

As Passed by the Senate

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

Senators Antonio, Blackshear, Brenner, Chavez, Cirino, Craig, Cutrona, DeMora, Gavarone, Hicks-Hudson, Huffman, Johnson, Koehler, Landis, Lang, Manning, O'Brien, Patton, Reineke, Reynolds, Romanchuk, Schaffer, Smith, Timken, Weinstein, Wilson, McColley

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
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4928.01, 4928.05, 4928.08, 4928.14, 4928.141,	6
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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 energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;	188 189 190
(9) <u>Solar panels</u> ;	191
(10) <u>Any other modification, installation, or remodeling approved by the Ohio facilities construction commission as an energy conservation measure.</u>	192 193 194
(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:	195 196 197 198 199 200 201 202
(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.	203 204
(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase.	205 206
The provisions of any installment payment contract entered into pursuant to this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, shall not exceed the calculated energy, water, or waste water cost savings, avoided operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time. Those payments shall be made only to the extent that the savings described in this division actually occur. The energy services	207 208 209 210 211 212 213 214 215

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 219
education under this section shall require the board to contract 220
in accordance with division (A) of section 3313.46 of the 221
Revised Code for the installation, modification, or remodeling 222
of energy conservation measures unless division (A) of section 223
3313.46 of the Revised Code does not apply pursuant to division 224
(B) (3) of that section, in which case the contract shall be 225
awarded through a competitive selection process pursuant to 226
rules adopted by the facilities construction commission. 227

An installment payment contract entered into by a board of 228
education under this section may include services for 229
measurement and verification of energy savings associated with 230
the guarantee. The annual cost of measurement and verification 231
services shall not exceed ten per cent of the guaranteed savings 232
in any year of the installment payment contract. 233

(C) If a board of education determines that a surety bond 234
is necessary to secure energy, water, or waste water cost 235
savings guaranteed in a contract entered into by the board of 236
education under this section, the energy services company shall 237
provide a surety bond that satisfies all of the following 238
requirements: 239

(1) The penal sum of the surety bond for the first 240
guarantee year shall equal the amount of savings included in the 241
annual guaranteed savings amount that is measured and calculated 242
in accordance with the measurement and verification plan 243
included in the contract, but may not include guaranteed savings 244
that are not measured or that are stipulated in the contract. 245

The annual guaranteed savings amount shall include only the 246
savings guaranteed in the contract for the one-year term that 247
begins on the first day of the first savings guarantee year and 248
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
of a board to make such an appropriation or furnish the
certificates referred to in division (D) of section 5705.41, or
5705.412 or 5705.44 of the Revised Code, shall not affect the
validity of the shared-savings contract or the board's
obligations under the contract.

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

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

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

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

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

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

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

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

(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

<u>(1) A base load electric generating facility;</u>	569
<u>(2) A generating plant owned or operated by a public utility.</u>	570 571
<u>Sec. 4905.311. (A) As used in this section, "electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code.</u>	572 573 574
<u>(B) Notwithstanding any provision of the Revised Code to the contrary, an electric distribution utility may supply behind the meter electric generation service, provided that any behind the meter electric generation facilities that the utility intends to use to supply such service were filed with the public utilities commission under section 4928.47 of the Revised Code, as that section existed prior to its repeal by H.B. 15 of the 136th General Assembly, no later than March 31, 2025.</u>	575 576 577 578 579 580 581 582
<u>(C) No electric distribution utility shall recover any of the following costs through any rate, charge, or recovery from retail electric service customers that are not receiving behind the meter electric generation service from the utility:</u>	583 584 585 586
<u>(1) Costs associated with supplying behind the meter electric generation service;</u>	587 588
<u>(2) Costs associated with any behind the meter electric generation service facility;</u>	589 590
<u>(3) Stranded costs associated with the closing of any behind the meter electric generation service facility or an end-use customer of the behind the meter electric generation service ceasing operations.</u>	591 592 593 594
<u>(D) No electric distribution utility shall offer direct, associated inducements for contracting with the utility for any</u>	595 596

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. 601

Sec. 4905.321. (A) Notwithstanding section 4905.32 of the 602
Revised Code, all revenues collected from customers by a public 603
utility as part of a rider or rates that are later found to be 604
unreasonable, unlawful, or otherwise improper by the supreme 605
court shall be subject to refund from the date of the issuance 606
of the supreme court's decision until the date when, on remand, 607
the public utilities commission makes changes to the rider or 608
rates to implement the supreme court's decision. 609

(B) The commission shall order the payment of the refunds 610
described in division (A) of this section in a manner designed 611
to allocate the refunds to customer classes in the same 612
proportion as the charges were originally collected. 613

(C) The commission shall determine how to allocate any 614
remaining funds described in division (A) of this section that 615
cannot be refunded for whatever reason. 616

(D) The commission shall order the payment of the funds 617
described in division (A) of this section and shall determine 618
how to allocate any remaining funds that cannot be refunded not 619
more than thirty days after the date of the issuance of the 620
supreme court's decision. 621

Sec. 4905.331. (A) As used in this section: 622

(1) "Electric distribution utility" has the same meaning 623
as in section 4928.01 of the Revised Code. 624

(2) "Electric service" means any service involved in 625
supplying or arranging for the supply of electricity to ultimate 626
consumers in this state. "Electric service" includes "retail 627
electric service" as defined in section 4928.01 of the Revised 628
Code. 629

(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 of a specific customer or specific customers;	823 824
(c) Necessary to maintain reliable electric service as a result of the retirement or shutdown of an electric generating facility located within the state; or	825 826 827
(d) A rebuilding of an existing transmission line.	828
(2) An electric generating facility that uses waste heat or natural gas and is primarily within the current boundary of an existing industrial or electric generating facility;	829 830 831
(3) A gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a specific customer or specific customers.	832 833 834
The board shall adopt rules that provide for the automatic certification to any entity described in this division when an application by any such entity is not suspended by the board, an administrative law judge, or the chairperson or executive director of the board for good cause shown, within ninety days of submission of the application. If an application is suspended, the board shall approve, disapprove, or modify and approve the application not later than ninety days after the date of the suspension.	835 836 837 838 839 840 841 842 843
<u>(G) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board shall adopt rules to provide for the accelerated review of an application for a construction certificate for any of the following that are located in a priority investment area designated and approved under section 122.161 of the Revised Code:</u>	844 845 846 847 848 849

(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~~ sixty 977
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 1177
filed in the office of the commission for the information of the 1178
governor and the general assembly. 1179

(D) Any financial information required to be submitted by 1180
an electric light company under this section shall be provided 1181
from the company's full books. The commission shall ensure 1182
appropriate protections against the disclosure of the company's 1183
trade secrets or proprietary information. 1184

Sec. 4909.05. As used in this section: 1185

~~(A) A "lease purchase agreement" is an agreement pursuant~~ 1186
~~to which a public utility leasing property is required to make~~ 1187
~~rental payments for the term of the agreement and either the~~ 1188
~~utility is granted the right to purchase the property upon the~~ 1189
~~completion of the term of the agreement and upon the payment of~~ 1190
~~an additional fixed sum of money or title to the property vests~~ 1191
~~in the utility upon the making of the final rental payment.~~ 1192

~~(B) A "leaseback" is the sale or transfer of property by a~~ 1193
~~public utility to another person contemporaneously followed by~~ 1194
~~the leasing of the property to the public utility on a long-term~~ 1195
~~basis.~~ 1196

~~(C) The~~ With respect to every public utility, other than 1197
an electric light company that chooses to file a forecasted test 1198
period under section 4909.18 of the Revised Code, the public 1199
utilities commission shall prescribe the form and details of the 1200

valuation report of the property of each public utility or 1201
railroad in the state. Such report shall include all the kinds 1202
and classes of property, with the value of each, owned, held, 1203
or, with respect to a natural gas, water-works, or sewage 1204
disposal system company, projected to be owned or held as of the 1205
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 goes into service, the commission shall exclude, from the date of expiration, the allowance for the project as construction work in progress from rates, except that the commission may extend the expiration date up to twelve months for good cause shown.~~

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

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

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

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

(3) The dollar annual return to which the utility is entitled by applying the fair and reasonable rate of return as determined under division (A) (2) of this section to the

valuation of the utility determined under division (A) (1) of 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 1736
service lines under this section, then the company shall include 1737
the cost of the replacement of the water service lines, 1738
including the cost of replacement of both company side and 1739
customer-owned water service lines and the cost to evaluate 1740
customer-owned water service lines of unknown composition, in 1741
the valuation report of the property of the company as required 1742
under division ~~(C)~~(6)(B) (6) of section 4909.05 of the Revised 1743
Code for inclusion in a rate case under this chapter. 1744

(D) The water service customer who is responsible for the 1745
customer-owned water service line that was replaced under this 1746
section shall hold legal title to the replaced water service 1747
line. 1748

Sec. 4909.174. (A) A water-works company shall reimburse a 1749
customer who replaces the customer's customer-owned water 1750
service line, if both of the following occur: 1751

(1) The company confirms that the customer-owned water 1752
service line was composed of lead or other composition that was 1753
mandated or ordered to be replaced by law or a state or federal 1754
regulatory agency; 1755

(2) The customer submits the reimbursement request to the 1756
company not later than twelve months after the completion of the 1757
water line replacement. 1758

(B) A water-works company that provides a reimbursement to 1759
a customer under this section shall include the reimbursement 1760
amount in the valuation report of the property of the company as 1761

required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1762
Revised Code for inclusion in a rate case under this chapter. 1763

Sec. 4909.18. Any public utility desiring to establish any 1764
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 gas, or hydropower, or uses a microturbine or a fuel cell; 2269
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- (b) Is located on a customer-generator's premises; 2271
- (c) Operates in parallel with the electric utility's transmission and distribution facilities; 2272
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- (d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection. 2274
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- (32) "Self-generator" means an entity in this state that owns or hosts on ~~its premises~~ property the entity controls an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the and that meets all of the following: 2282
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- (a) The facility is installed or operated by the owner or by an agent a third party under a contract, including a lease, purchase power agreement, or other service contract. 2288
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- (b) The facility connects directly to the owner's side of the electric meter. 2291
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- (c) The facility delivers electricity to the owner's side of the electric meter without the use of an electric distribution utility's or electric cooperative's distribution system or transmission system. 2293
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(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
produces electricity and useful thermal output simultaneously.
- (37) (a) "Renewable energy resource" means any of the
following:
- (i) Solar photovoltaic or solar thermal energy;
 - (ii) Wind energy;
 - (iii) Power produced by a hydroelectric facility;
 - (iv) Power produced by a small hydroelectric facility,
which is a facility that operates, or is rated to operate, at an
aggregate capacity of less than six megawatts;
 - (v) Power produced by a run-of-the-river hydroelectric
facility placed in service on or after January 1, 1980, that is
located within this state, relies upon the Ohio river, and
operates, or is rated to operate, at an aggregate capacity of
forty or more megawatts;
 - (vi) Geothermal energy;
 - (vii) Fuel derived from solid wastes, as defined in
section 3734.01 of the Revised Code, through fractionation,
biological decomposition, or other process that does not
principally involve combustion;
 - (viii) Biomass energy;
 - (ix) Energy produced by cogeneration technology that is
placed into service on or before December 31, 2015, and for
which more than ninety per cent of the total annual energy input
is from combustion of a waste or byproduct gas from an air
contaminant source in this state, which source has been in
operation since on or before January 1, 1985, provided that the

cogeneration technology is a part of a facility located in a 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; a linear generator; wind turbine located 2397
in the state's territorial waters of Lake Erie; methane gas 2398
emitted from an abandoned or active 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 2444
area. This can be shown through compliance with the terms of its 2445
federal energy regulatory commission license or, if the facility 2446
is not regulated by that commission, through development of a 2447
plan approved by the Ohio historic preservation office, to the 2448
extent it has jurisdiction over the facility. 2449

(vii) The facility complies with the terms of its federal 2450
energy regulatory commission license or exemption that are 2451
related to recreational access, accommodation, and facilities 2452
or, if the facility is not regulated by that commission, the 2453
facility complies with similar requirements as are recommended 2454
by resource agencies, to the extent they have jurisdiction over 2455
the facility; and the facility provides access to water to the 2456
public without fee or charge. 2457

(viii) The facility is not recommended for removal by any 2458
federal agency or agency of any state, to the extent the 2459
particular agency has jurisdiction over the facility. 2460

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2461
this section do not apply to a small hydroelectric facility 2462
under division (A) (37) (a) (iv) of this section. 2463

(38) "Waste energy recovery system" means any of the 2464
following: 2465

(a) A facility that generates electricity through the 2466
conversion of energy from either of the following: 2467

(i) Exhaust heat from engines or manufacturing, 2468
industrial, commercial, or institutional sites, except for 2469
exhaust heat from a facility whose primary purpose is the 2470
generation of electricity; 2471

(ii) Reduction of pressure in gas pipelines before gas is 2472
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~~ 2502
~~generation resource" means costs, including deferred costs,~~ 2503
~~allocated pursuant to a power agreement approved by the federal~~ 2504
~~energy regulatory commission that relates to a legacy generation~~ 2505
~~resource, less any revenues realized from offering the~~ 2506
~~contractual commitment for the power agreement into the~~ 2507
~~wholesale markets, provided that where the net revenues exceed~~ 2508
~~net costs, those excess revenues shall be credited to customers.~~ 2509
~~Such costs shall exclude any return on investment in common~~ 2510
~~equity and, in the event of a premature retirement of a legacy~~ 2511
~~generation resource, shall exclude any recovery of remaining~~ 2512
~~debt. Such costs shall include any incremental costs resulting~~ 2513
~~from the bankruptcy of a current or former sponsor under such~~ 2514
~~power agreement or co-owner of the legacy generation resource if~~ 2515
~~not otherwise recovered through a utility rate cost recovery~~ 2516
~~mechanism.~~ 2517

~~(43) (a)~~ (41) (a) "Green energy" means any energy generated 2518
by using an energy resource that does one or more of the 2519
following: 2520

(i) Releases reduced air pollutants, thereby reducing 2521
cumulative air emissions; 2522

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

(b) "Green energy" includes energy generated using the 2525

following:	2526
(i) Natural gas as a resource;	2527
(ii) Nuclear reaction.	2528
<u>(42) "Energy storage" means electrical generation and</u>	2529
<u>storage performed by a distributed energy system connected</u>	2530
<u>battery.</u>	2531
<u>(43) "Linear generator" means an integrated system</u>	2532
<u>consisting of oscillators, cylinders, electricity conversion</u>	2533
<u>equipment, and associated balance of plant components that meet</u>	2534
<u>the following criteria:</u>	2535
<u>(a) Converts the linear motion of oscillators directly</u>	2536
<u>into electricity without the use of a flame or spark;</u>	2537
<u>(b) Is dispatchable with the ability to vary power output</u>	2538
<u>across all loads;</u>	2539
<u>(c) Can operate on multiple fuel types including renewable</u>	2540
<u>fuels such as hydrogen, ammonia, and biogas.</u>	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
<u>Sec. 4928.041. (A) Except as provided in sections 4928.141</u>	2550
<u>and 4928.142 of the Revised Code, no electric utility shall</u>	2551
<u>provide a competitive retail electric service in this state if</u>	2552
<u>that service was deemed competitive or otherwise legally</u>	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.

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

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

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

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

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~~(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, _ 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 financing order.	3567 3568
(B) The application shall include all of the following:	3569
(1) A description of the uncollected phase-in costs that the electric distribution utility seeks to recover through the issuance of phase-in-recovery bonds;	3570 3571 3572
(2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;	3573 3574
(3) The expected term during which the phase-in costs associated with the issuance of each series of phase-in-recovery bonds are expected to be recovered;	3575 3576 3577
(4) An estimate of the financing costs, as described in section 4928.23 of the Revised Code, associated with the issuance of each series of phase-in-recovery bonds;	3578 3579 3580
(5) An estimate of the amount of phase-in-recovery charges necessary to recover the phase-in costs and financing costs set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of phase-in-recovery bonds;	3581 3582 3583 3584 3585 3586
(6) For phase-in-recovery charges not subject to allocation according to an existing order, a proposed methodology for allocating phase-in-recovery charges among customer classes, including a proposed methodology for allocating such charges to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;	3587 3588 3589 3590 3591 3592 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 3688
electric distribution utility flexibility in establishing the 3689
terms and conditions for the phase-in-recovery bonds to 3690
accommodate changes in market conditions, including repayment 3691
schedules, interest rates, financing costs, collateral 3692
requirements, required debt service and other reserves, and the 3693
ability of the electric distribution utility, at its option, to 3694
effect a series of issuances of phase-in-recovery bonds and 3695
correlated assignments, sales, pledges, or other transfers of 3696
phase-in-recovery property. Any changes made under this section 3697
to terms and conditions for the phase-in-recovery bonds shall be 3698
in conformance with the financing order. 3699

(G) A financing order may provide that the creation of 3700
phase-in-recovery property shall be simultaneous with the sale 3701
of that property to an assignee as provided in the application 3702
and the pledge of the property to secure phase-in-recovery 3703
bonds. 3704

(H) The commission shall, in a financing order, require 3705
that after the final terms of each issuance of phase-in-recovery 3706
bonds have been established, and prior to the issuance of those 3707
bonds, the electric distribution utility shall determine the 3708
resulting phase-in-recovery charges in accordance with the 3709
adjustment mechanism described in the financing order. These 3710
phase-in-recovery charges shall be final and effective upon the 3711

issuance of the phase-in-recovery bonds, without further 3712
commission action. 3713

Sec. 4928.34. (A) The public utilities commission shall 3714
not approve or prescribe a transition plan under division (A) or 3715
(B) of section 4928.33 of the Revised Code unless the commission 3716
first makes all of the following determinations: 3717

(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, ~~and~~ 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: 4364

(1) The supplier shall send the first notice not earlier 4365
than ninety days and not later than sixty days prior to the 4366
expiration of the fixed rate. 4367

(2) The supplier shall send the second notice not earlier 4368
than forty-five days and not later than fifteen days prior to 4369
the expiration of the fixed rate. 4370

(D) A competitive retail natural gas service supplier 4371
shall provide an annual notice, by standard United States mail 4372
or electronically with a customer's verifiable consent, to each 4373
residential customer and non-mercantile commercial customer that 4374
has entered into a contract with the supplier that has converted 4375
to a variable rate upon the expiration of the contract's fixed 4376
introductory rate. The notice shall inform the customer that the 4377
customer is currently subject to a variable rate and that other 4378
fixed rate contracts are available. 4379

(E) Not later than one hundred fifty days after the 4380
effective date of this section, the commission shall adopt rules 4381
in order to implement divisions (A) to (D) of this section. The 4382
rules, at a minimum, shall include the following requirements 4383
regarding the notices required under divisions (A) to (D) of 4384

this section: 4385

(1) To use clear and unambiguous language in order to 4386
enable the customer to make an informed decision; 4387

(2) To design the notices in a way to ensure that they 4388
cannot be confused with marketing materials. 4389

(F) Notwithstanding any provision of section 121.95 of the 4390
Revised Code to the contrary, a regulatory restriction contained 4391
in a rule adopted under section 4929.221 of the Revised Code is 4392
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 4539
supply, supply prices, and sources of supply over the forecast 4540
period; 4541

(5) A description of proposed changes in the transmission 4542
system planned for the next five years; 4543

(6) A month-by-month forecast of both energy demand and 4544
peak load for electric utilities, and gas sendout for gas and 4545
natural gas utilities, for the next two years. The report shall 4546
describe the major utility facilities that, in the judgment of 4547
such person, will be required to supply system demands during 4548
the forecast period. The report from a gas or natural gas 4549
utility shall cover the ten- and five-year periods next 4550
succeeding the date of the report, and the report from an 4551
electric utility shall cover the twenty-, ten-, and five-year 4552
periods next succeeding the date of the report. Each report 4553
shall be made available to the public and furnished upon request 4554
to municipal corporations and governmental agencies charged with 4555
the duty of protecting the environment or of planning land use. 4556
The report shall be in such form and shall contain such 4557
information as may be prescribed by the commission. 4558

Each person not owning or operating a major utility 4559

facility within this state and serving fifteen thousand or fewer 4560
gas or natural gas, or electric customers within this state 4561
shall furnish such information as the commission requires. 4562

(7) For electric transmission, a person shall include an 4563
evaluation and report of the potential use of, or investment in, 4564
one or more advanced transmission technologies to enable the 4565
electric utility to safely, reliably, efficiently, and cost- 4566
effectively meet electric system demand through its major 4567
utility facilities. 4568

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~~ first subject 4931
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~~+~~. 4951

(D) Eighty-eight per cent in the case of ~~a pipe-line~~ 4952
~~company,~~ a water-works company for taxable property first 4953
subject to taxation in this state before tax year 2017, or a 4954
heating company~~+~~. 4955

~~(E) (1) For tax year 2005, eighty-eight per cent in the~~ 4956
~~case of the taxable transmission and distribution property of an~~ 4957
~~electric company, and twenty-five per cent for all its other~~ 4958
~~taxable property;~~ 4959

~~(2) For tax year 2006 and each tax year thereafter, in (E)~~ 4960
In the case of an electric company, eighty-five one of the 4961
following: 4962

(1) Eighty-five per cent in the case of its taxable 4963
transmission and distribution property and energy conversion 4964
equipment and its energy conversion equipment, first subject to 4965
taxation in this state before tax year 2027; 4966

(2) Twenty-five per cent in the case of its other taxable 4967
transmission and distribution property and twenty-four; 4968

(3) Seven per cent in the case of its taxable production 4969
and energy conversion equipment first subject to taxation in 4970
this state for tax year 2027 and thereafter or any other taxable 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

(1) Eighty-eight per cent of its taxable property first 4999
subject to taxation in this state before tax year 2027; 5000

(2) Twenty-five per cent in the case of all its other 5001
taxable property. 5002

Sec. 5727.75. (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 the project" includes only hours worked at the qualified energy project and devoted to site preparation or protection, construction and installation, and the unloading and distribution of materials at the project site, but does not include hours worked by superintendents, owners, manufacturers' representatives, persons employed in a bona fide executive, management, supervisory, or administrative capacity, or persons whose sole employment on the project is transporting materials or persons to the project site.

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

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

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

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

(b) Tax year 2029.

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

(B) (1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation

for tax years 2011 through the applicable year if all of the 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 project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through the applicable year, and the certification under division (E) (2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for the tax year following the applicable year and all ensuing tax years if the property was placed into service before the first day of the tax year following the applicable year, as certified in the construction progress report required under division (F) (2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

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

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

(2) For such a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county

commissioners of a county in which property of the 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 owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

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

(4) For energy projects with a nameplate capacity of twenty megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure

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 5561
Advocate, as employed under section 4928.24 of the Revised Code, 5562
to support and advocate for the implementation of advanced 5563
transmission technologies at the regional transmission 5564
organization, Federal Energy Regulatory Commission, and other 5565
relevant agencies, commissions or regulatory bodies. 5566

(B) In conducting the study required by this section, the 5567
Commission shall consult with or invite comments from 5568
stakeholders. The Commission shall hold a minimum of two public 5569
workshops to review public comments from stakeholders. The 5570
Commission may incorporate any information or comments received 5571
in its report required in division (C) of this section. 5572

(C) Not later than March 1, 2026, the Commission shall 5573
submit a report that includes the Commission's findings with 5574
respect to the topics outlined in this section. A copy of the 5575
report shall be made available online and sent to all members of 5576
the General Assembly. 5577

Section 8. The amendment by this act of sections 5727.01 5578

and 5727.111 of the Revised Code applies to tax year 2027 and 5579
every tax year thereafter. 5580

Section 9. Section 122.6511 of the Revised Code as 5581
presented in this act takes effect on the later of July 1, 2025, 5582
or the effective date of this section. July 1, 2025, is the 5583
effective date of an earlier amendment to that section by H.B. 5584
315 of the 135th General Assembly. 5585

Section 10. An agreement between an electric distribution 5586
utility and a mercantile customer or group of mercantile 5587
customers for the construction of a customer sited renewable 5588
energy resource that is executed and filed with the public 5589
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