification under 4518
this section is separate from a certification process required 4519
under sections 4928.64 to 4928.645 of the Revised Code, or any 4520
related rules in the Ohio Administrative Code. 4521

Sec. 4934.06. (A) The public utilities commission shall 4522
certify five hundred megawatts of community energy facilities, 4523
in addition to the megawatts certified under section 4934.05 of 4524
the Revised Code, which shall be reserved for community energy 4525
facilities constructed exclusively on distressed sites or one or 4526
more commercial or public sector rooftops. 4527

(B) The commission shall ensure that certification under 4528
this section is separate from a certification process required 4529
under sections 4928.64 to 4928.645 of the Revised Code, or any 4530
related rules in the Administrative Code. 4531

(C) After all megawatts are certified pursuant to this 4532
section, a community energy facility on a distressed site or a 4533
commercial or public sector rooftop may be certified from the 4534
megawatts allocated under section 4934.05 of the Revised Code. 4535

Sec. 4934.07. (A) An electric distribution utility with a 4536
community energy facility in its certified territory shall 4537
allocate bill credits for all electricity generated by the 4538
facility that is attributable to a subscription. 4539

(B) (1) A community energy organization may account for 4540
unsubscribed electricity on a monthly basis and accumulate bill 4541
credits for the unsubscribed electricity for a period of up to 4542
twelve months after it was generated. 4543

(2) Bill credits for unsubscribed electricity accumulated 4544
under division (B) (1) of this section shall be allocated to 4545
future subscribers at the direction of the community energy 4546
organization. 4547

(C) At least once annually, a community energy 4548
organization shall furnish to the electric distribution utility 4549
in whose certified territory the community energy facility is 4550
located an allocation for distribution of bill credits to 4551
subscribers for unsubscribed electricity. 4552

(D) A community energy organization shall forfeit, to the 4553
electric distribution utility in whose certified territory the 4554
community energy facility is located, any bill credits for 4555
unsubscribed electricity that are not allocated pursuant to 4556
division (B) of this section. 4557

Sec. 4934.071. (A) As used in this section: 4558

(1) "Regional governmental aggregator" means a regional 4559
council of governments established under Chapter 167. of the 4560
Revised Code with members in at least seventeen counties that is 4561
also a governmental aggregator under section 4928.20 of the 4562
Revised Code. 4563

(2) "Renewable attributes" means any of the following that 4564
are attributable to a community energy facility or the 4565
electricity generated by a facility provided by the federal or 4566
state government or any other legislative authority of a 4567
political subdivision in the state: 4568

(a) Any credits, certificates, benefits, or offsets and allowances computed on the basis of a community energy facility's displacement of fossil fuel-derived, or other conventional, electric generation; 4569
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(b) Any renewable energy credits or any other environmental certificates issued or administered in connection with electricity generated from a community energy facility; 4573
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(c) Any voluntary emission reduction credits obtained, or obtainable, in connection with the electric generation from a community energy facility. 4576
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(B) A regional governmental aggregator may purchase any amount of renewable attributes from a community energy facility. 4579
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Sec. 4934.072. (A) No large industrial customer or mercantile customer, as defined in section 4928.01 of the Revised Code, shall participate in the community energy pilot program or be charged, directly or indirectly, for any costs related to the community energy pilot program. 4581
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(B) Residential and commercial customers who do not participate in the community energy pilot program shall not be charged, directly or indirectly, for any costs related to the community energy pilot program. 4586
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Sec. 4934.08. (A) As used in this section, "retail rate" means all costs of providing generation service, transmission service, and distribution service that may be charged by an electric distribution utility. 4590
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(B) A subscriber to a community energy facility shall be eligible for a bill credit from the subscriber's electric distribution utility for the proportional output of a community energy facility attributable to the subscriber. 4594
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(C) The public utilities commission shall establish the bill credit for each subscriber, subject to division (D) of this section, that is equal to the utility's retail rate on a per-customer class basis, minus only the utility's base charge for distribution service approved under Chapter 4909. of the Revised Code and the utility's distribution riders or other distribution charges approved under Chapter 4928. of the Revised Code. 4598
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(D) When determining the bill credit for each utility, the commission shall take into account all of the following: 4605
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(1) The costs and benefits provided by community energy facilities participating in the community energy pilot program; 4607
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(2) All proposed rules, fees, and charges; 4609

(3) Any other item that the commission determines is necessary. 4610
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Sec. 4934.09. The public utilities commission shall approve a tariff based on the revised bill credit rate not later than twelve months after the report under section 4934.37 of the Revised Code is submitted. 4612
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Sec. 4934.10. Any bill credit exceeding a subscriber's monthly bill amount shall carry forward until fully allocated to the subscriber's bill or until the termination of the subscriber's community energy organization subscription. 4616
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Sec. 4934.11. No subscriber may obtain a subscription for electricity generated by a community energy facility representing more than one hundred per cent of the subscriber's average annual electricity usage. 4620
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Sec. 4934.12. A subscription shall be considered one of the following: 4624
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(A) A consumer transaction subject to Chapter 1345. of the 4626
Revised Code regarding the enrollment of residential subscribers 4627
to obtain an allocation of bill credits; 4628

(B) Goods subject to Chapter 1302. of the Revised Code 4629
regarding the enrollment of nonresidential subscribers to obtain 4630
an allocation of bill credits. 4631

Sec. 4934.13. An electric distribution utility shall 4632
interconnect a community energy facility that is in that 4633
utility's certified territory to its distribution system within 4634
a reasonable time after the facility is constructed and shall 4635
ensure such interconnections are made efficiently, safely, and 4636
in compliance with any applicable federal and state regulations 4637
and standards. 4638

Sec. 4934.14. An electric distribution utility shall not 4639
discriminate against community energy facilities or their 4640
subscribers, which includes adding extraordinary fees and 4641
charges not applied to similar facilities. 4642

Sec. 4934.17. (A) An electric distribution utility may 4643
establish a net crediting program under which the electric 4644
distribution utility shall enter into a net crediting agreement 4645
with a community energy organization. The terms of an agreement 4646
shall specify that authorization by or on behalf of a subscriber 4647
is required before a subscriber may be billed by the electric 4648
distribution utility under the program. An agreement also shall 4649
specify the terms for payments made by the electric distribution 4650
utility to the community energy organization, which terms may 4651
include a net crediting fee of not more than one per cent of the 4652
subscription fee to be deducted from the electric distribution 4653
utility's payment to the community energy organization. 4654

(B) Under a net crediting agreement, an electric 4655
distribution utility shall do the following: 4656

(1) Remit, through an electronic funds transfer, the cash 4657
value of the subscriber's subscription fee, less any net 4658
crediting fee, to the community energy organization not later 4659
than thirty days after the billing period; 4660

(2) Issue electric distribution utility customers who are 4661
subscribers an itemized monthly bill that includes, in addition 4662
to charges described in division (B) (4) of this section, the 4663
subscriber's bill credit for the billing period and the 4664
subscriber's subscription fee; 4665

(3) Process monthly bills for subscribers who participate 4666
in low-income customer assistance programs or budget billing 4667
programs in the same manner as bills for customers who are not 4668
participating in such programs; 4669

(4) Bill for all basic electric services, including 4670
transmission, distribution, and generation charges, consistent 4671
with this section and commission regulations. 4672

Sec. 4934.18. An electric distribution utility that enters 4673
into a net crediting agreement with a community energy 4674
organization shall prioritize payments from a customer who is a 4675
subscriber for each billing period according to this section. 4676
Past due subscriber fees owed to a community energy organization 4677
shall be paid prior to payments to the electric distribution 4678
utility for any arrearages on the customer's electric service 4679
bill. The electric distribution utility shall not apply a 4680
customer's bill credit to a customer's outstanding balance for 4681
electric service for the billing period. 4682

Sec. 4934.20. A nonresidential customer that subscribes to 4683

multiple community energy facilities may participate in the net 4684
crediting program only if each facility is included in a net 4685
crediting agreement under sections 4934.17 to 4934.23 of the 4686
Revised Code. 4687

Sec. 4934.21. The minimum service requirements established 4688
under section 4928.10 of the Revised Code apply to sections 4689
4934.17 to 4934.23 of the Revised Code. 4690

Sec. 4934.23. The public utilities commission shall adopt 4691
rules to implement net crediting programs authorized under 4692
sections 4934.17 to 4934.23 of the Revised Code. 4693

Sec. 4934.25. (A) A community energy organization that 4694
constructs a community energy facility on a distressed site that 4695
is a brownfield, as defined in section 122.6511 of the Revised 4696
Code, shall be eligible to receive a grant awarded by the 4697
department of development from the brownfield remediation 4698
program under section 122.6511 of the Revised Code for costs 4699
associated with construction and remediation. 4700

(B) The department of development shall promulgate rules 4701
for awarding grants described in this section. 4702

Sec. 4934.26. (A) The public utilities commission shall 4703
convene and facilitate an ongoing stakeholder working group to 4704
assist commission staff with effectively and efficiently 4705
promulgating rules for the community energy pilot program. 4706

(B) The working group shall consist of the following: 4707

(1) Electric distribution utilities; 4708

(2) Consumer advocates; 4709

(3) Community energy industry representatives; 4710

<u>(4) Other interested parties.</u>	4711
<u>Sec. 4934.27. Not later than six months after the</u>	4712
<u>effective date of this section, the public utilities commission,</u>	4713
<u>with assistance from the working group established by section</u>	4714
<u>4934.26 of the Revised Code shall promulgate rules to implement</u>	4715
<u>the community energy program, which shall include rules for the</u>	4716
<u>creation and establishment of community energy facilities, and</u>	4717
<u>the following:</u>	4718
<u>(A) The certification of community energy facilities,</u>	4719
<u>which shall include rules for the commission to approve or deny</u>	4720
<u>each facility application within ninety days, unless good cause</u>	4721
<u>is shown for not meeting the deadline, as determined by the</u>	4722
<u>commission;</u>	4723
<u>(B) Prohibit removing a subscriber from the subscriber's</u>	4724
<u>applicable customer class because of the subscriber's</u>	4725
<u>subscription to a community energy facility;</u>	4726
<u>(C) Reasonably allow for the transfer and portability of</u>	4727
<u>subscriptions, including allowing a subscriber to retain a</u>	4728
<u>subscription to a facility if the subscriber moves within the</u>	4729
<u>same electric distribution utility's service territory;</u>	4730
<u>(D) Modify existing interconnection standards, fees, and</u>	4731
<u>processes as needed to facilitate the efficient and cost-</u>	4732
<u>effective interconnection of community energy facilities that</u>	4733
<u>allow an electric distribution utility to recover reasonable</u>	4734
<u>interconnection costs for each facility;</u>	4735
<u>(E) Require each electric distribution utility to</u>	4736
<u>efficiently connect a community energy facility to its</u>	4737
<u>electrical distribution grid and not to discriminate against</u>	4738
<u>facilities or subscribers;</u>	4739

(F) Provide for consumer protection in accordance with existing laws and regulations, including any protections against disconnection of service; 4740
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(G) Establish robust consumer protections for subscribers, including at least the following: 4743
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(1) A standardized customer disclosure form for residential subscribers; 4745
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(2) Prohibiting upfront sign-on fees or credit checks; 4747

(3) Preventing early termination charges to any subscriber who unsubscribes. 4748
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(H) Allow an electric distribution utility to recover reasonable costs associated with administering the community energy pilot program; 4750
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(I) Ensure that costs associated with the community energy pilot program only be recovered from customer classes participating in the program and that no cross-subsidization of costs between customer classes occurs; 4753
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(J) Ensure facilities qualifying for the community energy pilot program have a signed interconnection agreement or a system impact study, as determined by the commission, can demonstrate site control, and have received all applicable non-ministerial permits; 4757
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(K) Require each community energy organization to send a notice in a standardized format containing information related to subscriber enrollment to the electric distribution utility that services the area where the organization's community energy facility is sited; 4762
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(L) Not later than nine months after the effective date of 4767

this section, require each electric distribution utility to 4768
publish new tariffs or update existing tariffs to implement the 4769
community energy pilot program; 4770

(M) Require a community energy organization to be 4771
responsible for the decommissioning of a community energy 4772
facility pursuant to sections 4934.35 and 4934.36 of the Revised 4773
Code. 4774

Sec. 4934.35. (A) Not later than eighteen months after a 4775
community energy facility has ceased generating electricity, a 4776
community energy organization shall commence decommissioning of 4777
the facility. 4778

(B) The decommissioning described in division (A) of this 4779
section shall include the following, to be mutually agreed to in 4780
writing by the property owner or owners and the organization: 4781

(1) The removal, and potential reuse and recycling, of 4782
solar panels and other community energy equipment, and the 4783
remediation of the site; 4784

(2) The removal of all non-utility-owned equipment, 4785
graveled areas, and access roads; 4786

(3) The replacement of any topsoil that was removed for 4787
the construction of the facility and reseeding of the cleared 4788
area. 4789

(C) Not more than twenty per cent of the total combined 4790
mass of the community energy facility may enter a landfill. 4791

Sec. 4934.36. (A) A community energy organization shall 4792
maintain sufficient financial assurances, in the form of a bond, 4793
through the life of a community energy facility's operation to 4794
provide for decommissioning as described in section 4934.35 of 4795

the Revised Code. 4796

(B) The amount of the bond shall be calculated by a third-party professional engineer obtained by the organization. Every five years from the date of the initial assessment, the bond amount shall be recalculated in the same manner. 4797
4798
4799
4800

(C) The board of county commissioners where the project is located shall be the obligee of the bond. 4801
4802

Sec. 4934.37. (A) The public utilities commission shall conduct reviews of the community energy pilot program forty-eight months after the rules for the program have been promulgated and submit a report to the general assembly with the following information: 4803
4804
4805
4806
4807

(1) The number and location of operating community energy facilities; 4808
4809

(2) The amount of nameplate capacity certified; 4810

(3) The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed; 4811
4812
4813

(4) Whether savings were achieved by the subscribers. 4814

(B) The commission shall promulgate rules to require community energy organizations and electric distribution utilities to provide the commission with a report containing the relevant information described in division (A) of this section. 4815
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Sec. 4934.38. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under sections 4934.23, 4934.25, 4934.27, and 4934.37 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code. 4819
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4822
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Sec. 4935.04. (A) As used in this chapter:	4824
(1) "Major utility facility" means:	4825
(a) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;	4826 4827 4828
(b) A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.	4829 4830 4831 4832
"Major utility facility" does not include electric, gas, or natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the public utilities commission; facilities owned or operated by industrial firms, persons, or institutions that produce or transmit gas or natural gas, or electricity primarily for their own use or as a byproduct of their operations; gas or natural gas transmission lines and associated facilities over which an agency of the United States has certificate jurisdiction; facilities owned or operated by a person furnishing gas or natural gas directly to fifteen thousand or fewer customers within this state.	4833 4834 4835 4836 4837 4838 4839 4840 4841 4842 4843 4844
(2) "Person" has the meaning set forth in section 4906.01 of the Revised Code.	4845 4846
<u>(3) "Advanced transmission technologies" has the same meaning as in section 4906.01 of the Revised Code.</u>	4847 4848
(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the	4849 4850 4851 4852

energy information filed by the person with that agency of the 4853
United States. 4854

(C) Each person owning or operating a major utility 4855
facility within this state, or furnishing gas, natural gas, or 4856
electricity directly to more than fifteen thousand customers 4857
within this state shall furnish a report to the commission for 4858
its review. The report shall be furnished annually, except that 4859
for a gas or natural gas company the report shall be furnished 4860
every three years. The report shall be termed the long-term 4861
forecast report and shall contain: 4862

(1) A year-by-year, ten-year forecast of annual energy 4863
demand, peak load, reserves, and a general description of the 4864
resource planning projections to meet demand; 4865

(2) A range of projected loads during the period; 4866

(3) A description of major utility facilities planned to 4867
be added or taken out of service in the next ten years, 4868
including, to the extent the information is available, 4869
prospective sites for transmission line locations; 4870

(4) For gas and natural gas, a projection of anticipated 4871
supply, supply prices, and sources of supply over the forecast 4872
period; 4873

(5) A description of proposed changes in the transmission 4874
system planned for the next five years; 4875

(6) A month-by-month forecast of both energy demand and 4876
peak load for electric utilities, and gas sendout for gas and 4877
natural gas utilities, for the next two years. The report shall 4878
describe the major utility facilities that, in the judgment of 4879
such person, will be required to supply system demands during 4880
the forecast period. The report from a gas or natural gas 4881

utility shall cover the ten- and five-year periods next 4882
succeeding the date of the report, and the report from an 4883
electric utility shall cover the twenty-, ten-, and five-year 4884
periods next succeeding the date of the report. Each report 4885
shall be made available to the public and furnished upon request 4886
to municipal corporations and governmental agencies charged with 4887
the duty of protecting the environment or of planning land use. 4888
The report shall be in such form and shall contain such 4889
information as may be prescribed by the commission. 4890

Each person not owning or operating a major utility 4891
facility within this state and serving fifteen thousand or fewer 4892
gas or natural gas, or electric customers within this state 4893
shall furnish such information as the commission requires. 4894

(7) For electric transmission, a person shall include an 4895
evaluation and report of the potential use of, or investment in, 4896
one or more advanced transmission technologies to enable the 4897
electric utility to safely, reliably, efficiently, and cost- 4898
effectively meet electric system demand through its major 4899
utility facilities. 4900

The report shall identify which advanced transmission 4901
technologies were considered as a part of the review of the 4902
major utility facilities for the next five years. A person shall 4903
also include a cost evaluation comparing costs of traditional 4904
transmission investments and costs of advanced transmission 4905
technologies for the projects considered on the major utility 4906
facilities applied individually, together, or in sequence. The 4907
report shall also include an advanced transmission technology 4908
congestion mitigation study to cost-effectively maximize the 4909
delivery of energy resources in the near term that: 4910

(a) Identifies locations on the entity's transmission 4911

system where congestion has occurred for a total of fifty hours 4912
per year or more during the last three years or is likely to 4913
occur during the next five years, including due to planned 4914
transmission outages or other factors; 4915

(b) Estimates the frequency of congestion at each location 4916
and the increased cost to ratepayers resulting from the 4917
substitution of higher-priced electricity; 4918

(c) Evaluates the technical feasibility and estimates the 4919
cost of installing one or more advanced transmission 4920
technologies to address each instance of grid congestion 4921
identified in division (C) (7) (a) of this section and projects 4922
the grid-enhancing technology's efficacy in reducing congestion; 4923

(d) Analyzes the cost-effectiveness of installing grid- 4924
enhancing technologies to address each instance of congestion 4925
identified in division (C) (7) (a) of this section by using the 4926
information developed in division (C) (7) (c) of this section to 4927
calculate the payback period of each installation, using a 4928
methodology developed by the commission; 4929

(e) Proposes an implementation plan, including a schedule 4930
and cost estimate, to install grid-enhancing technologies at 4931
each congestion point at which the payback period is less than 4932
or equal to a value determined by the commission, in order to 4933
maximize transmission system capacity, and explains the entity's 4934
current line rating methodology. 4935

(D) The commission shall: 4936

(1) Review and comment on the reports filed under division 4937
(C) of this section, and make the information contained in the 4938
reports readily available to the public and other interested 4939
government agencies; 4940

(2) Compile and publish each year the general locations of 4941
proposed and existing transmission line routes within its 4942
jurisdiction as identified in the reports filed under division 4943
(C) of this section, identifying the general location of such 4944
sites and routes and the approximate year when construction is 4945
expected to commence, and to make such information readily 4946
available to the public, to each newspaper of daily or weekly 4947
circulation within the area affected by the proposed site and 4948
route, and to interested federal, state, and local agencies; 4949

(3) Hold a public hearing upon the showing of good cause 4950
to the commission by an interested party. 4951

If a hearing is held, the commission shall fix a time for 4952
the hearing, which shall be not later than ninety days after the 4953
report is filed, and publish notice of the date, time of day, 4954
and location of the hearing in a newspaper of general 4955
circulation in each county in which the person furnishing the 4956
report has or intends to locate a major utility facility and 4957
will provide service during the period covered by the report. 4958
The notice shall be published not less than fifteen nor more 4959
than thirty days before the hearing and shall state the matters 4960
to be considered. 4961

(4) Require such information from persons subject to its 4962
jurisdiction as necessary to assist in the conduct of hearings 4963
and any investigation or studies it may undertake; 4964

(5) Conduct any studies or investigations that are 4965
necessary or appropriate to carry out its responsibilities under 4966
this section. 4967

(6) Review and evaluate that advanced transmission 4968
technologies were properly reported in accordance with division 4969

(C) (7) of this section and allow stakeholders to provide 4970
comments. 4971

(7) Approve advanced transmission technology congestion 4972
mitigation implementation plans, including cost recovery. 4973

(E) (1) The scope of the hearing held under division (D) (3) 4974
of this section shall be limited to issues relating to 4975
forecasting. The power siting board, the office of consumers' 4976
counsel, and all other persons having an interest in the 4977
proceedings shall be afforded the opportunity to be heard and to 4978
be represented by counsel. The commission may adjourn the 4979
hearing from time to time. 4980

(2) The hearing shall include, but not be limited to, a 4981
review of: 4982

(a) The projected loads and energy requirements for each 4983
year of the period; 4984

(b) The estimated installed capacity and supplies to meet 4985
the projected load requirements. 4986

(F) Based upon the report furnished pursuant to division 4987
(C) of this section and the hearing record, the commission, 4988
within ninety days from the close of the record in the hearing, 4989
shall determine if: 4990

(1) All information relating to current activities, 4991
facilities agreements, and published energy policies of the 4992
state has been completely and accurately represented; 4993

(2) The load requirements are based on substantially 4994
accurate historical information and adequate methodology; 4995

(3) The forecasting methods consider the relationships 4996
between price and energy consumption; 4997

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

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

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

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

(G) The commission shall adopt rules under section 111.15 of the Revised Code to establish criteria for evaluating the long-term forecasts of needs for gas and electric transmission service, to conduct hearings held under this section, to establish reasonable fees to defray the direct cost of the hearings and the review process, and such other rules as are necessary and convenient to implement this section.

(H) The hearing record produced under this section and the determinations of the commission shall be introduced into evidence and shall be considered in determining the basis of need for power siting board deliberations under division (A)(1) of section 4906.10 of the Revised Code. The hearing record produced under this section shall be introduced into evidence and shall be considered by the commission in its initiation of

programs, examinations, and findings under section 4905.70 of 5027
the Revised Code, and shall be considered in the commission's 5028
determinations with respect to the establishment of just and 5029
reasonable rates under section 4909.15 of the Revised Code and 5030
financing utility facilities and authorizing issuance of all 5031
securities under sections 4905.40, 4905.401, 4905.41, and 5032
4905.42 of the Revised Code. The forecast findings also shall 5033
serve as the basis for all other energy planning and development 5034
activities of the state government where electric and gas data 5035
are required. 5036

(I) (1) No court other than the supreme court shall have 5037
power to review, suspend, or delay any determination made by the 5038
commission under this section, or enjoin, restrain, or interfere 5039
with the commission in the performance of official duties. A 5040
writ of mandamus shall not be issued against the commission by 5041
any court other than the supreme court. 5042

(2) A final determination made by the commission shall be 5043
reversed, vacated, or modified by the supreme court on appeal, 5044
if, upon consideration of the record, such court is of the 5045
opinion that such determination was unreasonable or unlawful. 5046

The proceeding to obtain such reversal, vacation, or 5047
modification shall be by notice of appeal, filed with the 5048
commission by any party to the proceeding before it, against the 5049
commission, setting forth the determination appealed from and 5050
errors complained of. The notice of appeal shall be served, 5051
unless waived, upon the commission by leaving a copy at the 5052
office of the chairperson of the commission at Columbus. The 5053
court may permit an interested party to intervene by cross- 5054
appeal. 5055

(3) No proceeding to reverse, vacate, or modify a 5056

determination of the commission is commenced unless the notice 5057
of appeal is filed within sixty days after the date of the 5058
determination. 5059

Sec. 5727.01. As used in this chapter: 5060

(A) "Public utility" means each person referred to as a 5061
telephone company, telegraph company, electric company, natural 5062
gas company, pipe-line company, water-works company, water 5063
transportation company, heating company, rural electric company, 5064
railroad company, combined company, or energy company. 5065

(B) "Gross receipts" means the entire receipts for 5066
business done by any person from operations as a public utility, 5067
or incidental thereto, or in connection therewith, including any 5068
receipts received under Chapter 4928. of the Revised Code. The 5069
gross receipts for business done by an incorporated company 5070
engaged in operation as a public utility includes the entire 5071
receipts for business done by such company under the exercise of 5072
its corporate powers, whether from the operation as a public 5073
utility or from any other business. 5074

(C) "Rural electric company" means any nonprofit 5075
corporation, organization, association, or cooperative engaged 5076
in the business of supplying electricity to its members or 5077
persons owning an interest therein in an area the major portion 5078
of which is rural. "Rural electric company" excludes an energy 5079
company. 5080

(D) Any person: 5081

(1) Is a telegraph company when engaged in the business of 5082
transmitting telegraphic messages to, from, through, or in this 5083
state; 5084

(2) Is a telephone company when primarily engaged in the 5085

business of providing local exchange telephone service,	5086
excluding cellular radio service, in this state;	5087
(3) Is an electric company when engaged in the business of	5088
generating, transmitting, or distributing electricity within	5089
this state for use by others, but excludes a rural electric	5090
company or an energy company;	5091
(4) Is a natural gas company when engaged in the business	5092
of supplying or distributing natural gas for lighting, power, or	5093
heating purposes to consumers within this state, excluding a	5094
person that is a governmental aggregator or retail natural gas	5095
supplier as defined in section 4929.01 of the Revised Code;	5096
(5) Is a pipe-line company when engaged in the business of	5097
transporting natural gas, oil, or coal or its derivatives	5098
through pipes or tubing, either wholly or partially within this	5099
state;	5100
(6) Is a water-works company when engaged in the business	5101
of supplying water through pipes or tubing, or in a similar	5102
manner, to consumers within this state;	5103
(7) Is a water transportation company when engaged in the	5104
transportation of passengers or property, by boat or other	5105
watercraft, over any waterway, whether natural or artificial,	5106
from one point within this state to another point within this	5107
state, or between points within this state and points without	5108
this state;	5109
(8) Is a heating company when engaged in the business of	5110
supplying water, steam, or air through pipes or tubing to	5111
consumers within this state for heating purposes;	5112
(9) Is a railroad company when engaged in the business of	5113
owning or operating a railroad either wholly or partially within	5114

this state on rights-of-way acquired and held exclusively by 5115
such company, or otherwise, and includes a passenger, street, 5116
suburban, or interurban railroad company; 5117

(10) Is an energy company when engaged in the business of 5118
generating, transmitting, storing and releasing, or distributing 5119
electricity within this state for use by others solely from an 5120
energy facility with an aggregate nameplate capacity in excess 5121
of two hundred fifty kilowatts. 5122

As used in division (D) (2) of this section, "local 5123
exchange telephone service" means making available or furnishing 5124
access and a dial tone to all persons within a local calling 5125
area for use in originating and receiving voice grade 5126
communications over a switched network operated by the provider 5127
of the service within the area and for gaining access to other 5128
telecommunication services. 5129

(E) "Taxable property" means the property required by 5130
section 5727.06 of the Revised Code to be assessed by the tax 5131
commissioner, but does not include either of the following: 5132

(1) An item of tangible personal property that for the 5133
period subsequent to the effective date of an air, water, or 5134
noise pollution control certificate and continuing so long as 5135
the certificate is in force, has been certified as part of the 5136
pollution control facility with respect to which the certificate 5137
has been issued; 5138

(2) An item of tangible personal property that during the 5139
construction of a plant or facility and until the item is first 5140
capable of operation, whether actually used in operation or not, 5141
is incorporated in or being held exclusively for incorporation 5142
in that plant or facility. 5143

Notwithstanding section 5701.03 of the Revised Code, for 5144
tax year 2006 and thereafter, "taxable property" includes 5145
patterns, jigs, dies, and drawings of an electric company or a 5146
combined company for use in the activity of an electric company. 5147

(F) "Taxing district" means a municipal corporation or 5148
township, or part thereof, in which the aggregate rate of 5149
taxation is uniform. 5150

(G) "Telecommunications service" has the same meaning as 5151
in division (AA) of section 5739.01 of the Revised Code. 5152

(H) "Interexchange telecommunications company" means a 5153
person that is engaged in the business of transmitting 5154
telephonic messages to, from, through, or in this state, but 5155
that is not a telephone company. 5156

(I) "Sale and leaseback transaction" means a transaction 5157
in which a public utility or interexchange telecommunications 5158
company sells any tangible personal property to a person other 5159
than a public utility or interexchange telecommunications 5160
company and leases that property back from the buyer. 5161

(J) "Production equipment" means all taxable steam, 5162
nuclear, hydraulic, renewable resource, clean coal technology, 5163
and other production plant equipment used to generate or store 5164
and release electricity. For tax years prior to 2001, 5165
"production equipment" includes taxable station equipment that 5166
is located at a production plant. 5167

(K) "Tax year" means the year for which property or gross 5168
receipts are subject to assessment under this chapter. This 5169
division does not limit the tax commissioner's ability to assess 5170
and value property or gross receipts outside the tax year. 5171

(L) "Combined company" means any person engaged in the 5172

activity of an electric company or rural electric company that 5173
is also engaged in the activity of a heating company or a 5174
natural gas company, or any combination thereof. 5175

(M) "Public utility property lessor" means any person, 5176
other than a public utility or an interexchange 5177
telecommunications company, that leases personal property, other 5178
than in a sale and leaseback transaction, to a public utility, 5179
other than a railroad, water transportation, telephone, or 5180
telegraph company if the property would be taxable property if 5181
owned by the public utility. A public utility property lessor is 5182
subject to this chapter only for the purposes of reporting and 5183
paying tax on taxable property it leases to a public utility 5184
other than a telephone or telegraph company. A public utility 5185
property lessor that leases property to a public utility other 5186
than a telephone or telegraph company is not a public utility, 5187
but it shall report its property and be assessed in the same 5188
manner as the utility to which it leases the property. 5189

(N) "Energy resource" means any of the following: 5190

(1) "Renewable energy resource" as defined in section 5191
4928.01 of the Revised Code; 5192

(2) "Clean coal technology" as described in division (A) 5193
(34) (c) of section 4928.01 of the Revised Code; 5194

(3) "Advanced nuclear technology" as described in division 5195
(A) (34) (d) of section 4928.01 of the Revised Code; 5196

(4) "Cogeneration technology" as described in division (A) 5197
(34) (b) of section 4928.01 of the Revised Code; 5198

(5) Energy storage system. 5199

(O) "Energy conversion equipment" means tangible personal 5200

property connected to a wind turbine tower, connected to and 5201
behind solar radiation collector areas and designed to convert 5202
the radiant energy of the sun into electricity or heat, or 5203
connected to any other property used to generate or store and 5204
release electricity from an energy resource, through which 5205
electricity is transferred to controls, transformers, or power 5206
electronics and to the transmission interconnection point. 5207

"Energy conversion equipment" includes, but is not limited 5208
to, inverters, batteries, switch gears, wiring, collection 5209
lines, substations, ancillary tangible personal property, or any 5210
lines and associated tangible personal property located between 5211
substations and the transmission interconnection point. 5212

(P) "Energy facility" means one or more interconnected 5213
wind turbines, solar panels, energy storage systems, or other 5214
tangible personal property used to generate or store and release 5215
electricity from an energy resource owned by the same person, 5216
including: 5217

(1) All interconnection equipment, devices, and related 5218
apparatus connected to such tangible personal property; 5219

(2) All cables, equipment, devices, and related apparatus 5220
that connect the generators to an electricity grid or to a 5221
building or facility that directly consumes the electricity 5222
produced, that facilitate the transmission of electrical energy 5223
from the generators to the grid, building, or facility, and, 5224
where applicable, that transform voltage before ultimate 5225
delivery of electricity to the grid, building, or facility. 5226

"Energy facility" includes buildings, structures, 5227
improvements, or fixtures exclusively used to house, support, or 5228
stabilize tangible personal property constituting the facility 5229

or that are otherwise necessary for the operation of that 5230
property; and so much of the land on which such tangible 5231
personal property is situated as is required for operation of 5232
the facility and is not devoted to some other use, not to 5233
exceed, in the case of wind turbines, one-half acre for each 5234
wind turbine, and regardless of whether the land is owned by the 5235
owner or lessee of the tangible personal property or by another 5236
person. 5237

(Q) "Nameplate capacity" means the original interconnected 5238
maximum rated alternating current output of a generator or other 5239
electric production equipment under specific conditions 5240
designated by the manufacturer, expressed in the number of 5241
kilowatts or megawatts. 5242

(R) "Energy storage system" means tangible personal 5243
property that permits the storage of energy for future use as 5244
electricity. 5245

Sec. 5727.111. As used in this section, "convert" means to 5246
switch fuel input from one energy source to another and 5247
"repower" means to upgrade or replace older generation 5248
components with new technology to increase efficiency and 5249
reliability. The taxable property of each public utility, except 5250
a railroad company, and of each interexchange telecommunications 5251
company shall be assessed at the following percentages of true 5252
value: 5253

(A) In the case of a rural electric company, one of the 5254
following ~~fifty~~: 5255

(1) Fifty per cent in the case of its taxable transmission 5256
and distribution property ~~and its or~~ energy conversion equipment 5257
first subject to taxation in this state before tax year 2027; 5258

(2) Seven per cent in the case of its taxable production 5259
or energy conversion equipment, and twenty-five first subject 5260
to taxation in this state for tax year 2027 and thereafter or 5261
any other taxable production equipment that is either converted 5262
or repowered; 5263

(3) Twenty-five per cent for in the case of all its other 5264
taxable property. 5265

(B) In the case of a telephone or telegraph company, 5266
twenty-five per cent for taxable property first subject to 5267
taxation in this state for tax year 1995 or thereafter for tax 5268
years before tax year 2007, and pursuant to division (H) of 5269
section 5711.22 of the Revised Code for tax year 2007 and 5270
thereafter, and the following for all other taxable property: 5271

(1) For tax years prior to 2005, eighty-eight per cent; 5272

(2) For tax year 2005, sixty-seven per cent; 5273

(3) For tax year 2006, forty-six per cent; 5274

(4) For tax year 2007 and thereafter, pursuant to division 5275
(H) of section 5711.22 of the Revised Code. 5276

(C) Twenty-five per cent in the case of (1) a natural gas 5277
company or (2) a water-works company for taxable property first 5278
subject to taxation in this state for tax year 2017 and 5279
thereafter. 5280

(D) Eighty-eight per cent in the case of a ~~pipe-line~~ 5281
~~company,~~ a water-works company for taxable property first 5282
subject to taxation in this state before tax year 2017, or a 5283
heating company. 5284

~~(E) (1) For tax year 2005, eighty-eight per cent in the~~ 5285
~~case of the taxable transmission and distribution property of an~~ 5286

electric company, and twenty-five per cent for all its other	5287
taxable property;	5288
(2) For tax year 2006 and each tax year thereafter, in (E)	5289
<u>In the case of an electric company, eighty-five one of the</u>	5290
<u>following:</u>	5291
<u>(1) Eighty-five per cent in the case of its taxable</u>	5292
<u>transmission and distribution property and energy conversion</u>	5293
<u>equipment and its energy conversion equipment, first subject to</u>	5294
<u>taxation in this state before tax year 2027;</u>	5295
<u>(2) Twenty-five per cent in the case of its other taxable</u>	5296
<u>transmission and distribution property and twenty-four;</u>	5297
<u>(3) Seven per cent in the case of its taxable production</u>	5298
<u>and energy conversion equipment first subject to taxation in</u>	5299
<u>this state for tax year 2027 and thereafter or any other taxable</u>	5300
<u>production equipment that is either converted or repowered;</u>	5301
<u>(4) Twenty-four per cent for in the case of all its other</u>	5302
<u>taxable property.</u>	5303
(F) (1) Twenty-five per cent in the case of an	5304
interexchange telecommunications company for tax years before	5305
tax year 2007;	5306
(2) Pursuant to division (H) of section 5711.22 of the	5307
Revised Code for tax year 2007 and thereafter.	5308
(G) Twenty-five per cent in the case of a water	5309
transportation company.	5310
(H) For tax year 2011 and each tax year thereafter in <u>In</u>	5311
<u>the case of an energy company, twenty-four one of the following:</u>	5312
<u>(1) Eighty-five per cent in the case of its taxable</u>	5313

<u>production equipment, transmission and distribution property</u>	5314
<u>first subject to taxation in this state before tax year 2027;</u>	5315
<u>(2) Twenty-five per cent in the case of its other taxable</u>	5316
<u>transmission and distribution property and eighty-five;</u>	5317
<u>(3) Seven per cent in the case of its taxable production</u>	5318
<u>or energy conversion equipment first subject to taxation in this</u>	5319
<u>state for tax year 2027 and thereafter or any other taxable</u>	5320
<u>production equipment that is either converted or repowered;</u>	5321
<u>(4) Twenty-four per cent in the case of its other taxable</u>	5322
<u>production equipment;</u>	5323
<u>(5) Eighty-five per cent for in the case of all its other</u>	5324
<u>taxable property.</u>	5325
<u>(I) In the case of a pipeline company, one of the</u>	5326
<u>following:</u>	5327
<u>(1) Eighty-eight per cent of its taxable property first</u>	5328
<u>subject to taxation in this state before tax year 2027;</u>	5329
<u>(2) Twenty-five per cent in the case of all its other</u>	5330
<u>taxable property.</u>	5331
Sec. 5727.75. (A) For purposes of this section:	5332
(1) "Qualified energy project" means an energy project	5333
certified by the director of development pursuant to this	5334
section.	5335
(2) "Energy project" means a project to provide electric	5336
power through the construction, installation, and use of an	5337
energy facility.	5338
(3) "Alternative energy zone" means a county declared as	5339
such by the board of county commissioners under division (E) (1)	5340

(b) or (c) of this section. 5341

(4) "Full-time equivalent employee" means the total number 5342
of employee-hours for which compensation was paid to individuals 5343
employed at a qualified energy project for services performed at 5344
the project during the calendar year divided by two thousand 5345
eighty hours. For the purpose of this calculation, "performed at 5346
the project" includes only hours worked at the qualified energy 5347
project and devoted to site preparation or protection, 5348
construction and installation, and the unloading and 5349
distribution of materials at the project site, but does not 5350
include hours worked by superintendents, owners, manufacturers' 5351
representatives, persons employed in a bona fide executive, 5352
management, supervisory, or administrative capacity, or persons 5353
whose sole employment on the project is transporting materials 5354
or persons to the project site. 5355

(5) "Solar energy project" means an energy project 5356
composed of an energy facility using solar panels to generate 5357
electricity. 5358

(6) "Internet identifier of record" has the same meaning 5359
as in section 9.312 of the Revised Code. 5360

(7) "Applicable year" means the later of the following: 5361

(a) The tax year in which the secretary of the treasury of 5362
the United States, or the secretary's delegate, determines, in 5363
accordance with section 45Y of the Internal Revenue Code, that 5364
the annual greenhouse gas emissions from the production of 5365
electricity in the United States are equal to or less than 5366
twenty-five per cent of the annual greenhouse gas emissions from 5367
the production of electricity in the United States for calendar 5368
year 2022; 5369

(b) Tax year 2029.	5370
(8) "Internal Revenue Code" means the Internal Revenue Code as of the effective date of this amendment <u>October 3, 2023</u> .	5371 5372
(B) (1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through the applicable year if all of the following conditions are satisfied:	5373 5374 5375 5376
(a) On or before the last day of the tax year preceding the applicable year, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.	5377 5378 5379 5380 5381 5382 5383 5384 5385
(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before the first day of the applicable year. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B) (1) (a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.	5386 5387 5388 5389 5390 5391 5392 5393
(c) For a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E) (1) (b) or (c) of this section to approve the application submitted under	5394 5395 5396 5397 5398

division (E) of this section to exempt the property located in 5399
that county from taxation. A board's adoption of a resolution 5400
rejecting an application or its failure to adopt a resolution 5401
approving the application does not affect the tax-exempt status 5402
of the qualified energy project's property that is located in 5403
another county. 5404

(2) If tangible personal property of a qualified energy 5405
project using renewable energy resources was exempt from 5406
taxation under this section beginning in any of tax years 2011 5407
through the applicable year, and the certification under 5408
division (E) (2) of this section has not been revoked, the 5409
tangible personal property of the qualified energy project is 5410
exempt from taxation for the tax year following the applicable 5411
year and all ensuing tax years if the property was placed into 5412
service before the first day of the tax year following the 5413
applicable year, as certified in the construction progress 5414
report required under division (F) (2) of this section. Tangible 5415
personal property that has not been placed into service before 5416
that date is taxable property subject to taxation. An energy 5417
project for which certification has been revoked is ineligible 5418
for further exemption under this section. Revocation does not 5419
affect the tax-exempt status of the project's tangible personal 5420
property for the tax year in which revocation occurs or any 5421
prior tax year. 5422

(C) Tangible personal property of a qualified energy 5423
project using clean coal technology, advanced nuclear 5424
technology, or cogeneration technology is exempt from taxation 5425
for the first tax year that the property would be listed for 5426
taxation and all subsequent years if all of the following 5427
circumstances are met: 5428

(1) The property was placed into service before January 1, 5429
2021. Tangible personal property that has not been placed into 5430
service before that date is taxable property subject to 5431
taxation. 5432

(2) For such a qualified energy project with a nameplate 5433
capacity of twenty megawatts or greater, a board of county 5434
commissioners of a county in which property of the qualified 5435
energy project is located has adopted a resolution under 5436
division (E) (1) (b) or (c) of this section to approve the 5437
application submitted under division (E) of this section to 5438
exempt the property located in that county from taxation. A 5439
board's adoption of a resolution rejecting the application or 5440
its failure to adopt a resolution approving the application does 5441
not affect the tax-exempt status of the qualified energy 5442
project's property that is located in another county. 5443

(3) The certification for the qualified energy project 5444
issued under division (E) (2) of this section has not been 5445
revoked. An energy project for which certification has been 5446
revoked is ineligible for exemption under this section. 5447
Revocation does not affect the tax-exempt status of the 5448
project's tangible personal property for the tax year in which 5449
revocation occurs or any prior tax year. 5450

(D) Except as otherwise provided in this section, real 5451
property of a qualified energy project is exempt from taxation 5452
for any tax year for which the tangible personal property of the 5453
qualified energy project is exempted under this section. 5454

(E) (1) (a) A person may apply to the director of 5455
development for certification of an energy project as a 5456
qualified energy project on or before the following dates: 5457

(i) The last day of the tax year preceding the applicable year, for an energy project using renewable energy resources; 5458
5459

(ii) December 31, 2017, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology. 5460
5461
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(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of twenty megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E) (1) (c) of this section. A resolution adopted under division (E) (1) (b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used. 5463
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The board shall send copies of the resolution to the owner of the facility and the director by certified mail or, if the board has record of an internet identifier of record associated with the owner or director, by ordinary mail and by that 5484
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internet identifier of record. The board shall send such notice 5488
within thirty days after receipt of the application, or a longer 5489
period of time if authorized by the director. 5490

(c) A board of county commissioners may adopt a resolution 5491
declaring the county to be an alternative energy zone and 5492
declaring all applications submitted to the director of 5493
development under this division after the adoption of the 5494
resolution, and prior to its repeal, to be approved by the 5495
board. 5496

All tangible personal property and real property of an 5497
energy project with a nameplate capacity of twenty megawatts or 5498
greater is taxable if it is located in a county in which the 5499
board of county commissioners adopted a resolution rejecting the 5500
application submitted under this division or failed to adopt a 5501
resolution approving the application under division (E) (1) (b) or 5502
(c) of this section. 5503

(2) The director shall certify an energy project if all of 5504
the following circumstances exist: 5505

(a) The application was timely submitted. 5506

(b) For an energy project with a nameplate capacity of 5507
twenty megawatts or greater, a board of county commissioners of 5508
at least one county in which the project is located has adopted 5509
a resolution approving the application under division (E) (1) (b) 5510
or (c) of this section. 5511

(c) No portion of the project's facility was used to 5512
supply electricity before December 31, 2009. 5513

(d) For construction or installation of a qualified energy 5514
project described in division (B) (1) (b) of this section, that 5515
the project is subject to wage requirements described in section 5516

45(b) (7) (A) of the Internal Revenue Code and apprenticeship 5517
requirements described in section 45(b) (8) (A) (i) of the Internal 5518
Revenue Code, provided both of the following apply: 5519

(i) The person applies for such certificate after ~~the~~ 5520
~~effective date of this amendment~~ October 3, 2023. 5521

(ii) A board of commissioners of at least one county in 5522
which the project is located is required to adopt a resolution 5523
approving the application under division (E) (1) (b) or (c) of 5524
this section. 5525

(3) The director shall deny a certification application if 5526
the director determines the person has failed to comply with any 5527
requirement under this section. The director may revoke a 5528
certification if the director determines the person, or 5529
subsequent owner or lessee pursuant to a sale and leaseback 5530
transaction of the qualified energy project, has failed to 5531
comply with any requirement under this section. Upon 5532
certification or revocation, the director shall notify the 5533
person, owner, or lessee, the tax commissioner, and the county 5534
auditor of a county in which the project is located of the 5535
certification or revocation. Notice shall be provided in a 5536
manner convenient to the director. 5537

(F) The owner or a lessee pursuant to a sale and leaseback 5538
transaction of a qualified energy project shall do each of the 5539
following: 5540

(1) Comply with all applicable regulations; 5541

(2) File with the director of development a certified 5542
construction progress report before the first day of March of 5543
each year during the energy facility's construction or 5544
installation indicating the percentage of the project completed, 5545

and the project's nameplate capacity, as of the preceding 5546
thirty-first day of December. Unless otherwise instructed by the 5547
director of development, the owner or lessee of an energy 5548
project shall file a report with the director on or before the 5549
first day of March each year after completion of the energy 5550
facility's construction or installation indicating the project's 5551
nameplate capacity as of the preceding thirty-first day of 5552
December. Not later than sixty days after June 17, 2010, the 5553
owner or lessee of an energy project, the construction of which 5554
was completed before June 17, 2010, shall file a certificate 5555
indicating the project's nameplate capacity. 5556

(3) File with the director of development, in a manner 5557
prescribed by the director, a report of the total number of 5558
full-time equivalent employees, and the total number of full- 5559
time equivalent employees domiciled in Ohio, who are employed in 5560
the construction or installation of the energy facility; 5561

(4) For energy projects with a nameplate capacity of 5562
twenty megawatts or greater, repair all roads, bridges, and 5563
culverts affected by construction as reasonably required to 5564
restore them to their preconstruction condition, as determined 5565
by the county engineer in consultation with the local 5566
jurisdiction responsible for the roads, bridges, and culverts. 5567
In the event that the county engineer deems any road, bridge, or 5568
culvert to be inadequate to support the construction or 5569
decommissioning of the energy facility, the road, bridge, or 5570
culvert shall be rebuilt or reinforced to the specifications 5571
established by the county engineer prior to the construction or 5572
decommissioning of the facility. The owner or lessee of the 5573
facility shall post a bond in an amount established by the 5574
county engineer and to be held by the board of county 5575
commissioners to ensure funding for repairs of roads, bridges, 5576

and culverts affected during the construction. The bond shall be 5577
released by the board not later than one year after the date the 5578
repairs are completed. The energy facility owner or lessee 5579
pursuant to a sale and leaseback transaction shall post a bond, 5580
as may be required by the Ohio power siting board in the 5581
certificate authorizing commencement of construction issued 5582
pursuant to section 4906.10 of the Revised Code, to ensure 5583
funding for repairs to roads, bridges, and culverts resulting 5584
from decommissioning of the facility. The energy facility owner 5585
or lessee and the county engineer may enter into an agreement 5586
regarding specific transportation plans, reinforcements, 5587
modifications, use and repair of roads, financial security to be 5588
provided, and any other relevant issue. 5589

(5) Provide or facilitate training for fire and emergency 5590
responders for response to emergency situations related to the 5591
energy project and, for energy projects with a nameplate 5592
capacity of twenty megawatts or greater, at the person's 5593
expense, equip the fire and emergency responders with proper 5594
equipment as reasonably required to enable them to respond to 5595
such emergency situations; 5596

(6) (a) Except as otherwise provided in this division, for 5597
projects for which certification as a qualified energy project 5598
was applied for, under division (E) of this section, ~~before the~~ 5599
~~effective date of this amendment~~ October 3, 2023, maintain a 5600
ratio of Ohio-domiciled full-time equivalent employees employed 5601
in the construction or installation of the energy project to 5602
total full-time equivalent employees employed in the 5603
construction or installation of the energy project of not less 5604
than eighty per cent in the case of a solar energy project, and 5605
not less than fifty per cent in the case of any other energy 5606
project. A person applying for such a qualified energy project 5607

may certify to the director of development that the project will 5608
be voluntarily subject to the wage requirements described in 5609
section 45(b) (7) (A) of the Internal Revenue Code and 5610
apprenticeship requirements described in section 45(b) (8) (A) (i) 5611
of the Internal Revenue Code as authorized in division (F) (6) (b) 5612
of this section. Upon receipt of that certification, the project 5613
shall comply with division (F) (6) (b) of this section rather than 5614
division (F) (6) (a) of this section. 5615

(b) For projects for which certification as a qualified 5616
energy project was applied for, under division (E) of this 5617
section, on or after ~~the effective date of this amendment~~ 5618
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5619
equivalent employees employed in the construction or 5620
installation of the energy project to total full-time equivalent 5621
employees employed in the construction or installation of the 5622
energy project of not less than seventy per cent in the case of 5623
a solar energy project, and not less than fifty per cent in the 5624
case of any other energy project. 5625

(c) For purposes of divisions (F) (6) (a) and (b) of this 5626
section, in the case of an energy project for which 5627
certification from the power siting board is required under 5628
section 4906.20 of the Revised Code, the number of full-time 5629
equivalent employees employed in the construction or 5630
installation of the energy project equals the number actually 5631
employed or the number projected to be employed in the 5632
certificate application, if such projection is required under 5633
regulations adopted pursuant to section 4906.03 of the Revised 5634
Code, whichever is greater. For all other energy projects, the 5635
number of full-time equivalent employees employed in the 5636
construction or installation of the energy project equals the 5637
number actually employed or the number projected to be employed 5638

by the director of development, whichever is greater. To 5639
estimate the number of employees to be employed in the 5640
construction or installation of an energy project, the director 5641
shall use a generally accepted job-estimating model in use for 5642
renewable energy projects, including but not limited to the job 5643
and economic development impact model. The director may adjust 5644
an estimate produced by a model to account for variables not 5645
accounted for by the model. 5646

(7) For energy projects with a nameplate capacity in 5647
excess of twenty megawatts, establish a relationship with any of 5648
the following to educate and train individuals for careers in 5649
the wind or solar energy industry: 5650

(a) A member of the university system of Ohio as defined 5651
in section 3345.011 of the Revised Code; 5652

(b) A person offering an apprenticeship program registered 5653
with the employment and training administration within the 5654
United States department of labor or with the apprenticeship 5655
council created by section 4139.02 of the Revised Code; 5656

(c) A career-technical center, joint vocational school 5657
district, comprehensive career-technical center, or compact 5658
career-technical center; 5659

(d) A training center operated by a labor organization, or 5660
with a training center operated by a for-profit or nonprofit 5661
organization. 5662

The relationship may include endowments, cooperative 5663
programs, internships, apprenticeships, research and development 5664
projects, and curriculum development. 5665

(8) Offer to sell power or renewable energy credits from 5666
the energy project to electric distribution utilities or 5667

electric service companies subject to renewable energy resource 5668
requirements under section 4928.64 of the Revised Code that have 5669
issued requests for proposal for such power or renewable energy 5670
credits. If no electric distribution utility or electric service 5671
company issues a request for proposal on or before December 31, 5672
2010, or accepts an offer for power or renewable energy credits 5673
within forty-five days after the offer is submitted, power or 5674
renewable energy credits from the energy project may be sold to 5675
other persons. Division (F)(8) of this section does not apply 5676
if: 5677

(a) The owner or lessee is a rural electric company or a 5678
municipal power agency as defined in section 3734.058 of the 5679
Revised Code. 5680

(b) The owner or lessee is a person that, before 5681
completion of the energy project, contracted for the sale of 5682
power or renewable energy credits with a rural electric company 5683
or a municipal power agency. 5684

(c) The owner or lessee contracts for the sale of power or 5685
renewable energy credits from the energy project before June 17, 5686
2010. 5687

(9) Make annual service payments as required by division 5688
(G) of this section and as may be required in a resolution 5689
adopted by a board of county commissioners under division (E) of 5690
this section. 5691

(G) The owner or a lessee pursuant to a sale and leaseback 5692
transaction of a qualified energy project shall make annual 5693
service payments in lieu of taxes to the county treasurer on or 5694
before the final dates for payments of taxes on public utility 5695
personal property on the real and public utility personal 5696

property tax list for each tax year for which property of the 5697
energy project is exempt from taxation under this section. The 5698
county treasurer shall allocate the payment on the basis of the 5699
project's physical location. Upon receipt of a payment, or if 5700
timely payment has not been received, the county treasurer shall 5701
certify such receipt or non-receipt to the director of 5702
development and tax commissioner in a form determined by the 5703
director and commissioner, respectively. Each payment shall be 5704
in the following amount: 5705

(1) In the case of a solar energy project, seven thousand 5706
dollars per megawatt of nameplate capacity located in the county 5707
as of the thirty-first-day of December of the preceding tax 5708
year; 5709

(2) In the case of any other energy project using 5710
renewable energy resources, the following: 5711

(a) If the project maintains during the construction or 5712
installation of the energy facility a ratio of Ohio-domiciled 5713
full-time equivalent employees to total full-time equivalent 5714
employees of not less than seventy-five per cent, six thousand 5715
dollars per megawatt of nameplate capacity located in the county 5716
as of the thirty-first day of December of the preceding tax 5717
year; 5718

(b) If the project maintains during the construction or 5719
installation of the energy facility a ratio of Ohio-domiciled 5720
full-time equivalent employees to total full-time equivalent 5721
employees of less than seventy-five per cent but not less than 5722
sixty per cent, seven thousand dollars per megawatt of nameplate 5723
capacity located in the county as of the thirty-first day of 5724
December of the preceding tax year; 5725

(c) If the project maintains during the construction or 5726
installation of the energy facility a ratio of Ohio-domiciled 5727
full-time equivalent employees to total full-time equivalent 5728
employees of less than sixty per cent but not less than fifty 5729
per cent, eight thousand dollars per megawatt of nameplate 5730
capacity located in the county as of the thirty-first day of 5731
December of the preceding tax year. 5732

(3) In the case of an energy project using clean coal 5733
technology, advanced nuclear technology, or cogeneration 5734
technology, the following: 5735

(a) If the project maintains during the construction or 5736
installation of the energy facility a ratio of Ohio-domiciled 5737
full-time equivalent employees to total full-time equivalent 5738
employees of not less than seventy-five per cent, six thousand 5739
dollars per megawatt of nameplate capacity located in the county 5740
as of the thirty-first day of December of the preceding tax 5741
year; 5742

(b) If the project maintains during the construction or 5743
installation of the energy facility a ratio of Ohio-domiciled 5744
full-time equivalent employees to total full-time equivalent 5745
employees of less than seventy-five per cent but not less than 5746
sixty per cent, seven thousand dollars per megawatt of nameplate 5747
capacity located in the county as of the thirty-first day of 5748
December of the preceding tax year; 5749

(c) If the project maintains during the construction or 5750
installation of the energy facility a ratio of Ohio-domiciled 5751
full-time equivalent employees to total full-time equivalent 5752
employees of less than sixty per cent but not less than fifty 5753
per cent, eight thousand dollars per megawatt of nameplate 5754
capacity located in the county as of the thirty-first day of 5755

December of the preceding tax year. 5756

(H) The director of development in consultation with the 5757
tax commissioner shall adopt rules pursuant to Chapter 119. of 5758
the Revised Code to implement and enforce this section. 5759

(I) This section and any payments in lieu of taxes made as 5760
required under this section continue to apply and be required 5761
notwithstanding the enactment of H.B. 15 of the 136th general 5762
assembly. 5763

Sec. 5727.76. (A) As used in this section, "qualifying 5764
property" means tangible personal property that is dedicated to 5765
transporting or transmitting electricity or natural gas and that 5766
is placed into service in a priority investment area designated 5767
under section 122.161 of the Revised Code during a time when 5768
that designation is in effect. 5769

(B) Qualifying property shall be exempt from taxation for 5770
the tax year following the year in which the property is placed 5771
into service and for the ensuing four tax years. 5772

Section 2. That existing sections 122.6511, 4905.03, 5773
4906.01, 4906.02, 4906.03, 4906.04, 4906.06, 4906.07, 4906.10, 5774
4906.201, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 5775
4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 5776
4909.42, 4928.01, 4928.02, 4928.05, 4928.08, 4928.14, 4928.141, 5777
4928.142, 4928.144, 4928.151, 4928.17, 4928.20, 4928.23, 5778
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5779
4929.20, 4933.81, 4935.04, 5727.01, 5727.111, and 5727.75 of the 5780
Revised Code are hereby repealed. 5781

Section 3. That sections 3706.40, 3706.41, 3706.43, 5782
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5783
3706.551, 3706.59, 3706.63, 3706.65, 4906.105, 4928.143, 5784

4928.148, 4928.47, and 4928.642 of the Revised Code are hereby 5785
repealed. 5786

Section 4. Beginning on the effective date of this 5787
section, no electric distribution utility shall collect from its 5788
retail customers in this state any charge that was authorized 5789
under section 4928.148 of the Revised Code prior to the repeal 5790
of that section by this act for retail recovery of prudently 5791
incurred costs related to a legacy generation resource. 5792
Beginning on the effective date of this section, the electric 5793
distribution utility shall not apply for, and the public 5794
utilities commission shall not authorize, any rider or cost 5795
recovery mechanism for a legacy generation resource. 5796

The public utilities commission shall continue any 5797
investigation commenced pursuant to section 4928.148 of the 5798
Revised Code prior to the repeal of that section by this act for 5799
purposes of determining the prudence and reasonableness of the 5800
actions of electric distribution utilities with ownership 5801
interests in the legacy generation resource, including their 5802
decisions related to offering the contractual commitment into 5803
the wholesale markets, and excluding from recovery those costs 5804
that the commission determines imprudent and unreasonable. 5805

Section 5. (A) Beginning on the effective date of this 5806
section, no electric distribution utility shall collect from its 5807
retail customers in the state any charge that was authorized 5808
under section 3706.46 of the Revised Code to meet the revenue 5809
requirement for disbursements from the Solar Generation Fund to 5810
owners or operators of qualifying solar resources that was 5811
required under section 3706.55 of the Revised Code before the 5812
repeal of these sections by this act. 5813

(B) Except as provided for in division (C) of this 5814

section, beginning on the effective date of this section, the 5815
Ohio Air Quality Development Authority is prohibited from 5816
directing the Treasurer of State to remit, and the Treasurer is 5817
prohibited from remitting, any money from the Solar Generation 5818
Fund to owners or operators of qualifying solar resources, which 5819
remittance was permitted under section 3706.55 of the Revised 5820
Code prior to the repeal of that section by this act. 5821

(C) The Ohio Air Quality Development Authority shall 5822
direct the Treasurer of State to remit money from the Solar 5823
Generation Fund to owners or operators of qualifying solar 5824
resources that were operational prior to December 31, 2024, in 5825
the same manner as provided in division (A) of section 3706.55 5826
of the Revised Code, as that section existed prior to the 5827
effective date of its repeal by this act. 5828

(D) Notwithstanding section 4905.32 of the Revised Code, 5829
any amounts remaining in the Solar Generation Fund as of 5830
December 31, 2027, minus the remittances that are required to be 5831
made between that date and January 21, 2028, shall be refunded 5832
to customers in a manner that shall be determined by the 5833
authority in consultation with the public utilities commission. 5834

Section 6. Section 4909.193 as enacted by this act and the 5835
amendments to section 4909.42 of the Revised Code by this act 5836
apply to applications filed under section 4909.18 of the Revised 5837
Code on or after the effective date of this section. 5838

Section 7. (A) The Public Utilities Commission shall 5839
conduct a study to evaluate the potential use or deployment of 5840
advanced transmission technologies, as defined in section 5841
4906.01 of the Revised Code, by public utilities to enable 5842
public utilities to safely, reliably, efficiently, and cost- 5843
effectively meet electric system demand and provide safe, 5844

reliable, and affordable electric utility service to customers.	5845
In conducting the study, the Commission shall do the following:	5846
(1) Evaluate the attributes, functions, costs, and	5847
benefits of various advanced transmission technologies,	5848
including grid-enhancing technologies and advanced conductors;	5849
(2) Evaluate the potential of each of the advanced	5850
transmission technologies studied to be used or deployed by	5851
public utilities to provide safe, reliable, and affordable	5852
electric utility service to customers, considering existing and	5853
planned transmission infrastructure and projected demand growth;	5854
(3) Identify the potential reductions in project costs and	5855
project completion timelines by deploying advanced transmission	5856
technologies, as compared to traditional transmission	5857
infrastructure;	5858
(4) Evaluate potential ways to streamline the deployment	5859
of advanced transmission technologies, including streamlined	5860
processes for permitting, maintenance, and upgrades;	5861
(5) Evaluate other deregulated states' policies and laws	5862
relating to advanced transmission technologies and provide	5863
recommendations in accordance with other states' policies and	5864
laws to enable and encourage adoption of advanced transmission	5865
technologies in this state;	5866
(6) Identify processes or ways that end-use customers,	5867
such as industrial or mercantile customers, can invest and	5868
deploy advanced transmission technologies in partnership with	5869
their respective utility to allow for the more rapid deployment	5870
of such technologies;	5871
(7) Identify how the Commission can support and encourage	5872
the implementation of advanced transmission technologies in Ohio	5873

through future rule-making or other Commission activities; 5874

(8) Evaluate any other aspect of advanced transmission 5875
technologies that the Commission determines will assist 5876
policymakers, public utilities, ratepayers, and other 5877
stakeholders in understanding the potential role of advanced 5878
transmission technologies in the transmission system serving 5879
this state and the region; 5880

(9) Identify opportunities for the Federal Energy 5881
Advocate, as employed under section 4928.24 of the Revised Code, 5882
to support and advocate for the implementation of advanced 5883
transmission technologies at the regional transmission 5884
organization, Federal Energy Regulatory Commission, and other 5885
relevant agencies, commissions or regulatory bodies. 5886

(B) In conducting the study required by this section, the 5887
Commission shall consult with or invite comments from 5888
stakeholders. The Commission shall hold a minimum of two public 5889
workshops to review public comments from stakeholders. The 5890
Commission may incorporate any information or comments received 5891
in its report required in division (C) of this section. 5892

(C) Not later than March 1, 2026, the Commission shall 5893
submit a report that includes the Commission's findings with 5894
respect to the topics outlined in this section. A copy of the 5895
report shall be made available online and sent to all members of 5896
the General Assembly. 5897

Section 8. The amendment by this act of sections 5727.01 5898
and 5727.111 of the Revised Code applies to tax year 2027 and 5899
every tax year thereafter. 5900

Section 9. Section 122.6511 of the Revised Code as 5901
presented in this act takes effect on the later of July 1, 2025, 5902

or the effective date of this section. July 1, 2025, is the 5903
effective date of an earlier amendment to that section by H.B. 5904
315 of the 135th General Assembly. 5905

Section 10. An agreement between an electric distribution 5906
utility and a mercantile customer or group of mercantile 5907
customers for the construction of a customer sited renewable 5908
energy resource that is executed and filed with the public 5909
utilities commission prior to the effective date of H.B. 15 of 5910
the 136th General Assembly shall remain in effect according to 5911
the agreement's terms and be governed by section 4928.47 of the 5912
Revised Code as that section existed prior to being repealed by 5913
H.B. 15 of the 136th General Assembly. 5914

Section 11. The General Assembly, applying the principle 5915
stated in division (B) of section 1.52 of the Revised Code that 5916
amendments are to be harmonized if reasonably capable of 5917
simultaneous operation, finds that the following sections, 5918
presented in this act as composites of the sections as amended 5919
by the acts indicated, are the resulting versions of the 5920
sections in effect prior to the effective date of the sections 5921
as presented in this act: 5922

Section 4906.02 of the Revised Code is presented in this 5923
act as a composite of the section as amended by both H.B. 110 5924
and S.B. 52 of the 134th General Assembly. 5925

Section 4928.01 of the Revised Code is presented in this 5926
act as a composite of the section as amended by both H.B. 308 5927
and H.B. 315 of the 135th General Assembly. 5928