

**As Reported by the Senate Energy Committee**

**136th General Assembly**

**Regular Session**

**2025-2026**

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

**Representative Klopfenstein**

**Cosponsors: Representatives Brennan, Dovilla, Rogers, Thomas, D., Williams, Abdullahi, Barhorst, Bird, Brownlee, Click, Creech, Daniels, Dean, Demetriou, Fischer, Glassburn, Grim, Gross, Hall, D., Hall, T., Hiner, Holmes, John, King, Kishman, Lampton, Lawson-Rowe, Lear, Lorenz, Mathews, A., Mathews, T., McClain, Miller, J., Miller, M., Mohamed, Newman, Piccolantonio, Plummer, Rader, Ray, Ritter, Robb Blasdel, Roemer, Salvo, Sigrist, Somani, Stewart, Synenberg, Thomas, C., Troy, Upchurch, Willis, Young**

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To amend sections 122.6511, 3313.372, 3313.373,	1
4905.03, 4906.01, 4906.03, 4906.06, 4906.07,	2
4906.10, 4909.04, 4909.05, 4909.052, 4909.06,	3
4909.07, 4909.08, 4909.15, 4909.156, 4909.173,	4
4909.174, 4909.18, 4909.19, 4909.191, 4909.42,	5
4928.01, 4928.05, 4928.08, 4928.14, 4928.141,	6
4928.142, 4928.144, 4928.17, 4928.20, 4928.23,	7
4928.231, 4928.232, 4928.34, 4928.542, 4928.64,	8
4928.645, 4929.20, 4933.81, 4935.04, 5727.01,	9
5727.111, and 5727.75; to enact sections	10
122.161, 3313.377, 3313.378, 4903.27, 4905.23,	11
4905.311, 4905.321, 4905.331, 4909.041,	12
4909.042, 4909.159, 4909.181, 4909.192,	13
4909.193, 4909.421, 4928.041, 4928.101,	14
4928.102, 4928.103, 4928.104, 4928.105,	15
4928.149, 4928.1410, 4928.73, 4928.83, 4928.86,	16
4929.221, 4929.222, and 5727.76; and to repeal	17
sections 3706.40, 3706.41, 3706.43, 3706.431,	18
3706.45, 3706.46, 3706.49, 3706.491, 3706.55,	19
3706.551, 3706.59, 3706.63, 3706.65, 4906.105,	20

4928.143, 4928.148, 4928.47, and 4928.642 of the 21  
Revised Code to amend the competitive retail 22  
electric service law, modify taxation of certain 23  
public utility property, and repeal parts of 24  
H.B. 6 of the 133rd General Assembly. 25

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

**Section 1.** That sections 122.6511, 3313.372, 3313.373, 26  
4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 4909.04, 27  
4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 28  
4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 4909.42, 29  
4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 30  
4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 31  
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 4933.81, 4935.04, 32  
5727.01, 5727.111, and 5727.75 be amended and sections 122.161, 33  
3313.377, 3313.378, 4903.27, 4905.23, 4905.311, 4905.321, 34  
4905.331, 4909.041, 4909.042, 4909.159, 4909.181, 4909.192, 35  
4909.193, 4909.421, 4928.041, 4928.101, 4928.102, 4928.103, 36  
4928.104, 4928.105, 4928.149, 4928.1410, 4928.73, 4928.83, 37  
4928.86, 4929.221, 4929.222, and 5727.76 of the Revised Code be 38  
enacted to read as follows: 39

**Sec. 122.161.** (A) As used in this section: 40

(1) "Subdivision" means a municipal corporation, township, 41  
or county. 42

(2) "Legislative authority" means the legislative 43  
authority of a municipal corporation, a board of the township 44  
trustees, or a board of county commissioners. 45

(3) "Subdivision's territory" means, in the case of a 46  
municipal corporation, the territory of the municipal 47  
corporation; in the case of a township, the unincorporated 48  
territory of the township; or, in the case of a county, the 49  
unincorporated territory of the county. 50

(4) "Brownfield" has the same meaning as in section 51  
122.6511 of the Revised Code. 52

(5) "Former coal mine" means a location that was, but is 53  
no longer, used in connection with the extraction of coal from 54  
its natural deposit in the earth. 55

(6) "Qualifying property" has the same meaning as in 56  
section 5727.76 of the Revised Code. 57

(B) A legislative authority may adopt and certify to the 58  
director of development an ordinance or resolution requesting 59  
that the director designate the site of a brownfield or former 60  
coal mine within the subdivision's territory as a priority 61  
investment area. The ordinance or resolution shall describe the 62  
boundaries of the proposed area and shall specify that 63  
qualifying property in the priority investment area shall be 64  
exempt from taxation for five years pursuant to section 5727.76 65  
of the Revised Code. 66

The director, upon receipt of that certification, shall 67  
designate the proposed area as a priority investment area if the 68  
director determines that the area meets the designation 69  
standards set forth in rules adopted by the director. Those 70  
standards shall specify that the director must prioritize the 71  
designation of areas negatively impacted by the decline of the 72  
coal industry. 73

The director shall notify the legislative authority of the 74

director's decision within ninety days after receiving the 75  
certified ordinance or resolution. If the director does not 76  
issue a decision within those ninety days, the request for 77  
designation shall be considered approved by operation of law. 78

(C) The director of development shall immediately notify 79  
the public utilities commission, the power siting board, and the 80  
tax commissioner if the director approves the designation of a 81  
priority investment area under division (B) of this section or 82  
if the designation is approved by operation of law. 83

**Sec. 122.6511.** (A) As used in this section and section 84  
122.6512 of the Revised Code: 85

(1) "Brownfield" means an abandoned, idled, or under-used 86  
industrial, commercial, or institutional property where 87  
expansion or redevelopment is complicated by known or potential 88  
releases of hazardous substances or petroleum. 89

(2) "Lead entity" means a county, township, municipal 90  
corporation, port authority, conservancy district, park district 91  
or other similar park authority, county land reutilization 92  
corporation, or organization for profit. 93

(3) "Remediation" means any action to contain, remove, or 94  
dispose of hazardous substances or petroleum at a brownfield. 95  
"Remediation" includes the acquisition of a brownfield, 96  
demolition performed at a brownfield, and the installation or 97  
upgrade of the minimum amount of infrastructure that is 98  
necessary to make a brownfield operational for economic 99  
development activity. 100

(4) "County land reutilization corporation" has the same 101  
meaning as in section 1724.01 of the Revised Code. 102

(5) "Priority investment area eligible project" means some 103

or all of the following activities necessary or conducive for 104  
generating, transporting, storing, or transmitting electricity 105  
at the site of a brownfield or former coal mine located in a 106  
priority investment area designated under section 122.161 of the 107  
Revised Code: 108

(a) Environmental or cultural resource site assessments; 109

(b) The monitoring, remediation, cleanup, or containment 110  
of land to remove any condition or substance regulated by state 111  
or federal environmental laws or regulations, including 112  
hazardous substances, hazardous wastes, solid wastes, or 113  
petroleum; 114

(c) The demolition and removal of existing structures, 115  
grading, or other site work necessary to make a site or certain 116  
real property that includes a brownfield or former coal mine 117  
usable for economic development; 118

(d) The development of a remediation and reuse plan; 119

(e) The development or operation of a site for energy 120  
generation or battery storage. 121

(B) (1) There is hereby created the brownfield remediation 122  
program to award grants for priority investment area eligible 123  
projects and the remediation of brownfield sites throughout 124  
Ohio. The program shall be administered by the director of 125  
development pursuant to this section and rules adopted pursuant 126  
to division (B) (2) of this section. 127

(2) The director shall adopt rules, under Chapter 119. of 128  
the Revised Code, for the administration of the program. The 129  
rules shall include provisions for determining project and 130  
project sponsor eligibility, program administration, and any 131  
other provisions the director finds necessary. 132

(3) The director shall not award a grant exceeding ten 133  
million dollars to a priority investment area eligible project. 134  
Grants for such projects may not be used for the construction or 135  
operation of electric generating infrastructure. 136

(C) (1) There is hereby created in the state treasury the 137  
brownfield remediation fund. The fund shall consist of moneys 138  
appropriated to it by the general assembly, and investment 139  
earnings on moneys in the fund shall be credited to the fund. 140

The director shall reserve funds from each appropriation 141  
to the fund to each county in the state. The amount reserved 142  
shall be one million dollars per county, or, if an appropriation 143  
is less than eighty-eight million dollars, a proportionate 144  
amount to each county. Amounts reserved pursuant to this section 145  
are reserved for one calendar year from the date of the 146  
appropriation. After one calendar year, the funds shall be 147  
available pursuant to division (D) of this section. 148

(2) A lead entity may submit an initial grant application 149  
for the use of funds reserved under division (C) (1) of this 150  
section to the director. The lead entity may later submit an 151  
amended application to the director, and the director may accept 152  
and approve that application for use of funds up to the amount 153  
reserved for that county. 154

(D) Funds from an appropriation not reserved under 155  
division (C) (1) of this section shall be available for grants to 156  
projects located anywhere in the state, and grants from those 157  
funds shall be awarded to qualifying projects on a first-come, 158  
first-served basis. 159

(E) The amendments to this section by ~~this act~~ H.B. 315 of 160  
the 135th general assembly apply to new projects that are 161

applied for and awarded funding by the director of development 162  
on and after ~~the effective date of this amendment~~ July 1, 2025. 163  
Projects that are applied for or were applied for under this 164  
section prior to ~~that date~~ July 1, 2025, shall be governed by 165  
this section as it existed prior to ~~that date~~ July 1, 2025. 166

**Sec. 3313.372.** (A) As used in this section, "energy 167  
conservation measure" means an installation or modification of 168  
an installation in, or remodeling of, a building, to reduce 169  
energy consumption. It includes: 170

(1) Insulation of the building structure and systems 171  
within the building; 172

(2) Storm windows and doors, multiglazed windows and 173  
doors, heat absorbing or heat reflective glazed and coated 174  
window and door systems, additional glazing, reductions in glass 175  
area, and other window and door system modifications that reduce 176  
energy consumption; 177

(3) Automatic energy control systems; 178

(4) Heating, ventilating, or air conditioning system 179  
modifications or replacements; 180

(5) Caulking and weatherstripping; 181

(6) Replacement or modification of lighting fixtures to 182  
increase the energy efficiency of the system without increasing 183  
the overall illumination of a facility, unless such increase in 184  
illumination is necessary to conform to the applicable state or 185  
local building code for the proposed lighting system; 186

(7) Energy recovery systems; 187

(8) Cogeneration systems that produce steam or forms of 188  
energy such as heat, as well as electricity, for use primarily 189

within a building or complex of buildings; 190

(9) Solar panels; 191

(10) Any other modification, installation, or remodeling 192  
approved by the Ohio facilities construction commission as an 193  
energy conservation measure. 194

(B) A board of education of a city, exempted village, 195  
local, or joint vocational school district may enter into an 196  
installment payment contract for the purchase and installation 197  
of energy conservation measures. The provisions of such 198  
installment payment contracts dealing with interest charges and 199  
financing terms shall not be subject to the competitive bidding 200  
requirements of section 3313.46 of the Revised Code, and shall 201  
be on the following terms: 202

(1) Not less than one-fifteenth of the costs thereof shall 203  
be paid within two years from the date of purchase. 204

(2) The remaining balance of the costs thereof shall be 205  
paid within fifteen years from the date of purchase. 206

The provisions of any installment payment contract entered 207  
into pursuant to this section shall provide that all payments, 208  
except payments for repairs and obligations on termination of 209  
the contract prior to its expiration, shall not exceed the 210  
calculated energy, water, or waste water cost savings, avoided 211  
operating costs, and avoided capital costs attributable to the 212  
one or more measures over a defined period of time. Those 213  
payments shall be made only to the extent that the savings 214  
described in this division actually occur. The energy services 215  
company shall warrant and guarantee that the energy conservation 216  
measures shall realize guaranteed savings and shall be 217  
responsible to pay an amount equal to any savings shortfall. 218



An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B) (3) of that section, in which case the contract shall be awarded through a competitive selection process pursuant to rules adopted by the facilities construction commission.

An installment payment contract entered into by a board of education under this section may include services for measurement and verification of energy savings associated with the guarantee. The annual cost of measurement and verification services shall not exceed ten per cent of the guaranteed savings in any year of the installment payment contract.

(C) If a board of education determines that a surety bond is necessary to secure energy, water, or waste water cost savings guaranteed in a contract entered into by the board of education under this section, the energy services company shall provide a surety bond that satisfies all of the following requirements:

(1) The penal sum of the surety bond for the first guarantee year shall equal the amount of savings included in the annual guaranteed savings amount that is measured and calculated in accordance with the measurement and verification plan included in the contract, but may not include guaranteed savings that are not measured or that are stipulated in the contract. The annual guaranteed savings amount shall include only the savings guaranteed in the contract for the one-year term that begins on the first day of the first savings guarantee year and

may not include amounts from subsequent years. 249

(2) The surety bond shall have a term of not more than one 250  
year unless renewed. At the option of the board of education, 251  
the surety bond may be renewed for one or two additional terms, 252  
each term not to exceed one year. The surety bond may not be 253  
renewed or extended so that it is in effect for more than three 254  
consecutive years. 255

In the event of a renewal, the penal sum of the surety 256  
bond for each renewed year shall be revised so that the penal 257  
sum equals the annual guaranteed savings amount for such renewal 258  
year that is measured and calculated in accordance with the 259  
measurement and verification plan included in the contract, but 260  
may not include guaranteed savings that are not measured or that 261  
are stipulated in the contract. Regardless of the number of 262  
renewals of the bond, the aggregate liability under each renewed 263  
bond may not exceed the penal sum stated in the renewal 264  
certificate for the applicable renewal year. 265

(3) The surety bond for the first year shall be issued 266  
within thirty days of the commencement of the first savings 267  
guarantee year under the contract. 268

In the event of renewal, the surety shall deliver to the 269  
board of education a renewal certificate reflecting the revised 270  
penal sum within thirty days of the board of education's 271  
request. The board of education shall deliver the request for 272  
renewal not less than thirty days prior to the expiration date 273  
of the surety bond then in existence. A surety bond furnished 274  
pursuant to section 153.54 of the Revised Code shall not secure 275  
obligations related to energy, water, or waste water cost 276  
savings as referenced in division (C) of this section. 277

(D) The board may issue the notes of the school district 278  
signed by the president and the treasurer of the board and 279  
specifying the terms of the purchase and securing the deferred 280  
payments provided in this section, payable at the times provided 281  
and bearing interest at a rate not exceeding the rate determined 282  
as provided in section 9.95 of the Revised Code. The notes may 283  
contain an option for prepayment and shall not be subject to 284  
Chapter 133. of the Revised Code. In the resolution authorizing 285  
the notes, the board may provide, without the vote of the 286  
electors of the district, for annually levying and collecting 287  
taxes in amounts sufficient to pay the interest on and retire 288  
the notes, except that the total net indebtedness of the 289  
district without a vote of the electors incurred under this and 290  
all other sections of the Revised Code, except section 3318.052 291  
of the Revised Code, shall not exceed one per cent of the 292  
district's tax valuation. Revenues derived from local taxes or 293  
otherwise, for the purpose of conserving energy or for defraying 294  
the current operating expenses of the district, may be applied 295  
to the payment of interest and the retirement of such notes. The 296  
notes may be sold at private sale or given to the energy 297  
services company under the installment payment contract 298  
authorized by division (B) of this section. 299

(E) Debt incurred under this section shall not be included 300  
in the calculation of the net indebtedness of a school district 301  
under section 133.06 of the Revised Code. 302

(F) No school district board shall enter into an 303  
installment payment contract under division (B) of this section 304  
unless it first obtains a report of the costs of the energy 305  
conservation measures and the savings thereof as described under 306  
division (G)(1) of section 133.06 of the Revised Code as a 307  
requirement for issuing energy securities, makes a finding that 308

the amount spent on such measures is not likely to exceed the 309  
amount of money it would save in energy costs and resultant 310  
operational and maintenance costs as described in that division, 311  
except that that finding shall cover the ensuing fifteen years, 312  
and the facilities construction commission determines that the 313  
district board's findings are reasonable and approves the 314  
contract as described in that division. 315

The district board shall monitor the savings and maintain 316  
a report of those savings, which shall be submitted to the 317  
commission in the same manner as required by division (G) of 318  
section 133.06 of the Revised Code in the case of energy 319  
securities. 320

(G) A board of education may apply to the Ohio facilities 321  
construction commission for a loan from the school energy 322  
performance contracting loan fund, established by section 323  
3313.378 of the Revised Code, for purposes of paying for all or 324  
part of an installment contract under division (B) of this 325  
section. 326

**Sec. 3313.373.** (A) As used in this section: 327

(1) "Energy saving measure" means both of the following: 328

(a) The acquisition and installation, by purchase, lease, 329  
lease purchase, lease with an option to buy, or installment 330  
purchase, of an energy conservation measure as defined in 331  
section 3313.372 of the Revised Code and any attendant 332  
architectural and engineering consulting services. 333

(b) Architectural and engineering consulting services 334  
related to energy conservation. 335

(2) "Shared-savings contract" means a contract for one or 336  
more energy savings measures, which contract provides that all 337

payments, except payments for maintenance and repairs and 338  
obligations on termination of the contract prior to its 339  
expiration, are to be a stated percentage of calculated savings 340  
of energy costs attributable to the energy saving measure over a 341  
defined period of time and are to be made only to the extent 342  
that such savings occur. A contract that requires any additional 343  
capital investment or contribution of funds, other than funds 344  
available from state or federal energy grants, or that is for an 345  
initial term of longer than ten years is not a shared-savings 346  
contract. 347

(B) The board of education of a city, local, exempted 348  
village, or joint vocational school district may enter into a 349  
shared-savings contract with any person experienced in the 350  
design and implementation of energy saving measures for 351  
buildings owned or rented by the board. Such contract is not 352  
subject to section 3313.46 of the Revised Code. If the contract 353  
is for a term extending beyond the fiscal year, it shall be 354  
considered to be a continuing contract within the meaning of 355  
division (D) of section 5705.41 of the Revised Code. A board of 356  
education entering into an installment contract under this 357  
section shall also comply with section 3313.372 of the Revised 358  
Code. 359

(C) In the case of a shared-savings contract running 360  
beyond the fiscal year in which it is entered into, the board 361  
shall include in its annual appropriations measure for each 362  
subsequent year any amounts payable under shared-savings 363  
contracts during such year and shall furnish the certification 364  
required by section 5705.44 of the Revised Code, but the failure 365  
of a board to make such an appropriation or furnish the 366  
certificates referred to in division (D) of section 5705.41, or 367  
5705.412 or 5705.44 of the Revised Code, shall not affect the 368

validity of the shared-savings contract or the board's 369  
obligations under the contract. 370

(D) A board of education may apply to the Ohio facilities 371  
construction commission for a loan from the school energy 372  
performance contracting loan fund, established by section 373  
3313.378 of the Revised Code, for purposes of paying for all or 374  
part of a shared-savings contract under this section. 375

**Sec. 3313.377.** (A) As used in this section: 376

(1) "Energy conservation measure" has the same meaning as 377  
in section 3313.372 of the Revised Code. 378

(2) "Energy saving measure" has the same meaning as in 379  
section 3313.373 of the Revised Code. 380

(B) The Ohio facilities construction commission may issue 381  
a loan from funds in the school energy performance contracting 382  
loan fund created in section 3313.378 of the Revised Code to a 383  
board of education of a city, exempted village, local, or joint 384  
vocational school district that applies for a loan under section 385  
3313.372 or 3313.373 of the Revised Code. 386

(C) Nothing in this section prohibits a board of education 387  
that receives a loan under this section from utilizing any other 388  
energy efficiency program. 389

(D) The terms of a loan issued under this section shall be 390  
as follows: 391

(1) Two per cent annual interest on the loan; 392

(2) The full loan amount, plus interest, shall be repaid 393  
in not more than ten years from the issuance of the loan; 394

(3) Repayment on the loan begins six months after the 395

installation of the energy conservation measures is complete or 396  
the implementation of energy savings measures is completed; 397

(4) Any other provision considered appropriate by the 398  
commission. 399

(E) All repayment amounts for any loans issued under this 400  
section shall be made to the commission. The commission shall 401  
deposit all repayment amounts received in the school energy 402  
performance contracting loan fund created in section 3313.378 of 403  
the Revised Code. 404

(F) If the commission enters into an agreement with a 405  
board for a loan under this section, the commission shall 406  
promptly direct the treasurer of state to remit money from the 407  
school energy performance contracting loan fund to the board as 408  
provided in the terms of the agreement. 409

(G) The commission shall adopt rules to implement this 410  
section, including a loan application. 411

**Sec. 3313.378.** (A) The school energy performance 412  
contracting loan fund is created in the custody of the treasurer 413  
of state, but is not part of the state treasury. The money in 414  
the fund shall be used for purposes of funding loans issued 415  
under section 3313.377 of the Revised Code. The fund shall 416  
consist of the funds transferred from the solar generation fund, 417  
repayments of loans from this fund, interest on amounts in the 418  
school energy performance contracting loan fund, and any 419  
appropriations, grants, or gifts made to the fund. 420

(B) The fund shall be administered by the Ohio facilities 421  
construction commission, and the commission shall request the 422  
treasurer of state to create the account for the fund. The 423  
treasurer of state shall distribute the money in the fund in 424

accordance with directions provided by the commission. 425

Sec. 4903.27. For all cases involving an application 426  
pursuant to section 4909.18 of the Revised Code, the public 427  
utilities commission shall not permit any new discovery 428  
beginning not later than two hundred fifteen days after the 429  
application is determined to be complete. 430

**Sec. 4905.03.** As used in this chapter, any person, firm, 431  
copartnership, voluntary association, joint-stock association, 432  
company, or corporation, wherever organized or incorporated, is: 433

(A) A telephone company, when engaged in the business of 434  
transmitting telephonic messages to, from, through, or in this 435  
state; 436

(B) A for-hire motor carrier, when engaged in the business 437  
of transporting persons or property by motor vehicle for 438  
compensation, except when engaged in any of the operations in 439  
intrastate commerce described in divisions (B)(1) to (9) of 440  
section 4921.01 of the Revised Code, but including the carrier's 441  
agents, officers, and representatives, as well as employees 442  
responsible for hiring, supervising, training, assigning, or 443  
dispatching drivers and employees concerned with the 444  
installation, inspection, and maintenance of motor-vehicle 445  
equipment and accessories; 446

(C) An electric light company, when engaged in the 447  
business of supplying electricity for light, heat, or power 448  
purposes to consumers within this state, including supplying 449  
electric transmission service for electricity delivered to 450  
consumers in this state, but excluding a regional transmission 451  
organization approved by the federal energy regulatory 452  
commission;— 453



An electric light company does not include a self- 454  
generator or mercantile customer self-power system. 455

(D) A gas company, when engaged in the business of 456  
supplying artificial gas for lighting, power, or heating 457  
purposes to consumers within this state or when engaged in the 458  
business of supplying artificial gas to gas companies or to 459  
natural gas companies within this state, but a producer engaged 460  
in supplying to one or more gas or natural gas companies, only 461  
such artificial gas as is manufactured by that producer as a by- 462  
product of some other process in which the producer is primarily 463  
engaged within this state is not thereby a gas company. All 464  
rates, rentals, tolls, schedules, charges of any kind, or 465  
agreements between any gas company and any other gas company or 466  
any natural gas company providing for the supplying of 467  
artificial gas and for compensation for the same are subject to 468  
the jurisdiction of the public utilities commission. 469

(E) A natural gas company, when engaged in the business of 470  
supplying natural gas for lighting, power, or heating purposes 471  
to consumers within this state. Notwithstanding the above, 472  
neither the delivery nor sale of Ohio-produced natural gas or 473  
Ohio-produced raw natural gas liquids by a producer or gatherer 474  
under a public utilities commission-ordered exemption, adopted 475  
before, as to producers, or after, as to producers or gatherers, 476  
January 1, 1996, or the delivery or sale of Ohio-produced 477  
natural gas or Ohio-produced raw natural gas liquids by a 478  
producer or gatherer of Ohio-produced natural gas or Ohio- 479  
produced raw natural gas liquids, either to a lessor under an 480  
oil and gas lease of the land on which the producer's drilling 481  
unit is located, or the grantor incident to a right-of-way or 482  
easement to the producer or gatherer, shall cause the producer 483  
or gatherer to be a natural gas company for the purposes of this 484

section. 485

All rates, rentals, tolls, schedules, charges of any kind, 486  
or agreements between a natural gas company and other natural 487  
gas companies or gas companies providing for the supply of 488  
natural gas and for compensation for the same are subject to the 489  
jurisdiction of the public utilities commission. The commission, 490  
upon application made to it, may relieve any producer or 491  
gatherer of natural gas, defined in this section as a gas 492  
company or a natural gas company, of compliance with the 493  
obligations imposed by this chapter and Chapters 4901., 4903., 494  
4907., 4909., 4921., and 4923. of the Revised Code, so long as 495  
the producer or gatherer is not affiliated with or under the 496  
control of a gas company or a natural gas company engaged in the 497  
transportation or distribution of natural gas, or so long as the 498  
producer or gatherer does not engage in the distribution of 499  
natural gas to consumers. 500

Nothing in division (E) of this section limits the 501  
authority of the commission to enforce sections 4905.90 to 502  
4905.96 of the Revised Code. 503

(F) A pipe-line company, when engaged in the business of 504  
transporting natural gas, oil, or coal or its derivatives 505  
through pipes or tubing, either wholly or partly within this 506  
state, but not when engaged in the business of the transport 507  
associated with gathering lines, raw natural gas liquids, or 508  
finished product natural gas liquids; 509

(G) A water-works company, when engaged in the business of 510  
supplying water through pipes or tubing, or in a similar manner, 511  
to consumers within this state; 512

(H) A heating or cooling company, when engaged in the 513

business of supplying water, steam, or air through pipes or 514  
tubing to consumers within this state for heating or cooling 515  
purposes; 516

(I) A messenger company, when engaged in the business of 517  
supplying messengers for any purpose; 518

(J) A street railway company, when engaged in the business 519  
of operating as a common carrier, a railway, wholly or partly 520  
within this state, with one or more tracks upon, along, above, 521  
or below any public road, street, alleyway, or ground, within 522  
any municipal corporation, operated by any motive power other 523  
than steam and not a part of an interurban railroad, whether the 524  
railway is termed street, inclined-plane, elevated, or 525  
underground railway; 526

(K) A suburban railroad company, when engaged in the 527  
business of operating as a common carrier, whether wholly or 528  
partially within this state, a part of a street railway 529  
constructed or extended beyond the limits of a municipal 530  
corporation, and not a part of an interurban railroad; 531

(L) An interurban railroad company, when engaged in the 532  
business of operating a railroad, wholly or partially within 533  
this state, with one or more tracks from one municipal 534  
corporation or point in this state to another municipal 535  
corporation or point in this state, whether constructed upon the 536  
public highways or upon private rights-of-way, outside of 537  
municipal corporations, using electricity or other motive power 538  
than steam power for the transportation of passengers, packages, 539  
express matter, United States mail, baggage, and freight. Such 540  
an interurban railroad company is included in the term 541  
"railroad" as used in section 4907.02 of the Revised Code. 542

(M) A sewage disposal system company, when engaged in the 543  
business of sewage disposal services through pipes or tubing, 544  
and treatment works, or in a similar manner, within this state. 545

As used in division (E) of this section, "natural gas" 546  
includes natural gas that has been processed to enable 547  
consumption or to meet gas quality standards or that has been 548  
blended with propane, hydrogen, biologically derived methane 549  
gas, or any other artificially produced or processed gas. 550

As used in this section, "gathering lines" has the same 551  
meaning as in section 4905.90 of the Revised Code, and "raw 552  
natural gas liquids" and "finished product natural gas liquids" 553  
have the same meanings as in section 4906.01 of the Revised 554  
Code. 555

As used in this section, "self-generator" has the same 556  
meaning as in section 4928.01 of the Revised Code, and 557  
"mercantile customer self-power system" has the same meaning as 558  
in section 4928.73 of the Revised Code. 559

**Sec. 4905.23.** (A) As used in this section, "base load 560  
electric generating facility" means an electric generating plant 561  
and associated facilities located in this state that primarily 562  
uses a nonrenewable fuel source to generate electricity, 563  
including natural gas and nuclear reaction, and that is not 564  
owned or operated by a public utility, municipal corporation, or 565  
electric cooperative. 566

(B) No person shall enter into a settlement to abandon, 567  
close, or shut down either of the following: 568

(1) A base load electric generating facility; 569

(2) A generating plant owned or operated by a public 570  
utility. 571

Sec. 4905.311. (A) As used in this section, "electric 572  
distribution utility" has the same meaning as in section 4928.01 573  
of the Revised Code. 574

(B) Notwithstanding any provision of the Revised Code to 575  
the contrary, an electric distribution utility may supply behind 576  
the meter electric generation service, provided that any behind 577  
the meter electric generation facilities that the utility 578  
intends to use to supply such service were filed with the public 579  
utilities commission under section 4928.47 of the Revised Code, 580  
as that section existed prior to its repeal by H.B. 15 of the 581  
136th General Assembly, no later than March 31, 2025. 582

(C) No electric distribution utility shall recover any of 583  
the following costs through any rate, charge, or recovery from 584  
retail electric service customers that are not receiving behind 585  
the meter electric generation service from the utility: 586

(1) Costs associated with supplying behind the meter 587  
electric generation service; 588

(2) Costs associated with any behind the meter electric 589  
generation service facility; 590

(3) Stranded costs associated with the closing of any 591  
behind the meter electric generation service facility or an end- 592  
use customer of the behind the meter electric generation service 593  
ceasing operations. 594

(D) No electric distribution utility shall offer direct, 595  
associated inducements for contracting with the utility for any 596  
behind the meter electric generation service. 597

(E) The public utilities commission shall periodically 598  
audit all electric distribution utilities that provide any 599  
behind the meter electric generation service to ensure 600

compliance with this section.

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**Sec. 4905.321.** (A) Notwithstanding section 4905.32 of the  
Revised Code, all revenues collected from customers by a public  
utility as part of a rider or rates that are later found to be  
unreasonable, unlawful, or otherwise improper by the supreme  
court shall be subject to refund from the date of the issuance  
of the supreme court's decision until the date when, on remand,  
the public utilities commission makes changes to the rider or  
rates to implement the supreme court's decision.

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

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

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

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

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

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

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(3) "Proceeding" includes a proceeding relating to 630  
electric service under Chapters 4909. and 4928. of the Revised 631  
Code. 632

(B) No electric distribution utility or its affiliate may 633  
do either of the following to induce any party to a public 634  
utilities commission proceeding to enter into a settlement of a 635  
matter pending before the commission: 636

(1) Make a cash payment to that party; 637

(2) Enter into any agreement or any financial or private 638  
arrangement with that party that is not made part of the public 639  
case record. 640

(C) Notwithstanding division (B) of this section, the 641  
commission may do any of the following: 642

(1) Reasonably allocate costs among rate schedules; 643

(2) Reasonably design rates within a rate schedule; 644

(3) Approve reasonable rates designed for particular 645  
customers or classes of customers; 646

(4) Approve a resolution of a proceeding under section 647  
4905.26 of the Revised Code; 648

(5) Approve payments to any governmental entity, nonprofit 649  
organization, or other association for implementing low-income 650  
weatherization service programs, subject to the following 651  
conditions: 652

(a) The payments are at a rate that is reasonably tailored 653  
to the costs of providing the programs. 654

(b) The payments are for programs that are subject to an 655  
existing or new audit procedure. 656

(c) The payments are not for low-income weatherization 657  
education programs. 658

**Sec. 4906.01.** As used in Chapter 4906. of the Revised 659  
Code: 660

(A) "Person" means an individual, corporation, business 661  
trust, association, estate, trust, or partnership or any 662  
officer, board, commission, department, division, or bureau of 663  
the state or a political subdivision of the state, or any other 664  
entity. 665

(B) (1) "Major utility facility" means: 666

(a) Electric generating plant and associated facilities 667  
designed for, or capable of, operation at a capacity of fifty 668  
megawatts or more; 669

(b) An electric transmission line and associated 670  
facilities of a design capacity of one hundred kilovolts or 671  
more; 672

(c) A gas pipeline that is greater than five hundred feet 673  
in length, and its associated facilities, is more than nine 674  
inches in outside diameter and is designed for transporting gas 675  
at a maximum allowable operating pressure in excess of one 676  
hundred twenty-five pounds per square inch. 677

(2) "Major utility facility" does not include any of the 678  
following: 679

(a) Gas transmission lines over which an agency of the 680  
United States has exclusive jurisdiction; 681

(b) Any solid waste facilities as defined in section 682  
6123.01 of the Revised Code; 683



(c) Electric distributing lines and associated facilities 684  
as defined by the power siting board; 685

(d) Any manufacturing facility that creates byproducts 686  
that may be used in the generation of electricity as defined by 687  
the power siting board; 688

(e) Gathering lines, gas gathering pipelines, and 689  
processing plant gas stub pipelines as those terms are defined 690  
in section 4905.90 of the Revised Code and associated 691  
facilities; 692

(f) Any gas processing plant as defined in section 4905.90 693  
of the Revised Code; 694

(g) Natural gas liquids finished product pipelines; 695

(h) Pipelines from a gas processing plant as defined in 696  
section 4905.90 of the Revised Code to a natural gas liquids 697  
fractionation plant, including a raw natural gas liquids 698  
pipeline, or to an interstate or intrastate gas pipeline; 699

(i) Any natural gas liquids fractionation plant; 700

(j) A production operation as defined in section 1509.01 701  
of the Revised Code, including all pipelines upstream of any 702  
gathering lines; 703

(k) Any compressor stations used by the following: 704

(i) A gathering line, a gas gathering pipeline, a 705  
processing plant gas stub pipeline, or a gas processing plant as 706  
those terms are defined in section 4905.90 of the Revised Code; 707

(ii) A natural gas liquids finished product pipeline, a 708  
natural gas liquids fractionation plant, or any pipeline 709  
upstream of a natural gas liquids fractionation plant; or 710

(iii) A production operation as defined in section 1509.01 711  
of the Revised Code. 712

(C) "Commence to construct" means any clearing of land, 713  
excavation, or other action that would adversely affect the 714  
natural environment of the site or route of a major utility 715  
facility, but does not include surveying changes needed for 716  
temporary use of sites or routes for nonutility purposes, or 717  
uses in securing geological data, including necessary borings to 718  
ascertain foundation conditions. 719

(D) "Certificate" means a certificate of environmental 720  
compatibility and public need issued by the power siting board 721  
under section 4906.10 of the Revised Code or a construction 722  
certificate issued by the board under rules adopted under 723  
~~division~~ divisions (E) ~~or (F)~~ to (H) of section 4906.03 of the 724  
Revised Code. 725

(E) "Gas" means natural gas, flammable gas, or gas that is 726  
toxic or corrosive. 727

(F) "Natural gas liquids finished product pipeline" means 728  
a pipeline that carries finished product natural gas liquids to 729  
the inlet of an interstate or intrastate finished product 730  
natural gas liquid transmission pipeline, rail loading facility, 731  
or other petrochemical or refinery facility. 732

(G) "Large solar facility" means an electric generating 733  
plant that consists of solar panels and associated facilities 734  
with a single interconnection to the electrical grid that is a 735  
major utility facility. 736

(H) "Large wind farm" means an electric generating plant 737  
that consists of wind turbines and associated facilities with a 738  
single interconnection to the electrical grid that is a major 739

utility facility. 740

(I) "Natural gas liquids fractionation plant" means a 741  
facility that takes a feed of raw natural gas liquids and 742  
produces finished product natural gas liquids. 743

(J) "Raw natural gas" means hydrocarbons that are produced 744  
in a gaseous state from gas wells and that generally include 745  
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 746  
octanes, nonanes, and decanes, plus other naturally occurring 747  
impurities like water, carbon dioxide, hydrogen sulfide, 748  
nitrogen, oxygen, and helium. 749

(K) "Raw natural gas liquids" means naturally occurring 750  
hydrocarbons contained in raw natural gas that are extracted in 751  
a gas processing plant and liquefied and generally include 752  
mixtures of ethane, propane, butanes, and natural gasoline. 753

(L) "Finished product natural gas liquids" means an 754  
individual finished product produced by a natural gas liquids 755  
fractionation plant as a liquid that meets the specifications 756  
for commercial products as defined by the gas processors 757  
association. Those products include ethane, propane, iso-butane, 758  
normal butane, and natural gasoline. 759

(M) "Advanced transmission technologies" means software or 760  
hardware technologies that increase the capacity, efficiency, 761  
reliability, or safety of an existing or new electric 762  
transmission system, including grid-enhancing technologies such 763  
as dynamic line rating, advanced power flow controllers, and 764  
topology optimization; advanced conductors; and other 765  
technologies designed to reduce transmission congestion, or 766  
increase the capacity, efficiency, reliability, or safety of an 767  
existing or new electric transmission system. 768

(N) "Advanced conductor" means a conductor with a direct 769  
current electrical resistance that is at least ten per cent 770  
lower than existing conductors of a similar diameter on the 771  
electric transmission system while simultaneously increasing the 772  
energy carrying capacity by at least seventy-five per cent. 773

**Sec. 4906.03.** The power siting board shall: 774

(A) Require such information from persons subject to its 775  
jurisdiction as it considers necessary to assist in the conduct 776  
of hearings and any investigations or studies it may undertake; 777

(B) Conduct any studies or investigations that it 778  
considers necessary or appropriate to carry out its 779  
responsibilities under this chapter; 780

(C) Adopt rules establishing criteria for evaluating the 781  
effects on environmental values of proposed and alternative 782  
sites, and projected needs for electric power, and such other 783  
rules as are necessary and convenient to implement this chapter, 784  
including rules governing application fees, supplemental 785  
application fees, and other reasonable fees to be paid by 786  
persons subject to the board's jurisdiction. The board shall 787  
make an annual accounting of its collection and use of these 788  
fees and shall issue an annual report of its accounting, in the 789  
form and manner prescribed by its rules, not later than the last 790  
day of June of the year following the calendar year to which the 791  
report applies. 792

(D) Approve, disapprove, or modify and approve 793  
applications for certificates; 794

(E) Notwithstanding sections 4906.06 to 4906.14 of the 795  
Revised Code, the board may adopt rules to provide for an 796  
accelerated review of an application for a construction 797

certificate for construction of a major utility facility related 798  
to a coal research and development project as defined in section 799  
1555.01 of the Revised Code, or to a coal development project as 800  
defined in section 1551.30 of the Revised Code, submitted to the 801  
Ohio coal development office for review under division (B) (7) of 802  
section 1551.33 of the Revised Code. Applications for 803  
construction certificates for construction of major utility 804  
facilities for Ohio coal research and development shall be filed 805  
with the board on the same day as the proposed facility or 806  
project is submitted to the Ohio coal development office for 807  
review. 808

The board shall render a decision on an application for a 809  
construction certificate within ninety days after receipt of the 810  
application and all of the data and information it may require 811  
from the applicant. In rendering a decision on an application 812  
for a construction certificate, the board shall only consider 813  
the criteria and make the findings and determinations set forth 814  
in divisions (A) (2), (3), (5), and (7) and division (B) of 815  
section 4906.10 of the Revised Code. 816

(F) Notwithstanding sections 4906.06 to 4906.14 of the 817  
Revised Code, the board shall adopt rules to provide for an 818  
accelerated review of an application for a construction 819  
certificate for any of the following: 820

(1) An electric transmission line that is: 821

(a) Not more than two miles in length; 822

(b) Primarily needed to attract or meet the requirements 823  
of a specific customer or specific customers; 824

(c) Necessary to maintain reliable electric service as a 825  
result of the retirement or shutdown of an electric generating 826

facility located within the state; or 827

(d) A rebuilding of an existing transmission line. 828

(2) An electric generating facility that uses waste heat 829  
or natural gas and is primarily within the current boundary of 830  
an existing industrial or electric generating facility; 831

(3) A gas pipeline that is not more than five miles in 832  
length or is primarily needed to meet the requirements of a 833  
specific customer or specific customers. 834

The board shall adopt rules that provide for the automatic 835  
certification to any entity described in this division when an 836  
application by any such entity is not suspended by the board, an 837  
administrative law judge, or the chairperson or executive 838  
director of the board for good cause shown, within ninety days 839  
of submission of the application. If an application is 840  
suspended, the board shall approve, disapprove, or modify and 841  
approve the application not later than ninety days after the 842  
date of the suspension. 843

(G) Notwithstanding sections 4906.06 to 4906.14 of the 844  
Revised Code, the board shall adopt rules to provide for the 845  
accelerated review of an application for a construction 846  
certificate for any of the following that are located in a 847  
priority investment area designated and approved under section 848  
122.161 of the Revised Code: 849

(1) An electric generating plant and associated 850  
facilities; 851

(2) An electric transmission line and associated 852  
facilities; 853

(3) Gas pipeline infrastructure. 854

The chairperson of the board, not later than forty-five 855  
days after receipt of an application submitted under division 856  
(G) of this section, shall determine if it complies with all 857  
application requirements set by the public utilities commission 858  
by rule. If the chairperson does not issue a determination 859  
within the time period required by this division, the 860  
application shall be deemed in compliance by operation of law. 861

The board shall render a decision on an application 862  
submitted under this division not later than forty-five days 863  
after the application is determined in compliance with all 864  
requirements set by the commission. If the board does not render 865  
a decision within forty-five days, the application shall be 866  
considered approved by operation of law, and the board shall 867  
issue a certificate to the applicant. 868

The board shall adopt rules to implement this division, 869  
including rules that prioritize applications for construction on 870  
areas negatively impacted by the decline of the coal industry. 871

(H) Notwithstanding sections 4906.06 to 4906.14 of the 872  
Revised Code, the board shall adopt rules to provide for the 873  
accelerated review of an application for a construction 874  
certificate for a major utility facility if at the time the 875  
application is filed the construction will be located on the 876  
following: 877

(1) In whole, on property owned by, or under a lease with 878  
a term of twenty-five years or more with, the applicant; 879

(2) In whole or in part, on an easement or right-of-way; 880

(3) On any combination of such property, easement, or 881  
right-of-way described in divisions (H)(1) and (2) of this 882  
section. 883

No accelerated application shall be granted under the 884  
rules adopted under division (H) of this section for 885  
construction of a major utility facility, in whole or in part, 886  
on property under a lease or an easement or right-of-way, if 887  
additional consent for construction on the property, easement, 888  
or right-of-way is required by any person or entity other than 889  
the power siting board. 890

The board shall render a decision on an application 891  
submitted under this division not later than sixty days after 892  
receipt of the application. If the board does not render a 893  
decision within sixty days, the application shall be considered 894  
approved by operation of law, and the board shall issue a 895  
certificate to the applicant. 896

**Sec. 4906.06.** (A) An applicant for a certificate shall 897  
file with the office of the chairperson of the power siting 898  
board an application, in such form as the board prescribes, 899  
containing the following information: 900

(1) A description of the location and of the major utility 901  
facility; 902

(2) A summary of any studies that have been made by or for 903  
the applicant of the environmental impact of the facility; 904

(3) A statement explaining the need for the facility; 905

(4) A statement of the reasons why the proposed location 906  
is best suited for the facility; 907

(5) A statement of how the facility fits into the 908  
applicant's forecast contained in the report submitted under 909  
section 4935.04 of the Revised Code; 910

(6) Such other information as the applicant may consider 911



relevant or as the board by rule or order may require. Copies of 912  
the studies referred to in division (A) (2) of this section shall 913  
be filed with the office of the chairperson, if ordered, and 914  
shall be available for public inspection. 915

(7) For an electric transmission line, a summary of any 916  
studies that have been made by or for the applicant of cost- 917  
effective advanced transmission technologies that maximize the 918  
value, expand the capacity, or improve the reliability of the 919  
facility. 920

The application shall be filed not more than five years 921  
prior to the planned date of commencement of construction. The 922  
five-year period may be waived by the board for good cause 923  
shown. 924

(B) Each application shall be accompanied by proof of 925  
service of a copy of such application on the chief executive 926  
officer of each municipal corporation and county, and the head 927  
of each public agency charged with the duty of protecting the 928  
environment or of planning land use, in the area in which any 929  
portion of such facility is to be located. 930

(C) Each applicant within fifteen days after the date of 931  
the filing of the application shall give public notice to 932  
persons residing in the municipal corporations and counties 933  
entitled to receive notice under division (B) of this section, 934  
by the publication of a summary of the application in newspapers 935  
of general circulation in such area. Proof of such publication 936  
shall be filed with the office of the chairperson. 937

(D) Inadvertent failure of service on, or notice to, any 938  
of the persons identified in divisions (B) and (C) of this 939  
section may be cured pursuant to orders of the board designed to 940

afford them adequate notice to enable them to participate 941  
effectively in the proceeding. In addition, the board, after 942  
filing, may require the applicant to serve notice of the 943  
application or copies thereof or both upon such other persons, 944  
and file proof thereof, as the board considers appropriate. 945

(E) An application for an amendment of a certificate shall 946  
be in such form and contain such information as the board 947  
prescribes. Notice of such an application shall be given as 948  
required in divisions (B) and (C) of this section. 949

(F) Each application for certificate or an amendment shall 950  
be accompanied by the application fee prescribed by board rule. 951  
All application fees, supplemental application fees, and other 952  
fees collected by the board shall be deposited in the state 953  
treasury to the credit of the power siting board fund, which is 954  
hereby created. The chairperson shall administer and authorize 955  
expenditures from the fund for any of the purposes of this 956  
chapter. If the chairperson determines that moneys credited to 957  
the fund from an applicant's fee are not sufficient to pay the 958  
board's expenses associated with its review of the application, 959  
the chairperson shall request the approval of the controlling 960  
board to assess a supplemental application fee upon an applicant 961  
to pay anticipated additional expenses associated with the 962  
board's review of the application or an amendment to an 963  
application. If the chairperson finds that an application fee 964  
exceeds the amount needed to pay the board's expenses for review 965  
of the application, the chairperson shall cause a refund of the 966  
excess amount to be issued to the applicant from the fund. 967

(G) The chairperson shall determine whether an application 968  
is in compliance with this section not more than forty-five days 969  
after the application is filed. If the chairperson does not 970

issue a determination within the time period required by this 971  
division, the application is deemed in compliance by operation 972  
of law. 973

**Sec. 4906.07.** (A) Upon the receipt of an application 974  
complying with section 4906.06 of the Revised Code, the power 975  
siting board shall promptly fix a date for a public hearing 976  
thereon, not less than ~~sixty~~ forty-five nor more than ~~ninety~~ 977  
sixty days after such receipt, and shall conclude the proceeding 978  
as expeditiously as practicable. 979

(B) On an application for an amendment of a certificate, 980  
the board shall hold a hearing in the same manner as a hearing 981  
is held on an application for a certificate if the proposed 982  
change in the facility would result in any material increase in 983  
any environmental impact of the facility or a substantial change 984  
in the location of all or a portion of such facility other than 985  
as provided in the alternates set forth in the application. 986

(C) The chairperson of the power siting board shall cause 987  
each application filed with the board to be investigated and 988  
shall, not less than fifteen days prior to the date any 989  
application is set for hearing submit a written report to the 990  
board and to the applicant. A copy of such report shall be made 991  
available to any person upon request. Such report shall set 992  
forth the nature of the investigation, and shall contain 993  
recommended findings with regard to division (A) of section 994  
4906.10 of the Revised Code and shall become part of the record 995  
and served upon all parties to the proceeding. 996

**Sec. 4906.10.** (A) The power siting board shall render a 997  
decision upon the record either granting or denying the 998  
application as filed, or granting it upon such terms, 999  
conditions, or modifications of the construction, operation, or 1000

maintenance of the major utility facility as the board considers 1001  
appropriate. The certificate shall be subject to sections 1002  
4906.101, 4906.102, and 4906.103 of the Revised Code and 1003  
conditioned upon the facility being in compliance with standards 1004  
and rules adopted under section 4561.32 and Chapters 3704., 1005  
3734., and 6111. of the Revised Code. An applicant may withdraw 1006  
an application if the board grants a certificate on terms, 1007  
conditions, or modifications other than those proposed by the 1008  
applicant in the application. 1009

The board shall not grant a certificate for the 1010  
construction, operation, and maintenance of a major utility 1011  
facility, either as proposed or as modified by the board, unless 1012  
it finds and determines all of the following: 1013

(1) The basis of the need for the facility if the facility 1014  
is an electric transmission line or gas pipeline; 1015

(2) The nature of the probable environmental impact; 1016

(3) That the facility represents the minimum adverse 1017  
environmental impact, considering the state of available 1018  
technology and the nature and economics of the various 1019  
alternatives, and other pertinent considerations; 1020

(4) In the case of an electric transmission line or 1021  
generating facility, that the facility is consistent with 1022  
regional plans for expansion of the electric power grid of the 1023  
electric systems serving this state and interconnected utility 1024  
systems~~and,~~ that the facility will serve the interests of 1025  
electric system economy and reliability, and, in the case of an 1026  
electric transmission line, that the facility must consider 1027  
implementing cost-effective advanced transmission technologies 1028  
to maximize the value, expand capacity, or improve the 1029

reliability of the facility; 1030

(5) That the facility will comply with Chapters 3704., 1031  
3734., and 6111. of the Revised Code and all rules and standards 1032  
adopted under those chapters and under section 4561.32 of the 1033  
Revised Code. In determining whether the facility will comply 1034  
with all rules and standards adopted under section 4561.32 of 1035  
the Revised Code, the board shall consult with the office of 1036  
aviation of the division of multi-modal planning and programs of 1037  
the department of transportation under section 4561.341 of the 1038  
Revised Code. 1039

(6) That the facility will serve the public interest, 1040  
convenience, and necessity; 1041

(7) In addition to the provisions contained in divisions 1042  
(A)(1) to (6) of this section and rules adopted under those 1043  
divisions, what its impact will be on the viability as 1044  
agricultural land of any land in an existing agricultural 1045  
district established under Chapter 929. of the Revised Code that 1046  
is located within the site and alternative site of the proposed 1047  
major utility facility. Rules adopted to evaluate impact under 1048  
division (A)(7) of this section shall not require the 1049  
compilation, creation, submission, or production of any 1050  
information, document, or other data pertaining to land not 1051  
located within the site and alternative site. 1052

(8) That the facility incorporates maximum feasible water 1053  
conservation practices as determined by the board, considering 1054  
available technology and the nature and economics of the various 1055  
alternatives. 1056

(B) If the board determines that the location of all or a 1057  
part of the proposed facility should be modified, it may 1058

condition its certificate upon that modification, provided that 1059  
the municipal corporations and counties, and persons residing 1060  
therein, affected by the modification shall have been given 1061  
reasonable notice thereof. 1062

(C) A copy of the decision and any opinion issued 1063  
therewith shall be served upon each party. 1064

(D) The board shall render a decision under this section 1065  
not later than one hundred fifty days after the date the 1066  
application is determined to be complete. If the board does not 1067  
render a decision within the time period required by this 1068  
division, the application shall be deemed approved by operation 1069  
of law, and the board shall issue a certificate to the 1070  
applicant. 1071

**Sec. 4909.04.** (A) The public utilities commission, for the 1072  
purpose of ascertaining the reasonableness and justice of rates 1073  
and charges for the service rendered by public utilities or 1074  
railroads, or for any other purpose authorized by law, may 1075  
investigate and ascertain the value of the property of any 1076  
public utility or railroad in this state used or useful for the 1077  
service and convenience of the public, using the same criteria 1078  
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 1079  
the Revised Code. At the request of the legislative authority of 1080  
any municipal corporation, the commission, after hearing and 1081  
determining that such a valuation is necessary, may also 1082  
investigate and ascertain the value of the property of any 1083  
public utility used and useful for the service and convenience 1084  
of the public where the whole or major portion of such public 1085  
utility is situated in such municipal corporation. 1086

(B) To assist the commission in preparing such a 1087  
valuation, every public utility or railroad shall: 1088

(1) Furnish to the commission, or to its agents, as the 1089  
commission requires, maps, profiles, schedules of rates and 1090  
tariffs, contracts, reports of engineers, and other documents, 1091  
records, and papers, or copies of any of them, in aid of any 1092  
investigation and ascertainment of the value of its property; 1093

(2) Grant to the commission or its agents free access to 1094  
all of its premises and property and its accounts, records, and 1095  
memoranda whenever and wherever requested by any such authorized 1096  
agent; 1097

(3) Cooperate with and aid the commission and its agents 1098  
in the work of the valuation of its property in such further 1099  
particulars and to such extent as the commission requires and 1100  
directs. 1101

(C) The commission may make all rules which seem necessary 1102  
to ascertain the value of the property and plant of each public 1103  
utility or railroad. 1104

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 1105  
4909.05 of the Revised Code: 1106

(A) A "lease purchase agreement" is an agreement pursuant 1107  
to which a public utility leasing property is required to make 1108  
rental payments for the term of the agreement and either the 1109  
utility is granted the right to purchase the property upon the 1110  
completion of the term of the agreement and upon the payment of 1111  
an additional fixed sum of money or title to the property vests 1112  
in the utility upon the making of the final rental payment. 1113

(B) A "leaseback" is the sale or transfer of property by a 1114  
public utility to another person contemporaneously followed by 1115  
the leasing of the property to the public utility on a long-term 1116  
basis. 1117

Sec. 4909.042. (A) With respect to an electric light 1118  
company that chooses to file a forecasted test period under 1119  
section 4909.18 of the Revised Code, the public utilities 1120  
commission shall prescribe the form and details of the valuation 1121  
report of the property of the utility. Such report shall include 1122  
all the kinds and classes of property, with the value of each, 1123  
owned, held, or projected to be owned or held during the test 1124  
period, by the utility for the service and convenience of the 1125  
public. 1126

(B) Such report shall contain the following facts in 1127  
detail: 1128

(1) The original cost of each parcel of land owned in fee 1129  
and projected to be owned in fee and in use during the test 1130  
period, determined by the commission; and also a statement of 1131  
the conditions of acquisition, whether by direct purchase, by 1132  
donation, by exercise of the power of eminent domain, or 1133  
otherwise; 1134

(2) The actual acquisition cost, not including periodic 1135  
rental fees, of rights-of-way, trailways, or other land rights 1136  
projected to be held during the test period, by virtue of 1137  
easements, leases, or other forms of grants of rights as to 1138  
usage; 1139

(3) The original cost of all other kinds and classes of 1140  
property projected to be used and useful during the test period, 1141  
in the rendition of service to the public. Such original costs 1142  
of property, other than land owned in fee, shall be the cost, as 1143  
determined to be reasonable by the commission, to the person 1144  
that first dedicated or dedicates the property to the public use 1145  
and shall be set forth in property accounts and subaccounts as 1146  
prescribed by the commission; 1147



(4) The cost of property constituting all or part of a 1148  
project projected to be leased to or used by the utility during 1149  
the test period, under Chapter 165., 3706., 6121., or 6123. of 1150  
the Revised Code and not included under division (B) (3) of this 1151  
section exclusive of any interest directly or indirectly paid by 1152  
the utility with respect thereto whether or not capitalized; 1153

(5) In the discretion of the commission, the cost to a 1154  
utility, in an amount determined to be reasonable by the 1155  
commission, of property constituting all or part of a project 1156  
projected to be leased to the utility during the test period, 1157  
under a lease purchase agreement or a leaseback and not included 1158  
under division (B) (3) of this section exclusive of any interest 1159  
directly or indirectly paid by the utility with respect thereto 1160  
whether or not capitalized; 1161

(6) The proper and adequate reserve for depreciation, as 1162  
determined to be reasonable by the commission; 1163

(7) Any sums of money or property that the utility is 1164  
projected to receive during the test period, as total or partial 1165  
defrayal of the cost of its property; 1166

(8) The valuation of the property of the utility, which 1167  
shall be the sum of the amounts contained in the report pursuant 1168  
to divisions (B) (1) to (5) of this section, less the sum of the 1169  
amounts contained in the report pursuant to divisions (B) (6) and 1170  
(7) of this section. 1171

(C) The report shall show separately the property 1172  
projected to be used and useful to or held by the utility during 1173  
the test period, and such other items as the commission 1174  
considers proper. The commission may require an additional 1175  
report showing the extent to which the property is projected to 1176

be used and useful during the test period. Such reports shall be  
filed in the office of the commission for the information of the  
governor and the general assembly.

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

**Sec. 4909.05.** As used in this section:

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

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

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

date certain, by each public utility or railroad used and 1206  
useful, or, with respect to a natural gas, water-works, or 1207  
sewage disposal system company, projected to be used and useful 1208  
as of the date certain, for the service and convenience of the 1209  
public. ~~Such~~ 1210

(B) Such report shall contain the following facts in 1211  
detail: 1212

(1) The original cost of each parcel of land owned in fee 1213  
and in use, or, with respect to a natural gas, water-works, or 1214  
sewage disposal system company, projected to be owned in fee and 1215  
in use as of the date certain, determined by the commission; and 1216  
also a statement of the conditions of acquisition, whether by 1217  
direct purchase, by donation, by exercise of the power of 1218  
eminent domain, or otherwise; 1219

(2) The actual acquisition cost, not including periodic 1220  
rental fees, of rights-of-way, trailways, or other land rights 1221  
held, or, with respect to a natural gas, water-works, or sewage 1222  
disposal system company, projected to be held as of the date 1223  
certain, by virtue of easements, leases, or other forms of 1224  
grants of rights as to usage; 1225

(3) The original cost of all other kinds and classes of 1226  
property used and useful, or, with respect to a natural gas, 1227  
water-works, or sewage disposal system company, projected to be 1228  
used and useful as of the date certain, in the rendition of 1229  
service to the public. Subject to section 4909.052 of the 1230  
Revised Code, such original costs of property, other than land 1231  
owned in fee, shall be the cost, as determined to be reasonable 1232  
by the commission, to the person that first dedicated or 1233  
dedicates the property to the public use and shall be set forth 1234  
in property accounts and subaccounts as prescribed by the 1235

commission. To the extent that the costs of property comprising 1236  
a coal research and development facility, as defined in section 1237  
1555.01 of the Revised Code, or a coal development project, as 1238  
defined in section 1551.30 of the Revised Code, have been 1239  
allowed for recovery as Ohio coal research and development costs 1240  
under section 4905.304 of the Revised Code, none of those costs 1241  
shall be included as a cost of property under this division. 1242

(4) The cost of property constituting all or part of a 1243  
project leased to or used by the utility, or, with respect to a 1244  
natural gas, water-works, or sewage disposal system company, 1245  
projected to be leased to or used by the utility as of the date 1246  
certain, under Chapter 165., 3706., 6121., or 6123. of the 1247  
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 1248  
this section exclusive of any interest directly or indirectly 1249  
paid by the utility with respect thereto whether or not 1250  
capitalized; 1251

(5) In the discretion of the commission, the cost to a 1252  
utility, in an amount determined to be reasonable by the 1253  
commission, of property constituting all or part of a project 1254  
leased to the utility, or, with respect to a natural gas, water- 1255  
works, or sewage disposal system company, projected to be leased 1256  
to the utility as of the date certain, under a lease purchase 1257  
agreement or a leaseback and not included under division ~~(C) (3)~~ 1258  
(B) (3) of this section exclusive of any interest directly or 1259  
indirectly paid by the utility with respect thereto whether or 1260  
not capitalized; 1261

(6) The cost of the replacement of water service lines 1262  
incurred by a water-works company under section 4909.173 of the 1263  
Revised Code and the water service line replacement 1264  
reimbursement amounts provided to customers under section 1265

4909.174 of the Revised Code; 1266

(7) The proper and adequate reserve for depreciation, as 1267  
determined to be reasonable by the commission; 1268

(8) Any sums of money or property that the company may 1269  
have received, or, with respect to a natural gas, water-works, 1270  
or sewage disposal system company, is projected to receive as of 1271  
the date certain, as total or partial defrayal of the cost of 1272  
its property; 1273

(9) The valuation of the property of the company, which 1274  
shall be the sum of the amounts contained in the report pursuant 1275  
to divisions ~~(C) (1)~~ (B) (1) to (6) of this section, less the sum 1276  
of the amounts contained in the report pursuant to divisions ~~(C)~~ 1277  
~~(7)~~ (B) (7) and (8) of this section. 1278

(C) The report shall show separately the property used and 1279  
useful to such public utility or railroad in the furnishing of 1280  
the service to the public, the property held by such public 1281  
utility or railroad for other purposes, and the property 1282  
projected to be used and useful to or held by a natural gas, 1283  
water-works, or sewage disposal system company as of the date 1284  
certain, and such other items as the commission considers 1285  
proper. The commission may require an additional report showing 1286  
the extent to which the property is used and useful, or, with 1287  
respect to a natural gas, water-works, or sewage disposal system 1288  
company, projected to be used and useful as of the date certain. 1289  
Such reports shall be filed in the office of the commission for 1290  
the information of the governor and the general assembly. 1291

**Sec. 4909.052.** Subject to a finding that such costs are 1292  
just and reasonable, the public utilities commission in 1293  
evaluating a petition submitted under section 4905.481 of the 1294

Revised Code shall accept the original cost, reported under 1295  
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 1296  
of the acquisition of a municipal water-works or sewage disposal 1297  
system company that is acquired by a large water-works or sewage 1298  
disposal system company, provided that the original cost is 1299  
determined according to all of the following requirements: 1300

(A) The acquiring company has three appraisals performed 1301  
on the property of the company being acquired. 1302

(B) The three appraisals are performed by three 1303  
independent utility-valuation experts mutually selected by the 1304  
acquiring company and the company being acquired from the list 1305  
maintained under section 4909.054 of the Revised Code. 1306

(C) The average of the three appraisals is used as the 1307  
fair market value of the company being acquired. 1308

(D) Each utility-valuation expert does all of the 1309  
following: 1310

(1) Determines the fair market value of the company to be 1311  
acquired by establishing the amount for which the company would 1312  
be sold in a voluntary transaction between a willing buyer and a 1313  
willing seller under no obligation to buy or sell; 1314

(2) Determines the fair market value in compliance with 1315  
the uniform standards of professional appraisal practice; 1316

(3) Employs the cost, market, and income approach to 1317  
independently quantify the future benefits of the company to be 1318  
acquired; 1319

(4) Incorporates the assessment described in division (D) 1320  
(5) of this section into the appraisal under the cost, market, 1321  
and income approach; 1322

(5) Engages one engineer who is licensed to prepare an 1323  
assessment of the tangible assets of the company to be acquired. 1324  
The original source of funding for any part of the tangible 1325  
assets shall not be relevant to the determination of the value 1326  
of those assets. 1327

(E) The lesser of the purchase price or the fair market 1328  
value, described in division (C) of this section, is reported as 1329  
the original cost under division ~~(C) (3)~~ (B) (3) of section 1330  
4909.05 of the Revised Code of the company to be acquired. 1331

**Sec. 4909.06.** The investigation and report required by 1332  
~~section~~ section 4909.042 or 4909.05 of the Revised Code shall 1333  
show, when the public utilities commission deems it necessary, 1334  
the amounts, dates, and rates of interest of all bonds 1335  
outstanding against each public utility or railroad, the 1336  
property upon which such bonds are a lien, the amounts paid for 1337  
them, and, the original capital stock and the moneys received by 1338  
any such public utility or railroad by reason of any issue of 1339  
stock, bonds, or other securities. Such report shall also show 1340  
the net and gross receipts of such public utility or railroad 1341  
and the method by which moneys were expended or paid out and the 1342  
purpose of such payments. The commission may prescribe the 1343  
procedure to be followed in making the investigation and 1344  
valuation, the form in which the results of the ascertainment of 1345  
the value of each public utility or railroad shall be submitted, 1346  
and the classifications of the elements that constitute the 1347  
ascertained value. Such investigation shall also show the value 1348  
of the property of every public utility or railroad as a whole, 1349  
and if such property is in more than one county, the value of 1350  
its property in each of such counties. 1351

"Valuation" and "value," as used in this section, may 1352

include,~~with~~:\_ 1353

(A) With respect to a public utility that is a natural 1354  
gas, water-works, or sewage disposal system company, projected 1355  
valuation and value as of the date certain, if applicable 1356  
because of a future date certain under section 4909.15 of the 1357  
Revised Code; 1358

(B) With respect to an electric light company that chooses 1359  
to file a forecasted test period under section 4909.18 of the 1360  
Revised Code, the valuation and value during the forecasted test 1361  
period. 1362

**Sec. 4909.07.** The public utilities commission, during the 1363  
making of the valuation provided for in sections 4909.04 to 1364  
4909.13 of the Revised Code, and after its completion, shall in 1365  
like manner keep itself informed through its engineers, experts, 1366  
and other assistants of all extensions, improvements, or other 1367  
changes in the condition and value of the property of all public 1368  
utilities or railroads and shall ascertain the value of such 1369  
extensions, improvements, and changes. The commission shall, as 1370  
is required for the proper regulation of such public utilities 1371  
or railroads, revise and correct its valuations of property, 1372  
showing such revisions and corrections as a whole and as to each 1373  
county. Such revisions and corrections shall be filed in the 1374  
same manner as original reports. 1375

"Valuation" and "value," as used in this section, may 1376  
include,~~with~~:\_ 1377

(A) With respect to a public utility that is a natural 1378  
gas, water-works, or sewage disposal system company, projected 1379  
valuation and value as of the date certain, if applicable 1380  
because of a future date certain under section 4909.15 of the 1381



Revised Code; 1382

(B) With respect to an electric light company that chooses 1383  
to file a forecasted test period under section 4909.18 of the 1384  
Revised Code, the valuation and value during the forecasted test 1385  
period. 1386

**Sec. 4909.08.** When the public utilities commission has 1387  
completed the valuation of the property of any public utility or 1388  
railroad and before such valuation becomes final, it shall give 1389  
notice by registered letter to such public utility or railroad, 1390  
and if a substantial portion of said public utility or railroad 1391  
is situated in a municipal corporation, then to the mayor of 1392  
such municipal corporation, stating the valuations placed upon 1393  
the several kinds and classes of property of such public utility 1394  
or railroad and upon the property as a whole and give such 1395  
further notice by publication or otherwise as it shall deem 1396  
necessary to apprise the public of such valuation. If, within 1397  
thirty days after such notification, no protest has been filed 1398  
with the commission, such valuation becomes final. If notice of 1399  
protest has been filed by any public utility or railroad, the 1400  
commission shall fix a time for hearing such protest and shall 1401  
consider at such hearing any matter material thereto presented 1402  
by such public utility, railroad, or municipal corporation, in 1403  
support of its protest or by any representative of the public 1404  
against such protest. If, after the hearing of any protest of 1405  
any valuation so fixed, the commission is of the opinion that 1406  
its inventory is incomplete or inaccurate or that its valuation 1407  
is incorrect, it shall make such changes as are necessary and 1408  
shall issue an order making such corrected valuations final. A 1409  
final valuation by the commission and all classifications made 1410  
for the ascertainment of such valuations shall be public and are 1411  
prima-facie evidence relative to the value of the property. 1412

"Valuation" and "value," as used in this section, may 1413  
include, ~~with~~: 1414

(A) With respect to a public utility that is a natural 1415  
gas, water-works, or sewage disposal system company, projected 1416  
valuation and value as of the date certain, if applicable 1417  
because of a future date certain under section 4909.15 of the 1418  
Revised Code; 1419

(B) With respect to an electric light company that chooses 1420  
to file a forecasted test period under section 4909.18 of the 1421  
Revised Code, the valuation and value during the forecasted test 1422  
period. 1423

**Sec. 4909.15.** (A) The public utilities commission, when 1424  
fixing and determining just and reasonable rates, fares, tolls, 1425  
rentals, and charges, shall determine: 1426

~~(1) The~~ (1) (a) With respect to a public utility that is a 1427  
natural gas, water-works, or sewage disposal system company, or 1428  
that is an electric light company that chooses not to file a 1429  
forecasted test period under section 4909.18 of the Revised 1430  
Code, the valuation as of the date certain of the property of 1431  
the public utility that is used and useful or, with respect to a 1432  
natural gas, water-works, or sewage disposal system company, is 1433  
projected to be used and useful as of the date certain, in 1434  
rendering the public utility service for which rates are to be 1435  
fixed and determined. ~~The~~ 1436

(b) With respect to an electric light company that chooses 1437  
to file a forecasted test period under section 4909.18 of the 1438  
Revised Code, the valuation of the property of the utility that 1439  
is projected to be used and useful during the forecasted test 1440  
period in rendering the public utility service for which rates 1441

are to be fixed and determined. 1442

(c) The valuation so determined under division (A) (1) of 1443  
this section for any public utility shall be the total value as 1444  
set forth in division (C) (9) (B) (8) of section 4909.042 of the 1445  
Revised Code and division (B) (9) of section 4909.05 of the 1446  
Revised Code, and a reasonable allowance for materials and 1447  
supplies and a reasonable allowance for cash working capital as 1448  
determined by the commission. 1449

~~The commission, in its discretion, may include in the~~ 1450  
~~valuation a reasonable allowance for construction work in~~ 1451  
~~progress but, in no event, may such an allowance be made by the~~ 1452  
~~commission until it has determined that the particular~~ 1453  
~~construction project is at least seventy-five per cent complete.~~ 1454

~~In determining the percentage completion of a particular~~ 1455  
~~construction project, the commission shall consider, among other~~ 1456  
~~relevant criteria, the per cent of time elapsed in construction,~~ 1457  
~~the per cent of construction funds, excluding allowance for~~ 1458  
~~funds used during construction, expended, or obligated to such~~ 1459  
~~construction funds budgeted where all such funds are adjusted to~~ 1460  
~~reflect current purchasing power; and any physical inspection~~ 1461  
~~performed by or on behalf of any party, including the~~ 1462  
~~commission's staff.~~ 1463

~~A reasonable allowance for construction work in progress~~ 1464  
~~shall not exceed ten per cent of the total valuation as stated~~ 1465  
~~in this division, not including such allowance for construction~~ 1466  
~~work in progress.~~ 1467

~~Where the commission permits an allowance for construction~~ 1468  
~~work in progress, the dollar value of the project or portion~~ 1469  
~~thereof included in the valuation as construction work in~~ 1470

~~progress shall not be included in the valuation as plant in- 1471~~  
~~service until such time as the total revenue effect of the- 1472~~  
~~construction work in progress allowance is offset by the total- 1473~~  
~~revenue effect of the plant in service exclusion. Carrying- 1474~~  
~~charges calculated in a manner similar to allowance for funds- 1475~~  
~~used during construction shall accrue on that portion of the- 1476~~  
~~project in service but not reflected in rates as plant in- 1477~~  
~~service, and such accrued carrying charges shall be included in- 1478~~  
~~the valuation of the property at the conclusion of the offset- 1479~~  
~~period for purposes of division (C) (9) of section 4909.05 of the 1480~~  
~~Revised Code. 1481~~

~~From and after April 10, 1985, no allowance for- 1482~~  
~~construction work in progress as it relates to a particular- 1483~~  
~~construction project shall be reflected in rates for a period- 1484~~  
~~exceeding forty-eight consecutive months commencing on the date- 1485~~  
~~the initial rates reflecting such allowance become effective,- 1486~~  
~~except as otherwise provided in this division. 1487~~

~~The applicable maximum period in rates for an allowance- 1488~~  
~~for construction work in progress as it relates to a particular- 1489~~  
~~construction project shall be tolled if, and to the extent, a- 1490~~  
~~delay in the in-service date of the project is caused by the- 1491~~  
~~action or inaction of any federal, state, county, or municipal- 1492~~  
~~agency having jurisdiction, where such action or inaction- 1493~~  
~~relates to a change in a rule, standard, or approval of such- 1494~~  
~~agency, and where such action or inaction is not the result of- 1495~~  
~~the failure of the utility to reasonably endeavor to comply with 1496~~  
~~any rule, standard, or approval prior to such change. 1497~~

~~In the event that such period expires before the project- 1498~~  
~~goes into service, the commission shall exclude, from the date- 1499~~  
~~of expiration, the allowance for the project as construction- 1500~~

~~work in progress from rates, except that the commission may~~ 1501  
~~extend the expiration date up to twelve months for good cause~~ 1502  
~~shown.~~ 1503

~~In the event that a utility has permanently canceled,~~ 1504  
~~abandoned, or terminated construction of a project for which it~~ 1505  
~~was previously permitted a construction work in progress~~ 1506  
~~allowance, the commission immediately shall exclude the~~ 1507  
~~allowance for the project from the valuation.~~ 1508

~~In the event that a construction work in progress project~~ 1509  
~~previously included in the valuation is removed from the~~ 1510  
~~valuation pursuant to this division, any revenues collected by~~ 1511  
~~the utility from its customers after April 10, 1985, that~~ 1512  
~~resulted from such prior inclusion shall be offset against~~ 1513  
~~future revenues over the same period of time as the project was~~ 1514  
~~included in the valuation as construction work in progress. The~~ 1515  
~~total revenue effect of such offset shall not exceed the total~~ 1516  
~~revenues previously collected.~~ 1517

~~In no event shall the total revenue effect of any offset~~ 1518  
~~or offsets provided under division (A) (1) of this section exceed~~ 1519  
~~the total revenue effect of any construction work in progress~~ 1520  
~~allowance.~~ 1521

(2) A fair and reasonable rate of return to the utility on 1522  
the valuation as determined in division (A) (1) of this section; 1523

(3) The dollar annual return to which the utility is 1524  
entitled by applying the fair and reasonable rate of return as 1525  
determined under division (A) (2) of this section to the 1526  
valuation of the utility determined under division (A) (1) of 1527  
this section; 1528

(4) The cost to the utility of rendering the public 1529

utility service for the test period used for the determination 1530  
under division (C) (1) of this section, ~~less the total of any~~ 1531  
~~interest on cash or credit refunds paid, pursuant to section~~ 1532  
~~4909.42 of the Revised Code,~~ by the utility during the test 1533  
period. 1534

~~(a)~~ Federal, state, and local taxes imposed on or measured 1535  
by net income may, in the discretion of the commission, be 1536  
computed by the normalization method of accounting, provided the 1537  
utility maintains accounting reserves that reflect differences 1538  
between taxes actually payable and taxes on a normalized basis, 1539  
provided that no determination as to the treatment in the rate- 1540  
making process of such taxes shall be made that will result in 1541  
loss of any tax depreciation or other tax benefit to which the 1542  
utility would otherwise be entitled, and further provided that 1543  
such tax benefit as redounds to the utility as a result of such 1544  
a computation may not be retained by the company, used to fund 1545  
any dividend or distribution, or utilized for any purpose other 1546  
than the defrayal of the operating expenses of the utility and 1547  
the defrayal of the expenses of the utility in connection with 1548  
construction work. 1549

~~(b)~~ The amount of any tax credits granted to an electric 1550  
light company under section 5727.391 of the Revised Code for 1551  
Ohio coal burned prior to January 1, 2000, shall not be retained 1552  
by the company, used to fund any dividend or distribution, or 1553  
utilized for any purposes other than the defrayal of the 1554  
allowable operating expenses of the company and the defrayal of 1555  
the allowable expenses of the company in connection with the 1556  
installation, acquisition, construction, or use of a compliance 1557  
facility. The amount of the tax credits granted to an electric 1558  
light company under that section for Ohio coal burned prior to 1559  
January 1, 2000, shall be returned to its customers within three 1560

~~years after initially claiming the credit through an offset to~~ 1561  
~~the company's rates or fuel component, as determined by the~~ 1562  
~~commission, as set forth in schedules filed by the company under~~ 1563  
~~section 4905.30 of the Revised Code. As used in division (A) (4)~~ 1564  
~~(b) of this section, "compliance facility" has the same meaning~~ 1565  
~~as in section 5727.391 of the Revised Code.~~ 1566

(B) The commission shall compute the gross annual revenues 1567  
to which the utility is entitled by adding the dollar amount of 1568  
return under division (A) (3) of this section to the cost, for 1569  
the test period used for the determination under division (C) (1) 1570  
of this section, of rendering the public utility service under 1571  
division (A) (4) of this section. 1572

(C) (1) Except as provided in division (D) of this section, 1573  
the revenues and expenses of the utility shall be determined 1574  
during a test period. The utility may as follows: 1575

(a) Electric light companies may propose a forecasted test 1576  
period. If the company proposes a forecasted test period, the 1577  
company shall propose annual base rates for three consecutive 1578  
twelve-month periods in a single forecasted test period 1579  
application. 1580

During the first twelve-month period, the company shall 1581  
propose a reasonably forecasted rate base using a thirteen-month 1582  
average, revenues, and expenses for the first twelve months that 1583  
new base rates will be in effect. 1584

During the second twelve-month period, the base rate 1585  
revenue requirement shall be adjusted for the return of, and 1586  
return on, incremental rate base additions approved by the 1587  
commission in the initial application. During the third twelve- 1588  
month period, the base rate revenue requirement shall be 1589

adjusted for the return of and return on incremental rate base 1590  
additions approved by the commission in the initial application. 1591

For each twelve-month period, forecasted plant investment, 1592  
forecasted revenues, and forecasted expenses versus actual 1593  
investment, actual revenues, and actual expenses shall be trued 1594  
up via a cost recovery mechanism approved by the commission. 1595

Each true-up process shall include an adjustment to actual 1596  
for the rate of return that the company is authorized to earn on 1597  
the actual investments made. The company shall provide the 1598  
commission with actual financial information during the true-up 1599  
process to ensure accuracy. As part of the true-up process, the 1600  
commission shall include only rate base components that have 1601  
been found by the commission to be used and useful in rendering 1602  
public utility service. 1603

At the end of the last test period, the company shall file 1604  
for a rate case under section 4909.18 of the Revised Code. 1605

(b) All utilities, except for electric light companies 1606  
that choose to file under division (C) (1) (a) of this section, 1607  
shall propose a test period ~~for this determination~~ that is any 1608  
twelve-month period beginning not more than six months prior to 1609  
the date the application is filed and ending not more than nine 1610  
months subsequent to that date. ~~The test period for determining~~ 1611  
~~revenues and expenses of the utility shall be the test period~~ 1612  
~~proposed by the utility, unless otherwise ordered by the~~ 1613  
~~commission.~~ 1614

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1615  
this section, the date certain shall be not later than the date 1616  
of filing, except that it shall be, for a natural gas, water- 1617  
works, or sewage disposal system company, not later than the end 1618



of the test period. 1619

(D) ~~A natural gas, water works, or sewage disposal system~~ 1620  
~~company~~ Utilities filing under division (C) (1) (b) of this 1621  
section may propose adjustments to the revenues and expenses ~~to~~ 1622  
~~be determined under division (C) (1) of this section~~ for any 1623  
changes that are, during the test period or the twelve-month 1624  
period immediately following the test period, reasonably 1625  
expected to occur. The ~~natural gas, water works, or sewage~~ 1626  
~~disposal system company~~ utility shall identify and quantify, 1627  
individually, any proposed adjustments. The commission shall 1628  
incorporate the proposed adjustments into the determination if 1629  
the adjustments are just and reasonable. 1630

(E) When the commission is of the opinion, after hearing 1631  
and after making the determinations under divisions (A) and (B) 1632  
of this section, that any rate, fare, charge, toll, rental, 1633  
schedule, classification, or service, or any joint rate, fare, 1634  
charge, toll, rental, schedule, classification, or service 1635  
rendered, charged, demanded, exacted, or proposed to be 1636  
rendered, charged, demanded, or exacted, is, or will be, unjust, 1637  
unreasonable, unjustly discriminatory, unjustly preferential, or 1638  
in violation of law, that the service is, or will be, 1639  
inadequate, or that the maximum rates, charges, tolls, or 1640  
rentals chargeable by any such public utility are insufficient 1641  
to yield reasonable compensation for the service rendered, and 1642  
are unjust and unreasonable, the commission shall: 1643

(1) With due regard among other things to the value of all 1644  
property of the public utility ~~actually used and useful for the~~ 1645  
~~convenience of the public~~ as determined under division (A) (1) of 1646  
this section, excluding from such value the value of any 1647  
franchise or right to own, operate, or enjoy the same in excess 1648

of the amount, exclusive of any tax or annual charge, actually 1649  
paid to any political subdivision of the state or county, as the 1650  
consideration for the grant of such franchise or right, and 1651  
excluding any value added to such property by reason of a 1652  
monopoly or merger, with due regard in determining the dollar 1653  
annual return under division (A) (3) of this section to the 1654  
necessity of making reservation out of the income for surplus, 1655  
depreciation, and contingencies, and; 1656

(2) With due regard to all such other matters as are 1657  
proper, according to the facts in each case, 1658

(a) Including a fair and reasonable rate of return 1659  
determined by the commission with reference to a cost of debt 1660  
equal to the actual embedded cost of debt of such public 1661  
utility, 1662

(b) But not including the portion of any periodic rental 1663  
or use payments representing that cost of property that is 1664  
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1665  
and (5) of section 4909.042 of the Revised Code and divisions 1666  
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1667  
determine the just and reasonable rate, fare, charge, toll, 1668  
rental, or service to be rendered, charged, demanded, exacted, 1669  
or collected for the performance or rendition of the service 1670  
that will provide the public utility the allowable gross annual 1671  
revenues under division (B) of this section, and order such just 1672  
and reasonable rate, fare, charge, toll, rental, or service to 1673  
be substituted for the existing one. After such determination 1674  
and order no change in the rate, fare, toll, charge, rental, 1675  
schedule, classification, or service shall be made, rendered, 1676  
charged, demanded, exacted, or changed by such public utility 1677  
without the order of the commission, and any other rate, fare, 1678

toll, charge, rental, classification, or service is prohibited. 1679

(F) Upon application of any person or any public utility, 1680  
and after notice to the parties in interest and opportunity to 1681  
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1682  
4909., 4921., and 4923. of the Revised Code for other hearings, 1683  
has been given, the commission may rescind, alter, or amend an 1684  
order fixing any rate, fare, toll, charge, rental, 1685  
classification, or service, or any other order made by the 1686  
commission. Certified copies of such orders shall be served and 1687  
take effect as provided for original orders. 1688

**Sec. 4909.156.** In fixing the just, reasonable, and 1689  
compensatory rates, joint rates, tolls, classifications, 1690  
charges, or rentals to be observed and charged for service by 1691  
any public utility, the public utilities commission shall, in 1692  
action upon an application filed pursuant to section 4909.18 of 1693  
the Revised Code, require a public utility to file a report 1694  
showing the proportionate amounts of the valuation of the 1695  
property of the utility, as determined under section 4909.042 or 1696  
4909.05 of the Revised Code, and the proportionate amounts of 1697  
the revenues and expenses of the utility that are proposed to be 1698  
considered as attributable to the service area involved in the 1699  
application. 1700

"Valuation," as used in this section, may include, ~~with~~: 1701

(A) With respect to a public utility that is a natural 1702  
gas, water-works, or sewage disposal system company, projected 1703  
valuation as of the date certain, if applicable because of a 1704  
future date certain under section 4909.15 of the Revised Code; 1705

(B) With respect to an electric light company that chooses 1706  
to file a forecasted test period under section 4909.18 of the 1707

Revised Code, the valuation and value during the forecasted test 1708  
period. 1709

**Sec. 4909.159.** An electric light company proposing a 1710  
forecasted test period under division (C)(1)(a) of section 1711  
4909.15 of the Revised Code shall provide any financial 1712  
information required by that section from the company's full 1713  
books. The public utilities commission shall ensure appropriate 1714  
protections against the disclosure of the company's trade 1715  
secrets or proprietary information. 1716

**Sec. 4909.173.** (A) As used in this section and section 1717  
4909.174 of the Revised Code: 1718

(1) "Customer-owned water service line" means the water 1719  
service line connected to the water-works company's water 1720  
service line at the curb of a customer's property. 1721

(2) "Water-works company" means an entity defined under 1722  
division (G) of section 4905.03 of the Revised Code that is a 1723  
public utility under section 4905.02 of the Revised Code. 1724

(B) A water-works company may do any of the following: 1725

(1) Replace lead customer-owned water service lines 1726  
concurrently with a scheduled utility main replacement project, 1727  
an emergency replacement, or company-initiated lead water 1728  
service line replacement program; 1729

(2) Replace lead customer-owned water service lines when 1730  
mandated or ordered to replace such lines by law or a state or 1731  
federal regulatory agency; 1732

(3) Replace customer-owned water service lines of other 1733  
composition when mandated or ordered to replace such lines by 1734  
law or a state or federal regulatory agency. 1735

(C) If a water-works company replaces customer-owned water service lines under this section, then the company shall include the cost of the replacement of the water service lines, including the cost of replacement of both company side and customer-owned water service lines and the cost to evaluate customer-owned water service lines of unknown composition, in the valuation report of the property of the company as required under division ~~(C)-(6)~~ (B) (6) of section 4909.05 of the Revised Code for inclusion in a rate case under this chapter.

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

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

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

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

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

**Sec. 4909.18.** Any public utility desiring to establish any

rate, joint rate, toll, classification, charge, or rental, or to 1765  
modify, amend, change, increase, or reduce any existing rate, 1766  
joint rate, toll, classification, charge, or rental, or any 1767  
regulation or practice affecting the same, shall file a written 1768  
application with the public utilities commission. Except for 1769  
actions under section 4909.16 of the Revised Code, no public 1770  
utility may issue the notice of intent to file an application 1771  
pursuant to division (B) of section 4909.43 of the Revised Code 1772  
to increase any existing rate, joint rate, toll, classification, 1773  
charge, or rental, until a final order under this section has 1774  
been issued by the commission on any pending prior application 1775  
to increase the same rate, joint rate, toll, classification, 1776  
charge, or rental or until two hundred seventy-five days after 1777  
filing such application, whichever is sooner. Such application 1778  
shall be verified by the president or a vice-president and the 1779  
secretary or treasurer of the applicant. Such application shall 1780  
contain a schedule of the existing rate, joint rate, toll, 1781  
classification, charge, or rental, or regulation or practice 1782  
affecting the same, a schedule of the modification amendment, 1783  
change, increase, or reduction sought to be established, and a 1784  
statement of the facts and grounds upon which such application 1785  
is based. If such application proposes a new service or the use 1786  
of new equipment, or proposes the establishment or amendment of 1787  
a regulation, the application shall fully describe the new 1788  
service or equipment, or the regulation proposed to be 1789  
established or amended, and shall explain how the proposed 1790  
service or equipment differs from services or equipment 1791  
presently offered or in use, or how the regulation proposed to 1792  
be established or amended differs from regulations presently in 1793  
effect. The application shall provide such additional 1794  
information as the commission may require in its discretion. If 1795  
the commission determines that such application is not for an 1796

increase in any rate, joint rate, toll, classification, charge, 1797  
or rental, the commission may permit the filing of the schedule 1798  
proposed in the application and fix the time when such schedule 1799  
shall take effect. If it appears to the commission that the 1800  
proposals in the application may be unjust or unreasonable, the 1801  
commission shall set the matter for hearing and shall give 1802  
notice of such hearing by sending written notice of the date set 1803  
for the hearing to the public utility and publishing notice of 1804  
the hearing one time in a newspaper of general circulation in 1805  
each county in the service area affected by the application. At 1806  
such hearing, the burden of proof to show that the proposals in 1807  
the application are just and reasonable shall be upon the public 1808  
utility. After such hearing, the commission shall, where 1809  
practicable, issue an appropriate order within six months from 1810  
the date the application was filed. 1811

If the commission determines that said application is for 1812  
an increase in any rate, joint rate, toll, classification, 1813  
charge, or rental there shall also, unless otherwise ordered by 1814  
the commission, be filed with the application in duplicate the 1815  
following exhibits: 1816

(A) A report of its property used and useful, or, with 1817  
respect to a natural gas, water-works, or sewage disposal system 1818  
company, projected to be used and useful, as of the date 1819  
certain, or during the forecasted test period, if the 1820  
application is filed under division (C) (1) (a) of section 4909.15 1821  
of the Revised Code, in rendering the service referred to in 1822  
such application, as provided in ~~section~~ sections 4909.042 and 1823  
4909.05 of the Revised Code; 1824

(B) A complete operating statement of its last fiscal 1825  
year, showing in detail all its receipts, revenues, and incomes 1826

from all sources, all of its operating costs and other 1827  
expenditures, and any analysis such public utility deems 1828  
applicable to the matter referred to in said application; 1829

(C) A statement of the income and expense anticipated 1830  
under the application filed; 1831

(D) A statement of financial condition summarizing assets, 1832  
liabilities, and net worth; 1833

(E) Such other information as the commission may require 1834  
in its discretion. 1835

**Sec. 4909.181.** (A) As used in this section, "electric 1836  
distribution utility" has the same meaning as in section 4928.01 1837  
of the Revised Code. 1838

(B) Not later than December 31, 2029, and at least every 1839  
three years thereafter, each electric distribution utility shall 1840  
file a rate case application regarding distribution service 1841  
under section 4909.18 of the Revised Code. 1842

**Sec. 4909.19.** (A) Upon the filing of any application for 1843  
increase provided for by section 4909.18 of the Revised Code the 1844  
public utility shall forthwith publish notice of such 1845  
application, in a form approved by the public utilities 1846  
commission, once a week for two consecutive weeks in a newspaper 1847  
published and in general circulation throughout the territory in 1848  
which such public utility operates and directly affected by the 1849  
matters referred to in said application. The notice shall 1850  
include instructions for direct electronic access to the 1851  
application or other documents on file with the public utilities 1852  
commission. The first publication of the notice shall be made in 1853  
its entirety and may be made in a preprinted insert in the 1854  
newspaper. The second publication may be abbreviated if all of 1855



the following apply: 1856

(1) The abbreviated notice is at least one-fourth of the 1857  
size of the notice in the first publication. 1858

(2) At the same time the abbreviated notice is published, 1859  
the notice in the first publication is posted in its entirety on 1860  
the newspaper's web site, if the newspaper has a web site, and 1861  
the commission's web site. 1862

(3) The abbreviated notice contains a statement of the web 1863  
site posting or postings, as applicable, and instructions for 1864  
accessing the posting or postings. 1865

(B) The commission shall determine a format for the 1866  
content of all notices required under this section, and shall 1867  
consider costs and technological efficiencies in making that 1868  
determination. Defects in the publication of said notice shall 1869  
not affect the legality or sufficiency of notices published 1870  
under this section provided that the commission has 1871  
substantially complied with this section, as described in 1872  
section 4905.09 of the Revised Code. 1873

(C) The commission shall at once cause an investigation to 1874  
be made of the facts set forth in said application and the 1875  
exhibits attached thereto, and of the matters connected 1876  
therewith. Within ~~a reasonable time as determined by the~~ 1877  
~~commission one hundred eighty days after the filing of such~~ 1878  
application is determined to be complete, a written report shall 1879  
be made and filed with the commission, a copy of which shall be 1880  
sent by certified mail to the applicant, the mayor of any 1881  
municipal corporation affected by the application, and to such 1882  
other persons as the commission deems interested. If no 1883  
objection to such report is made by any party interested within 1884

thirty days after such filing and the mailing of copies thereof, 1885  
the commission shall fix a date within ten days for the final 1886  
hearing upon said application, giving notice thereof to all 1887  
parties interested. At such hearing the commission shall 1888  
consider the matters set forth in said application and make such 1889  
order respecting the prayer thereof as to it seems just and 1890  
reasonable. 1891

If objections are filed with the commission, the 1892  
commission shall cause a pre-hearing conference to be held 1893  
between all parties, intervenors, and the commission staff in 1894  
all cases involving more than one hundred thousand customers. 1895

If objections are filed with the commission within thirty 1896  
days after the filing of such report, the application shall be 1897  
promptly set down for hearing of testimony before the commission 1898  
or be forthwith referred to an attorney examiner designated by 1899  
the commission to take all the testimony with respect to the 1900  
application and objections which may be offered by any 1901  
interested party. The commission shall also fix the time and 1902  
place to take testimony giving ten days' written notice of such 1903  
time and place to all parties. The taking of testimony shall 1904  
commence on the date fixed in said notice and shall continue 1905  
from day to day until completed. The attorney examiner may, upon 1906  
good cause shown, grant continuances for not more than three 1907  
days, excluding Saturdays, Sundays, and holidays. The commission 1908  
may grant continuances for a longer period than three days upon 1909  
its order for good cause shown. At any hearing involving rates 1910  
or charges sought to be increased, the burden of proof to show 1911  
that the increased rates or charges are just and reasonable 1912  
shall be on the public utility. 1913

When the taking of testimony is completed, a full and 1914

complete record of such testimony noting all objections made and 1915  
exceptions taken by any party or counsel, shall be made, signed 1916  
by the attorney examiner, and filed with the commission. Prior 1917  
to the formal consideration of the application by the commission 1918  
and the rendition of any order respecting the prayer of the 1919  
application, a quorum of the commission shall consider the 1920  
recommended opinion and order of the attorney examiner, in an 1921  
open, formal, public proceeding in which an overview and 1922  
explanation is presented orally. Thereafter, the commission 1923  
shall make such order respecting the prayer of such application 1924  
as seems just and reasonable to it. 1925

In all proceedings before the commission in which the 1926  
taking of testimony is required, except when heard by the 1927  
commission, attorney examiners shall be assigned by the 1928  
commission to take such testimony and fix the time and place 1929  
therefor, and such testimony shall be taken in the manner 1930  
prescribed in this section. All testimony shall be under oath or 1931  
affirmation and taken down and transcribed by a reporter and 1932  
made a part of the record in the case. The commission may hear 1933  
the testimony or any part thereof in any case without having the 1934  
same referred to an attorney examiner and may take additional 1935  
testimony. Testimony shall be taken and a record made in 1936  
accordance with such general rules as the commission prescribes 1937  
and subject to such special instructions in any proceedings as 1938  
it, by order, directs. 1939

**Sec. 4909.191.** (A) If the public utilities commission, 1940  
under division (D) of section 4909.15 of the Revised Code, 1941  
incorporated proposed adjustments to revenues and expenses into 1942  
the commission's determination under that section, the ~~natural-~~ 1943  
~~gas, water works, or sewage disposal system company~~ public 1944  
utility shall, not later than ninety days after actual data for 1945

all of the incorporated adjustments becomes known, submit to the 1946  
commission proposed rate or charge adjustments that provide for 1947  
the recalculation of rates or charges, reflective of customer- 1948  
class responsibility, corresponding to the differences, if any, 1949  
between the incorporated adjustments to revenues and expenses 1950  
and the actual revenues and expenses associated with the 1951  
incorporated adjustments. 1952

(B) If the commission incorporated projected value or 1953  
valuation of property into the commission's determination under 1954  
division ~~(A) (1)~~ (A) (1) (a) of section 4909.15 of the Revised Code, 1955  
the natural gas, water-works, or sewage disposal system company 1956  
shall, not later than ninety days after data for the actual 1957  
value or valuation as of the date certain becomes known, submit 1958  
to the commission proposed rate or charge adjustments that 1959  
provide for the recalculation of rates or charges, reflective of 1960  
customer-class responsibility, corresponding to the differences, 1961  
if any, between the projected value or valuation incorporated 1962  
into the commission's determination and the actual value or 1963  
valuation as of the date certain. 1964

(C) The commission shall review the proposed rate or 1965  
charge adjustments submitted under divisions (A) and (B) of this 1966  
section. The review shall not include a hearing unless the 1967  
commission finds that the proposed rate or charge adjustments 1968  
may be unreasonable, in which case the commission may, in its 1969  
discretion, schedule the matter for a hearing. 1970

(D) The commission shall issue, not later than one hundred 1971  
fifty days after the date that any proposed rate or charge 1972  
adjustments are submitted under division (A) or (B) of this 1973  
section, a final order on the proposed rate or charge 1974  
adjustments. Any rate or charge adjustments authorized under 1975

this division shall be limited to amounts that are not greater 1976  
than those consistent with the proposed adjustments to revenues 1977  
and expenses that were incorporated into the commission's 1978  
determination under division (D) of section 4909.15 of the 1979  
Revised Code, and not greater than those consistent with the 1980  
incorporated projected value or valuation. In no event shall 1981  
rate or charge adjustments authorized under this division be 1982  
upward. 1983

After the commission has issued such a final order, the 1984  
~~natural gas, water works, or sewage disposal system~~ 1985  
~~company~~ public utility, if applicable, shall submit to the 1986  
commission proposed reconciliation adjustments that refund to 1987  
customers the difference between the actual revenues collected 1988  
by the ~~natural gas, water works, or sewage disposal system~~ 1989  
~~company~~ utility under the rates and charges determined by the 1990  
commission under section 4909.15 of the Revised Code, and the 1991  
rates or charges recalculated under the adjustments authorized 1992  
under this division. The reconciliation adjustments shall be 1993  
effective for a twelve-month period. 1994

(E) The reconciliation adjustments ordered under division 1995  
(D) of this section may be subject to a final reconciliation by 1996  
the commission. Any such final reconciliation shall occur after 1997  
the twelve-month period described in division (D) of this 1998  
section. 1999

Sec. 4909.192. When considering an application to increase 2000  
rates under section 4909.18 of the Revised Code, the public 2001  
utilities commission may approve the following: 2002

(A) Nondiscriminatory programs available for all energy- 2003  
intensive customers to implement economic development, job 2004  
growth, job retention, or interruptible rates that enhance 2005

distribution and transmission grid reliability and promote 2006  
economic development. 2007

(B) Nondiscriminatory programs available for all 2008  
mercantile customers, as defined in section 4928.01 of the 2009  
Revised Code, that align retail rate recovery with how 2010  
transmission costs are incurred by or charged to the electric 2011  
distribution utility, as defined in section 4928.01 of the 2012  
Revised Code, or programs that allow customers to be billed 2013  
directly for transmission service by a competitive retail 2014  
electric service provider. 2015

**Sec. 4909.193.** (A) The public utilities commission shall 2016  
determine whether an application for an increase filed under 2017  
section 4909.18 of the Revised Code is complete not more than 2018  
forty-five days after the application is filed. If the 2019  
commission does not issue a determination within the time period 2020  
required by this section, the application shall be deemed 2021  
complete by operation of law. 2022

(B) For purposes of section 4909.421 of the Revised Code, 2023  
the date of the commission order determining that the 2024  
application is complete, or the date the application is deemed 2025  
complete by operation of law, shall be deemed to be the date of 2026  
the filing of the application. 2027

**Sec. 4909.42.** ~~If~~ Except as provided for in section 2028  
4909.421 of the Revised Code, if the proceeding on an 2029  
application filed with the public utilities commission under 2030  
section 4909.18 of the Revised Code by any public utility 2031  
requesting an increase on any rate, joint rate, toll, 2032  
classification, charge, or rental or requesting a change in a 2033  
regulation or practice affecting the same has not been concluded 2034  
and an order entered pursuant to section 4909.19 of the Revised 2035

Code at the expiration of two hundred seventy-five days from the 2036  
date of filing the application, an increase not to exceed the 2037  
proposed increase shall go into effect upon the filing of a bond 2038  
or a letter of credit by the public utility. The bond or letter 2039  
of credit shall be filed with the commission and shall be 2040  
payable to the state for the use and benefit of the customers 2041  
affected by the proposed increase or change. 2042

An affidavit attached to the bond or letter of credit must 2043  
be signed by two of the officers of the utility, under oath, and 2044  
must contain a promise on behalf of the utility to refund any 2045  
amounts collected by the utility over the rate, joint rate, 2046  
toll, classification, charge, or rental, as determined in the 2047  
final order of the commission. All refunds shall include 2048  
interest at the rate stated in section 1343.03 of the Revised 2049  
Code. The refund shall be in the form of a temporary reduction 2050  
in rates following the final order of the commission, and shall 2051  
be accomplished in such manner as shall be prescribed by the 2052  
commission in its final order. The commission shall exercise 2053  
continuing and exclusive jurisdiction over such refunds. 2054

If the public utilities commission has not entered a final 2055  
order within five hundred forty-five days from the date of the 2056  
filing of an application for an increase in rates under section 2057  
4909.18 of the Revised Code, a public utility shall have no 2058  
obligation to make a refund of amounts collected after the five 2059  
hundred forty-fifth day which exceed the amounts authorized by 2060  
the commission's final order. 2061

Nothing in this section shall be construed to mitigate any 2062  
duty of the commission to issue a final order under section 2063  
4909.19 of the Revised Code. 2064

**Sec. 4909.421.** (A) If the proceeding on an application 2065

filed with the public utilities commission under section 4909.18 2066  
of the Revised Code by an electric light company requesting an 2067  
increase on any rate, rate mechanism, joint rate, toll, 2068  
classification, charge, or rental or requesting a change in a 2069  
regulation or practice affecting the same has not been concluded 2070  
and an opinion and order entered pursuant to section 4909.19 of 2071  
the Revised Code at the expiration of two hundred seventy-five 2072  
days from the date of the filing of the application, the company 2073  
may request a temporary increase, and any party to the 2074  
proceeding may request a temporary decrease, which shall go into 2075  
effect and remain in effect until modified in accordance with 2076  
the commission's order based upon the merits of the application. 2077

(B) Not later than three hundred sixty days from the date 2078  
of filing the application as established by section 4909.193 of 2079  
the Revised Code, the commission shall issue an order to 2080  
approve, deny, or modify an application filed under section 2081  
4909.18 of the Revised Code. If the commission does not issue an 2082  
order within three hundred sixty days after the date of filing 2083  
of the application, the application shall be deemed approved by 2084  
operation of law. A temporary increase or decrease under this 2085  
section shall not exceed the midpoint of the rates recommended 2086  
in the staff report filed pursuant to section 4909.19 of the 2087  
Revised Code and shall be subject to reconciliation and refund. 2088

(C) Nothing in this section shall be construed to mitigate 2089  
any duty of the commission to issue a final order under section 2090  
4909.19 of the Revised Code. 2091

**Sec. 4928.01.** (A) As used in this chapter: 2092

(1) "Ancillary service" means any function necessary to 2093  
the provision of electric transmission or distribution service 2094  
to a retail customer and includes, but is not limited to, 2095



scheduling, system control, and dispatch services; reactive 2096  
supply from generation resources and voltage control service; 2097  
reactive supply from transmission resources service; regulation 2098  
service; frequency response service; energy imbalance service; 2099  
operating reserve-spinning reserve service; operating reserve- 2100  
supplemental reserve service; load following; back-up supply 2101  
service; real-power loss replacement service; dynamic 2102  
scheduling; system black start capability; and network stability 2103  
service. 2104

(2) "Billing and collection agent" means a fully 2105  
independent agent, not affiliated with or otherwise controlled 2106  
by an electric utility, electric services company, electric 2107  
cooperative, or governmental aggregator subject to certification 2108  
under section 4928.08 of the Revised Code, to the extent that 2109  
the agent is under contract with such utility, company, 2110  
cooperative, or aggregator solely to provide billing and 2111  
collection for retail electric service on behalf of the utility 2112  
company, cooperative, or aggregator. 2113

(3) "Certified territory" means the certified territory 2114  
established for an electric supplier under sections 4933.81 to 2115  
4933.90 of the Revised Code. 2116

(4) "Competitive retail electric service" means a 2117  
component of retail electric service that is competitive as 2118  
provided under division (B) of this section. 2119

(5) "Electric cooperative" means a not-for-profit electric 2120  
light company that both is or has been financed in whole or in 2121  
part under the "Rural Electrification Act of 1936," 49 Stat. 2122  
1363, 7 U.S.C. 901, and owns or operates facilities in this 2123  
state to generate, transmit, or distribute electricity, or a 2124  
not-for-profit successor of such company. 2125

(6) "Electric distribution utility" means an electric 2126  
utility that supplies at least retail electric distribution 2127  
service and does not own or operate an electric generating 2128  
facility. 2129

(7) "Electric light company" has the same meaning as in 2130  
section 4905.03 of the Revised Code and includes an electric 2131  
services company, ~~but excludes any self-generator to the extent~~ 2132  
~~that it consumes electricity it so produces, sells that~~ 2133  
~~electricity for resale, or obtains electricity from a generating~~ 2134  
~~facility it hosts on its premises.~~ 2135

(8) "Electric load center" has the same meaning as in 2136  
section 4933.81 of the Revised Code. 2137

(9) "Electric services company" means an electric light 2138  
company that is engaged on a for-profit or not-for-profit basis 2139  
in the business of supplying or arranging for the supply of only 2140  
a competitive retail electric service in this state. "Electric 2141  
services company" includes a power marketer, power broker, 2142  
aggregator, or independent power producer but excludes an 2143  
electric cooperative, municipal electric utility, governmental 2144  
aggregator, or billing and collection agent. 2145

(10) "Electric supplier" has the same meaning as in 2146  
section 4933.81 of the Revised Code. 2147

(11) "Electric utility" means an electric light company 2148  
that has a certified territory and is engaged on a for-profit 2149  
basis ~~either~~ in the business of supplying at least a 2150  
noncompetitive retail electric service in this state ~~or in the~~ 2151  
~~businesses of supplying both a noncompetitive and a competitive~~ 2152  
~~retail electric service in this state.~~ "Electric utility" 2153  
excludes a municipal electric utility or a billing and 2154

collection agent. 2155

(12) "Firm electric service" means electric service other 2156  
than nonfirm electric service. 2157

(13) "Governmental aggregator" means a legislative 2158  
authority of a municipal corporation, a board of township 2159  
trustees, or a board of county commissioners acting as an 2160  
aggregator for the provision of a competitive retail electric 2161  
service under authority conferred under section 4928.20 of the 2162  
Revised Code. 2163

(14) A person acts "knowingly," regardless of the person's 2164  
purpose, when the person is aware that the person's conduct will 2165  
probably cause a certain result or will probably be of a certain 2166  
nature. A person has knowledge of circumstances when the person 2167  
is aware that such circumstances probably exist. 2168

(15) "Level of funding for low-income customer energy 2169  
efficiency programs provided through electric utility rates" 2170  
means the level of funds specifically included in an electric 2171  
utility's rates on October 5, 1999, pursuant to an order of the 2172  
public utilities commission issued under Chapter 4905. or 4909. 2173  
of the Revised Code and in effect on October 4, 1999, for the 2174  
purpose of improving the energy efficiency of housing for the 2175  
utility's low-income customers. The term excludes the level of 2176  
any such funds committed to a specific nonprofit organization or 2177  
organizations pursuant to a stipulation or contract. 2178

(16) "Low-income customer assistance programs" means the 2179  
percentage of income payment plan program, the home energy 2180  
assistance program, the home weatherization assistance program, 2181  
and the targeted energy efficiency and weatherization program. 2182

(17) "Market development period" for an electric utility 2183

means the period of time beginning on the starting date of 2184  
competitive retail electric service and ending on the applicable 2185  
date for that utility as specified in section 4928.40 of the 2186  
Revised Code, irrespective of whether the utility applies to 2187  
receive transition revenues under this chapter. 2188

(18) "Market power" means the ability to impose on 2189  
customers a sustained price for a product or service above the 2190  
price that would prevail in a competitive market. 2191

(19) "Mercantile customer" means a commercial or 2192  
industrial customer if the electricity consumed is for 2193  
nonresidential use and the customer consumes more than seven 2194  
hundred thousand kilowatt hours per year or is part of a 2195  
national account involving multiple facilities in one or more 2196  
states. 2197

(20) "Municipal electric utility" means a municipal 2198  
corporation that owns or operates facilities to generate, 2199  
transmit, or distribute electricity. 2200

(21) "Noncompetitive retail electric service" means a 2201  
component of retail electric service that is noncompetitive as 2202  
provided under division (B) of this section. 2203

(22) "Nonfirm electric service" means electric service 2204  
provided pursuant to a schedule filed under section 4905.30 of 2205  
the Revised Code or pursuant to an arrangement under section 2206  
4905.31 of the Revised Code, which schedule or arrangement 2207  
includes conditions that may require the customer to curtail or 2208  
interrupt electric usage during nonemergency circumstances upon 2209  
notification by an electric utility. 2210

(23) "Percentage of income payment plan arrears" means 2211  
funds eligible for collection through the percentage of income 2212

payment plan rider, but uncollected as of July 1, 2000. 2213

(24) "Person" has the same meaning as in section 1.59 of 2214  
the Revised Code. 2215

(25) "Advanced energy project" means any technologies, 2216  
products, activities, or management practices or strategies that 2217  
facilitate the generation or use of electricity or energy and 2218  
that reduce or support the reduction of energy consumption or 2219  
support the production of clean, renewable energy for 2220  
industrial, distribution, commercial, institutional, 2221  
governmental, research, not-for-profit, or residential energy 2222  
users, including, but not limited to, advanced energy resources 2223  
and renewable energy resources. "Advanced energy project" also 2224  
includes any project described in division (A), (B), or (C) of 2225  
section 4928.621 of the Revised Code. 2226

(26) "Regulatory assets" means the unamortized net 2227  
regulatory assets that are capitalized or deferred on the 2228  
regulatory books of the electric utility, pursuant to an order 2229  
or practice of the public utilities commission or pursuant to 2230  
generally accepted accounting principles as a result of a prior 2231  
commission rate-making decision, and that would otherwise have 2232  
been charged to expense as incurred or would not have been 2233  
capitalized or otherwise deferred for future regulatory 2234  
consideration absent commission action. "Regulatory assets" 2235  
includes, but is not limited to, all deferred demand-side 2236  
management costs; all deferred percentage of income payment plan 2237  
arrears; post-in-service capitalized charges and assets 2238  
recognized in connection with statement of financial accounting 2239  
standards no. 109 (receivables from customers for income taxes); 2240  
future nuclear decommissioning costs and fuel disposal costs as 2241  
those costs have been determined by the commission in the 2242

electric utility's most recent rate or accounting application 2243  
proceeding addressing such costs; the undepreciated costs of 2244  
safety and radiation control equipment on nuclear generating 2245  
plants owned or leased by an electric utility; and fuel costs 2246  
currently deferred pursuant to the terms of one or more 2247  
settlement agreements approved by the commission. 2248

(27) "Retail electric service" means any service involved 2249  
in supplying or arranging for the supply of electricity to 2250  
ultimate consumers in this state, from the point of generation 2251  
to the point of consumption. For the purposes of this chapter, 2252  
retail electric service includes one or more of the following 2253  
"service components": generation service, aggregation service, 2254  
power marketing service, power brokerage service, transmission 2255  
service, distribution service, ancillary service, metering 2256  
service, and billing and collection service. 2257

(28) "Starting date of competitive retail electric 2258  
service" means January 1, 2001. 2259

(29) "Customer-generator" means a user of a net metering 2260  
system. 2261

(30) "Net metering" means measuring the difference in an 2262  
applicable billing period between the electricity supplied by an 2263  
electric service provider and the electricity generated by a 2264  
customer-generator that is fed back to the electric service 2265  
provider. 2266

(31) "Net metering system" means a facility for the 2267  
production of electrical energy that does all of the following: 2268

(a) Uses as its fuel either solar, wind, biomass, landfill 2269  
gas, or hydropower, or uses a microturbine or a fuel cell; 2270

(b) Is located on a customer-generator's premises; 2271

(c) Operates in parallel with the electric utility's 2272  
transmission and distribution facilities; 2273

(d) Is intended primarily to offset part or all of the 2274  
customer-generator's requirements for electricity. For an 2275  
industrial customer-generator with a net metering system that 2276  
has a capacity of less than twenty megawatts and uses wind as 2277  
energy, this means the net metering system was sized so as to 2278  
not exceed one hundred per cent of the customer-generator's 2279  
annual requirements for electric energy at the time of 2280  
interconnection. 2281

(32) "Self-generator" means an entity in this state that 2282  
owns or hosts on ~~its premises~~ property the entity controls an 2283  
electric generation facility that produces electricity primarily 2284  
for the owner's consumption and that may provide any such excess 2285  
electricity to another entity, ~~whether the~~ and that meets all of 2286  
the following: 2287

(a) The facility is installed or operated by the owner or 2288  
by an agent or a third party under a contract, including a lease, 2289  
purchase power agreement, or other service contract. 2290

(b) The facility connects directly to the owner's side of 2291  
the electric meter. 2292

(c) The facility delivers electricity to the owner's side 2293  
of the electric meter without the use of an electric 2294  
distribution utility's or electric cooperative's distribution 2295  
system or transmission system. 2296

(33) "Rate plan" means the standard service offer in 2297  
effect on the effective date of the amendment of this section by 2298  
S.B. 221 of the 127th general assembly, July 31, 2008. 2299

(34) "Advanced energy resource" means any of the 2300

following: 2301

(a) Any method or any modification or replacement of any 2302  
property, process, device, structure, or equipment that 2303  
increases the generation output of an electric generating 2304  
facility to the extent such efficiency is achieved without 2305  
additional carbon dioxide emissions by that facility; 2306

(b) Any distributed generation system consisting of 2307  
customer cogeneration technology; 2308

(c) Clean coal technology that includes a carbon-based 2309  
product that is chemically altered before combustion to 2310  
demonstrate a reduction, as expressed as ash, in emissions of 2311  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2312  
sulfur trioxide in accordance with the American society of 2313  
testing and materials standard D1757A or a reduction of metal 2314  
oxide emissions in accordance with standard D5142 of that 2315  
society, or clean coal technology that includes the design 2316  
capability to control or prevent the emission of carbon dioxide, 2317  
which design capability the commission shall adopt by rule and 2318  
shall be based on economically feasible best available 2319  
technology or, in the absence of a determined best available 2320  
technology, shall be of the highest level of economically 2321  
feasible design capability for which there exists generally 2322  
accepted scientific opinion; 2323

(d) Advanced nuclear energy technology consisting of 2324  
generation III technology as defined by the nuclear regulatory 2325  
commission; other, later technology; or significant improvements 2326  
to existing facilities; 2327

(e) Any fuel cell used in the generation of electricity, 2328  
including, but not limited to, a proton exchange membrane fuel 2329



cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2330  
solid oxide fuel cell; 2331

(f) Advanced solid waste or construction and demolition 2332  
debris conversion technology, including, but not limited to, 2333  
advanced stoker technology, and advanced fluidized bed 2334  
gasification technology, that results in measurable greenhouse 2335  
gas emissions reductions as calculated pursuant to the United 2336  
States environmental protection agency's waste reduction model 2337  
(WARM); 2338

(g) Demand-side management and any energy efficiency 2339  
improvement; 2340

(h) Any new, retrofitted, refueled, or repowered 2341  
generating facility located in Ohio, including a simple or 2342  
combined-cycle natural gas generating facility or a generating 2343  
facility that uses biomass, coal, modular nuclear, or any other 2344  
fuel as its input; 2345

(i) Any uprated capacity of an existing electric 2346  
generating facility if the uprated capacity results from the 2347  
deployment of advanced technology. 2348

"Advanced energy resource" does not include a waste energy 2349  
recovery system that is, or has been, included in an energy 2350  
efficiency program of an electric distribution utility pursuant 2351  
to requirements under section 4928.66 of the Revised Code. 2352

(35) "Air contaminant source" has the same meaning as in 2353  
section 3704.01 of the Revised Code. 2354

(36) "Cogeneration technology" means technology that 2355  
produces electricity and useful thermal output simultaneously. 2356

(37) (a) "Renewable energy resource" means any of the 2357

following: 2358

(i) Solar photovoltaic or solar thermal energy; 2359

(ii) Wind energy; 2360

(iii) Power produced by a hydroelectric facility; 2361

(iv) Power produced by a small hydroelectric facility, 2362  
which is a facility that operates, or is rated to operate, at an 2363  
aggregate capacity of less than six megawatts; 2364

(v) Power produced by a run-of-the-river hydroelectric 2365  
facility placed in service on or after January 1, 1980, that is 2366  
located within this state, relies upon the Ohio river, and 2367  
operates, or is rated to operate, at an aggregate capacity of 2368  
forty or more megawatts; 2369

(vi) Geothermal energy; 2370

(vii) Fuel derived from solid wastes, as defined in 2371  
section 3734.01 of the Revised Code, through fractionation, 2372  
biological decomposition, or other process that does not 2373  
principally involve combustion; 2374

(viii) Biomass energy; 2375

(ix) Energy produced by cogeneration technology that is 2376  
placed into service on or before December 31, 2015, and for 2377  
which more than ninety per cent of the total annual energy input 2378  
is from combustion of a waste or byproduct gas from an air 2379  
contaminant source in this state, which source has been in 2380  
operation since on or before January 1, 1985, provided that the 2381  
cogeneration technology is a part of a facility located in a 2382  
county having a population of more than three hundred sixty-five 2383  
thousand but less than three hundred seventy thousand according 2384  
to the most recent federal decennial census; 2385

(x) Biologically derived methane gas;	2386
(xi) Heat captured from a generator of electricity,	2387
boiler, or heat exchanger fueled by biologically derived methane	2388
gas;	2389
(xii) Energy derived from nontreated by-products of the	2390
pulping process or wood manufacturing process, including bark,	2391
wood chips, sawdust, and lignin in spent pulping liquors.	2392
"Renewable energy resource" includes, but is not limited	2393
to, any fuel cell used in the generation of electricity,	2394
including, but not limited to, a proton exchange membrane fuel	2395
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	2396
solid oxide fuel cell; <u>a linear generator</u> ; wind turbine located	2397
in the state's territorial waters of Lake Erie; methane gas	2398
emitted from an abandoned <u>or active</u> coal mine; waste energy	2399
recovery system placed into service or retrofitted on or after	2400
the effective date of the amendment of this section by S.B. 315	2401
of the 129th general assembly, September 10, 2012, except that a	2402
waste energy recovery system described in division (A) (38) (b) of	2403
this section may be included only if it was placed into service	2404
between January 1, 2002, and December 31, 2004; storage facility	2405
that will promote the better utilization of a renewable energy	2406
resource; or distributed generation system used by a customer to	2407
generate electricity from any such energy.	2408
"Renewable energy resource" does not include a waste	2409
energy recovery system that is, or was, on or after January 1,	2410
2012, included in an energy efficiency program of an electric	2411
distribution utility pursuant to requirements under section	2412
4928.66 of the Revised Code.	2413
(b) As used in division (A) (37) of this section,	2414

"hydroelectric facility" means a hydroelectric generating 2415  
facility that is located at a dam on a river, or on any water 2416  
discharged to a river, that is within or bordering this state or 2417  
within or bordering an adjoining state and meets all of the 2418  
following standards: 2419

(i) The facility provides for river flows that are not 2420  
detrimental for fish, wildlife, and water quality, including 2421  
seasonal flow fluctuations as defined by the applicable 2422  
licensing agency for the facility. 2423

(ii) The facility demonstrates that it complies with the 2424  
water quality standards of this state, which compliance may 2425  
consist of certification under Section 401 of the "Clean Water 2426  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2427  
demonstrates that it has not contributed to a finding by this 2428  
state that the river has impaired water quality under Section 2429  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2430  
U.S.C. 1313. 2431

(iii) The facility complies with mandatory prescriptions 2432  
regarding fish passage as required by the federal energy 2433  
regulatory commission license issued for the project, regarding 2434  
fish protection for riverine, anadromous, and catadromous fish. 2435

(iv) The facility complies with the recommendations of the 2436  
Ohio environmental protection agency and with the terms of its 2437  
federal energy regulatory commission license regarding watershed 2438  
protection, mitigation, or enhancement, to the extent of each 2439  
agency's respective jurisdiction over the facility. 2440

(v) The facility complies with provisions of the 2441  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2442  
to 1544, as amended. 2443

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

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

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

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

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

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

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

(ii) Reduction of pressure in gas pipelines before gas is

distributed through the pipeline, provided that the conversion 2473  
of energy to electricity is achieved without using additional 2474  
fossil fuels. 2475

(b) A facility at a state institution of higher education 2476  
as defined in section 3345.011 of the Revised Code that recovers 2477  
waste heat from electricity-producing engines or combustion 2478  
turbines and that simultaneously uses the recovered heat to 2479  
produce steam, provided that the facility was placed into 2480  
service between January 1, 2002, and December 31, 2004; 2481

(c) A facility that produces steam from recovered waste 2482  
heat from a manufacturing process and uses that steam, or 2483  
transfers that steam to another facility, to provide heat to 2484  
another manufacturing process or to generate electricity. 2485

(39) "Smart grid" means capital improvements to an 2486  
electric distribution utility's distribution infrastructure that 2487  
improve reliability, efficiency, resiliency, or reduce energy 2488  
demand or use, including, but not limited to, advanced metering 2489  
and automation of system functions. 2490

(40) "Combined heat and power system" means the 2491  
coproduction of electricity and useful thermal energy from the 2492  
same fuel source designed to achieve thermal-efficiency levels 2493  
of at least sixty per cent, with at least twenty per cent of the 2494  
system's total useful energy in the form of thermal energy. 2495

~~(41) "Legacy generation resource" means all generating 2496~~  
~~facilities owned directly or indirectly by a corporation that 2497~~  
~~was formed prior to 1960 by investor-owned utilities for the 2498~~  
~~original purpose of providing power to the federal government 2499~~  
~~for use in the nation's defense or in furtherance of national 2500~~  
~~interests, including the Ohio valley electric corporation. 2501~~

~~(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.~~ 2502  
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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: 2518  
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(i) Releases reduced air pollutants, thereby reducing cumulative air emissions; 2521  
2522

(ii) Is more sustainable and reliable relative to some fossil fuels. 2523  
2524

(b) "Green energy" includes energy generated using the following: 2525  
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(i) Natural gas as a resource; 2527

(ii) Nuclear reaction. 2528

(42) "Energy storage" means electrical generation and storage performed by a distributed energy system connected 2529  
2530

battery. 2531

(43) "Linear generator" means an integrated system 2532  
consisting of oscillators, cylinders, electricity conversion 2533  
equipment, and associated balance of plant components that meet 2534  
the following criteria: 2535

(a) Converts the linear motion of oscillators directly 2536  
into electricity without the use of a flame or spark; 2537

(b) Is dispatchable with the ability to vary power output 2538  
across all loads; 2539

(c) Can operate on multiple fuel types including renewable 2540  
fuels such as hydrogen, ammonia, and biogas. 2541

(B) For the purposes of this chapter, a retail electric 2542  
service component shall be deemed a competitive retail electric 2543  
service if the service component is competitive pursuant to a 2544  
declaration by a provision of the Revised Code or pursuant to an 2545  
order of the public utilities commission authorized under 2546  
division (A) of section 4928.04 of the Revised Code. Otherwise, 2547  
the service component shall be deemed a noncompetitive retail 2548  
electric service. 2549

**Sec. 4928.041.** (A) Except as provided in sections 4928.141 2550  
and 4928.142 of the Revised Code, no electric utility shall 2551  
provide a competitive retail electric service in this state if 2552  
that service was deemed competitive or otherwise legally 2553  
classified as competitive prior to the effective date of this 2554  
section. 2555

(B) The standard service offer under section 4928.141 of 2556  
the Revised Code shall continue to be provided to consumers in 2557  
this state by electric utilities. 2558



**Sec. 4928.05.** (A) (1) ~~On and after the starting date of~~ 2559  
~~competitive retail electric service, a~~ A competitive retail 2560  
electric service supplied by an ~~electric utility or electric~~ 2561  
services company, or by an electric utility consistent with 2562  
section 4928.141 of the Revised Code, shall not be subject to 2563  
supervision and regulation by a municipal corporation under 2564  
Chapter 743. of the Revised Code or by the public utilities 2565  
commission under Chapters 4901. to 4909., 4933., 4935., and 2566  
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2567  
division (B) of section 4905.33, and sections 4905.35 and 2568  
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2569  
and 4963.41 of the Revised Code only to the extent related to 2570  
service reliability and public safety; and except as otherwise 2571  
provided in this chapter. The commission's authority to enforce 2572  
those excepted provisions with respect to a competitive retail 2573  
electric service shall be such authority as is provided for 2574  
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2575  
and 4963. of the Revised Code and this chapter. Nothing in this 2576  
division shall be construed to limit the commission's authority 2577  
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2578  
Revised Code. 2579

~~On and after the starting date of competitive retail~~ 2580  
~~electric service, a~~ (2) A competitive retail electric service 2581  
supplied by an electric cooperative shall not be subject to 2582  
supervision and regulation by the commission under Chapters 2583  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2584  
except as otherwise expressly provided in sections 4928.01 to 2585  
4928.10 and 4928.16 of the Revised Code. 2586

~~(2) On and after the starting date of competitive retail~~ 2587  
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2588  
service supplied by an electric utility shall be subject to 2589

supervision and regulation by the commission under Chapters 2590  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2591  
this chapter, to the extent that authority is not preempted by 2592  
federal law. The commission's authority to enforce those 2593  
provisions with respect to a noncompetitive retail electric 2594  
service shall be the authority provided under those chapters and 2595  
this chapter, to the extent the authority is not preempted by 2596  
federal law. Notwithstanding Chapters 4905. and 4909. of the 2597  
Revised Code, commission authority under this chapter shall 2598  
include the authority to provide for the recovery, through a 2599  
reconcilable rider on an electric distribution utility's 2600  
distribution rates, of all transmission and transmission-related 2601  
costs, including ancillary and congestion costs, imposed on or 2602  
charged to the utility by the federal energy regulatory 2603  
commission or a regional transmission organization, independent 2604  
transmission operator, or similar organization approved by the 2605  
federal energy regulatory commission. 2606

The commission shall adopt, for each electric distribution 2607  
utility that provides customers with a standard service offer in 2608  
compliance with sections 4928.141 and 4928.142 of the Revised 2609  
Code, a nonbypassable cost recovery mechanism relating to 2610  
transmission, ancillary, congestion, or any related service 2611  
required for such standard service offer that includes 2612  
provisions for the recovery of any cost of such service that the 2613  
electric distribution utility incurs pursuant to the standard 2614  
service offer. 2615

(2) The commission shall exercise its jurisdiction with 2616  
respect to the delivery of electricity by an electric utility in 2617  
this state ~~on or after the starting date of competitive retail-~~ 2618  
~~electric service~~ so as to ensure that no aspect of the delivery 2619  
of electricity by the utility to consumers in this state that 2620

consists of a noncompetitive retail electric service is 2621  
unregulated. 2622

~~On and after that starting date, a~~ (3) A noncompetitive 2623  
retail electric service supplied by an electric cooperative 2624  
shall not be subject to supervision and regulation by the 2625  
commission under Chapters 4901. to 4909., 4933., 4935., and 2626  
4963. of the Revised Code, except sections 4933.81 to 4933.90 2627  
and 4935.03 of the Revised Code. The commission's authority to 2628  
enforce those excepted sections with respect to a noncompetitive 2629  
retail electric service of an electric cooperative shall be such 2630  
authority as is provided for their enforcement under Chapters 2631  
4933. and 4935. of the Revised Code. 2632

~~(B) Nothing in this chapter affects the authority of the~~ 2633  
~~commission under Title XLIX of the Revised Code to regulate an~~ 2634  
~~electric light company in this state or an electric service~~ 2635  
~~supplied in this state prior to the starting date of competitive~~ 2636  
~~retail electric service.~~ 2637

**Sec. 4928.08.** (A) This section applies to an electric 2638  
cooperative, or to a governmental aggregator that is a municipal 2639  
electric utility, only to the extent of a competitive retail 2640  
electric service it provides to a customer to whom it does not 2641  
provide a noncompetitive retail electric service through 2642  
transmission or distribution facilities it singly or jointly 2643  
owns or operates. 2644

~~(B)~~ (B) (1) No electric utility, electric services company, 2645  
electric cooperative, or governmental aggregator shall provide a 2646  
competitive retail electric service to a consumer in this state 2647  
on and after the starting date of competitive retail electric 2648  
service without first being certified by the public utilities 2649  
commission regarding its managerial, technical, and financial 2650

capability to provide that service and providing a financial 2651  
guarantee sufficient to protect customers and electric 2652  
distribution utilities from default. Certification shall be 2653  
granted pursuant to procedures and standards the commission 2654  
shall prescribe in accordance with division (C) of this section, 2655  
except that certification or certification renewal shall be 2656  
deemed approved thirty days after the filing of an application 2657  
with the commission unless the commission suspends that approval 2658  
for good cause shown. In the case of such a suspension, the 2659  
commission shall act to approve or deny certification or 2660  
certification renewal to the applicant not later than ninety 2661  
days after the date of the suspension. 2662

(2) The public utilities commission shall establish rules 2663  
to require an electric services company to maintain financial 2664  
assurances sufficient to protect customers and electric 2665  
distribution utilities from default. Such rules also shall 2666  
specifically allow an electric distribution utility to set 2667  
reasonable standards for its security and the security of its 2668  
customers through financial requirements set in its tariffs. 2669

(3) As used in division (B) (2) of this section, an 2670  
"electric services company" has the same meaning as in section 2671  
4928.01 of the Revised Code, but excludes a power broker or 2672  
aggregator. 2673

(C) Capability standards adopted in rules under division 2674  
(B) of this section shall be sufficient to ensure compliance 2675  
with the minimum service requirements established under section 2676  
4928.10 of the Revised Code and with section 4928.09 of the 2677  
Revised Code. The standards shall allow flexibility for 2678  
voluntary aggregation, to encourage market creativity in 2679  
responding to consumer needs and demands, and shall allow 2680

flexibility for electric services companies that exclusively 2681  
provide installation of small electric generation facilities, to 2682  
provide ease of market access. The rules shall include 2683  
procedures for biennially renewing certification. 2684

(D) The commission may suspend, rescind, or conditionally 2685  
rescind the certification of any electric utility, electric 2686  
services company, electric cooperative, or governmental 2687  
aggregator issued under this section if the commission 2688  
determines, after reasonable notice and opportunity for hearing, 2689  
that the utility, company, cooperative, or aggregator has failed 2690  
to comply with any applicable certification standards or has 2691  
engaged in anticompetitive or unfair, deceptive, or 2692  
unconscionable acts or practices in this state. 2693

(E) No electric distribution utility on and after the 2694  
starting date of competitive retail electric service shall 2695  
knowingly distribute electricity, to a retail consumer in this 2696  
state, for any supplier of electricity that has not been 2697  
certified by the commission pursuant to this section. 2698

(F) Notwithstanding any provision of section 121.95 of the 2699  
Revised Code to the contrary, a regulatory restriction contained 2700  
in a rule adopted under section 4928.08 of the Revised Code is 2701  
not subject to sections 121.95 to 121.953 of the Revised Code. 2702

**Sec. 4928.101.** (A) As used in this section and section 2703  
4928.102 of the Revised Code: 2704

(1) "Small commercial customer" means any customer that 2705  
receives electric service pursuant to a nonresidential tariff if 2706  
the customer's demand for electricity does not exceed twenty- 2707  
five kilowatts within the last twelve months. 2708

(2) "Small commercial customer" excludes any customer that 2709

does one or both of the following: 2710

(a) Manages multiple electric meters and, within the last 2711  
twelve months, the electricity demand for at least one of the 2712  
meters is twenty-five kilowatts or more; 2713

(b) Has, at the customer's discretion, aggregated the 2714  
demand for the customer-managed meters. 2715

(B) The consumer protections described in section 4928.10 2716  
of the Revised Code and the rules adopted pursuant to that 2717  
section apply to small commercial customers and to all other 2718  
customers as set forth in the rules. 2719

**Sec. 4928.102.** (A) If a competitive retail electric 2720  
service supplier offers a residential or small commercial 2721  
customer a contract for a fixed introductory rate that converts 2722  
to a variable rate upon the expiration of the fixed rate, the 2723  
supplier shall send two notices to each residential and small 2724  
commercial customer that enters into such a contract. Each 2725  
notice shall provide all of the following information to the 2726  
customer: 2727

(1) The fixed rate that is expiring under the contract; 2728

(2) The expiration date of the contract's fixed rate; 2729

(3) The public utilities commission web site that, as a 2730  
comparison tool, lists rates offered by competitive retail 2731  
electric service suppliers; 2732

(4) A statement explaining that appearing on each 2733  
customer's bill is a price-to-compare notice that lists the 2734  
utility's standard service offer price. 2735

(B) The second notice shall include all the requirements 2736  
as stated in division (A) of this section and shall also 2737

identify the initial rate to be charged upon the contract's 2738  
conversion to a variable rate. 2739

(C) The notices shall be sent by standard United States 2740  
mail or electronically with a customer's verifiable consent as 2741  
follows: 2742

(1) The supplier shall send the first notice not earlier 2743  
than ninety days, and not later than sixty days, prior to the 2744  
expiration of the fixed rate. 2745

(2) The supplier shall send the second notice not earlier 2746  
than forty-five days, and not later than fifteen days, prior to 2747  
the expiration of the fixed rate. 2748

(D) A competitive retail electric service supplier shall 2749  
provide an annual notice, by standard United States mail or 2750  
electronically with a customer's verifiable consent, to each 2751  
residential and small commercial customer that has entered into 2752  
a contract with the supplier that has converted to a variable 2753  
rate upon the expiration of the contract's fixed introductory 2754  
rate. The notice shall inform the customer that the customer is 2755  
currently subject to a variable rate and that other fixed rate 2756  
contracts are available. 2757

(E) Not later than one hundred fifty days after the 2758  
effective date of this section, the commission shall adopt rules 2759  
in order to implement divisions (A) to (D) of this section. The 2760  
rules, at a minimum, shall include the following requirements 2761  
regarding the notices required under divisions (A) to (D) of 2762  
this section: 2763

(1) To use clear and unambiguous language in order to 2764  
enable the customer to make an informed decision; 2765

(2) To design the notices in a way to ensure that they 2766

cannot be confused with marketing materials. 2767

(F) Notwithstanding any provision of section 121.95 of the 2768  
Revised Code to the contrary, a regulatory restriction contained 2769  
in a rule adopted under section 4928.101 of the Revised Code is 2770  
not subject to sections 121.95 to 121.953 of the Revised Code. 2771

**Sec. 4928.103.** (A) As used in this section, "customer 2772  
account information" means a unique electric distribution 2773  
utility number or other customer identification number used by 2774  
the utility to identify a customer and the customer's account 2775  
record. 2776

(B) The public utilities commission shall adopt rules to 2777  
ensure that an electric distribution utility processes a 2778  
customer's change in competitive retail electric supplier by 2779  
using customer account information. A customer who consents to a 2780  
change of supplier shall not be required to provide customer 2781  
account information to the supplier if the customer provides a 2782  
valid form of government-issued identification issued to the 2783  
customer or a sufficient alternative form of identification that 2784  
allows the supplier to establish the customer's identity 2785  
accurately. 2786

(C) Notwithstanding any provision of section 121.95 of the 2787  
Revised Code to the contrary, a regulatory restriction contained 2788  
in a rule adopted under this section is not subject to sections 2789  
121.95 to 121.953 of the Revised Code. 2790

**Sec. 4928.104.** (A) A competitive retail electric service 2791  
supplier may offer alternative billing and payment structures as 2792  
agreed upon in a service contract with a mercantile customer, 2793  
without restriction to specific models, provided the supplier 2794  
complies with applicable laws and regulations. The alternative 2795



billing and payment structure may include any of the following: 2796

(1) Daily, weekly, or milestone-based payments; 2797

(2) Online-only billing and payment requirements; 2798

(3) Prepayment-based service structures. 2799

(B) The public utilities commission shall not prohibit a 2800  
competitive retail electric service supplier from requiring 2801  
electronic payment methods as a condition of service under a 2802  
non-traditional billing agreement. 2803

**Sec. 4928.105.** (A) Upon receiving a certified request from 2804  
a competitive retail electric service supplier under a service 2805  
agreement that explicitly authorizes an expedited return to an 2806  
electric distribution utility's standard service offer, 2807  
voluntarily entered into by a mercantile customer, a utility 2808  
shall complete the request within three business days. 2809

(B) The electric distribution utility shall not be held 2810  
liable for any disputes arising from the expedited return to the 2811  
utility's standard service offer, provided the utility acts in 2812  
accordance with the public utilities commission's rules. 2813

(C) The commission shall establish rules governing the 2814  
process for an expedited return to the utility's standard 2815  
service offer pursuant to this section, including the content of 2816  
the certified request and any notice to the affected customer, 2817  
and permitting electric distribution utilities to recover the 2818  
administrative costs of processing requests under this section 2819  
through reasonable fees assessed to competitive retail electric 2820  
service suppliers. 2821

**Sec. 4928.14.** ~~The~~ (A) Except as provided in division (C) 2822  
of this section, the failure of a supplier to provide retail 2823

electric generation service to customers within the certified 2824  
territory of an electric distribution utility shall result in 2825  
the supplier's customers, after reasonable notice, defaulting to 2826  
the utility's standard service offer under sections 4928.141, 7 2827  
and 4928.142, ~~and 4928.143~~ of the Revised Code until the 2828  
customer chooses an alternative supplier. ~~A~~ 2829

(B) A supplier is deemed under this section to have failed 2830  
to provide ~~such~~ retail electric generation service if the 2831  
commission finds, after reasonable notice and opportunity for 2832  
hearing, that any of the following conditions are met: 2833

~~(A)~~ (1) The supplier has defaulted on its contracts with 2834  
customers, is in receivership, or has filed for bankruptcy. 2835

~~(B)~~ (2) The supplier is no longer capable of providing the 2836  
service. 2837

~~(C)~~ (3) The supplier is unable to provide delivery to 2838  
transmission or distribution facilities for such period of time 2839  
as may be reasonably specified by commission rule adopted under 2840  
division (A) of section 4928.06 of the Revised Code. 2841

~~(D)~~ (4) The supplier's certification has been suspended, 2842  
conditionally rescinded, or rescinded under division (D) of 2843  
section 4928.08 of the Revised Code. 2844

(C) If an electric distribution utility has an electric 2845  
security plan that was approved under section 4928.143 of the 2846  
Revised Code as that section existed prior to the amendments to 2847  
this section by this act, the failure of a supplier to provide 2848  
retail electric generation service to customers within the 2849  
certified territory of that utility shall result in the 2850  
supplier's customers, after reasonable notice, defaulting to the 2851  
utility's standard service offer under that electric security 2852

plan until the customer chooses an alternative supplier or until 2853  
the utility's standard service offer is authorized under section 2854  
4928.142 of the Revised Code. 2855

**Sec. 4928.141.** ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2856  
electric distribution utility shall provide consumers, on a 2857  
comparable and nondiscriminatory basis within its certified 2858  
territory, a standard service offer of all competitive retail 2859  
electric services necessary to maintain essential electric 2860  
service to consumers, including a firm supply of electric 2861  
generation service. To that end, the electric distribution 2862  
utility shall apply to the public utilities commission to 2863  
establish the standard service offer in accordance with section 2864  
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2865  
~~may apply simultaneously under both sections, except that the~~ 2866  
~~utility's first standard service offer application at minimum~~ 2867  
~~shall include a filing under section 4928.143 of the Revised~~ 2868  
~~Code. Only~~ Except as provided in division (A) (2) of this 2869  
section, a standard service offer authorized in accordance with 2870  
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2871  
the utility's standard service offer for the purpose of 2872  
compliance with this section~~+~~, and that standard service offer 2873  
shall serve as the utility's default standard service offer for 2874  
the purpose of section 4928.14 of the Revised Code. 2875  
~~Notwithstanding the foregoing provision, the rate~~ 2876

(2) An electric distribution utility's electric security 2877  
plan of an electric distribution utility that was approved under 2878  
section 4928.143 of the Revised Code as that section existed 2879  
prior to the amendments to this section by this act shall 2880  
continue for the purpose of the utility's compliance with ~~this~~ 2881  
division (A) (1) of this section until a standard service offer 2882  
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2883

~~4928.143 of the Revised Code, and, as applicable, pursuant to~~ 2884  
~~division (D) of section 4928.143 of the Revised Code, any rate.~~ 2885  
Each security plan that extends approved before the effective 2886  
date of the amendments to this section by this act shall extend 2887  
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2888  
~~subject electric distribution utility for the duration of the~~ 2889  
~~plan's term~~through the final standard service offer auction 2890  
delivery period approved by the public utilities commission 2891  
under the plan as of the effective date of the amendments to 2892  
this section by this act and thereafter shall terminate. 2893

(3) A standard service offer under section 4928.142 or 2894  
~~4928.143 of the Revised Code shall exclude any previously~~ 2895  
authorized allowances for transition costs, with such exclusion 2896  
being effective on and after the date that the allowance is 2897  
scheduled to end under the utility's ~~rate~~electric security 2898  
plan. 2899

(B) The commission shall set the time for hearing of a 2900  
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2901  
send written notice of the hearing to the electric distribution 2902  
utility, and publish notice in a newspaper of general 2903  
circulation in each county in the utility's certified territory. 2904  
The commission shall adopt rules regarding filings under ~~those~~ 2905  
~~sections~~ the section. 2906

**Sec. 4928.142.** (A) For the purpose of complying with 2907  
section 4928.141 of the Revised Code and subject to division (D) 2908  
of this section and, as applicable, subject to the ~~rate plan~~ 2909  
~~requirement~~requirements of division (A) of section 4928.141 of 2910  
the Revised Code, an electric distribution utility ~~may~~shall 2911  
establish a standard service offer price for retail electric 2912  
generation service that is delivered to the utility under a 2913

market-rate offer. 2914

(1) The market-rate offer shall be determined through a 2915  
competitive bidding process that provides for all of the 2916  
following: 2917

(a) Open, fair, and transparent competitive solicitation; 2918

(b) Clear product definition; 2919

(c) Standardized bid evaluation criteria; 2920

(d) Oversight by an independent third party that shall 2921  
design the solicitation, administer the bidding, and ensure that 2922  
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2923  
this section are met; 2924

(e) Evaluation of the submitted bids prior to the 2925  
selection of the least-cost bid winner or winners. 2926

No generation supplier shall be prohibited from 2927  
participating in the bidding process. 2928

(2) The public utilities commission shall modify rules, or 2929  
adopt new rules as necessary, concerning the conduct of the 2930  
competitive bidding process and the qualifications of bidders, 2931  
which rules shall foster supplier participation in the bidding 2932  
process and shall be consistent with the requirements of 2933  
division (A) (1) of this section. 2934

(B) Prior to initiating a competitive bidding process for 2935  
a market-rate offer under division (A) of this section, the 2936  
electric distribution utility shall file an application with the 2937  
commission. An electric distribution utility may file its 2938  
application with the commission prior to the effective date of 2939  
the commission rules required under division (A) (2) of this 2940  
section, and, as the commission determines necessary, the 2941

utility shall immediately conform its filing to the rules upon 2942  
their taking effect. 2943

An application under this division shall detail the 2944  
electric distribution utility's proposed compliance with the 2945  
requirements of division (A) (1) of this section and with 2946  
commission rules under division (A) (2) of this section and 2947  
demonstrate that all of the following requirements are met: 2948

(1) The electric distribution utility or its transmission 2949  
service affiliate belongs to at least one regional transmission 2950  
organization that has been approved by the federal energy 2951  
regulatory commission; or there otherwise is comparable and 2952  
nondiscriminatory access to the electric transmission grid. 2953

(2) Any such regional transmission organization has a 2954  
market-monitor function and the ability to take actions to 2955  
identify and mitigate market power or the electric distribution 2956  
utility's market conduct; or a similar market monitoring 2957  
function exists with commensurate ability to identify and 2958  
monitor market conditions and mitigate conduct associated with 2959  
the exercise of market power. 2960

(3) A published source of information is available 2961  
publicly or through subscription that identifies pricing 2962  
information for traded electricity on- and off-peak energy 2963  
products that are contracts for delivery beginning at least two 2964  
years from the date of the publication and is updated on a 2965  
regular basis. 2966

The commission shall initiate a proceeding and, within 2967  
ninety days after the application's filing date, shall determine 2968  
by order whether the electric distribution utility and its 2969  
market-rate offer meet all of the foregoing requirements. If the 2970

finding is positive, the electric distribution utility ~~may~~ shall 2971  
initiate its competitive bidding process. If the finding is 2972  
negative as to one or more requirements, the commission in the 2973  
order shall direct the electric distribution utility regarding 2974  
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2975  
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2976  
~~distribution utility shall withdraw the application. However, if~~ 2977  
~~such remedy is made and the subsequent finding is positive and~~ 2978  
~~also if the electric distribution utility made a simultaneous~~ 2979  
~~filing under this section and section 4928.143 of the Revised~~ 2980  
~~Code, the utility shall not initiate its competitive bid until~~ 2981  
~~at least one hundred fifty days after the filing date of those~~ 2982  
~~applications.~~ 2983

(C) Upon the completion of the competitive bidding process 2984  
authorized by divisions (A) and (B) of this section, ~~including~~ 2985  
~~for the purpose of division (D) of this section,~~ the commission 2986  
shall select the least-cost bid winner or winners of that 2987  
process, and such selected bid or bids, as prescribed as retail 2988  
rates by the commission, shall be the electric distribution 2989  
utility's standard service offer unless the commission, by order 2990  
issued before the third calendar day following the conclusion of 2991  
the competitive bidding process for the market rate offer, 2992  
determines that one or more of the following criteria were not 2993  
met: 2994

(1) Each portion of the bidding process was 2995  
oversubscribed, such that the amount of supply bid upon was 2996  
greater than the amount of the load bid out. 2997

(2) There were four or more bidders. 2998

(3) At least twenty-five per cent of the load is bid upon 2999  
by one or more persons other than the electric distribution 3000

utility. 3001

All costs incurred by the electric distribution utility as 3002  
a result of or related to the competitive bidding process or to 3003  
procuring generation service to provide the standard service 3004  
offer, including the costs of energy and capacity and the costs 3005  
of all other products and services procured as a result of the 3006  
competitive bidding process, shall be timely recovered through 3007  
the standard service offer price, and, for that purpose, the 3008  
commission shall approve a reconciliation mechanism, other 3009  
recovery mechanism, or a combination of such mechanisms for the 3010  
utility. 3011

(D) The ~~first~~ application filed under this section by an 3012  
electric distribution utility ~~that, as of July 31, 2008,~~ 3013  
~~directly owns, in whole or in part, operating electric~~ 3014  
~~generating facilities that had been used and useful in this~~ 3015  
~~state shall require that a portion of that the~~ utility's 3016  
standard service offer load ~~for the first five years of the~~ 3017  
~~market rate offer~~ be competitively bid under division (A) of 3018  
this section ~~as follows: ten per cent of the load in year one,~~ 3019  
~~not more than twenty per cent in year two, thirty per cent in~~ 3020  
~~year three, forty per cent in year four, and fifty per cent in~~ 3021  
~~year five. Consistent with those percentages, the commission~~ 3022  
~~shall determine the actual percentages for each year of years~~ 3023  
~~one through five. The standard service offer price for retail~~ 3024  
~~electric generation service under this first application shall~~ 3025  
~~be a proportionate blend of the bid price and the generation~~ 3026  
~~service price for the remaining standard service offer load,~~ 3027  
~~which latter price shall be equal to the electric distribution~~ 3028  
~~utility's most recent standard service offer price, adjusted~~ 3029  
~~upward or downward as the commission determines reasonable,~~ 3030  
~~relative to the jurisdictional portion of any known and~~ 3031



~~measurable changes from the level of any one or more of the~~ 3032  
~~following costs as reflected in that most recent standard~~ 3033  
~~service offer price;~~ 3034

~~(1) The electric distribution utility's prudently incurred~~ 3035  
~~cost of fuel used to produce electricity;~~ 3036

~~(2) Its prudently incurred purchased power costs;~~ 3037

~~(3) Its prudently incurred costs of satisfying the supply~~ 3038  
~~and demand portfolio requirements of this state, including, but~~ 3039  
~~not limited to, renewable energy resource and energy efficiency~~ 3040  
~~requirements;~~ 3041

~~(4) Its costs prudently incurred to comply with~~ 3042  
~~environmental laws and regulations, with consideration of the~~ 3043  
~~derating of any facility associated with those costs.~~ 3044

~~In making any adjustment to the most recent standard~~ 3045  
~~service offer price on the basis of costs described in division~~ 3046  
~~(D) of this section, the commission shall include the benefits~~ 3047  
~~that may become available to the electric distribution utility~~ 3048  
~~as a result of or in connection with the costs included in the~~ 3049  
~~adjustment, including, but not limited to, the utility's receipt~~ 3050  
~~of emissions credits or its receipt of tax benefits or of other~~ 3051  
~~benefits, and, accordingly, the commission may impose such~~ 3052  
~~conditions on the adjustment to ensure that any such benefits~~ 3053  
~~are properly aligned with the associated cost responsibility.~~ 3054  
~~The commission shall also determine how such adjustments will~~ 3055  
~~affect the electric distribution utility's return on common~~ 3056  
~~equity that may be achieved by those adjustments. The commission~~ 3057  
~~shall not apply its consideration of the return on common equity~~ 3058  
~~to reduce any adjustments authorized under this division unless~~ 3059  
~~the adjustments will cause the electric distribution utility to~~ 3060

~~earn a return on common equity that is significantly in excess— 3061~~  
~~of the return on common equity that is earned by publicly traded 3062~~  
~~companies, including utilities, that face comparable business— 3063~~  
~~and financial risk, with such adjustments for capital structure— 3064~~  
~~as may be appropriate. The burden of proof for demonstrating— 3065~~  
~~that significantly excessive earnings will not occur shall be on 3066~~  
~~the electric distribution utility. 3067~~

~~Additionally, the commission may adjust the electric— 3068~~  
~~distribution utility's most recent standard service offer price— 3069~~  
~~by such just and reasonable amount that the commission— 3070~~  
~~determines necessary to address any emergency that threatens the 3071~~  
~~utility's financial integrity or to ensure that the resulting— 3072~~  
~~revenue available to the utility for providing the standard— 3073~~  
~~service offer is not so inadequate as to result, directly or— 3074~~  
~~indirectly, in a taking of property without compensation— 3075~~  
~~pursuant to Section 19 of Article I, Ohio Constitution. The— 3076~~  
~~electric distribution utility has the burden of demonstrating— 3077~~  
~~that any adjustment to its most recent standard service offer— 3078~~  
~~price is proper in accordance with this division. 3079~~

~~(E) Beginning in the second year of a blended price under— 3080~~  
~~division (D) of this section and notwithstanding any other— 3081~~  
~~requirement of this section, the commission may alter— 3082~~  
~~prospectively the proportions specified in that division to— 3083~~  
~~mitigate any effect of an abrupt or significant change in the— 3084~~  
~~electric distribution utility's standard service offer price— 3085~~  
~~that would otherwise result in general or with respect to any— 3086~~  
~~rate group or rate schedule but for such alteration. Any such— 3087~~  
~~alteration shall be made not more often than annually, and the— 3088~~  
~~commission shall not, by altering those proportions and in any— 3089~~  
~~event, including because of the length of time, as authorized— 3090~~  
~~under division (C) of this section, taken to approve the market— 3091~~

~~rate offer, cause the duration of the blending period to exceed~~ 3092  
~~ten years as counted from the effective date of the approved~~ 3093  
~~market rate offer. Additionally, any such alteration shall be~~ 3094  
~~limited to an alteration affecting the prospective proportions~~ 3095  
~~used during the blending period and shall not affect any~~ 3096  
~~blending proportion previously approved and applied by the~~ 3097  
~~commission under this division.~~ 3098

~~(F) An electric distribution utility that has received~~ 3099  
~~commission approval of its first application under division (C)~~ 3100  
~~of this section shall not, nor ever shall be authorized or~~ 3101  
~~required by the commission to, file an application under section~~ 3102  
~~4928.143 of the Revised Code.~~ 3103

**Sec. 4928.144.** The public utilities commission by order 3104  
may authorize any just and reasonable phase-in of any electric 3105  
distribution utility ~~rate or price~~ established under sections 3106  
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 3107  
inclusive of carrying charges, as the commission considers 3108  
necessary to ensure ~~rate or price~~ stability for consumers. If 3109  
the commission's order includes such a phase-in, the order also 3110  
shall provide for the creation of regulatory assets pursuant to 3111  
generally accepted accounting principles, by authorizing the 3112  
deferral of incurred costs equal to the amount not collected, 3113  
plus carrying charges on that amount. Further, the order shall 3114  
authorize the collection of those deferrals through a 3115  
nonbypassable surcharge on any such rate or price so established 3116  
for the electric distribution utility by the commission. 3117

**Sec. 4928.149.** No electric distribution utility may use 3118  
any electric energy storage system to participate in the 3119  
wholesale market, if the utility purchased or acquired that 3120  
system for distribution service. 3121

Sec. 4928.1410. If an electric distribution utility has an 3122  
existing electric security plan under which the commission had 3123  
authorized the creation or continuation of riders, then, to the 3124  
extent those riders will cease to exist after termination of the 3125  
electric security plan, the electric distribution utility is 3126  
authorized to create necessary regulatory assets or liabilities, 3127  
along with carrying costs at the utility's weighted average cost 3128  
of debt, for the resolution of any outstanding under-collection 3129  
or over-collection of funds under such riders. The resolution of 3130  
such regulatory assets or liabilities shall be addressed in the 3131  
first distribution rate case under section 4909.18 of the 3132  
Revised Code that occurs after the plan's expiration. 3133

Sec. 4928.17. (A) Except as otherwise provided in sections 3134  
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 3135  
Revised Code ~~and beginning on the starting date of competitive~~ 3136  
~~retail electric service,~~ no electric utility shall engage in 3137  
this state, either directly or through an affiliate, ~~in the~~ 3138  
~~businesses of supplying a noncompetitive retail electric service~~ 3139  
~~and supplying a competitive retail electric service, or in the~~ 3140  
businesses of supplying a noncompetitive retail electric service 3141  
and supplying a product or service other than retail electric 3142  
service, unless the utility implements and operates under a 3143  
corporate separation plan that is approved by the public 3144  
utilities commission under this section, is consistent with the 3145  
policy specified in section 4928.02 of the Revised Code, and 3146  
achieves all of the following: 3147

(1) The plan provides, at minimum, for the provision of 3148  
~~the competitive retail electric service or the nonelectric~~ 3149  
product or service through a fully separated affiliate of the 3150  
utility, and the plan includes separate accounting requirements, 3151  
the code of conduct as ordered by the commission pursuant to a 3152

rule it shall adopt under division (A) of section 4928.06 of the 3153  
Revised Code, and such other measures as are necessary to 3154  
effectuate the policy specified in section 4928.02 of the 3155  
Revised Code. 3156

(2) The plan satisfies the public interest in ~~preventing~~ 3157  
~~unfair competitive advantage and~~ preventing the abuse of market 3158  
power. 3159

(3) The plan is sufficient to ensure that the utility will 3160  
not extend any undue preference or advantage to any affiliate, 3161  
division, or part of its own business engaged in the business of 3162  
supplying the ~~competitive retail electric service or nonelectric~~ 3163  
product or service, including, but not limited to, utility 3164  
resources such as trucks, tools, office equipment, office space, 3165  
supplies, customer and marketing information, advertising, 3166  
billing and mailing systems, personnel, and training, without 3167  
compensation based upon fully loaded embedded costs charged to 3168  
the affiliate; and to ensure that any such affiliate, division, 3169  
or part will not receive undue preference or advantage from any 3170  
affiliate, division, or part of the business engaged in business 3171  
of supplying the noncompetitive retail electric service. No such 3172  
utility, affiliate, division, or part shall extend such undue 3173  
preference. ~~Notwithstanding any other division of this section,~~ 3174  
~~a utility's obligation under division (A) (3) of this section~~ 3175  
~~shall be effective January 1, 2000.~~ 3176

(B) The commission may approve, modify and approve, or 3177  
disapprove a corporate separation plan filed with the commission 3178  
under division (A) of this section. As part of the code of 3179  
conduct required under division (A) (1) of this section, the 3180  
commission shall adopt rules pursuant to division (A) of section 3181  
4928.06 of the Revised Code regarding corporate separation and 3182

procedures for plan filing and approval. The rules shall include 3183  
limitations on affiliate practices solely for the purpose of 3184  
maintaining a separation of the affiliate's business from the 3185  
business of the utility to prevent ~~unfair competitive advantage~~ 3186  
abuse of market power by virtue of that relationship. The rules 3187  
also shall include an opportunity for any person having a real 3188  
and substantial interest in the corporate separation plan to 3189  
file specific objections to the plan and propose specific 3190  
responses to issues raised in the objections, which objections 3191  
and responses the commission shall address in its final order. 3192  
Prior to commission approval of the plan, the commission shall 3193  
afford a hearing upon those aspects of the plan that the 3194  
commission determines reasonably require a hearing. The 3195  
commission may reject and require refiling of a substantially 3196  
inadequate plan under this section. 3197

(C) The commission shall issue an order approving or 3198  
modifying and approving a corporate separation plan under this 3199  
section, to be effective on the date specified in the order, 3200  
only upon findings that the plan reasonably complies with the 3201  
requirements of division (A) of this section and will provide 3202  
for ongoing compliance with the policy specified in section 3203  
4928.02 of the Revised Code. However, for good cause shown, the 3204  
commission may issue an order approving or modifying and 3205  
approving a corporate separation plan under this section that 3206  
does not comply with division (A)(1) of this section but 3207  
complies with such functional separation requirements as the 3208  
commission authorizes to apply for an interim period prescribed 3209  
in the order, upon a finding that such alternative plan will 3210  
provide for ongoing compliance with the policy specified in 3211  
section 4928.02 of the Revised Code. 3212

(D) Any party may seek an amendment to a corporate 3213

separation plan approved under this section, and the commission, 3214  
pursuant to a request from any party or on its own initiative, 3215  
may order as it considers necessary the filing of an amended 3216  
corporate separation plan to reflect changed circumstances. 3217

~~(E) No electric distribution utility shall sell or 3218~~  
~~transfer any generating asset it wholly or partly owns at any 3219~~  
~~time without obtaining prior commission approval. 3220~~

**Sec. 4928.20.** (A) The legislative authority of a municipal 3221  
corporation may adopt an ordinance, or the board of township 3222  
trustees of a township or the board of county commissioners of a 3223  
county may adopt a resolution, under which, ~~on or after the~~ 3224  
~~starting date of competitive retail electric service,~~ it may 3225  
aggregate in accordance with this section the retail electrical 3226  
loads located, respectively, within the municipal corporation, 3227  
township, or unincorporated area of the county and, for that 3228  
purpose, may enter into service agreements to facilitate for 3229  
those loads the sale and purchase of electricity. The 3230  
legislative authority or board also may exercise such authority 3231  
jointly with any other such legislative authority or board. For 3232  
customers that are not mercantile customers, an ordinance or 3233  
resolution under this division shall specify whether the 3234  
aggregation will occur only with the prior, affirmative consent 3235  
of each person owning, occupying, controlling, or using an 3236  
electric load center proposed to be aggregated or will occur 3237  
automatically for all such persons pursuant to the opt-out 3238  
requirements of division (D) of this section. The aggregation of 3239  
mercantile customers shall occur only with the prior, 3240  
affirmative consent of each such person owning, occupying, 3241  
controlling, or using an electric load center proposed to be 3242  
aggregated. Nothing in this division, however, authorizes the 3243  
aggregation of the retail electric loads of an electric load 3244

center, as defined in section 4933.81 of the Revised Code, that 3245  
is located in the certified territory of a nonprofit electric 3246  
supplier under sections 4933.81 to 4933.90 of the Revised Code 3247  
or an electric load center served by transmission or 3248  
distribution facilities of a municipal electric utility. 3249

(B) If an ordinance or resolution adopted under division 3250  
(A) of this section specifies that aggregation of customers that 3251  
are not mercantile customers will occur automatically as 3252  
described in that division, the ordinance or resolution shall 3253  
direct the board of elections to submit the question of the 3254  
authority to aggregate to the electors of the respective 3255  
municipal corporation, township, or unincorporated area of a 3256  
county at a special election on the day of the next primary or 3257  
general election in the municipal corporation, township, or 3258  
county. The legislative authority or board shall certify a copy 3259  
of the ordinance or resolution to the board of elections not 3260  
less than ninety days before the day of the special election. No 3261  
ordinance or resolution adopted under division (A) of this 3262  
section that provides for an election under this division shall 3263  
take effect unless approved by a majority of the electors voting 3264  
upon the ordinance or resolution at the election held pursuant 3265  
to this division. 3266

(C) Upon the applicable requisite authority under 3267  
divisions (A) and (B) of this section, the legislative authority 3268  
or board shall develop a plan of operation and governance for 3269  
the aggregation program so authorized. Before adopting a plan 3270  
under this division, the legislative authority or board shall 3271  
hold at least two public hearings on the plan. Before the first 3272  
hearing, the legislative authority or board shall publish notice 3273  
of the hearings once a week for two consecutive weeks in a 3274  
newspaper of general circulation in the jurisdiction or as 3275



provided in section 7.16 of the Revised Code. The notice shall 3276  
summarize the plan and state the date, time, and location of 3277  
each hearing. 3278

(D) No legislative authority or board, pursuant to an 3279  
ordinance or resolution under divisions (A) and (B) of this 3280  
section that provides for automatic aggregation of customers 3281  
that are not mercantile customers as described in division (A) 3282  
of this section, shall aggregate the electrical load of any 3283  
electric load center located within its jurisdiction unless it 3284  
in advance clearly discloses to the person owning, occupying, 3285  
controlling, or using the load center that the person will be 3286  
enrolled automatically in the aggregation program and will 3287  
remain so enrolled unless the person affirmatively elects by a 3288  
stated procedure not to be so enrolled. The disclosure shall 3289  
state prominently the rates, charges, and other terms and 3290  
conditions of enrollment. The stated procedure shall allow any 3291  
person enrolled in the aggregation program the opportunity to 3292  
opt out of the program every three years, without paying a 3293  
switching fee. Any such person that opts out before the 3294  
commencement of the aggregation program pursuant to the stated 3295  
procedure shall default to the standard service offer provided 3296  
under section 4928.14 or division (D) of section 4928.35 of the 3297  
Revised Code until the person chooses an alternative supplier. 3298

(E) (1) With respect to a governmental aggregation for a 3299  
municipal corporation that is authorized pursuant to divisions 3300  
(A) to (D) of this section, resolutions may be proposed by 3301  
initiative or referendum petitions in accordance with sections 3302  
731.28 to 731.41 of the Revised Code. 3303

(2) With respect to a governmental aggregation for a 3304  
township or the unincorporated area of a county, which 3305

aggregation is authorized pursuant to divisions (A) to (D) of 3306  
this section, resolutions may be proposed by initiative or 3307  
referendum petitions in accordance with sections 731.28 to 3308  
731.40 of the Revised Code, except that: 3309

(a) The petitions shall be filed, respectively, with the 3310  
township fiscal officer or the board of county commissioners, 3311  
who shall perform those duties imposed under those sections upon 3312  
the city auditor or village clerk. 3313

(b) The petitions shall contain the signatures of not less 3314  
than ten per cent of the total number of electors in, 3315  
respectively, the township or the unincorporated area of the 3316  
county who voted for the office of governor at the preceding 3317  
general election for that office in that area. 3318

(F) A governmental aggregator under division (A) of this 3319  
section is not a public utility engaging in the wholesale 3320  
purchase and resale of electricity, and provision of the 3321  
aggregated service is not a wholesale utility transaction. A 3322  
governmental aggregator shall be subject to supervision and 3323  
regulation by the public utilities commission only to the extent 3324  
of any competitive retail electric service it provides and 3325  
commission authority under this chapter. 3326

(G) This section does not apply in the case of a municipal 3327  
corporation that supplies such aggregated service to electric 3328  
load centers to which its municipal electric utility also 3329  
supplies a noncompetitive retail electric service through 3330  
transmission or distribution facilities the utility singly or 3331  
jointly owns or operates. 3332

(H) A governmental aggregator shall not include in its 3333  
aggregation the accounts of any of the following: 3334

- (1) A customer that has opted out of the aggregation; 3335
- (2) A customer in contract with a certified electric 3336  
services company; 3337
- (3) A customer that has a special contract with an 3338  
electric distribution utility; 3339
- (4) A customer that is not located within the governmental 3340  
aggregator's governmental boundaries; 3341
- (5) Subject to division (C) of section 4928.21 of the 3342  
Revised Code, a customer who appears on the "do not aggregate" 3343  
list maintained under that section. 3344
- (I) Customers that are part of a governmental aggregation 3345  
under this section shall be responsible only for such portion of 3346  
a surcharge under section 4928.144 of the Revised Code that is 3347  
proportionate to the benefits, as determined by the commission, 3348  
that electric load centers within the jurisdiction of the 3349  
governmental aggregation as a group receive. The proportionate 3350  
surcharge so established shall apply to each customer of the 3351  
governmental aggregation while the customer is part of that 3352  
aggregation. If a customer ceases being such a customer, the 3353  
otherwise applicable surcharge shall apply. Nothing in this 3354  
section shall result in less than full recovery by an electric 3355  
distribution utility of any surcharge authorized under section 3356  
4928.144 of the Revised Code. Nothing in this section shall 3357  
result in less than the full and timely imposition, charging, 3358  
collection, and adjustment by an electric distribution utility, 3359  
its assignee, or any collection agent, of the phase-in-recovery 3360  
charges authorized pursuant to a final financing order issued 3361  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3362
- (J) ~~On behalf of the customers that are part of a~~ 3363

~~governmental aggregation under this section and by filing~~ 3364  
~~written notice with the public utilities commission, the~~ 3365  
~~legislative authority that formed or is forming that~~ 3366  
~~governmental aggregation may elect not to receive standby~~ 3367  
~~service within the meaning of division (B) (2) (d) of section~~ 3368  
~~4928.143 of the Revised Code from an electric distribution~~ 3369  
~~utility in whose certified territory the governmental~~ 3370  
~~aggregation is located and that operates under an approved~~ 3371  
~~electric security plan under that section. Upon the filing of~~ 3372  
~~that notice, the electric distribution utility shall not charge~~ 3373  
~~any such customer to whom competitive retail electric generation~~ 3374  
~~service is provided by another supplier under the governmental~~ 3375  
~~aggregation for the standby service. Any such consumer that~~ 3376  
~~returns to the utility for competitive retail electric service~~ 3377  
~~shall pay the market price of power incurred by the utility to~~ 3378  
~~serve that consumer plus any amount attributable to the~~ 3379  
~~utility's cost of compliance with the renewable energy resource~~ 3380  
~~provisions of section 4928.64 of the Revised Code to serve the~~ 3381  
~~consumer. Such market price shall include, but not be limited~~ 3382  
~~to, capacity and energy charges; all charges associated with the~~ 3383  
~~provision of that power supply through the regional transmission~~ 3384  
~~organization, including, but not limited to, transmission,~~ 3385  
~~ancillary services, congestion, and settlement and~~ 3386  
~~administrative charges; and all other costs incurred by the~~ 3387  
~~utility that are associated with the procurement, provision, and~~ 3388  
~~administration of that power supply, as such costs may be~~ 3389  
~~approved by the commission. The period of time during which the~~ 3390  
~~market price and renewable energy resource amount shall be so~~ 3391  
~~assessed on the consumer shall be from the time the consumer so~~ 3392  
~~returns to the electric distribution utility until the~~ 3393  
~~expiration of the electric security plan. However, if that~~ 3394  
~~period of time is expected to be more than two years, the~~ 3395

~~commission may reduce the time period to a period of not less~~ 3396  
~~than two years.~~ 3397

~~(K) The commission shall adopt rules and issue orders in~~ 3398  
~~proceedings under sections 4928.141 and 4928.142 of the Revised~~ 3399  
~~Code to encourage and promote large-scale governmental~~ 3400  
~~aggregation in this state. For that purpose, the commission~~ 3401  
~~shall conduct an immediate review of any rules it has adopted~~ 3402  
~~for the purpose of this section that are in effect on the~~ 3403  
~~effective date of the amendment of this section by S.B. 221 of~~ 3404  
~~the 127th general assembly, July 31, 2008. Further, within the~~ 3405  
~~context of an electric security plan under section 4928.143 of~~ 3406  
~~the Revised Code, the~~ The commission shall consider the effect 3407  
~~on large-scale governmental aggregation of any nonbypassable~~ 3408  
~~generation charges, however collected, that would be established~~ 3409  
~~under that plan, except any nonbypassable generation charges~~ 3410  
~~that relate to any cost incurred by the~~ review each application 3411  
filed under section 4928.142 of the Revised Code by an electric 3412  
distribution utility, to ensure that the deferral of which has 3413  
~~been authorized by the commission prior to the effective date of~~ 3414  
~~application and the amendment of this section by S.B. 221 of the~~ 3415  
~~127th general assembly, July 31, 2008~~ resulting market rate 3416  
offer shall not contain any rate, price, term, condition, or 3417  
provision that would have an adverse effect on large-scale 3418  
governmental aggregation in this state. 3419

**Sec. 4928.23.** As used in sections 4928.23 to 4928.2318 of 3420  
the Revised Code: 3421

(A) "Ancillary agreement" means any bond insurance policy, 3422  
letter of credit, reserve account, surety bond, swap 3423  
arrangement, hedging arrangement, liquidity or credit support 3424  
arrangement, or other similar agreement or arrangement entered 3425

into in connection with the issuance of phase-in-recovery bonds 3426  
that is designed to promote the credit quality and marketability 3427  
of the bonds or to mitigate the risk of an increase in interest 3428  
rates. 3429

(B) "Assignee" means any person or entity to which an 3430  
interest in phase-in-recovery property is sold, assigned, 3431  
transferred, or conveyed, other than as security, and any 3432  
successor to or subsequent assignee of such a person or entity. 3433

(C) "Bond" includes debentures, notes, certificates of 3434  
participation, certificates of beneficial interest, certificates 3435  
of ownership or other evidences of indebtedness or ownership 3436  
that are issued by an electric distribution utility or an 3437  
assignee under a final financing order, the proceeds of which 3438  
are used directly or indirectly to recover, finance, or 3439  
refinance phase-in costs and financing costs, and that are 3440  
secured by or payable from revenues from phase-in-recovery 3441  
charges. 3442

(D) "Bondholder" means any holder or owner of a phase-in- 3443  
recovery bond. 3444

(E) "Financing costs" means any of the following: 3445

(1) Principal, interest, and redemption premiums that are 3446  
payable on phase-in-recovery bonds; 3447

(2) Any payment required under an ancillary agreement; 3448

(3) Any amount required to fund or replenish a reserve 3449  
account or another account established under any indenture, 3450  
ancillary agreement, or other financing document relating to 3451  
phase-in-recovery bonds; 3452

(4) Any costs of retiring or refunding any existing debt 3453

and equity securities of an electric distribution utility in 3454  
connection with either the issuance of, or the use of proceeds 3455  
from, phase-in-recovery bonds; 3456

(5) Any costs incurred by an electric distribution utility 3457  
to obtain modifications of or amendments to any indenture, 3458  
financing agreement, security agreement, or similar agreement or 3459  
instrument relating to any existing secured or unsecured 3460  
obligation of the electric distribution utility in connection 3461  
with the issuance of phase-in-recovery bonds; 3462

(6) Any costs incurred by an electric distribution utility 3463  
to obtain any consent, release, waiver, or approval from any 3464  
holder of an obligation described in division (E) (5) of this 3465  
section that are necessary to be incurred for the electric 3466  
distribution utility to issue or cause the issuance of phase-in- 3467  
recovery bonds; 3468

(7) Any taxes, franchise fees, or license fees imposed on 3469  
phase-in-recovery revenues; 3470

(8) Any costs related to issuing or servicing phase-in- 3471  
recovery bonds or related to obtaining a financing order, 3472  
including servicing fees and expenses, trustee fees and 3473  
expenses, legal, accounting, or other professional fees and 3474  
expenses, administrative fees, placement fees, underwriting 3475  
fees, capitalized interest and equity, and rating-agency fees; 3476

(9) Any other similar costs that the public utilities 3477  
commission finds appropriate. 3478

(F) "Financing order" means an order issued by the public 3479  
utilities commission under section 4928.232 of the Revised Code 3480  
that authorizes an electric distribution utility or an assignee 3481  
to issue phase-in-recovery bonds and recover phase-in-recovery 3482

charges. 3483

(G) "Final financing order" means a financing order that 3484  
has become final and has taken effect as provided in section 3485  
4928.233 of the Revised Code. 3486

(H) "Financing party" means either of the following: 3487

(1) Any trustee, collateral agent, or other person acting 3488  
for the benefit of any bondholder; 3489

(2) Any party to an ancillary agreement, the rights and 3490  
obligations of which relate to or depend upon the existence of 3491  
phase-in-recovery property, the enforcement and priority of a 3492  
security interest in phase-in-recovery property, the timely 3493  
collection and payment of phase-in-recovery revenues, or a 3494  
combination of these factors. 3495

(I) "Financing statement" has the same meaning as in 3496  
section 1309.102 of the Revised Code. 3497

(J) "Phase-in costs" means costs, inclusive of carrying 3498  
charges incurred before, on, or after ~~the effective date of this~~ 3499  
~~section~~ March 22, 2012, authorized by the commission before, on, 3500  
or after ~~the effective date of this section~~ March 22, 2012, to 3501  
be securitized or deferred as regulatory assets in proceedings 3502  
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3503  
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or section~~ 3504  
4928.14 of the Revised Code as it existed prior to July 31, 3505  
2008, or section 4928.143 of the Revised Code as it existed 3506  
prior to the effective date of the amendments to this section by 3507  
this act pursuant to a final order for which appeals have been 3508  
exhausted. "Phase-in costs" excludes the following: 3509

(1) With respect to any electric generating facility that, 3510  
on and after ~~the effective date of this section~~ March 22, 2012, 3511



is owned, in whole or in part, by an electric distribution 3512  
utility applying for a financing order under section 4928.231 of 3513  
the Revised Code, costs that are authorized under division (B) 3514  
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3515  
section existed prior to the effective date of the amendments to 3516  
this section by this act; 3517

(2) Costs incurred after ~~the effective date of this~~ 3518  
~~section~~ March 22, 2012, related to the ongoing operation of an 3519  
electric generating facility, but not environmental clean-up or 3520  
remediation costs incurred by an electric distribution utility 3521  
because of its ownership or operation of an electric generating 3522  
facility prior to ~~the effective date of this section~~ March 22, 3523  
2012, which such clean-up or remediation costs are imposed or 3524  
incurred pursuant to federal or state law, rules, or regulations 3525  
and for which the commission approves or approved recovery in 3526  
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3527  
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3528  
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3529  
July 31, 2008, or section 4928.143 of the Revised Code as it 3530  
existed prior to the effective date of the amendments to this 3531  
section by this act. 3532

(K) "Phase-in-recovery property" means the property, 3533  
rights, and interests of an electric distribution utility or an 3534  
assignee under a final financing order, including the right to 3535  
impose, charge, and collect the phase-in-recovery charges that 3536  
shall be used to pay and secure the payment of phase-in-recovery 3537  
bonds and financing costs, and including the right to obtain 3538  
adjustments to those charges, and any revenues, receipts, 3539  
collections, rights to payment, payments, moneys, claims, or 3540  
other proceeds arising from the rights and interests created 3541  
under the final financing order. 3542

(L) "Phase-in-recovery revenues" means all revenues, 3543  
receipts, collections, payments, moneys, claims, or other 3544  
proceeds arising from phase-in-recovery property. 3545

(M) "Successor" means, with respect to any entity, another 3546  
entity that succeeds by operation of law to the rights and 3547  
obligations of the first legal entity pursuant to any 3548  
bankruptcy, reorganization, restructuring, or other insolvency 3549  
proceeding, any merger, acquisition, or consolidation, or any 3550  
sale or transfer of assets, regardless of whether any of these 3551  
occur as a result of a restructuring of the electric power 3552  
industry or otherwise. 3553

**Sec. 4928.231.** (A) An electric distribution utility may 3554  
apply to the public utilities commission for a financing order 3555  
that authorizes the following: 3556

(1) The issuance of phase-in-recovery bonds, in one or 3557  
more series, to recover uncollected phase-in costs; 3558

(2) The imposition, charging, and collection of phase-in- 3559  
recovery charges, in accordance with the adjustment mechanism 3560  
approved by the commission under section 4928.232 of the Revised 3561  
Code, and consistent with the commission's authority regarding 3562  
governmental aggregation as provided in division (I) of section 3563  
4928.20 of the Revised Code, to recover both of the following: 3564

(a) Uncollected phase-in costs; 3565

(b) Financing costs. 3566

(3) The creation of phase-in-recovery property under the 3567  
financing order. 3568

(B) The application shall include all of the following: 3569

(1) A description of the uncollected phase-in costs that 3570

the electric distribution utility seeks to recover through the 3571  
issuance of phase-in-recovery bonds; 3572

(2) An estimate of the date each series of phase-in- 3573  
recovery bonds are expected to be issued; 3574

(3) The expected term during which the phase-in costs 3575  
associated with the issuance of each series of phase-in-recovery 3576  
bonds are expected to be recovered; 3577

(4) An estimate of the financing costs, as described in 3578  
section 4928.23 of the Revised Code, associated with the 3579  
issuance of each series of phase-in-recovery bonds; 3580

(5) An estimate of the amount of phase-in-recovery charges 3581  
necessary to recover the phase-in costs and financing costs set 3582  
forth in the application and the calculation for that estimate, 3583  
which calculation shall take into account the estimated date or 3584  
dates of issuance and the estimated principal amount of each 3585  
series of phase-in-recovery bonds; 3586

(6) For phase-in-recovery charges not subject to 3587  
allocation according to an existing order, a proposed 3588  
methodology for allocating phase-in-recovery charges among 3589  
customer classes, including a proposed methodology for 3590  
allocating such charges to governmental aggregation customers 3591  
based upon the proportionate benefit determination made under 3592  
division (I) of section 4928.20 of the Revised Code; 3593

(7) A description of a proposed adjustment mechanism for 3594  
use as described in division (A) (2) of this section; 3595

(8) A description and valuation of how the issuance of the 3596  
phase-in-recovery bonds, including financing costs, will both 3597  
result in cost savings to customers and mitigate rate impacts to 3598  
customers when compared to the use of other financing mechanisms 3599

or cost-recovery methods available to the electric distribution 3600  
utility; 3601

(9) Any other information required by the commission. 3602

(C) The electric distribution utility may restate or 3603  
incorporate by reference in the application any information 3604  
required under division (B) (9) of this section that the electric 3605  
distribution utility filed with the commission under section 3606  
4909.18 or sections 4928.141 to 4928.144 of the Revised Code~~or~~ 3607  
, section 4928.14 of the Revised Code as it existed prior to 3608  
July 31, 2008, or section 4928.143 of the Revised Code as it 3609  
existed prior to the amendments to this section by this act. 3610

**Sec. 4928.232.** (A) Proceedings before the public utilities 3611  
commission on an application submitted by an electric 3612  
distribution utility under section 4928.231 of the Revised Code 3613  
shall be governed by Chapter 4903. of the Revised Code, but only 3614  
to the extent that chapter is not inconsistent with this section 3615  
or section 4928.233 of the Revised Code. Any party that 3616  
participated in the proceeding in which phase-in costs were 3617  
approved under section 4909.18 or sections 4928.141 to 4928.144 3618  
of the Revised Code~~or~~, section 4928.14 of the Revised Code as 3619  
it existed prior to July 31, 2008, or section 4928.143 of the 3620  
Revised Code as it existed prior to the amendments to this 3621  
section by this act shall have standing to participate in 3622  
proceedings under sections 4928.23 to 4928.2318 of the Revised 3623  
Code. 3624

(B) When reviewing an application for a financing order 3625  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3626  
the commission may hold such hearings, make such inquiries or 3627  
investigations, and examine such witnesses, books, papers, 3628  
documents, and contracts as the commission considers proper to 3629

carry out these sections. Within thirty days after the filing of 3630  
an application under section 4928.231 of the Revised Code, the 3631  
commission shall publish a schedule of the proceeding. 3632

(C) (1) Not later than one hundred thirty-five days after 3633  
the date the application is filed, the commission shall issue 3634  
either a financing order, granting the application in whole or 3635  
with modifications, or an order suspending or rejecting the 3636  
application. 3637

(2) If the commission suspends an application for a 3638  
financing order, the commission shall notify the electric 3639  
distribution utility of the suspension and may direct the 3640  
electric distribution utility to provide additional information 3641  
as the commission considers necessary to evaluate the 3642  
application. Not later than ninety days after the suspension, 3643  
the commission shall issue either a financing order, granting 3644  
the application in whole or with modifications, or an order 3645  
rejecting the application. 3646

(D) (1) The commission shall not issue a financing order 3647  
under division (C) of this section unless the commission 3648  
determines that the financing order is consistent with section 3649  
4928.02 of the Revised Code. 3650

(2) Except as provided in division (D) (1) of this section, 3651  
the commission shall issue a financing order under division (C) 3652  
of this section if, at the time the financing order is issued, 3653  
the commission finds that the issuance of the phase-in-recovery 3654  
bonds and the phase-in-recovery charges authorized by the order 3655  
results in, consistent with market conditions, both measurably 3656  
enhancing cost savings to customers and mitigating rate impacts 3657  
to customers as compared with traditional financing mechanisms 3658  
or traditional cost-recovery methods available to the electric 3659

distribution utility or, if the commission previously approved a 3660  
recovery method, as compared with that recovery method. 3661

(E) The commission shall include all of the following in a 3662  
financing order issued under division (C) of this section: 3663

(1) A determination of the maximum amount and a 3664  
description of the phase-in costs that may be recovered through 3665  
phase-in-recovery bonds issued under the financing order; 3666

(2) A description of phase-in-recovery property, the 3667  
creation of which is authorized by the financing order; 3668

(3) A description of the financing costs that may be 3669  
recovered through phase-in-recovery charges and the period over 3670  
which those costs may be recovered; 3671

(4) For phase-in-recovery charges not subject to 3672  
allocation according to an existing order, a description of the 3673  
methodology and calculation for allocating phase-in-recovery 3674  
charges among customer classes, including the allocation of such 3675  
charges, if any, to governmental aggregation customers based 3676  
upon the proportionate benefit determination made under division 3677  
(I) of section 4928.20 of the Revised Code; 3678

(5) A description of the adjustment mechanism for use in 3679  
the imposition, charging, and collection of the phase-in- 3680  
recovery charges; 3681

(6) The maximum term of the phase-in-recovery bonds; 3682

(7) Any other provision the commission considers 3683  
appropriate to ensure the full and timely imposition, charging, 3684  
collection, and adjustment, pursuant to an approved adjustment 3685  
mechanism, of the phase-in-recovery charges described in 3686  
divisions (E) (3) to (5) of this section. 3687

(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 3718  
component of retail electric service, as specified in the 3719  
utility's rate unbundling plan required by division (A) (1) of 3720  
section 4928.31 of the Revised Code, equal the tariff rates 3721  
determined by the federal energy regulatory commission that are 3722  
in effect on the date of the approval of the transition plan 3723  
under sections 4928.31 to 4928.40 of the Revised Code, as each 3724  
such rate is determined applicable to each particular customer 3725  
class and rate schedule by the commission. The unbundled 3726  
transmission component shall include a sliding scale of charges 3727  
under division (B) of section 4905.31 of the Revised Code to 3728  
ensure that refunds determined or approved by the federal energy 3729  
regulatory commission are flowed through to retail electric 3730  
customers. 3731

(2) The unbundled components for retail electric 3732  
distribution service in the rate unbundling plan equal the 3733  
difference between the costs attributable to the utility's 3734  
transmission and distribution rates and charges under its 3735  
schedule of rates and charges in effect on the effective date of 3736  
this section, based upon the record in the most recent rate 3737  
proceeding of the utility for which the utility's schedule was 3738  
established, and the tariff rates for electric transmission 3739  
service determined by the federal energy regulatory commission 3740  
as described in division (A) (1) of this section. 3741

(3) All other unbundled components required by the 3742  
commission in the rate unbundling plan equal the costs 3743  
attributable to the particular service as reflected in the 3744  
utility's schedule of rates and charges in effect on the 3745  
effective date of this section. 3746

(4) The unbundled components for retail electric 3747



generation service in the rate unbundling plan equal the 3748  
residual amount remaining after the determination of the 3749  
transmission, distribution, and other unbundled components, and 3750  
after any adjustments necessary to reflect the effects of the 3751  
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3752  
No. 3 of the 123rd general assembly. 3753

(5) All unbundled components in the rate unbundling plan 3754  
have been adjusted to reflect any base rate reductions on file 3755  
with the commission and as scheduled to be in effect by December 3756  
31, 2005, under rate settlements in effect on the effective date 3757  
of this section. However, all earnings obligations, 3758  
restrictions, or caps imposed on an electric utility in a 3759  
commission order prior to the effective date of this section are 3760  
void. 3761

(6) Subject to division (A) (5) of this section, the total 3762  
of all unbundled components in the rate unbundling plan are 3763  
capped and shall equal during the market development period, 3764  
except as specifically provided in this chapter, the total of 3765  
all rates and charges in effect under the applicable bundled 3766  
schedule of the electric utility pursuant to section 4905.30 of 3767  
the Revised Code in effect on the day before the effective date 3768  
of this section, including the transition charge determined 3769  
under section 4928.40 of the Revised Code, adjusted for any 3770  
changes in the taxation of electric utilities and retail 3771  
electric service under Sub. S.B. No. 3 of the 123rd General 3772  
Assembly, the universal service rider authorized by section 3773  
4928.51 of the Revised Code, and the temporary rider authorized 3774  
by section 4928.61 of the Revised Code. For the purpose of this 3775  
division, the rate cap applicable to a customer receiving 3776  
electric service pursuant to an arrangement approved by the 3777  
commission under section 4905.31 of the Revised Code is, for the 3778

term of the arrangement, the total of all rates and charges in 3779  
effect under the arrangement. For any rate schedule filed 3780  
pursuant to section 4905.30 of the Revised Code or any 3781  
arrangement subject to approval pursuant to section 4905.31 of 3782  
the Revised Code, the initial tax-related adjustment to the rate 3783  
cap required by this division shall be equal to the rate of 3784  
taxation specified in section 5727.81 of the Revised Code and 3785  
applicable to the schedule or arrangement. To the extent such 3786  
total annual amount of the tax-related adjustment is greater 3787  
than or less than the comparable amount of the total annual tax 3788  
reduction experienced by the electric utility as a result of the 3789  
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3790  
such difference shall be addressed by the commission through 3791  
accounting procedures, refunds, or an annual surcharge or credit 3792  
to customers, or through other appropriate means, to avoid 3793  
placing the financial responsibility for the difference upon the 3794  
electric utility or its shareholders. Any adjustments in the 3795  
rate of taxation specified in section 5727.81 of the Revised 3796  
Code ~~section~~ shall not occur without a corresponding adjustment 3797  
to the rate cap for each such rate schedule or arrangement. The 3798  
department of taxation shall advise the commission and self- 3799  
assessors under section 5727.81 of the Revised Code prior to the 3800  
effective date of any change in the rate of taxation specified 3801  
under that section, and the commission shall modify the rate cap 3802  
to reflect that adjustment so that the rate cap adjustment is 3803  
effective as of the effective date of the change in the rate of 3804  
taxation. This division shall be applied, to the extent 3805  
possible, to eliminate any increase in the price of electricity 3806  
for customers that otherwise may occur as a result of 3807  
establishing the taxes contemplated in section 5727.81 of the 3808  
Revised Code. 3809

(7) The rate unbundling plan complies with any rules 3810  
adopted by the commission under division (A) of section 4928.06 3811  
of the Revised Code. 3812

(8) The corporate separation plan required by division (A) 3813  
(2) of section 4928.31 of the Revised Code complies with section 3814  
4928.17 of the Revised Code and any rules adopted by the 3815  
commission under division (A) of section 4928.06 of the Revised 3816  
Code. 3817

(9) Any plan or plans the commission requires to address 3818  
operational support systems and any other technical 3819  
implementation issues pertaining to competitive retail electric 3820  
service comply with any rules adopted by the commission under 3821  
division (A) of section 4928.06 of the Revised Code. 3822

(10) The employee assistance plan required by division (A) 3823  
(4) of section 4928.31 of the Revised Code sufficiently provides 3824  
severance, retraining, early retirement, retention, 3825  
outplacement, and other assistance for the utility's employees 3826  
whose employment is affected by electric industry restructuring 3827  
under this chapter. 3828

(11) The consumer education plan required under division 3829  
(A) (5) of section 4928.31 of the Revised Code complies with 3830  
former section 4928.42 of the Revised Code and any rules adopted 3831  
by the commission under division (A) of section 4928.06 of the 3832  
Revised Code. 3833

(12) The transition revenues for which an electric utility 3834  
is authorized a revenue opportunity under sections 4928.31 to 3835  
4928.40 of the Revised Code are the allowable transition costs 3836  
of the utility as such costs are determined by the commission 3837  
pursuant to section 4928.39 of the Revised Code, and the 3838

transition charges for the customer classes and rate schedules 3839  
of the utility are the charges determined pursuant to section 3840  
4928.40 of the Revised Code. 3841

(13) Any independent transmission plan included in the 3842  
transition plan filed under section 4928.31 of the Revised Code 3843  
reasonably complies with section 4928.12 of the Revised Code and 3844  
any rules adopted by the commission under division (A) of 3845  
section 4928.06 of the Revised Code, unless the commission, for 3846  
good cause shown, authorizes the utility to defer compliance 3847  
until an order is issued under division (G) of section 4928.35 3848  
of the Revised Code. 3849

(14) The utility is in compliance with sections 4928.01 to 3850  
4928.11 of the Revised Code and any rules or orders of the 3851  
commission adopted or issued under those sections. 3852

(15) All unbundled components in the rate unbundling plan 3853  
have been adjusted to reflect the elimination of the tax on 3854  
gross receipts imposed by section 5727.30 of the Revised Code. 3855

In addition, a transition plan approved by the commission 3856  
under section 4928.33 of the Revised Code but not containing an 3857  
approved independent transmission plan shall contain the express 3858  
conditions that the utility will comply with an order issued 3859  
under division (G) of section 4928.35 of the Revised Code. 3860

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3861  
~~Revised Code, if~~ If the commission finds that any part of the 3862  
transition plan would constitute an abandonment under sections 3863  
4905.20 and 4905.21 of the Revised Code, the commission shall 3864  
not approve that part of the transition plan unless it makes the 3865  
finding required for approval of an abandonment application 3866  
under section 4905.21 of the Revised Code. Sections 4905.20 and 3867

4905.21 of the Revised Code otherwise shall not apply to a 3868  
transition plan under sections 4928.31 to 4928.40 of the Revised 3869  
Code. 3870

**Sec. 4928.542.** The winning bid or bids selected through 3871  
the competitive procurement process established under section 3872  
4928.54 of the Revised Code shall meet all of the following 3873  
requirements: 3874

(A) Be designed to provide reliable competitive retail 3875  
electric service to percentage of income payment plan program 3876  
customers; 3877

(B) Reduce the cost of the percentage of income payment 3878  
plan program relative to the otherwise applicable standard 3879  
service offer established under sections 4928.141, and 4928.142, 3880  
~~and 4928.143~~ of the Revised Code; 3881

(C) Result in the best value for persons paying the 3882  
universal service rider under section 4928.52 of the Revised 3883  
Code. 3884

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 3885  
renewable energy resource" means a renewable energy resource, as 3886  
defined in section 4928.01 of the Revised Code that: 3887

(a) Has a placed-in-service date on or after January 1, 3888  
1998; 3889

(b) Is any run-of-the-river hydroelectric facility that 3890  
has an in-service date on or after January 1, 1980; 3891

(c) Is a small hydroelectric facility; 3892

(d) Is created on or after January 1, 1998, by the 3893  
modification or retrofit of any facility placed in service prior 3894  
to January 1, 1998; or 3895

(e) Is a mercantile customer-sited renewable energy 3896  
resource, whether new or existing, that the mercantile customer 3897  
commits for integration into the electric distribution utility's 3898  
demand-response, energy efficiency, or peak demand reduction 3899  
programs as provided under division (A) (2) (c) of section 4928.66 3900  
of the Revised Code, including, but not limited to, any of the 3901  
following: 3902

(i) A resource that has the effect of improving the 3903  
relationship between real and reactive power; 3904

(ii) A resource that makes efficient use of waste heat or 3905  
other thermal capabilities owned or controlled by a mercantile 3906  
customer; 3907

(iii) Storage technology that allows a mercantile customer 3908  
more flexibility to modify its demand or load and usage 3909  
characteristics; 3910

(iv) Electric generation equipment owned or controlled by 3911  
a mercantile customer that uses a renewable energy resource. 3912

(2) For the purpose of this section and as it considers 3913  
appropriate, the public utilities commission may classify any 3914  
new technology as such a qualifying renewable energy resource. 3915

(B) (1) By the end of 2026, an electric distribution 3916  
utility shall have provided from qualifying renewable energy 3917  
resources, including, at its discretion, qualifying renewable 3918  
energy resources obtained pursuant to an electricity supply 3919  
contract, a portion of the electricity supply required for its 3920  
standard service offer under ~~section~~sections 4928.141 and 3921  
4928.142 of the Revised Code, and an electric services company 3922  
shall have provided a portion of its electricity supply for 3923  
retail consumers in this state from qualifying renewable energy 3924

resources, including, at its discretion, qualifying renewable 3925  
energy resources obtained pursuant to an electricity supply 3926  
contract. That portion shall equal eight and one-half per cent 3927  
of the total number of kilowatt hours of electricity sold by the 3928  
subject utility or company to any and all retail electric 3929  
consumers whose electric load centers are served by that utility 3930  
and are located within the utility's certified territory or, in 3931  
the case of an electric services company, are served by the 3932  
company and are located within this state. However, nothing in 3933  
this section precludes a utility or company from providing a 3934  
greater percentage. 3935

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3936  
The portion required under division (B)(1) of this section shall 3937  
be generated from renewable energy resources in accordance with 3938  
the following benchmarks: 3939

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

I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5%	0%
N	2021	6%	0%
O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%
R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented 3941  
by the utility or company shall be met either: 3942

(a) Through facilities located in this state; or 3943

(b) With resources that can be shown to be deliverable 3944  
into this state. 3945

(C) (1) The commission annually shall review an electric 3946  
distribution utility's or electric services company's compliance 3947  
with the most recent applicable benchmark under division (B) (2) 3948  
of this section and, in the course of that review, shall 3949  
identify any undercompliance or noncompliance of the utility or 3950  
company that it determines is weather-related, related to 3951



equipment or resource shortages for qualifying renewable energy 3952  
resources as applicable, or is otherwise outside the utility's 3953  
or company's control. 3954

(2) Subject to the cost cap provisions of division (C) (3) 3955  
of this section, if the commission determines, after notice and 3956  
opportunity for hearing, and based upon its findings in that 3957  
review regarding avoidable undercompliance or noncompliance, but 3958  
subject to division (C) (4) of this section, that the utility or 3959  
company has failed to comply with any such benchmark, the 3960  
commission shall impose a renewable energy compliance payment on 3961  
the utility or company. 3962

(a) The compliance payment pertaining to the solar energy 3963  
resource benchmarks under division (B) (2) of this section shall 3964  
be an amount per megawatt hour of undercompliance or 3965  
noncompliance in the period under review, as follows: 3966

(i) Three hundred dollars for 2014, 2015, and 2016; 3967

(ii) Two hundred fifty dollars for 2017 and 2018; 3968

(iii) Two hundred dollars for 2019. 3969

(b) The compliance payment pertaining to the renewable 3970  
energy resource benchmarks under division (B) (2) of this section 3971  
shall equal the number of additional renewable energy credits 3972  
that the electric distribution utility or electric services 3973  
company would have needed to comply with the applicable 3974  
benchmark in the period under review times an amount that shall 3975  
begin at forty-five dollars and shall be adjusted annually by 3976  
the commission to reflect any change in the consumer price index 3977  
~~as defined in section 101.27 of the Revised Code~~, but shall not 3978  
be less than forty-five dollars. As used in this division, 3979  
"consumer price index" means the consumer price index prepared 3980

by the United States bureau of labor statistics (U.S. city 3981  
average for urban wage earners and clerical workers: all items, 3982  
1982-1984=100), or, if that index is no longer published, a 3983  
generally available comparable index. 3984

(c) The compliance payment shall not be passed through by 3985  
the electric distribution utility or electric services company 3986  
to consumers. The compliance payment shall be remitted to the 3987  
commission, for deposit to the credit of the advanced energy 3988  
fund created under section 4928.61 of the Revised Code. Payment 3989  
of the compliance payment shall be subject to such collection 3990  
and enforcement procedures as apply to the collection of a 3991  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3992  
Revised Code. 3993

(3) An electric distribution utility or an electric 3994  
services company need not comply with a benchmark under division 3995  
(B) (2) of this section to the extent that its reasonably 3996  
expected cost of that compliance exceeds its reasonably expected 3997  
cost of otherwise producing or acquiring the requisite 3998  
electricity by three per cent or more. The cost of compliance 3999  
shall be calculated as though any exemption from taxes and 4000  
assessments had not been granted under section 5727.75 of the 4001  
Revised Code. 4002

(4) (a) An electric distribution utility or electric 4003  
services company may request the commission to make a force 4004  
majeure determination pursuant to this division regarding all or 4005  
part of the utility's or company's compliance with any minimum 4006  
benchmark under division (B) (2) of this section during the 4007  
period of review occurring pursuant to division (C) (2) of this 4008  
section. The commission may require the electric distribution 4009  
utility or electric services company to make solicitations for 4010

renewable energy resource credits as part of its default service 4011  
before the utility's or company's request of force majeure under 4012  
this division can be made. 4013

(b) Within ninety days after the filing of a request by an 4014  
electric distribution utility or electric services company under 4015  
division (C) (4) (a) of this section, the commission shall 4016  
determine if qualifying renewable energy resources are 4017  
reasonably available in the marketplace in sufficient quantities 4018  
for the utility or company to comply with the subject minimum 4019  
benchmark during the review period. In making this 4020  
determination, the commission shall consider whether the 4021  
electric distribution utility or electric services company has 4022  
made a good faith effort to acquire sufficient qualifying 4023  
renewable energy or, as applicable, solar energy resources to so 4024  
comply, including, but not limited to, by banking or seeking 4025  
renewable energy resource credits or by seeking the resources 4026  
through long-term contracts. Additionally, the commission shall 4027  
consider the availability of qualifying renewable energy or 4028  
solar energy resources in this state and other jurisdictions in 4029  
the PJM interconnection regional transmission organization, 4030  
L.L.C., or its successor and the midcontinent independent system 4031  
operator or its successor. 4032

(c) If, pursuant to division (C) (4) (b) of this section, 4033  
the commission determines that qualifying renewable energy or 4034  
solar energy resources are not reasonably available to permit 4035  
the electric distribution utility or electric services company 4036  
to comply, during the period of review, with the subject minimum 4037  
benchmark prescribed under division (B) (2) of this section, the 4038  
commission shall modify that compliance obligation of the 4039  
utility or company as it determines appropriate to accommodate 4040  
the finding. Commission modification shall not automatically 4041

reduce the obligation for the electric distribution utility's or 4042  
electric services company's compliance in subsequent years. If 4043  
it modifies the electric distribution utility or electric 4044  
services company obligation under division (C) (4) (c) of this 4045  
section, the commission may require the utility or company, if 4046  
sufficient renewable energy resource credits exist in the 4047  
marketplace, to acquire additional renewable energy resource 4048  
credits in subsequent years equivalent to the utility's or 4049  
company's modified obligation under division (C) (4) (c) of this 4050  
section. 4051

(5) The commission shall establish a process to provide 4052  
for at least an annual review of the renewable energy resource 4053  
market in this state and in the service territories of the 4054  
regional transmission organizations that manage transmission 4055  
systems located in this state. The commission shall use the 4056  
results of this study to identify any needed changes to the 4057  
amount of the renewable energy compliance payment specified 4058  
under divisions (C) (2) (a) and (b) of this section. Specifically, 4059  
the commission may increase the amount to ensure that payment of 4060  
compliance payments is not used to achieve compliance with this 4061  
section in lieu of actually acquiring or realizing energy 4062  
derived from qualifying renewable energy resources. However, if 4063  
the commission finds that the amount of the compliance payment 4064  
should be otherwise changed, the commission shall present this 4065  
finding to the general assembly for legislative enactment. 4066

(D) The commission annually shall submit to the general 4067  
assembly in accordance with section 101.68 of the Revised Code a 4068  
report describing all of the following: 4069

(1) The compliance of electric distribution utilities and 4070  
electric services companies with division (B) of this section; 4071

(2) The average annual cost of renewable energy credits 4072  
purchased by utilities and companies for the year covered in the 4073  
report; 4074

(3) Any strategy for utility and company compliance or for 4075  
encouraging the use of qualifying renewable energy resources in 4076  
supplying this state's electricity needs in a manner that 4077  
considers available technology, costs, job creation, and 4078  
economic impacts. 4079

The commission shall begin providing the information 4080  
described in division (D)(2) of this section in each report 4081  
submitted after September 10, 2012. The commission shall allow 4082  
and consider public comments on the report prior to its 4083  
submission to the general assembly. Nothing in the report shall 4084  
be binding on any person, including any utility or company for 4085  
the purpose of its compliance with any benchmark under division 4086  
(B) of this section, or the enforcement of that provision under 4087  
division (C) of this section. 4088

(E) All costs incurred by an electric distribution utility 4089  
in complying with the requirements of this section shall be 4090  
bypassable by any consumer that has exercised choice of supplier 4091  
under section 4928.03 of the Revised Code. 4092

**Sec. 4928.645.** (A) An electric distribution utility or 4093  
electric services company may use, for the purpose of complying 4094  
with the requirements under divisions (B)(1) and (2) of section 4095  
4928.64 of the Revised Code, renewable energy credits any time 4096  
in the five calendar years following the date of their purchase 4097  
or acquisition from any entity, including, but not limited to, 4098  
the following: 4099

(1) A mercantile customer; 4100

(2) An owner or operator of a hydroelectric generating 4101  
facility that is located at a dam on a river, or on any water 4102  
discharged to a river, that is within or bordering this state or 4103  
within or bordering an adjoining state, or that produces power 4104  
that can be shown to be deliverable into this state; 4105

(3) A seller of compressed natural gas that has been 4106  
produced from biologically derived methane gas, provided that 4107  
the seller may only provide renewable energy credits for metered 4108  
amounts of gas. 4109

(B) (1) The public utilities commission shall adopt rules 4110  
specifying that one unit of credit shall equal one megawatt hour 4111  
of electricity derived from renewable energy resources, except 4112  
that, for a generating facility of seventy-five megawatts or 4113  
greater that is situated within this state and has committed by 4114  
December 31, 2009, to modify or retrofit its generating unit or 4115  
units to enable the facility to generate principally from 4116  
biomass energy by June 30, 2013, each megawatt hour of 4117  
electricity generated principally from that biomass energy shall 4118  
equal, in units of credit, the product obtained by multiplying 4119  
the actual percentage of biomass feedstock heat input used to 4120  
generate such megawatt hour by the quotient obtained by dividing 4121  
the then existing unit dollar amount used to determine a 4122  
renewable energy compliance payment as provided under division 4123  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 4124  
existing market value of one renewable energy credit, but such 4125  
megawatt hour shall not equal less than one unit of credit. 4126  
Renewable energy resources do not have to be converted to 4127  
electricity in order to be eligible to receive renewable energy 4128  
credits. The rules shall specify that, for purposes of 4129  
converting the quantity of energy derived from biologically 4130  
derived methane gas to an electricity equivalent, one megawatt 4131

hour equals 3,412,142 British thermal units. 4132

(2) The rules also shall provide for this state a system 4133  
of registering renewable energy credits by specifying which of 4134  
any generally available registries shall be used for that 4135  
purpose and not by creating a registry. That selected system of 4136  
registering renewable energy credits shall allow a hydroelectric 4137  
generating facility to be eligible for obtaining renewable 4138  
energy credits and shall allow customer-sited projects or 4139  
actions the broadest opportunities to be eligible for obtaining 4140  
renewable energy credits. 4141

~~(C) Beginning January 1, 2020, a qualifying solar resource 4142  
as defined in section 3706.40 of the Revised Code is not 4143  
eligible to obtain a renewable energy credit under this section 4144  
for any megawatt hour for which the resource has been issued a 4145  
solar energy credit under section 3706.45 of the Revised Code. 4146~~

~~(D) Except for compressed natural gas that has been 4147  
produced from biologically derived methane gas, energy generated 4148  
by using natural gas as a resource is not eligible to obtain a 4149  
renewable energy credit under this section. 4150~~

**Sec. 4928.73.** (A) As used in this section: 4151

(1) "Mercantile customer member" means a mercantile 4152  
customer connected to a mercantile customer self-power system. 4153

(2) "Mercantile customer self-power system" means one or 4154  
more electric generation facilities, electric storage 4155  
facilities, or both, along with any associated facilities, that 4156  
meet all of the following: 4157

(a) Produce electricity primarily for the consumption of a 4158  
mercantile customer member or a group of mercantile customer 4159  
members; 4160

(b) Connect directly to the mercantile customer member's 4161  
side of the electric meter; 4162

(c) Deliver electricity to the mercantile customer 4163  
member's side of the electric meter without the use of an 4164  
electric distribution utility's or electric cooperative's 4165  
distribution system or transmission system; 4166

(d) Is located on either of the following: 4167

(i) A property owned or controlled by a mercantile 4168  
customer member or the entity that owns or operates the 4169  
mercantile customer self-power system; 4170

(ii) Land adjacent to a mercantile customer member if the 4171  
facilities connect directly with the customer. 4172

(B) The mercantile customer self-power system may be owned 4173  
or operated by a mercantile customer member, group of mercantile 4174  
customer members, or an entity that is not a mercantile customer 4175  
member. 4176

(C) A mercantile customer self-power system may provide 4177  
electric generation service to one or more mercantile customers. 4178

(D) The public utilities commission shall adopt rules to 4179  
implement this section that are applicable to electric 4180  
distribution utilities. 4181

(E) Nothing in this section prohibits an electric 4182  
distribution utility or an electric cooperative from charging a 4183  
mercantile customer for distribution or transmission service 4184  
used by a mercantile customer. 4185

**Sec. 4928.83.** (A) Not later than May 31, 2026, every 4186  
electric distribution utility in the state shall develop and 4187  
publicly share distribution system hosting capacity maps. The 4188



utility shall ensure that the maps are available on the 4189  
utility's web site and shall be updated at least once per 4190  
quarter. 4191

(B) The maps described in division (A) of this section 4192  
shall include, at a minimum: 4193

(1) Total available distribution hosting capacity, 4194  
expressed in megawatts, for new loads; 4195

(2) Separate hosting capacity availability for distributed 4196  
energy resources or a separate distributed energy resource 4197  
specific map; 4198

(3) Geographic locations and voltage levels of circuits 4199  
and substations; 4200

(4) Total, existing, and queued loads or generation 4201  
exceeding one megawatt per circuit and substation; 4202

(5) Available substation and circuit capacity expressed in 4203  
megawatts. 4204

(C) The public utilities commission shall hold at least 4205  
two stakeholder meetings annually to receive input on map 4206  
design, data accuracy, and usability. In addition, the 4207  
commission shall establish uniform reporting standards to ensure 4208  
consistency across all electric distribution utilities. The 4209  
commission may also require utilities to include additional data 4210  
points as necessary to improve transparency and planning. 4211

(D) Each electric distribution utility shall publish 4212  
annual reliability reports, including the following metrics, 4213  
identified per circuit: 4214

(1) The system average interruption frequency index, 4215  
representing the average number of interruptions per customer; 4216

(2) The customer average interruption duration index, 4217  
representing the average interruption duration or average time 4218  
to restore service per interrupted customer; 4219

(3) Customers experiencing multiple interruptions, which 4220  
identifies customers experiencing at least five interruptions 4221  
annually divided by the total number of customers served; 4222

(4) Customers experiencing long interruption durations, 4223  
which identifies customers that experienced outages of one or 4224  
more hours in duration divided by the total number of customers 4225  
served; 4226

(5) Average outage frequency and duration per circuit and 4227  
substation; 4228

(6) Identification of circuits and substations with 4229  
persistent reliability issues; 4230

(7) Planned and completed upgrades to enhance grid 4231  
reliability. 4232

(E) The commission shall review and publish a statewide 4233  
reliability report annually, summarizing trends and recommending 4234  
grid modernization measures. 4235

**Sec. 4928.86.** (A) Except as provided in division (C) of 4236  
this section, each entity that owns or controls transmission 4237  
facilities located in this state and is not a regional 4238  
transmission organization shall create a heat map that includes 4239  
both of the following: 4240

(1) For major transmission lines and substations, the 4241  
additional power load the lines and substations can take at the 4242  
time that the map is created, accounting for all signed electric 4243  
service agreements; 4244

(2) The amount of localized generation that can be hosted 4245  
on each transmission line. 4246

(B) If a heat map created under this section is not 4247  
critical electric infrastructure information, then the entity 4248  
that created the map shall publish the map on the entity's web 4249  
site. 4250

(C) The following entities are exempt from the 4251  
requirements of this section: 4252

(1) An electric utility owned or operated by a municipal 4253  
corporation; 4254

(2) An electric cooperative. 4255

**Sec. 4929.20.** ~~(A)~~ (A) (1) No governmental aggregator as 4256  
defined in division (K) (1) of section 4929.01 of the Revised 4257  
Code or no retail natural gas supplier shall provide a 4258  
competitive retail natural gas service on or after thirteen 4259  
months following ~~the effective date of this section~~ June 26, 4260  
2001, to a consumer in this state without first being certified 4261  
by the public utilities commission regarding its managerial, 4262  
technical, and financial capability to provide that service and 4263  
providing reasonable financial assurances sufficient to protect 4264  
customers and natural gas companies from default. ~~In addition, a~~ 4265  
~~retail natural gas supplier may be required to provide a~~ 4266  
~~performance bond sufficient to protect customers and natural gas~~ 4267  
~~companies from default.~~ Certification shall be granted pursuant 4268  
to procedures and standards the commission shall prescribe in 4269  
accordance with rules adopted under section 4929.10 of the 4270  
Revised Code. However, certification or certification renewal 4271  
shall be deemed approved thirty days after the filing of an 4272  
application with the commission unless the commission suspends 4273

that approval for good cause shown. In the case of such a 4274  
suspension, the commission shall act to approve or deny 4275  
certification or certification renewal to the applicant not 4276  
later than ninety days after the date of the suspension. 4277

(2) The commission shall establish rules to require a 4278  
competitive retail natural gas supplier to maintain financial 4279  
assurances sufficient to protect customers and natural gas 4280  
companies from default. Such rules also shall specifically allow 4281  
a natural gas company to set reasonable standards for its 4282  
security and the security of its customers through financial 4283  
requirements set in its tariffs. 4284

(3) As used in division (A) (2) of this section, "retail 4285  
natural gas supplier" has the same meaning as in section 4929.01 4286  
of the Revised Code, but excludes a broker or aggregator. 4287

(B) Capability standards adopted in rules pursuant to 4288  
division (A) of this section shall be sufficient to ensure 4289  
compliance with section 4929.22 of the Revised Code and with the 4290  
minimum service requirements established under section 4929.23 4291  
of the Revised Code. The standards shall allow flexibility for 4292  
voluntary aggregation, to encourage market creativity in 4293  
responding to consumer needs and demands. The rules shall 4294  
include procedures for biennially renewing certification. 4295

(C) (1) The commission may suspend, rescind, or 4296  
conditionally rescind the certification of any retail natural 4297  
gas supplier or governmental aggregator issued under this 4298  
section if the commission determines, after reasonable notice 4299  
and opportunity for hearing, that the retail natural gas 4300  
supplier or governmental aggregator has failed to comply with 4301  
any applicable certification standards prescribed in rules 4302  
adopted pursuant to this section or section 4929.22 of the 4303

Revised Code. 4304

(2) An affected natural gas company may file an 4305  
application with the commission for approval of authority to 4306  
recover in accordance with division (C)(2) of this section 4307  
incremental costs reasonably and prudently incurred by the 4308  
company in connection with the commission's continuation, 4309  
suspension, rescission, or conditional rescission of a 4310  
particular retail natural gas supplier's certification under 4311  
division (C)(1) of this section. Upon the filing of such an 4312  
application, the commission shall conduct an audit of such 4313  
incremental costs as are specified in the application. Cost 4314  
recovery shall be through a rider on the base rates of customers 4315  
of the company for which there is a choice of supplier of 4316  
commodity sales service as a result of revised schedules 4317  
approved under division (C) of section 4929.29 of the Revised 4318  
Code, a rule or order adopted or issued by the commission under 4319  
Chapter 4905. of the Revised Code, or an exemption granted by 4320  
the commission under sections 4929.04 to 4929.08 of the Revised 4321  
Code. The rider shall take effect ninety days after the date of 4322  
the application's filing unless the commission, based on the 4323  
audit results and for good cause shown, sets the matter for 4324  
hearing. After the hearing, the commission shall approve the 4325  
application, and authorize such cost recovery rider effective on 4326  
the date specified in the order, only for such incremental costs 4327  
as the commission determines were reasonably and prudently 4328  
incurred by the company in connection with the continuation, 4329  
suspension, rescission, or conditional rescission of a retail 4330  
natural gas supplier's certification under division (C)(1) of 4331  
this section. Any proceeding under division (C)(2) of this 4332  
section shall be governed by Chapter 4903. of the Revised Code. 4333

(D) No natural gas company, on and after thirteen months 4334

following ~~the effective date of this section~~ June 26, 2001, 4335  
shall knowingly distribute natural gas, to a retail consumer in 4336  
this state, for any governmental aggregator, as defined in 4337  
division (K) (1) of section 4929.01 of the Revised Code, or 4338  
retail natural gas supplier, that has not been certified by the 4339  
commission pursuant to this section. 4340

(E) Notwithstanding any provision of section 121.95 of the 4341  
Revised Code to the contrary, a regulatory restriction contained 4342  
in a rule adopted under section 4929.20 of the Revised Code is 4343  
not subject to sections 121.95 to 121.953 of the Revised Code. 4344

**Sec. 4929.221.** (A) If a competitive retail natural gas 4345  
service supplier offers a residential customer or non-mercantile 4346  
commercial customer a contract for a fixed introductory rate 4347  
that converts to a variable rate upon the expiration of the 4348  
fixed rate, the supplier shall send two notices to each 4349  
residential customer and non-mercantile commercial customer that 4350  
enters into such a contract. Each notice shall provide all of 4351  
the following information to the customer: 4352

(1) The fixed rate that is expiring under the contract; 4353

(2) The expiration date of the contract's fixed rate; 4354

(3) The public utilities commission web site that, as a 4355  
comparison tool, lists rates offered by competitive retail 4356  
natural gas service suppliers. 4357

(B) The second notice shall include all the information 4358  
required under division (A) of this section and shall also 4359  
identify the initial rate to be charged upon the contract's 4360  
conversion to a variable rate. 4361

(C) The notices shall be sent by standard United States 4362  
mail or electronically with a customer's verifiable consent as 4363

follows:

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

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

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

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

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

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

(F) Notwithstanding any provision of section 121.95 of the  
Revised Code to the contrary, a regulatory restriction contained  
in a rule adopted under section 4929.221 of the Revised Code is

not subject to sections 121.95 to 121.953 of the Revised Code. 4393

**Sec. 4929.222.** (A) As used in this section, "customer 4394  
account information" means a unique natural gas company number 4395  
or other customer identification number used by the company to 4396  
identify a customer and the customer's account record. 4397

(B) The public utilities commission shall adopt rules to 4398  
ensure that a natural gas company processes a customer's change 4399  
in competitive retail natural gas supplier by using customer 4400  
account information. A customer who consents to a change of 4401  
supplier shall not be required to provide customer account 4402  
information to the supplier if the customer provides a valid 4403  
form of government-issued identification issued to the customer 4404  
or a sufficient alternative form of identification that allows 4405  
the supplier to establish the customer's identity accurately. 4406

(C) Notwithstanding any provision of section 121.95 of the 4407  
Revised Code to the contrary, a regulatory restriction contained 4408  
in a rule adopted under this section is not subject to sections 4409  
121.95 to 121.953 of the Revised Code. 4410

**Sec. 4933.81.** As used in sections 4933.81 to 4933.90 of 4411  
the Revised Code: 4412

(A) "Electric supplier" means any electric light company 4413  
as defined in section 4905.03 of the Revised Code, including 4414  
electric light companies organized as nonprofit corporations, 4415  
but not including municipal corporations or other units of local 4416  
government that provide electric service. 4417

(B) "Adequate facilities" means distribution lines or 4418  
facilities having sufficient capacity to meet the maximum 4419  
estimated electric service requirements of its existing 4420  
customers and of any new customer occurring during the year 4421



following the commencement of permanent electric service, and to 4422  
assure all such customers of reasonable continuity and quality 4423  
of service. Distribution facilities and lines of an electric 4424  
supplier shall be considered "adequate facilities" if such 4425  
supplier offers to undertake to make its distribution facilities 4426  
and lines meet such service requirements and, in the 4427  
determination of the public utilities commission, can do so 4428  
within a reasonable time. 4429

(C) "Distribution line" means any electric line that is 4430  
being or has been used primarily to provide electric service 4431  
directly to electric load centers by the owner of such line. 4432

(D) "Existing distribution line" means any distribution 4433  
line of an electric supplier which was in existence on January 4434  
1, 1977, or under construction on that date. 4435

(E) "Electric load center" means all the electric- 4436  
consuming facilities of any type or character owned, occupied, 4437  
controlled, or used by a person at a single location, which 4438  
facilities have been, are, or will be connected to and served at 4439  
a metered point of delivery and to which electric service has 4440  
been, is, or will be rendered. 4441

(F) "Electric service" means retail electric service 4442  
furnished to an electric load center for ultimate consumption, 4443  
but excludes furnishing electric power or energy at wholesale 4444  
for resale. In the case of a for-profit electric supplier and 4445  
beginning on the starting date of competitive retail electric 4446  
service as defined in section 4928.01 of the Revised Code, 4447  
"electric service" also excludes a competitive retail electric 4448  
service.—, and, starting after the effective date of amendments 4449  
to this section by this act, excludes: 4450

(1) Retail electric service provided to a mercantile 4451  
customer member by a mercantile customer self-power system 4452  
connected to that mercantile customer member as those terms are 4453  
defined in section 4928.73 of the Revised Code; 4454

(2) Retail electric service provided to an electric load 4455  
center to the extent the center is acting as a self-generator as 4456  
defined in section 4928.01 of the Revised Code. 4457

In the case of a not-for-profit electric supplier and 4458  
beginning on that competitive retail electric service starting 4459  
date, "electric service" also excludes any service component of 4460  
competitive retail electric service that is specified in an 4461  
irrevocable filing the electric supplier makes with the public 4462  
utilities commission for informational purposes only to 4463  
eliminate permanently its certified territory under sections 4464  
4933.81 to 4933.90 of the Revised Code as to that service 4465  
component and further excludes any new electric load centers 4466  
going into service after the effective date of amendments to 4467  
this section by this act that use retail electric service 4468  
described in division (F) (1) or (2) of this section. The filing 4469  
shall specify the date on which such territory is so eliminated. 4470  
Notwithstanding division (B) of section 4928.01 of the Revised 4471  
Code, such a service component may include retail ancillary, 4472  
metering, or billing and collection service irrespective of 4473  
whether that service component has or has not been declared 4474  
competitive under section 4928.04 of the Revised Code. Upon 4475  
receipt of the filing by the commission, the not-for-profit 4476  
electric supplier's certified territory shall be eliminated 4477  
permanently as to the service component specified in the filing 4478  
as of the date specified in the filing. As used in this 4479  
division, "competitive retail electric service" and "retail 4480  
electric service" have the same meanings as in section 4928.01 4481

of the Revised Code. 4482

(G) "Certified territory" means a geographical area the 4483  
boundaries of which have been established pursuant to sections 4484  
4933.81 to 4933.90 of the Revised Code within which an electric 4485  
supplier is authorized and required to provide electric service. 4486

(H) "Other unit of local government" means any 4487  
governmental unit or body that may come into existence after 4488  
July 12, 1978, with powers and authority similar to those of a 4489  
municipal corporation, or that is created to replace or exercise 4490  
the relevant powers of any one or more municipal corporations. 4491

**Sec. 4935.04.** (A) As used in this chapter: 4492

(1) "Major utility facility" means: 4493

(a) An electric transmission line and associated 4494  
facilities of a design capacity of one hundred twenty-five 4495  
kilovolts or more; 4496

(b) A gas or natural gas transmission line and associated 4497  
facilities designed for, or capable of, transporting gas or 4498  
natural gas at pressures in excess of one hundred twenty-five 4499  
pounds per square inch. 4500

"Major utility facility" does not include electric, gas, 4501  
or natural gas distributing lines and gas or natural gas 4502  
gathering lines and associated facilities as defined by the 4503  
public utilities commission; facilities owned or operated by 4504  
industrial firms, persons, or institutions that produce or 4505  
transmit gas or natural gas, or electricity primarily for their 4506  
own use or as a byproduct of their operations; gas or natural 4507  
gas transmission lines and associated facilities over which an 4508  
agency of the United States has certificate jurisdiction; 4509  
facilities owned or operated by a person furnishing gas or 4510

natural gas directly to fifteen thousand or fewer customers 4511  
within this state. 4512

(2) "Person" has the meaning set forth in section 4906.01 4513  
of the Revised Code. 4514

(3) "Advanced transmission technologies" has the same 4515  
meaning as in section 4906.01 of the Revised Code. 4516

(B) Each person owning or operating a gas or natural gas 4517  
transmission line and associated facilities within this state 4518  
over which an agency of the United States has certificate 4519  
jurisdiction shall furnish to the commission a copy of the 4520  
energy information filed by the person with that agency of the 4521  
United States. 4522

(C) Each person owning or operating a major utility 4523  
facility within this state, or furnishing gas, natural gas, or 4524  
electricity directly to more than fifteen thousand customers 4525  
within this state shall furnish a report to the commission for 4526  
its review. The report shall be furnished annually, except that 4527  
for a gas or natural gas company the report shall be furnished 4528  
every three years. The report shall be termed the long-term 4529  
forecast report and shall contain: 4530

(1) A year-by-year, ten-year forecast of annual energy 4531  
demand, peak load, reserves, and a general description of the 4532  
resource planning projections to meet demand; 4533

(2) A range of projected loads during the period; 4534

(3) A description of major utility facilities planned to 4535  
be added or taken out of service in the next ten years, 4536  
including, to the extent the information is available, 4537  
prospective sites for transmission line locations; 4538

(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period;

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

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

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

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

The report shall identify which advanced transmission 4569  
technologies were considered as a part of the review of the 4570  
major utility facilities for the next five years. A person shall 4571  
also include a cost evaluation comparing costs of traditional 4572  
transmission investments and costs of advanced transmission 4573  
technologies for the projects considered on the major utility 4574  
facilities applied individually, together, or in sequence. The 4575  
report shall also include an advanced transmission technology 4576  
congestion mitigation study to cost-effectively maximize the 4577  
delivery of energy resources in the near term that: 4578

(a) Identifies locations on the entity's transmission 4579  
system where congestion has occurred for a total of fifty hours 4580  
per year or more during the last three years or is likely to 4581  
occur during the next five years, including due to planned 4582  
transmission outages or other factors; 4583

(b) Estimates the frequency of congestion at each location 4584  
and the increased cost to ratepayers resulting from the 4585  
substitution of higher-priced electricity; 4586

(c) Evaluates the technical feasibility and estimates the 4587  
cost of installing one or more advanced transmission 4588  
technologies to address each instance of grid congestion 4589  
identified in division (C) (7) (a) of this section and projects 4590  
the grid-enhancing technology's efficacy in reducing congestion; 4591

(d) Analyzes the cost-effectiveness of installing grid- 4592  
enhancing technologies to address each instance of congestion 4593  
identified in division (C) (7) (a) of this section by using the 4594  
information developed in division (C) (7) (c) of this section to 4595  
calculate the payback period of each installation, using a 4596  
methodology developed by the commission; 4597

(e) Proposes an implementation plan, including a schedule 4598  
and cost estimate, to install grid-enhancing technologies at 4599  
each congestion point at which the payback period is less than 4600  
or equal to a value determined by the commission, in order to 4601  
maximize transmission system capacity, and explains the entity's 4602  
current line rating methodology. 4603

(D) The commission shall: 4604

(1) Review and comment on the reports filed under division 4605  
(C) of this section, and make the information contained in the 4606  
reports readily available to the public and other interested 4607  
government agencies; 4608

(2) Compile and publish each year the general locations of 4609  
proposed and existing transmission line routes within its 4610  
jurisdiction as identified in the reports filed under division 4611  
(C) of this section, identifying the general location of such 4612  
sites and routes and the approximate year when construction is 4613  
expected to commence, and to make such information readily 4614  
available to the public, to each newspaper of daily or weekly 4615  
circulation within the area affected by the proposed site and 4616  
route, and to interested federal, state, and local agencies; 4617

(3) Hold a public hearing upon the showing of good cause 4618  
to the commission by an interested party. 4619

If a hearing is held, the commission shall fix a time for 4620  
the hearing, which shall be not later than ninety days after the 4621  
report is filed, and publish notice of the date, time of day, 4622  
and location of the hearing in a newspaper of general 4623  
circulation in each county in which the person furnishing the 4624  
report has or intends to locate a major utility facility and 4625  
will provide service during the period covered by the report. 4626

The notice shall be published not less than fifteen nor more 4627  
than thirty days before the hearing and shall state the matters 4628  
to be considered. 4629

(4) Require such information from persons subject to its 4630  
jurisdiction as necessary to assist in the conduct of hearings 4631  
and any investigation or studies it may undertake; 4632

(5) Conduct any studies or investigations that are 4633  
necessary or appropriate to carry out its responsibilities under 4634  
this section. 4635

(6) Review and evaluate that advanced transmission 4636  
technologies were properly reported in accordance with division 4637  
(C) (7) of this section and allow stakeholders to provide 4638  
comments. 4639

(7) Approve advanced transmission technology congestion 4640  
mitigation implementation plans, including cost recovery. 4641

(E) (1) The scope of the hearing held under division (D) (3) 4642  
of this section shall be limited to issues relating to 4643  
forecasting. The power siting board, the office of consumers' 4644  
counsel, and all other persons having an interest in the 4645  
proceedings shall be afforded the opportunity to be heard and to 4646  
be represented by counsel. The commission may adjourn the 4647  
hearing from time to time. 4648

(2) The hearing shall include, but not be limited to, a 4649  
review of: 4650

(a) The projected loads and energy requirements for each 4651  
year of the period; 4652

(b) The estimated installed capacity and supplies to meet 4653  
the projected load requirements. 4654



(F) Based upon the report furnished pursuant to division 4655  
(C) of this section and the hearing record, the commission, 4656  
within ninety days from the close of the record in the hearing, 4657  
shall determine if: 4658

(1) All information relating to current activities, 4659  
facilities agreements, and published energy policies of the 4660  
state has been completely and accurately represented; 4661

(2) The load requirements are based on substantially 4662  
accurate historical information and adequate methodology; 4663

(3) The forecasting methods consider the relationships 4664  
between price and energy consumption; 4665

(4) The report identifies and projects reductions in 4666  
energy demands due to energy conservation measures in the 4667  
industrial, commercial, residential, transportation, and energy 4668  
production sectors in the service area; 4669

(5) Utility company forecasts of loads and resources are 4670  
reasonable in relation to population growth estimates made by 4671  
state and federal agencies, transportation, and economic 4672  
development plans and forecasts, and make recommendations where 4673  
possible for necessary and reasonable alternatives to meet 4674  
forecasted electric power demand; 4675

(6) The report considers plans for expansion of the 4676  
regional power grid and the planned facilities of other 4677  
utilities in the state; 4678

(7) All assumptions made in the forecast are reasonable 4679  
and adequately documented. 4680

(G) The commission shall adopt rules under section 111.15 4681  
of the Revised Code to establish criteria for evaluating the 4682

long-term forecasts of needs for gas and electric transmission 4683  
service, to conduct hearings held under this section, to 4684  
establish reasonable fees to defray the direct cost of the 4685  
hearings and the review process, and such other rules as are 4686  
necessary and convenient to implement this section. 4687

(H) The hearing record produced under this section and the 4688  
determinations of the commission shall be introduced into 4689  
evidence and shall be considered in determining the basis of 4690  
need for power siting board deliberations under division (A) (1) 4691  
of section 4906.10 of the Revised Code. The hearing record 4692  
produced under this section shall be introduced into evidence 4693  
and shall be considered by the commission in its initiation of 4694  
programs, examinations, and findings under section 4905.70 of 4695  
the Revised Code, and shall be considered in the commission's 4696  
determinations with respect to the establishment of just and 4697  
reasonable rates under section 4909.15 of the Revised Code and 4698  
financing utility facilities and authorizing issuance of all 4699  
securities under sections 4905.40, 4905.401, 4905.41, and 4700  
4905.42 of the Revised Code. The forecast findings also shall 4701  
serve as the basis for all other energy planning and development 4702  
activities of the state government where electric and gas data 4703  
are required. 4704

(I) (1) No court other than the supreme court shall have 4705  
power to review, suspend, or delay any determination made by the 4706  
commission under this section, or enjoin, restrain, or interfere 4707  
with the commission in the performance of official duties. A 4708  
writ of mandamus shall not be issued against the commission by 4709  
any court other than the supreme court. 4710

(2) A final determination made by the commission shall be 4711  
reversed, vacated, or modified by the supreme court on appeal, 4712

if, upon consideration of the record, such court is of the 4713  
opinion that such determination was unreasonable or unlawful. 4714

The proceeding to obtain such reversal, vacation, or 4715  
modification shall be by notice of appeal, filed with the 4716  
commission by any party to the proceeding before it, against the 4717  
commission, setting forth the determination appealed from and 4718  
errors complained of. The notice of appeal shall be served, 4719  
unless waived, upon the commission by leaving a copy at the 4720  
office of the chairperson of the commission at Columbus. The 4721  
court may permit an interested party to intervene by cross- 4722  
appeal. 4723

(3) No proceeding to reverse, vacate, or modify a 4724  
determination of the commission is commenced unless the notice 4725  
of appeal is filed within sixty days after the date of the 4726  
determination. 4727

**Sec. 5727.01.** As used in this chapter: 4728

(A) "Public utility" means each person referred to as a 4729  
telephone company, telegraph company, electric company, natural 4730  
gas company, pipe-line company, water-works company, water 4731  
transportation company, heating company, rural electric company, 4732  
railroad company, combined company, or energy company. 4733

(B) "Gross receipts" means the entire receipts for 4734  
business done by any person from operations as a public utility, 4735  
or incidental thereto, or in connection therewith, including any 4736  
receipts received under Chapter 4928. of the Revised Code. The 4737  
gross receipts for business done by an incorporated company 4738  
engaged in operation as a public utility includes the entire 4739  
receipts for business done by such company under the exercise of 4740  
its corporate powers, whether from the operation as a public 4741

utility or from any other business. 4742

(C) "Rural electric company" means any nonprofit 4743  
corporation, organization, association, or cooperative engaged 4744  
in the business of supplying electricity to its members or 4745  
persons owning an interest therein in an area the major portion 4746  
of which is rural. "Rural electric company" excludes an energy 4747  
company. 4748

(D) Any person: 4749

(1) Is a telegraph company when engaged in the business of 4750  
transmitting telegraphic messages to, from, through, or in this 4751  
state; 4752

(2) Is a telephone company when primarily engaged in the 4753  
business of providing local exchange telephone service, 4754  
excluding cellular radio service, in this state; 4755

(3) Is an electric company when engaged in the business of 4756  
generating, transmitting, or distributing electricity within 4757  
this state for use by others, but excludes a rural electric 4758  
company or an energy company; 4759

(4) Is a natural gas company when engaged in the business 4760  
of supplying or distributing natural gas for lighting, power, or 4761  
heating purposes to consumers within this state, excluding a 4762  
person that is a governmental aggregator or retail natural gas 4763  
supplier as defined in section 4929.01 of the Revised Code; 4764

(5) Is a pipe-line company when engaged in the business of 4765  
transporting natural gas, oil, or coal or its derivatives 4766  
through pipes or tubing, either wholly or partially within this 4767  
state; 4768

(6) Is a water-works company when engaged in the business 4769

of supplying water through pipes or tubing, or in a similar 4770  
manner, to consumers within this state; 4771

(7) Is a water transportation company when engaged in the 4772  
transportation of passengers or property, by boat or other 4773  
watercraft, over any waterway, whether natural or artificial, 4774  
from one point within this state to another point within this 4775  
state, or between points within this state and points without 4776  
this state; 4777

(8) Is a heating company when engaged in the business of 4778  
supplying water, steam, or air through pipes or tubing to 4779  
consumers within this state for heating purposes; 4780

(9) Is a railroad company when engaged in the business of 4781  
owning or operating a railroad either wholly or partially within 4782  
this state on rights-of-way acquired and held exclusively by 4783  
such company, or otherwise, and includes a passenger, street, 4784  
suburban, or interurban railroad company; 4785

(10) Is an energy company when engaged in the business of 4786  
generating, transmitting, storing and releasing, or distributing 4787  
electricity within this state for use by others solely from an 4788  
energy facility with an aggregate nameplate capacity in excess 4789  
of two hundred fifty kilowatts. 4790

As used in division (D) (2) of this section, "local 4791  
exchange telephone service" means making available or furnishing 4792  
access and a dial tone to all persons within a local calling 4793  
area for use in originating and receiving voice grade 4794  
communications over a switched network operated by the provider 4795  
of the service within the area and for gaining access to other 4796  
telecommunication services. 4797

(E) "Taxable property" means the property required by 4798

section 5727.06 of the Revised Code to be assessed by the tax 4799  
commissioner, but does not include either of the following: 4800

(1) An item of tangible personal property that for the 4801  
period subsequent to the effective date of an air, water, or 4802  
noise pollution control certificate and continuing so long as 4803  
the certificate is in force, has been certified as part of the 4804  
pollution control facility with respect to which the certificate 4805  
has been issued; 4806

(2) An item of tangible personal property that during the 4807  
construction of a plant or facility and until the item is first 4808  
capable of operation, whether actually used in operation or not, 4809  
is incorporated in or being held exclusively for incorporation 4810  
in that plant or facility. 4811

Notwithstanding section 5701.03 of the Revised Code, for 4812  
tax year 2006 and thereafter, "taxable property" includes 4813  
patterns, jigs, dies, and drawings of an electric company or a 4814  
combined company for use in the activity of an electric company. 4815

(F) "Taxing district" means a municipal corporation or 4816  
township, or part thereof, in which the aggregate rate of 4817  
taxation is uniform. 4818

(G) "Telecommunications service" has the same meaning as 4819  
in division (AA) of section 5739.01 of the Revised Code. 4820

(H) "Interexchange telecommunications company" means a 4821  
person that is engaged in the business of transmitting 4822  
telephonic messages to, from, through, or in this state, but 4823  
that is not a telephone company. 4824

(I) "Sale and leaseback transaction" means a transaction 4825  
in which a public utility or interexchange telecommunications 4826  
company sells any tangible personal property to a person other 4827

than a public utility or interexchange telecommunications 4828  
company and leases that property back from the buyer. 4829

(J) "Production equipment" means all taxable steam, 4830  
nuclear, hydraulic, renewable resource, clean coal technology, 4831  
and other production plant equipment used to generate or store 4832  
and release electricity. For tax years prior to 2001, 4833  
"production equipment" includes taxable station equipment that 4834  
is located at a production plant. 4835

(K) "Tax year" means the year for which property or gross 4836  
receipts are subject to assessment under this chapter. This 4837  
division does not limit the tax commissioner's ability to assess 4838  
and value property or gross receipts outside the tax year. 4839

(L) "Combined company" means any person engaged in the 4840  
activity of an electric company or rural electric company that 4841  
is also engaged in the activity of a heating company or a 4842  
natural gas company, or any combination thereof. 4843

(M) "Public utility property lessor" means any person, 4844  
other than a public utility or an interexchange 4845  
telecommunications company, that leases personal property, other 4846  
than in a sale and leaseback transaction, to a public utility, 4847  
other than a railroad, water transportation, telephone, or 4848  
telegraph company if the property would be taxable property if 4849  
owned by the public utility. A public utility property lessor is 4850  
subject to this chapter only for the purposes of reporting and 4851  
paying tax on taxable property it leases to a public utility 4852  
other than a telephone or telegraph company. A public utility 4853  
property lessor that leases property to a public utility other 4854  
than a telephone or telegraph company is not a public utility, 4855  
but it shall report its property and be assessed in the same 4856  
manner as the utility to which it leases the property. 4857

(N) "Energy resource" means any of the following: 4858

(1) "Renewable energy resource" as defined in section 4859  
4928.01 of the Revised Code; 4860

(2) "Clean coal technology" as described in division (A) 4861  
(34) (c) of section 4928.01 of the Revised Code; 4862

(3) "Advanced nuclear technology" as described in division 4863  
(A) (34) (d) of section 4928.01 of the Revised Code; 4864

(4) "Cogeneration technology" as described in division (A) 4865  
(34) (b) of section 4928.01 of the Revised Code; 4866

(5) Energy storage system. 4867

(O) "Energy conversion equipment" means tangible personal 4868  
property connected to a wind turbine tower, connected to and 4869  
behind solar radiation collector areas and designed to convert 4870  
the radiant energy of the sun into electricity or heat, or 4871  
connected to any other property used to generate or store and 4872  
release electricity from an energy resource, through which 4873  
electricity is transferred to controls, transformers, or power 4874  
electronics and to the transmission interconnection point. 4875

"Energy conversion equipment" includes, but is not limited 4876  
to, inverters, ~~batteries~~, switch gears, wiring, collection 4877  
lines, substations, ancillary tangible personal property, or any 4878  
lines and associated tangible personal property located between 4879  
substations and the transmission interconnection point. 4880

(P) "Energy facility" means one or more interconnected 4881  
wind turbines, solar panels, energy storage systems, or other 4882  
tangible personal property used to generate or store and release 4883  
electricity from an energy resource owned by the same person, 4884  
including: 4885



(1) All interconnection equipment, devices, and related 4886  
apparatus connected to such tangible personal property; 4887

(2) All cables, equipment, devices, and related apparatus 4888  
that connect the generators to an electricity grid or to a 4889  
building or facility that directly consumes the electricity 4890  
produced, that facilitate the transmission of electrical energy 4891  
from the generators to the grid, building, or facility, and, 4892  
where applicable, that transform voltage before ultimate 4893  
delivery of electricity to the grid, building, or facility. 4894

"Energy facility" includes buildings, structures, 4895  
improvements, or fixtures exclusively used to house, support, or 4896  
stabilize tangible personal property constituting the facility 4897  
or that are otherwise necessary for the operation of that 4898  
property; and so much of the land on which such tangible 4899  
personal property is situated as is required for operation of 4900  
the facility and is not devoted to some other use, not to 4901  
exceed, in the case of wind turbines, one-half acre for each 4902  
wind turbine, and regardless of whether the land is owned by the 4903  
owner or lessee of the tangible personal property or by another 4904  
person. 4905

(Q) "Nameplate capacity" means the original interconnected 4906  
maximum rated alternating current output of a generator or other 4907  
electric production equipment under specific conditions 4908  
designated by the manufacturer, expressed in the number of 4909  
kilowatts or megawatts. 4910

(R) "Energy storage system" means tangible personal 4911  
property that permits the storage of energy for future use as 4912  
electricity. 4913

**Sec. 5727.111.** As used in this section, "convert" means to 4914

switch fuel input from one energy source to another and 4915  
"repower" means to replace enough of the original taxable 4916  
production equipment to make an original production facility 4917  
equivalent to a new facility, such that at least eighty per cent 4918  
of the true value of the taxable production equipment is derived 4919  
from new taxable production equipment installed as part of the 4920  
replacement project. The taxable property of each public 4921  
utility, except a railroad company, and of each interexchange 4922  
telecommunications company shall be assessed at the following 4923  
percentages of true value: 4924

(A) In the case of a rural electric company, one of the 4925  
following ~~fifty~~: 4926

(1) Fifty per cent in the case of its taxable transmission 4927  
and distribution property and its or energy conversion equipment 4928  
first subject to taxation in this state before tax year 2027; 4929

(2) Seven per cent in the case of its taxable production 4930  
or energy conversion equipment, and twenty-five 4931  
first subject to taxation in this state for tax year 2027 and thereafter or 4932  
any other taxable production equipment that is either converted 4933  
or repowered; 4934

(3) Twenty-five per cent for in the case of all its other 4935  
taxable property~~+~~. 4936

(B) In the case of a telephone or telegraph company, 4937  
twenty-five per cent for taxable property first subject to 4938  
taxation in this state for tax year 1995 or thereafter for tax 4939  
years before tax year 2007, and pursuant to division (H) of 4940  
section 5711.22 of the Revised Code for tax year 2007 and 4941  
thereafter, and the following for all other taxable property: 4942

(1) For tax years prior to 2005, eighty-eight per cent; 4943

(2) For tax year 2005, sixty-seven per cent;	4944
(3) For tax year 2006, forty-six per cent;	4945
(4) For tax year 2007 and thereafter, pursuant to division	4946
(H) of section 5711.22 of the Revised Code.	4947
(C) Twenty-five per cent in the case of (1) a natural gas	4948
company or (2) a water-works company for taxable property first	4949
subject to taxation in this state for tax year 2017 and	4950
thereafter <del>+</del> .	4951
(D) Eighty-eight per cent in the case of <del>a pipe-line</del>	4952
<del>company,</del> a water-works company for taxable property first	4953
subject to taxation in this state before tax year 2017, or a	4954
heating company <del>+</del> .	4955
<del>(E) (1) For tax year 2005, eighty-eight per cent in the</del>	4956
<del>case of the taxable transmission and distribution property of an</del>	4957
<del>electric company, and twenty-five per cent for all its other</del>	4958
<del>taxable property;</del>	4959
<del>(2) For tax year 2006 and each tax year thereafter, in (E)</del>	4960
<del>In the case of an electric company, <u>eighty-five one of the</u></del>	4961
<del><u>following:</u></del>	4962
<u>(1) Eighty-five per cent in the case of its taxable</u>	4963
<u>transmission and distribution property <u>and energy conversion</u></u>	4964
<u>equipment <del>and its energy conversion equipment,</del> first subject to</u>	4965
<u>taxation in this state before tax year 2027;</u>	4966
<u>(2) Twenty-five per cent in the case of its other taxable</u>	4967
<u>transmission and distribution property<del>and twenty-four</del>;</u>	4968
<u>(3) Seven per cent in the case of its taxable production</u>	4969
<u>and energy conversion equipment first subject to taxation in</u>	4970
<u>this state for tax year 2027 and thereafter or any other taxable</u>	4971

production equipment that is either converted or repowered; 4972

(4) Twenty-four per cent ~~for~~ in the case of all its other 4973  
taxable property. 4974

(F) (1) Twenty-five per cent in the case of an 4975  
interexchange telecommunications company for tax years before 4976  
tax year 2007; 4977

(2) Pursuant to division (H) of section 5711.22 of the 4978  
Revised Code for tax year 2007 and thereafter. 4979

(G) Twenty-five per cent in the case of a water 4980  
transportation company~~+~~. 4981

(H) ~~For tax year 2011 and each tax year thereafter in~~ In 4982  
the case of an energy company, ~~twenty-four~~ one of the following: 4983

(1) Eighty-five per cent in the case of its taxable 4984  
~~production equipment,~~ transmission and distribution property 4985  
first subject to taxation in this state before tax year 2027; 4986

(2) Twenty-five per cent in the case of its other taxable 4987  
transmission and distribution property~~and eighty-five~~; 4988

(3) Seven per cent in the case of its taxable production 4989  
or energy conversion equipment first subject to taxation in this 4990  
state for tax year 2027 and thereafter or any other taxable 4991  
production equipment that is either converted or repowered; 4992

(4) Twenty-four per cent in the case of its other taxable 4993  
production equipment; 4994

(5) Eighty-five per cent ~~for~~ in the case of all its other 4995  
taxable property. 4996

(I) In the case of a pipeline company, one of the 4997  
following: 4998

<u>(1) Eighty-eight per cent of its taxable property first</u>	4999
<u>subject to taxation in this state before tax year 2027;</u>	5000
<u>(2) Twenty-five per cent in the case of all its other</u>	5001
<u>taxable property.</u>	5002
<b>Sec. 5727.75.</b> (A) For purposes of this section:	5003
(1) "Qualified energy project" means an energy project	5004
certified by the director of development pursuant to this	5005
section.	5006
(2) "Energy project" means a project to provide electric	5007
power through the construction, installation, and use of an	5008
energy facility.	5009
(3) "Alternative energy zone" means a county declared as	5010
such by the board of county commissioners under division (E) (1)	5011
(b) or (c) of this section.	5012
(4) "Full-time equivalent employee" means the total number	5013
of employee-hours for which compensation was paid to individuals	5014
employed at a qualified energy project for services performed at	5015
the project during the calendar year divided by two thousand	5016
eighty hours. For the purpose of this calculation, "performed at	5017
the project" includes only hours worked at the qualified energy	5018
project and devoted to site preparation or protection,	5019
construction and installation, and the unloading and	5020
distribution of materials at the project site, but does not	5021
include hours worked by superintendents, owners, manufacturers'	5022
representatives, persons employed in a bona fide executive,	5023
management, supervisory, or administrative capacity, or persons	5024
whose sole employment on the project is transporting materials	5025
or persons to the project site.	5026
(5) "Solar energy project" means an energy project	5027

composed of an energy facility using solar panels to generate 5028  
electricity. 5029

(6) "Internet identifier of record" has the same meaning 5030  
as in section 9.312 of the Revised Code. 5031

(7) "Applicable year" means the later of the following: 5032

(a) The tax year in which the secretary of the treasury of 5033  
the United States, or the secretary's delegate, determines, in 5034  
accordance with section 45Y of the Internal Revenue Code, that 5035  
the annual greenhouse gas emissions from the production of 5036  
electricity in the United States are equal to or less than 5037  
twenty-five per cent of the annual greenhouse gas emissions from 5038  
the production of electricity in the United States for calendar 5039  
year 2022; 5040

(b) Tax year 2029. 5041

(8) "Internal Revenue Code" means the Internal Revenue 5042  
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5043

(B) (1) Tangible personal property of a qualified energy 5044  
project using renewable energy resources is exempt from taxation 5045  
for tax years 2011 through the applicable year if all of the 5046  
following conditions are satisfied: 5047

(a) On or before the last day of the tax year preceding 5048  
the applicable year, the owner or a lessee pursuant to a sale 5049  
and leaseback transaction of the project submits an application 5050  
to the power siting board for a certificate under section 5051  
4906.20 of the Revised Code, or if that section does not apply, 5052  
submits an application for any approval, consent, permit, or 5053  
certificate or satisfies any condition required by a public 5054  
agency or political subdivision of this state for the 5055  
construction or initial operation of an energy project. 5056

(b) Construction or installation of the energy facility 5057  
begins on or after January 1, 2009, and before the first day of 5058  
the applicable year. For the purposes of this division, 5059  
construction begins on the earlier of the date of application 5060  
for a certificate or other approval or permit described in 5061  
division (B)(1)(a) of this section, or the date the contract for 5062  
the construction or installation of the energy facility is 5063  
entered into. 5064

(c) For a qualified energy project with a nameplate 5065  
capacity of twenty megawatts or greater, a board of county 5066  
commissioners of a county in which property of the project is 5067  
located has adopted a resolution under division (E)(1)(b) or (c) 5068  
of this section to approve the application submitted under 5069  
division (E) of this section to exempt the property located in 5070  
that county from taxation. A board's adoption of a resolution 5071  
rejecting an application or its failure to adopt a resolution 5072  
approving the application does not affect the tax-exempt status 5073  
of the qualified energy project's property that is located in 5074  
another county. 5075

(2) If tangible personal property of a qualified energy 5076  
project using renewable energy resources was exempt from 5077  
taxation under this section beginning in any of tax years 2011 5078  
through the applicable year, and the certification under 5079  
division (E)(2) of this section has not been revoked, the 5080  
tangible personal property of the qualified energy project is 5081  
exempt from taxation for the tax year following the applicable 5082  
year and all ensuing tax years if the property was placed into 5083  
service before the first day of the tax year following the 5084  
applicable year, as certified in the construction progress 5085  
report required under division (F)(2) of this section. Tangible 5086  
personal property that has not been placed into service before 5087

that date is taxable property subject to taxation. An energy 5088  
project for which certification has been revoked is ineligible 5089  
for further exemption under this section. Revocation does not 5090  
affect the tax-exempt status of the project's tangible personal 5091  
property for the tax year in which revocation occurs or any 5092  
prior tax year. 5093

(C) Tangible personal property of a qualified energy 5094  
project using clean coal technology, advanced nuclear 5095  
technology, or cogeneration technology is exempt from taxation 5096  
for the first tax year that the property would be listed for 5097  
taxation and all subsequent years if all of the following 5098  
circumstances are met: 5099

(1) The property was placed into service before January 1, 5100  
2021. Tangible personal property that has not been placed into 5101  
service before that date is taxable property subject to 5102  
taxation. 5103

(2) For such a qualified energy project with a nameplate 5104  
capacity of twenty megawatts or greater, a board of county 5105  
commissioners of a county in which property of the qualified 5106  
energy project is located has adopted a resolution under 5107  
division (E) (1) (b) or (c) of this section to approve the 5108  
application submitted under division (E) of this section to 5109  
exempt the property located in that county from taxation. A 5110  
board's adoption of a resolution rejecting the application or 5111  
its failure to adopt a resolution approving the application does 5112  
not affect the tax-exempt status of the qualified energy 5113  
project's property that is located in another county. 5114

(3) The certification for the qualified energy project 5115  
issued under division (E) (2) of this section has not been 5116  
revoked. An energy project for which certification has been 5117



revoked is ineligible for exemption under this section. 5118  
Revocation does not affect the tax-exempt status of the 5119  
project's tangible personal property for the tax year in which 5120  
revocation occurs or any prior tax year. 5121

(D) Except as otherwise provided in this section, real 5122  
property of a qualified energy project is exempt from taxation 5123  
for any tax year for which the tangible personal property of the 5124  
qualified energy project is exempted under this section. 5125

(E) (1) (a) A person may apply to the director of 5126  
development for certification of an energy project as a 5127  
qualified energy project on or before the following dates: 5128

(i) The last day of the tax year preceding the applicable 5129  
year, for an energy project using renewable energy resources; 5130

(ii) December 31, 2017, for an energy project using clean 5131  
coal technology, advanced nuclear technology, or cogeneration 5132  
technology. 5133

(b) The director shall forward a copy of each application 5134  
for certification of an energy project with a nameplate capacity 5135  
of twenty megawatts or greater to the board of county 5136  
commissioners of each county in which the project is located and 5137  
to each taxing unit with territory located in each of the 5138  
affected counties. Any board that receives from the director a 5139  
copy of an application submitted under this division shall adopt 5140  
a resolution approving or rejecting the application unless it 5141  
has adopted a resolution under division (E) (1) (c) of this 5142  
section. A resolution adopted under division (E) (1) (b) or (c) of 5143  
this section may require an annual service payment to be made in 5144  
addition to the service payment required under division (G) of 5145  
this section. The sum of the service payment required in the 5146

resolution and the service payment required under division (G) 5147  
of this section shall not exceed nine thousand dollars per 5148  
megawatt of nameplate capacity located in the county. The 5149  
resolution shall specify the time and manner in which the 5150  
payments required by the resolution shall be paid to the county 5151  
treasurer. The county treasurer shall deposit the payment to the 5152  
credit of the county's general fund to be used for any purpose 5153  
for which money credited to that fund may be used. 5154

The board shall send copies of the resolution to the owner 5155  
of the facility and the director by certified mail or, if the 5156  
board has record of an internet identifier of record associated 5157  
with the owner or director, by ordinary mail and by that 5158  
internet identifier of record. The board shall send such notice 5159  
within thirty days after receipt of the application, or a longer 5160  
period of time if authorized by the director. 5161

(c) A board of county commissioners may adopt a resolution 5162  
declaring the county to be an alternative energy zone and 5163  
declaring all applications submitted to the director of 5164  
development under this division after the adoption of the 5165  
resolution, and prior to its repeal, to be approved by the 5166  
board. 5167

All tangible personal property and real property of an 5168  
energy project with a nameplate capacity of twenty megawatts or 5169  
greater is taxable if it is located in a county in which the 5170  
board of county commissioners adopted a resolution rejecting the 5171  
application submitted under this division or failed to adopt a 5172  
resolution approving the application under division (E) (1) (b) or 5173  
(c) of this section. 5174

(2) The director shall certify an energy project if all of 5175  
the following circumstances exist: 5176

(a) The application was timely submitted. 5177

(b) For an energy project with a nameplate capacity of 5178  
twenty megawatts or greater, a board of county commissioners of 5179  
at least one county in which the project is located has adopted 5180  
a resolution approving the application under division (E) (1) (b) 5181  
or (c) of this section. 5182

(c) No portion of the project's facility was used to 5183  
supply electricity before December 31, 2009. 5184

(d) For construction or installation of a qualified energy 5185  
project described in division (B) (1) (b) of this section, that 5186  
the project is subject to wage requirements described in section 5187  
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 5188  
requirements described in section 45(b) (8) (A) (i) of the Internal 5189  
Revenue Code, provided both of the following apply: 5190

(i) The person applies for such certificate after ~~the~~ 5191  
~~effective date of this amendment~~ October 3, 2023. 5192

(ii) A board of commissioners of at least one county in 5193  
which the project is located is required to adopt a resolution 5194  
approving the application under division (E) (1) (b) or (c) of 5195  
this section. 5196

(3) The director shall deny a certification application if 5197  
the director determines the person has failed to comply with any 5198  
requirement under this section. The director may revoke a 5199  
certification if the director determines the person, or 5200  
subsequent owner or lessee pursuant to a sale and leaseback 5201  
transaction of the qualified energy project, has failed to 5202  
comply with any requirement under this section. Upon 5203  
certification or revocation, the director shall notify the 5204  
person, owner, or lessee, the tax commissioner, and the county 5205

auditor of a county in which the project is located of the 5206  
certification or revocation. Notice shall be provided in a 5207  
manner convenient to the director. 5208

(F) The owner or a lessee pursuant to a sale and leaseback 5209  
transaction of a qualified energy project shall do each of the 5210  
following: 5211

(1) Comply with all applicable regulations; 5212

(2) File with the director of development a certified 5213  
construction progress report before the first day of March of 5214  
each year during the energy facility's construction or 5215  
installation indicating the percentage of the project completed, 5216  
and the project's nameplate capacity, as of the preceding 5217  
thirty-first day of December. Unless otherwise instructed by the 5218  
director of development, the owner or lessee of an energy 5219  
project shall file a report with the director on or before the 5220  
first day of March each year after completion of the energy 5221  
facility's construction or installation indicating the project's 5222  
nameplate capacity as of the preceding thirty-first day of 5223  
December. Not later than sixty days after June 17, 2010, the 5224  
owner or lessee of an energy project, the construction of which 5225  
was completed before June 17, 2010, shall file a certificate 5226  
indicating the project's nameplate capacity. 5227

(3) File with the director of development, in a manner 5228  
prescribed by the director, a report of the total number of 5229  
full-time equivalent employees, and the total number of full- 5230  
time equivalent employees domiciled in Ohio, who are employed in 5231  
the construction or installation of the energy facility; 5232

(4) For energy projects with a nameplate capacity of 5233  
twenty megawatts or greater, repair all roads, bridges, and 5234

culverts affected by construction as reasonably required to 5235  
restore them to their preconstruction condition, as determined 5236  
by the county engineer in consultation with the local 5237  
jurisdiction responsible for the roads, bridges, and culverts. 5238  
In the event that the county engineer deems any road, bridge, or 5239  
culvert to be inadequate to support the construction or 5240  
decommissioning of the energy facility, the road, bridge, or 5241  
culvert shall be rebuilt or reinforced to the specifications 5242  
established by the county engineer prior to the construction or 5243  
decommissioning of the facility. The owner or lessee of the 5244  
facility shall post a bond in an amount established by the 5245  
county engineer and to be held by the board of county 5246  
commissioners to ensure funding for repairs of roads, bridges, 5247  
and culverts affected during the construction. The bond shall be 5248  
released by the board not later than one year after the date the 5249  
repairs are completed. The energy facility owner or lessee 5250  
pursuant to a sale and leaseback transaction shall post a bond, 5251  
as may be required by the Ohio power siting board in the 5252  
certificate authorizing commencement of construction issued 5253  
pursuant to section 4906.10 of the Revised Code, to ensure 5254  
funding for repairs to roads, bridges, and culverts resulting 5255  
from decommissioning of the facility. The energy facility owner 5256  
or lessee and the county engineer may enter into an agreement 5257  
regarding specific transportation plans, reinforcements, 5258  
modifications, use and repair of roads, financial security to be 5259  
provided, and any other relevant issue. 5260

(5) Provide or facilitate training for fire and emergency 5261  
responders for response to emergency situations related to the 5262  
energy project and, for energy projects with a nameplate 5263  
capacity of twenty megawatts or greater, at the person's 5264  
expense, equip the fire and emergency responders with proper 5265

equipment as reasonably required to enable them to respond to 5266  
such emergency situations; 5267

(6) (a) Except as otherwise provided in this division, for 5268  
projects for which certification as a qualified energy project 5269  
was applied for, under division (E) of this section, ~~before the~~ 5270  
~~effective date of this amendment~~ October 3, 2023, maintain a 5271  
ratio of Ohio-domiciled full-time equivalent employees employed 5272  
in the construction or installation of the energy project to 5273  
total full-time equivalent employees employed in the 5274  
construction or installation of the energy project of not less 5275  
than eighty per cent in the case of a solar energy project, and 5276  
not less than fifty per cent in the case of any other energy 5277  
project. A person applying for such a qualified energy project 5278  
may certify to the director of development that the project will 5279  
be voluntarily subject to the wage requirements described in 5280  
section 45(b) (7) (A) of the Internal Revenue Code and 5281  
apprenticeship requirements described in section 45(b) (8) (A) (i) 5282  
of the Internal Revenue Code as authorized in division (F) (6) (b) 5283  
of this section. Upon receipt of that certification, the project 5284  
shall comply with division (F) (6) (b) of this section rather than 5285  
division (F) (6) (a) of this section. 5286

(b) For projects for which certification as a qualified 5287  
energy project was applied for, under division (E) of this 5288  
section, on or after ~~the effective date of this amendment~~ 5289  
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5290  
equivalent employees employed in the construction or 5291  
installation of the energy project to total full-time equivalent 5292  
employees employed in the construction or installation of the 5293  
energy project of not less than seventy per cent in the case of 5294  
a solar energy project, and not less than fifty per cent in the 5295  
case of any other energy project. 5296

(c) For purposes of divisions (F) (6) (a) and (b) of this 5297  
section, in the case of an energy project for which 5298  
certification from the power siting board is required under 5299  
section 4906.20 of the Revised Code, the number of full-time 5300  
equivalent employees employed in the construction or 5301  
installation of the energy project equals the number actually 5302  
employed or the number projected to be employed in the 5303  
certificate application, if such projection is required under 5304  
regulations adopted pursuant to section 4906.03 of the Revised 5305  
Code, whichever is greater. For all other energy projects, the 5306  
number of full-time equivalent employees employed in the 5307  
construction or installation of the energy project equals the 5308  
number actually employed or the number projected to be employed 5309  
by the director of development, whichever is greater. To 5310  
estimate the number of employees to be employed in the 5311  
construction or installation of an energy project, the director 5312  
shall use a generally accepted job-estimating model in use for 5313  
renewable energy projects, including but not limited to the job 5314  
and economic development impact model. The director may adjust 5315  
an estimate produced by a model to account for variables not 5316  
accounted for by the model. 5317

(7) For energy projects with a nameplate capacity in 5318  
excess of twenty megawatts, establish a relationship with any of 5319  
the following to educate and train individuals for careers in 5320  
the wind or solar energy industry: 5321

(a) A member of the university system of Ohio as defined 5322  
in section 3345.011 of the Revised Code; 5323

(b) A person offering an apprenticeship program registered 5324  
with the employment and training administration within the 5325  
United States department of labor or with the apprenticeship 5326

council created by section 4139.02 of the Revised Code; 5327

(c) A career-technical center, joint vocational school 5328  
district, comprehensive career-technical center, or compact 5329  
career-technical center; 5330

(d) A training center operated by a labor organization, or 5331  
with a training center operated by a for-profit or nonprofit 5332  
organization. 5333

The relationship may include endowments, cooperative 5334  
programs, internships, apprenticeships, research and development 5335  
projects, and curriculum development. 5336

(8) Offer to sell power or renewable energy credits from 5337  
the energy project to electric distribution utilities or 5338  
electric service companies subject to renewable energy resource 5339  
requirements under section 4928.64 of the Revised Code that have 5340  
issued requests for proposal for such power or renewable energy 5341  
credits. If no electric distribution utility or electric service 5342  
company issues a request for proposal on or before December 31, 5343  
2010, or accepts an offer for power or renewable energy credits 5344  
within forty-five days after the offer is submitted, power or 5345  
renewable energy credits from the energy project may be sold to 5346  
other persons. Division (F)(8) of this section does not apply 5347  
if: 5348

(a) The owner or lessee is a rural electric company or a 5349  
municipal power agency as defined in section 3734.058 of the 5350  
Revised Code. 5351

(b) The owner or lessee is a person that, before 5352  
completion of the energy project, contracted for the sale of 5353  
power or renewable energy credits with a rural electric company 5354  
or a municipal power agency. 5355



(c) The owner or lessee contracts for the sale of power or 5356  
renewable energy credits from the energy project before June 17, 5357  
2010. 5358

(9) Make annual service payments as required by division 5359  
(G) of this section and as may be required in a resolution 5360  
adopted by a board of county commissioners under division (E) of 5361  
this section. 5362

(G) The owner or a lessee pursuant to a sale and leaseback 5363  
transaction of a qualified energy project shall make annual 5364  
service payments in lieu of taxes to the county treasurer on or 5365  
before the final dates for payments of taxes on public utility 5366  
personal property on the real and public utility personal 5367  
property tax list for each tax year for which property of the 5368  
energy project is exempt from taxation under this section. The 5369  
county treasurer shall allocate the payment on the basis of the 5370  
project's physical location. Upon receipt of a payment, or if 5371  
timely payment has not been received, the county treasurer shall 5372  
certify such receipt or non-receipt to the director of 5373  
development and tax commissioner in a form determined by the 5374  
director and commissioner, respectively. Each payment shall be 5375  
in the following amount: 5376

(1) In the case of a solar energy project, seven thousand 5377  
dollars per megawatt of nameplate capacity located in the county 5378  
as of the thirty-first-day of December of the preceding tax 5379  
year; 5380

(2) In the case of any other energy project using 5381  
renewable energy resources, the following: 5382

(a) If the project maintains during the construction or 5383  
installation of the energy facility a ratio of Ohio-domiciled 5384

full-time equivalent employees to total full-time equivalent 5385  
employees of not less than seventy-five per cent, six thousand 5386  
dollars per megawatt of nameplate capacity located in the county 5387  
as of the thirty-first day of December of the preceding tax 5388  
year; 5389

(b) If the project maintains during the construction or 5390  
installation of the energy facility a ratio of Ohio-domiciled 5391  
full-time equivalent employees to total full-time equivalent 5392  
employees of less than seventy-five per cent but not less than 5393  
sixty per cent, seven thousand dollars per megawatt of nameplate 5394  
capacity located in the county as of the thirty-first day of 5395  
December of the preceding tax year; 5396

(c) If the project maintains during the construction or 5397  
installation of the energy facility a ratio of Ohio-domiciled 5398  
full-time equivalent employees to total full-time equivalent 5399  
employees of less than sixty per cent but not less than fifty 5400  
per cent, eight thousand dollars per megawatt of nameplate 5401  
capacity located in the county as of the thirty-first day of 5402  
December of the preceding tax year. 5403

(3) In the case of an energy project using clean coal 5404  
technology, advanced nuclear technology, or cogeneration 5405  
technology, the following: 5406

(a) If the project maintains during the construction or 5407  
installation of the energy facility a ratio of Ohio-domiciled 5408  
full-time equivalent employees to total full-time equivalent 5409  
employees of not less than seventy-five per cent, six thousand 5410  
dollars per megawatt of nameplate capacity located in the county 5411  
as of the thirty-first day of December of the preceding tax 5412  
year; 5413

(b) If the project maintains during the construction or 5414  
installation of the energy facility a ratio of Ohio-domiciled 5415  
full-time equivalent employees to total full-time equivalent 5416  
employees of less than seventy-five per cent but not less than 5417  
sixty per cent, seven thousand dollars per megawatt of nameplate 5418  
capacity located in the county as of the thirty-first day of 5419  
December of the preceding tax year; 5420

(c) If the project maintains during the construction or 5421  
installation of the energy facility a ratio of Ohio-domiciled 5422  
full-time equivalent employees to total full-time equivalent 5423  
employees of less than sixty per cent but not less than fifty 5424  
per cent, eight thousand dollars per megawatt of nameplate 5425  
capacity located in the county as of the thirty-first day of 5426  
December of the preceding tax year. 5427

(H) The director of development in consultation with the 5428  
tax commissioner shall adopt rules pursuant to Chapter 119. of 5429  
the Revised Code to implement and enforce this section. 5430

(I) This section and any payments in lieu of taxes made as 5431  
required under this section continue to apply and be required 5432  
notwithstanding the enactment of H.B. 15 of the 136th general 5433  
assembly. 5434

**Sec. 5727.76.** (A) As used in this section, "qualifying 5435  
property" means tangible personal property that is dedicated to 5436  
transporting or transmitting electricity or natural gas and that 5437  
is placed into service in a priority investment area designated 5438  
under section 122.161 of the Revised Code during a time when 5439  
that designation is in effect. 5440

(B) Qualifying property shall be exempt from taxation for 5441  
the tax year following the year in which the property is placed 5442

into service and for the ensuing four tax years. 5443

**Section 2.** That existing sections 122.6511, 3313.372, 5444  
3313.373, 4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 5445  
4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 5446  
4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 5447  
4909.42, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 5448  
4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 5449  
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 4933.81, 4935.04, 5450  
5727.01, 5727.111, and 5727.75 of the Revised Code are hereby 5451  
repealed. 5452

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 5453  
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5454  
3706.551, 3706.59, 3706.63, 3706.65, 4906.105, 4928.143, 5455  
4928.148, 4928.47, and 4928.642 of the Revised Code are hereby 5456  
repealed. 5457

**Section 4.** Beginning on the effective date of this 5458  
section, no electric distribution utility shall collect from its 5459  
retail customers in this state any charge that was authorized 5460  
under section 4928.148 of the Revised Code prior to the repeal 5461  
of that section by this act for retail recovery of prudently 5462  
incurred costs related to a legacy generation resource. 5463  
Beginning on the effective date of this section, the electric 5464  
distribution utility shall not apply for, and the public 5465  
utilities commission shall not authorize, any rider or cost 5466  
recovery mechanism for a legacy generation resource. 5467

The public utilities commission shall continue any 5468  
investigation commenced pursuant to section 4928.148 of the 5469  
Revised Code prior to the repeal of that section by this act for 5470  
purposes of determining the prudence and reasonableness of the 5471  
actions of electric distribution utilities with ownership 5472

interests in the legacy generation resource, including their 5473  
decisions related to offering the contractual commitment into 5474  
the wholesale markets, and excluding from recovery those costs 5475  
that the commission determines imprudent and unreasonable. 5476

**Section 5.** (A) Beginning on the effective date of this 5477  
section, no electric distribution utility shall collect from its 5478  
retail customers in the state any charge that was authorized 5479  
under section 3706.46 of the Revised Code to meet the revenue 5480  
requirement for disbursements from the Solar Generation Fund to 5481  
owners or operators of qualifying solar resources that was 5482  
required under section 3706.55 of the Revised Code before the 5483  
repeal of these sections by this act. 5484

(B) Except as provided for in division (C) of this 5485  
section, beginning on the effective date of this section, the 5486  
Ohio Air Quality Development Authority is prohibited from 5487  
directing the Treasurer of State to remit, and the Treasurer is 5488  
prohibited from remitting, any money from the Solar Generation 5489  
Fund to owners or operators of qualifying solar resources, which 5490  
remittance was permitted under section 3706.55 of the Revised 5491  
Code prior to the repeal of that section by this act. 5492

(C) Within forty-five days of the effective date of this 5493  
section, the Authority shall do the following: 5494

(1) Forecast the future payments expected to be made under 5495  
section 3706.55 of the Revised Code, as that section existed 5496  
prior to the effective date of its repeal by H.B. 15 of the 5497  
136th General Assembly, to the owners or operators of qualifying 5498  
solar resources that received one or more solar energy credits 5499  
in 2024 based on the resource's average production for the prior 5500  
three years. For a qualifying solar resource that has not 5501  
generated electricity for a full year as of the effective date 5502

of this section, the forecast shall be based on production to 5503  
date, extrapolated for an annual average. 5504

(2) Direct the Treasurer of State to calculate and remit 5505  
the net present value of those payments upfront to the owners or 5506  
operators of the qualifying solar resources. 5507

As soon as possible after remitting the net present value 5508  
of those payments to the owners or operators of the qualifying 5509  
solar resources, the Treasurer of State shall transfer the cash 5510  
balance of amounts remaining in the solar generation fund to the 5511  
school energy performance contracting loan fund created in 5512  
section 3313.378 of the Revised Code. 5513

**Section 6.** Sections 4909.193 and 4909.421 as enacted by 5514  
this act and the amendments to sections 4909.19 and 4909.42 of 5515  
the Revised Code by this act apply to applications filed under 5516  
section 4909.18 of the Revised Code on or after the effective 5517  
date of this section. 5518

**Section 7.** (A) The Public Utilities Commission shall 5519  
conduct a study to evaluate the potential use or deployment of 5520  
advanced transmission technologies, as defined in section 5521  
4906.01 of the Revised Code, by public utilities to enable 5522  
public utilities to safely, reliably, efficiently, and cost- 5523  
effectively meet electric system demand and provide safe, 5524  
reliable, and affordable electric utility service to customers. 5525  
In conducting the study, the Commission shall do the following: 5526

(1) Evaluate the attributes, functions, costs, and 5527  
benefits of various advanced transmission technologies, 5528  
including grid-enhancing technologies and advanced conductors; 5529

(2) Evaluate the potential of each of the advanced 5530  
transmission technologies studied to be used or deployed by 5531

public utilities to provide safe, reliable, and affordable 5532  
electric utility service to customers, considering existing and 5533  
planned transmission infrastructure and projected demand growth; 5534

(3) Identify the potential reductions in project costs and 5535  
project completion timelines by deploying advanced transmission 5536  
technologies, as compared to traditional transmission 5537  
infrastructure; 5538

(4) Evaluate potential ways to streamline the deployment 5539  
of advanced transmission technologies, including streamlined 5540  
processes for permitting, maintenance, and upgrades; 5541

(5) Evaluate other deregulated states' policies and laws 5542  
relating to advanced transmission technologies and provide 5543  
recommendations in accordance with other states' policies and 5544  
laws to enable and encourage adoption of advanced transmission 5545  
technologies in this state; 5546

(6) Identify processes or ways that end-use customers, 5547  
such as industrial or mercantile customers, can invest and 5548  
deploy advanced transmission technologies in partnership with 5549  
their respective utility to allow for the more rapid deployment 5550  
of such technologies; 5551

(7) Identify how the Commission can support and encourage 5552  
the implementation of advanced transmission technologies in Ohio 5553  
through future rule-making or other Commission activities; 5554

(8) Evaluate any other aspect of advanced transmission 5555  
technologies that the Commission determines will assist 5556  
policymakers, public utilities, ratepayers, and other 5557  
stakeholders in understanding the potential role of advanced 5558  
transmission technologies in the transmission system serving 5559  
this state and the region; 5560

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

(B) In conducting the study required by this section, the Commission shall consult with or invite comments from stakeholders. The Commission shall hold a minimum of two public workshops to review public comments from stakeholders. The Commission may incorporate any information or comments received in its report required in division (C) of this section.

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

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

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

**Section 10.** An agreement between an electric distribution utility and a mercantile customer or group of mercantile customers for the construction of a customer sited renewable energy resource that is executed and filed with the public



utilities commission prior to the effective date of H.B. 15 of 5590  
the 136th General Assembly shall remain in effect according to 5591  
the agreement's terms and be governed by section 4928.47 of the 5592  
Revised Code as that section existed prior to being repealed by 5593  
H.B. 15 of the 136th General Assembly. 5594

**Section 11.** Section 4928.01 of the Revised Code is 5595  
presented in this act as a composite of the section as amended 5596  
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 5597  
General Assembly, applying the principle stated in division (B) 5598  
of section 1.52 of the Revised Code that amendments are to be 5599  
harmonized if reasonably capable of simultaneous operation, 5600  
finds that the composite is the resulting version of the section 5601  
in effect prior to the effective date of the section as 5602  
presented in this act. 5603