

As Reported by the Senate Public Utilities Committee

136th General Assembly

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Sub. H. B. No. 173

Representative Thomas, D.

**Cosponsors: Representatives Mathews, A., Click, Daniels, Hiner, Holmes, Lorenz,
Williams, Willis**

Senator Brenner

To amend sections 4905.02, 4905.10, and 5321.04 and 1
to enact sections 4933.51, 4933.52, 4933.53, 2
4933.54, 4933.55, 4933.552, 4933.553, 4933.554, 3
4933.555, 4933.56, 4933.57, 4933.58, 4933.59, 4
4933.60, 4933.62, 4933.65, and 4933.66 of the 5
Revised Code regarding submetered utility 6
services. 7

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

Section 1. That sections 4905.02, 4905.10, and 5321.04 be 8
amended and sections 4933.51, 4933.52, 4933.53, 4933.54, 9
4933.55, 4933.552, 4933.553, 4933.554, 4933.555, 4933.56, 10
4933.57, 4933.58, 4933.59, 4933.60, 4933.62, 4933.65, and 11
4933.66 of the Revised Code be enacted to read as follows: 12

Sec. 4905.02. (A) As used in this chapter, "public 13
utility" includes every corporation, company, copartnership, 14
person, or association, the lessees, trustees, or receivers of 15
the foregoing, defined in section 4905.03 of the Revised Code, 16
including any public utility that operates its utility not for 17
profit, except the following: 18

(1) An electric light company that operates its utility	19
not for profit;	20
(2) A public utility, other than a telephone company, that	21
is owned and operated exclusively by and solely for the	22
utility's customers, including any consumer or group of	23
consumers purchasing, delivering, storing, or transporting, or	24
seeking to purchase, deliver, store, or transport, natural gas	25
exclusively by and solely for the consumer's or consumers' own	26
intended use as the end user or end users and not for profit;	27
(3) A public utility that is owned or operated by any	28
municipal corporation;	29
(4) A railroad as defined in sections 4907.02 and 4907.03	30
of the Revised Code;	31
(5) Any provider, including a telephone company, with	32
respect to its provision of any of the following:	33
(a) Advanced services as defined in 47 C.F.R. 51.5;	34
(b) Broadband service, however defined or classified by	35
the federal communications commission;	36
(c) Information service as defined in the	37
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C.	38
153(20);	39
(d) Subject to division (A) of section 4927.03 of the	40
Revised Code, internet protocol-enabled services as defined in	41
section 4927.01 of the Revised Code;	42
(e) Subject to division (A) of section 4927.03 of the	43
Revised Code, any telecommunications service as defined in	44
section 4927.01 of the Revised Code to which both of the	45
following apply:	46

(i) The service was not commercially available on 47
September 13, 2010, the effective date of the amendment of this 48
section by S.B. 162 of the 128th general assembly. 49

(ii) The service employs technology that became available 50
for commercial use only after September 13, 2010, the effective 51
date of the amendment of this section by S.B. 162 of the 128th 52
general assembly. 53

(6) (a) A person, business, or other entity that, either on 54
its own behalf or under a contract with a property owner, 55
provides, constructs, or installs for customers submetered 56
utility service; 57

(b) As used in this division, "submetered utility service" 58
means any of the following, if provided, constructed, or 59
installed at a point after services provided by a public utility 60
are delivered to the public utility's metered points of delivery 61
at the customers' locations: 62

(i) Service or benefit from an advanced energy resource as 63
defined in section 4928.01 of the Revised Code; 64

(ii) Electric service to nonresidential customers; 65

(iii) Billing service for services described in divisions 66
(A) (6) (b) (i) and (ii) of this section; 67

(iv) Resale of electricity to a tenant's dwelling unit by 68
a landlord or the landlord's agent that is based on metered 69
consumption; 70

(v) Resale of electricity to a condominium by a unit 71
owners association or the association's agent that is based on 72
metered consumption. 73

(B) (1) "Public utility" includes a for-hire motor carrier 74

even if the carrier is operated in connection with an entity 75
described in division (A) (1), (2), (4), or (5) of this section. 76

(2) Division (A) of this section shall not be construed to 77
relieve a private motor carrier, operated in connection with an 78
entity described in division (A) (1), (2), (4), or (5) of this 79
section, from compliance with either of the following: 80

(a) Chapter 4923. of the Revised Code; 81

(b) Rules governing unified carrier registration adopted 82
under section 4921.11 of the Revised Code. 83

(C) As used in this section: 84

(1) "Condominium" and "unit owners association" have the 85
same meanings as in section 5311.01 of the Revised Code. 86

(2) "Dwelling unit," "landlord," and "tenant" have the 87
same meanings as in section 5321.01 of the Revised Code. 88

Sec. 4905.10. (A) For the sole purpose of maintaining and 89
administering the public utilities commission and exercising its 90
supervision and jurisdiction over the railroads and public 91
utilities of this state, an amount equivalent to the 92
appropriation from the public utilities fund created under 93
division (B) of this section to the public utilities commission 94
for railroad and public utilities regulation in each fiscal year 95
shall be apportioned among and assessed against each railroad 96
and public utility within this state by the commission by first 97
computing an assessment as though it were to be made in 98
proportion to the intrastate gross earnings or receipts, 99
excluding earnings or receipts from sales to other public 100
utilities for resale, of the railroad or public utility for the 101
calendar year next preceding that in which the assessment is 102
made. The commission may include in that first computation any 103

amount of a railroad's or public utility's intrastate gross 104
earnings or receipts that were underreported in a prior year. In 105
addition to whatever penalties apply under the Revised Code to 106
such underreporting, the commission shall assess the railroad or 107
public utility interest at the rate stated in division (A) of 108
section 1343.01 of the Revised Code. The commission shall 109
deposit any interest so collected into the public utilities 110
fund. The commission may exclude from that first computation any 111
such amounts that were overreported in a prior year. 112

The final computation of the assessment shall consist of 113
imposing upon each railroad and public utility whose assessment 114
under the first computation would have been one hundred dollars 115
or less an assessment of one hundred dollars and recomputing the 116
assessments of the remaining railroads and public utilities by 117
apportioning an amount equal to the appropriation to the public 118
utilities commission for administration of the utilities 119
division in each fiscal year less the total amount to be 120
recovered from those paying the minimum assessment, in 121
proportion to the intrastate gross earnings or receipts of the 122
remaining railroads and public utilities for the calendar year 123
next preceding that in which the assessments are made. 124

In the case of an assessment based on intrastate gross 125
receipts under this section against a public utility that is an 126
electric utility as defined in section 4928.01 of the Revised 127
Code, or an electric services company, electric cooperative, or 128
governmental aggregator subject to certification under section 129
4928.08 of the Revised Code, such receipts shall be those 130
specified in the utility's, company's, cooperative's, or 131
aggregator's most recent report of intrastate gross receipts and 132
sales of kilowatt hours of electricity, filed with the 133
commission pursuant to division (F) of section 4928.06 of the 134

Revised Code, and verified by the commission. 135

In the case of an assessment based on intrastate gross 136
receipts under this section against a retail natural gas 137
supplier or governmental aggregator subject to certification 138
under section 4929.20 of the Revised Code, such receipts shall 139
be those specified in the supplier's or aggregator's most recent 140
report of intrastate gross receipts and sales of hundred cubic 141
feet of natural gas, filed with the commission pursuant to 142
division (B) of section 4929.23 of the Revised Code, and 143
verified by the commission. However, no such retail natural gas 144
supplier or such governmental aggregator serving or proposing to 145
serve customers of a particular natural gas company, as defined 146
in section 4929.01 of the Revised Code, shall be assessed under 147
this section until after the commission, pursuant to section 148
4905.26 or 4909.18 of the Revised Code, has removed from the 149
base rates of the natural gas company the amount of assessment 150
under this section that is attributable to the value of 151
commodity sales service, as defined in section 4929.01 of the 152
Revised Code, in the base rates paid by those customers of the 153
company that do not purchase that service from the natural gas 154
company. 155

In the case of an assessment based on intrastate gross 156
receipts under this section against a submetered utility service 157
provider, such receipts shall be limited to receipts for 158
submetered utility service. 159

(B) Through calendar year 2005, on or before the first day 160
of October in each year, the commission shall notify each such 161
railroad and public utility of the sum assessed against it, 162
whereupon payment shall be made to the commission, which shall 163
deposit it into the state treasury to the credit of the public 164

utilities fund, which is hereby created. Beginning in calendar 165
year 2006, on or before the fifteenth day of May in each year, 166
the commission shall notify each railroad and public utility 167
that had a sum assessed against it for the current fiscal year 168
of more than one thousand dollars that fifty per cent of that 169
amount shall be paid to the commission by the twentieth day of 170
June of that year as an initial payment of the assessment 171
against the company for the next fiscal year. On or before the 172
first day of October in each year, the commission shall make a 173
final determination of the sum of the assessment against each 174
railroad and public utility and shall notify each railroad and 175
public utility of the sum assessed against it. The commission 176
shall deduct from the assessment for each railroad or public 177
utility any initial payment received. Payment of the assessment 178
shall be made to the commission by the first day of November of 179
that year. The commission shall deposit the payments received 180
into the state treasury to the credit of the public utilities 181
fund. Any such amounts paid into the fund but not expended by 182
the commission shall be credited ratably, after first deducting 183
any deficits accumulated from prior years, by the commission to 184
railroads and public utilities that pay more than the minimum 185
assessment, according to the respective portions of such sum 186
assessable against them for the ensuing fiscal year. The 187
assessments for such fiscal year shall be reduced 188
correspondingly. 189

(C) Within five days after the beginning of each fiscal 190
year through fiscal year 2006, the director of budget and 191
management shall transfer from the general revenue fund to the 192
public utilities fund an amount sufficient for maintaining and 193
administering the public utilities commission and exercising its 194
supervision and jurisdiction over the railroads and public 195

utilities of the state during the first four months of the 196
fiscal year. The director shall transfer the same amount back to 197
the general revenue fund from the public utilities fund at such 198
time as the director determines that the balance of the public 199
utilities fund is sufficient to support the appropriations from 200
the fund for the fiscal year. The director may transfer less 201
than that amount if the director determines that the revenues of 202
the public utilities fund during the fiscal year will be 203
insufficient to support the appropriations from the fund for the 204
fiscal year, in which case the amount not paid back to the 205
general revenue fund shall be payable to the general revenue 206
fund in future fiscal years. 207

(D) For the purpose of this section only, "public utility" 208
includes: 209

(1) In addition to an electric utility as defined in 210
section 4928.01 of the Revised Code, an electric services 211
company, an electric cooperative, or a governmental aggregator 212
subject to certification under section 4928.08 of the Revised 213
Code, to the extent of the company's, cooperative's, or 214
aggregator's engagement in the business of supplying or 215
arranging for the supply in this state of any retail electric 216
service for which it must be so certified; 217

(2) In addition to a natural gas company as defined in 218
section 4929.01 of the Revised Code, a retail natural gas 219
supplier or governmental aggregator subject to certification 220
under section 4929.20 of the Revised Code, to the extent of the 221
supplier's or aggregator's engagement in the business of 222
supplying or arranging for the supply in this state of any 223
competitive retail natural gas service for which it must be 224
certified; 225

<u>(3) A submetered utility service provider.</u>	226
(E) Each public utilities commissioner shall receive a salary fixed at the level set by pay range 49 under schedule E-2 of section 124.152 of the Revised Code.	227 228 229
<u>(F) As used in this section, "submetered utility service" has the same meaning as in section 4905.02 of the Revised Code and "submetered utility service provider" has the same meaning as in section 4933.51 of the Revised Code.</u>	230 231 232 233
<u>Sec. 4933.51.</u> As used in sections 4933.51 to 4933.66 of the Revised Code:	234 235
<u>(A) "Building" has the same meaning as in section 3781.06 of the Revised Code.</u>	236 237
<u>(B) "Condominium" has the same meaning as in section 5311.01 of the Revised Code.</u>	238 239
<u>(C) "Dwelling unit," "landlord," and "tenant" have the same meanings as in section 5321.01 of the Revised Code.</u>	240 241
<u>(D) "Electric utility" has the same meaning as in section 4928.01 of the Revised Code.</u>	242 243
<u>(E) "Qualified low-income building" has the same meaning as in section 175.16 of the Revised Code.</u>	244 245
<u>(F) "Submetered utility service" has the same meaning as in section 4905.02 of the Revised Code.</u>	246 247
<u>(G) (1) "Submetered utility service provider" means, subject to divisions (G) (2) and (3) of this section, a person, business, or other entity that, either on its own behalf or under a contract with a property owner, provides, constructs, or installs for customers submetered utility service.</u>	248 249 250 251 252

(2) In the case of resale of electricity to a tenant based 253
on metered consumption at the tenant's dwelling unit, the 254
submetered utility service provider is the master meter account 255
holder, or customer of record, with the electric utility 256
delivering service to the premises, except to the extent that 257
such account holder or customer of record is a landlord who has 258
assigned responsibility for compliance with some or all of the 259
requirements of sections 4933.55 to 4933.59 of the Revised Code 260
to a third party by contract. The third party that assumed 261
responsibility for compliance with some or all of the 262
requirements of sections 4933.55 to 4933.59 of the Revised Code 263
is the submetered utility service provider to the extent that 264
the third party has assumed such responsibility. 265

(3) "Submetered utility service provider" does not include 266
a person, business, or other entity that, either on its own 267
behalf or under a contract with a property owner, provides, 268
constructs, or installs either of the following for customers: 269

(a) A mercantile customer self-power system, as defined in 270
section 4928.73 of the Revised Code; 271

(b) A behind the meter electric generation facility. 272

(H) "Substantial improvement" means any repair or 273
improvement to a building where the cost of the repair or 274
improvement is at least fifty per cent of the county auditor's 275
market value, as defined in section 5705.01 of the Revised Code, 276
of the property where the building is located during the tax 277
year in which the repair or improvement is completed. 278

Sec. 4933.52. (A) Except for reasons of safety or 279
reliability, the public utilities commission shall not adopt any 280
rule that permits an electric utility to set the location of, or 281

refuse to relocate, any of its meters so that the meter's 282
location prevents a submetered utility service provider from 283
providing, constructing, or installing submetered utility 284
service at a point after the electric service is delivered to 285
the electric utility's metered point of delivery at that 286
location. 287

(B) Except for reasons of safety or reliability, no 288
electric utility shall set the location of, or refuse to 289
relocate, any of its meters so that the meter's location 290
prevents a submetered utility service provider from providing, 291
constructing, or installing submetered utility service at a 292
point after the electric utility service is delivered to the 293
electric utility's metered point of delivery at that location. 294

Sec. 4933.53. (A) An electric utility may sell its 295
equipment to a submetered utility service provider at a property 296
or community where the provider intends to provide submetered 297
utility service. 298

(B) If an electric utility decides not to sell its 299
equipment to a submetered utility service provider at a property 300
or community where the provider intends to provide submetered 301
utility service, then the utility shall remove the equipment in 302
a timely manner. 303

(C) If an electric utility does not remove its equipment 304
in a timely manner under division (B) of this section, then the 305
utility shall pay all costs for the submetered utility service 306
provider to remove the equipment. 307

Sec. 4933.54. Each electric utility shall maintain up-to- 308
date reference tools on the utility's web site, or in another 309
conspicuous and publicly accessible location, that permit 310

automatic calculation of what the electric utility would charge 311
its residential customers with a specific kilowatt-hour usage 312
during any of the most recent twelve months. 313

Sec. 4933.55. A submetered utility service provider that 314
resells electricity to a tenant based on metered consumption at 315
the tenant's dwelling unit shall provide the tenant a discount 316
resulting in the tenant's bill being at least three per cent 317
less than the bill for the standard service offer and all 318
tariffed charges and riders that the electric utility, in whose 319
certified territory the dwelling unit is located, would charge 320
its residential customers for electric service. 321

Sec. 4933.552. On and after the effective date of this 322
section: 323

(A) No submetered utility service provider shall convert a 324
building that receives electric service from an electric utility 325
to receive submetered utility service, unless the submetered 326
utility service provider begins installing submetered utility 327
service equipment within one year after a substantial 328
improvement to the building is completed. 329

(B) A submetered utility service provider may supply 330
submetered utility service to a building that does not receive 331
electric service from an electric utility. 332

Sec. 4933.553. No submetered utility service provider 333
shall bill or otherwise recover from customers any amounts that 334
were previously undercharged for unmetered electricity. 335

Sec. 4933.554. (A) The cost of electricity for electric 336
vehicle charging stations located at a residential property 337
shall not be included in any common area electricity charge or 338
fee billed to tenants, regardless of whether the property is 339

served by an electric utility or a submetered utility service 340
provider. 341

(B) Electric vehicle charging station costs shall be 342
billed exclusively on an as-used basis, directly to the tenant 343
or vehicle owner who used the charging station during the 344
applicable billing period. 345

(C) This section applies to both submetered utility 346
service providers and landlords, regardless of whether the 347
property is subject to submetered utility service. 348

(D) No landlord or submetered utility service provider 349
shall recover the cost of electric vehicle charging station 350
infrastructure, maintenance, or operation through common area 351
charges assessed against tenants who do not use such charging 352
stations. 353

Sec. 4933.555. (A) Except as provided in division (B) of 354
this section, no submetered utility service provider that 355
resells electricity to a tenant based on metered consumption at 356
the tenant's dwelling unit shall charge a tenant a common area 357
charge or fee, including any common area charge or fee for 358
central systems air conditioning, heating, and hot water. 359

(B) A submetered utility service provider shall be solely 360
responsible for calculating, billing, and collecting any common 361
area charge or fee for electricity. Any such charge billed to a 362
tenant shall both: 363

(1) Not exceed the actual cost of electricity billed to 364
the submetered utility service provider by the electric utility 365
for common area consumption, allocated on a pro-rata basis among 366
the dwelling units served; 367

(2) Include no markup, administrative fee, service charge, 368

or any other amount above the actual cost described in division 369
(B) (1) of this section. 370

(C) No landlord shall independently bill or collect common 371
area electricity charges from tenants at a property where a 372
submetered utility service provider operates. The provider 373
assumes full responsibility for the accuracy and compliance of 374
all common area electricity billing. 375

Sec. 4933.56. A submetered utility service provider that 376
resells electricity to a tenant based on metered consumption at 377
the tenant's dwelling unit shall do all of the following: 378

(A) Register with the public utilities commission every 379
two years and comply with the rules adopted pursuant to section 380
4933.59 of the Revised Code. Registration under this division 381
shall include only the provider's name, business address, 382
telephone number, regulatory contact, the type of services 383
offered by the provider, and evidence of the managerial, 384
financial, and technical capabilities to offer such services. 385

(B) At a minimum, comply with the requirements for the 386
disconnection of electric service established in sections 387
4933.121 to 4933.123 of the Revised Code and the rules adopted 388
pursuant to those sections, as applicable, or as otherwise 389
ordered by the commission; 390

(C) Provide a separate disclosure and a report of historic 391
monthly usage and corresponding billed amounts for metered 392
electricity to each tenant's dwelling unit for the preceding 393
twelve months, if applicable, to its tenants solely for purposes 394
of compliance with the pricing requirements under section 395
4933.55 of the Revised Code; 396

(D) Disclose its process and procedures for the 397

<u>disconnection of electric service to its tenants;</u>	398
<u>(E) Offer an alternative payment plan option to a tenant that receives submetered utility service from the provider;</u>	399 400
<u>(F) Accept a payment from the home energy assistance program when the account holder qualifies for the home energy assistance program;</u>	401 402 403
<u>(G) Ensure that each bill issued by the provider for submetered utility service complies with all of the following:</u>	404 405
<u>(1) Lists each charge or fee for submetered utility service in a separate and distinct manner that allows the tenant to understand each charge or fee;</u>	406 407 408
<u>(2) Contains no common area charge or fee, including any common area charge or fee for central systems air conditioning, heating, and hot water, except as provided in section 4933.555 of the Revised Code;</u>	409 410 411 412
<u>(3) Clearly states the tenant's actual metered electricity usage in kilowatt hours, or other standard measure, in a manner that allows the tenant to effectively use the reference tools required by section 4933.54 of the Revised Code;</u>	413 414 415 416
<u>(4) States the applicable standard service offer rate of the electric utility for the same billing period and equivalent usage, enabling the tenant to verify the savings required under section 4933.55 of the Revised Code.</u>	417 418 419 420
<u>(H) Furnish high quality, safe, and reliable service.</u>	421
Sec. 4933.57. <u>(A) Prior to the effective date of the rules adopted to implement section 4933.58 of the Revised Code, a submetered utility service provider that resells electricity to a tenant based on metered consumption at the tenant's dwelling</u>	422 423 424 425

unit at a property or community with more than fifty dwelling 426
units shall file an interim compliance plan for approval with 427
the public utilities commission for each property or community 428
with more than fifty dwelling units at which submetered utility 429
service is provided to tenants by either of the following dates, 430
whichever is later: 431

(1) Not more than ninety days after the commission adopts 432
rules to implement this section; 433

(2) Prior to the date that the provider initiates 434
providing submetered utility service at the property or 435
community. 436

(B) The commission may approve an interim compliance plan 437
filing that does all of the following: 438

(1) Includes the provider's name, business address, 439
telephone number, regulatory contact, and the type of services 440
offered by the provider at the community or property; 441

(2) Describes the methods by which the provider intends to 442
ensure that any bills to tenants at the property or community 443
comply with the pricing requirements for the resale of 444
electricity under section 4933.55 of the Revised Code; 445

(3) Describes how the provider intends to comply with the 446
electric service disconnection standards imposed by section 447
4933.56 of the Revised Code; 448

(4) If more than one submetered utility service provider 449
provides submetered utility service at a single property or 450
community with more than fifty dwelling units, or if more than 451
one party is responsible for the compliance plan items described 452
in this section, sets forth the responsibilities of each 453
provider for each of the interim compliance plan items described 454

in this section. 455

(C) The provider shall adhere to the interim compliance 456
plan that is approved by the commission until the plan is 457
terminated, unless otherwise directed by the commission. 458

(D) An interim compliance plan for a property or community 459
approved by the commission terminates upon the commission 460
approving a compliance plan under section 4933.58 of the Revised 461
Code for the same property or community. An interim compliance 462
plan continues until terminated pursuant to this division or 463
terminated by the commission. 464

(E) The requirement that a provider file an interim 465
compliance plan under this section terminates upon the effective 466
date of rules to implement section 4933.58 of the Revised Code. 467

Sec. 4933.58. (A) A submetered utility service provider 468
that resells electricity to a tenant based on metered 469
consumption at the tenant's dwelling unit at a property or 470
community with more than fifty dwelling units shall file a 471
compliance plan for approval with the public utilities 472
commission for each property or community with more than fifty 473
dwelling units at which submetered utility service is provided 474
to tenants by either of the following dates, whichever is later: 475

(1) Not more than ninety days after the commission adopts 476
rules to implement this section; 477

(2) Prior to the date that the provider initiates 478
providing submetered utility service at the property or 479
community. 480

(B) The commission may approve a compliance plan filing 481
that does all of the following: 482

<u>(1) Describes the means by which the provider will ensure</u>	483
<u>compliance with sections 4933.56 and 4933.59 of the Revised Code</u>	484
<u>at the property or community, as applicable;</u>	485
<u>(2) Includes the provider's name, business address,</u>	486
<u>telephone number, regulatory contact, and the type of services</u>	487
<u>offered by the provider at the community or property;</u>	488
<u>(3) Describes the methods by which the provider intends to</u>	489
<u>ensure that any bills to tenants at the property or community</u>	490
<u>comply with the pricing requirements for the resale of</u>	491
<u>electricity under section 4933.55 of the Revised Code;</u>	492
<u>(4) Describes how the provider intends to comply with the</u>	493
<u>electric service disconnection standards imposed by section</u>	494
<u>4933.56 of the Revised Code;</u>	495
<u>(5) Includes a copy of the language included, or to be</u>	496
<u>included, in each tenant's lease relating to submetered utility</u>	497
<u>service that complies with division (C) of this section, as</u>	498
<u>applicable, and section 5321.04 of the Revised Code;</u>	499
<u>(6) For submetered utility service provided or intended to</u>	500
<u>be provided to a qualified low-income building, discloses any</u>	501
<u>utility assistance programs available to tenants or condominium</u>	502
<u>owners of which the applicant is aware as of the date the</u>	503
<u>application is submitted;</u>	504
<u>(7) If more than one submetered utility service provider</u>	505
<u>provides submetered utility service at a single property or</u>	506
<u>community with more than fifty dwelling units, or if more than</u>	507
<u>one party is responsible for the compliance plan items described</u>	508
<u>in this section, sets forth the responsibilities of each</u>	509
<u>provider for each of the compliance plan items described in this</u>	510
<u>section;</u>	511

<u>(8) Discloses the standard communication format used by</u>	512
<u>the provider or landlord to provide information to tenants;</u>	513
<u>(9) Provide a description of the alternative payment plan</u>	514
<u>required by section 4933.56 of the Revised Code.</u>	515
<u>(C) To the extent that a landlord of a property or</u>	516
<u>community with more than fifty dwelling units is not the</u>	517
<u>submetered utility service provider, the landlord shall</u>	518
<u>separately contribute to or attest to the language included, or</u>	519
<u>to be included, in each tenant's lease relating to submetered</u>	520
<u>utility service.</u>	521
<u>(D) The provider shall adhere to the compliance plan that</u>	522
<u>is approved by the commission, unless otherwise directed by the</u>	523
<u>commission.</u>	524
<u>(E) The compliance plan shall be updated upon any material</u>	525
<u>change to the information contained therein.</u>	526
Sec. 4933.59. <u>(A) Not later than one year after the</u>	527
<u>effective date of this section, the public utilities commission</u>	528
<u>shall adopt rules to do all of the following:</u>	529
<u>(1) Implement sections 4933.56 and 4933.58 of the Revised</u>	530
<u>Code;</u>	531
<u>(2) Establish minimum service requirements for submetered</u>	532
<u>utility service providers with respect to metering, outages and</u>	533
<u>accident reports, and customer billing and payments as if the</u>	534
<u>providers were electric utilities;</u>	535
<u>(3) Establish procedures for customer complaint and</u>	536
<u>complaint handling for submetered utility service providers as</u>	537
<u>if the providers were electric utilities;</u>	538
<u>(4) Establish requirements for submetered utility service</u>	539

providers governing retention of records and production of such 540
records in response to requests by commission staff. 541

(B) The commission shall adopt rules to implement section 542
4933.57 of the Revised Code not more than one hundred eighty 543
days after the effective date of this section. 544

(C) The commission may require submetered utility service 545
providers that provide submetered utility service to residential 546
end users other than providers that resell electricity to a 547
tenant based on metered consumption at the tenant's dwelling 548
unit to register every two years and to comply with any 549
applicable registration requirements. 550

(D) Rules adopted under this section, including any 551
requirements regarding classifications, procedures, terms, and 552
conditions, shall be reasonable and shall not confer any undue 553
economic, competitive, or market advantage or preference upon 554
any electric utility, submetered utility service provider, or 555
competitive retail electric service provider. 556

(E) The commission shall adopt rules consistent with this 557
section that govern submetered utility service providers that 558
provide submetered utility service to residential end users 559
other than providers that resell electricity to a tenant based 560
on metered consumption at the tenant's dwelling. 561

(F) Notwithstanding any provision of section 121.95 of the 562
Revised Code to the contrary, a regulatory restriction contained 563
in rules adopted under sections 4933.51 to 4933.66 of the 564
Revised Code is not subject to sections 121.95 to 121.953 of the 565
Revised Code. 566

Sec. 4933.60. (A) The public utilities commission shall 567
approve or issue a notice of deficiency in accordance with 568

division (B) (2) of this section relating to any of the following 569
not more than thirty days after receipt from a submetered 570
utility service provider at a property or community with more 571
than fifty dwelling units: 572

(1) A registration application required under section 573
4933.56 or 4933.59 of the Revised Code; 574

(2) An interim compliance plan filing required under 575
section 4933.57 of the Revised Code; 576

(3) A compliance plan filing required under section 577
4933.58 of the Revised Code. 578

(B) (1) The commission may approve a provider's application 579
or filing described in this section if the application or filing 580
complies with all requirements under sections 4933.56 to 4933.59 581
of the Revised Code, as applicable. 582

(2) If a provider's application or filing described in 583
this section does not comply with some or all of the 584
requirements under sections 4933.56 to 4933.59 of the Revised 585
Code, the commission shall notify the provider by using a notice 586
of deficiency setting forth the manner of noncompliance in terms 587
sufficiently specific to permit the provider to remedy the 588
noncompliance. Upon a provider's amendment of an application or 589
filing following a notice of deficiency, the commission shall 590
approve or deny the provider's amended application or filing 591
within ninety days of receipt. 592

(C) If the commission denies a provider's amended 593
application or filing as described in this section, the 594
commission shall notify the provider of the reason for such 595
denial. 596

(D) Any application or filing described in this section 597

that is not approved or for which a notice of deficiency is not 598
submitted within ninety days is deemed approved by operation of 599
law. 600

Sec. 4933.62. (A) No submetered utility service provider 601
shall provide a submetered utility service to a consumer in this 602
state without first being registered with the public utilities 603
commission, to the extent registration is required under 604
sections 4933.56 and 4933.59 of the Revised Code. 605

(B) Beginning one hundred twenty days after the effective 606
date of rules adopted to implement section 4933.57 of the 607
Revised Code and terminating upon the effective date of rules to 608
implement section 4933.58 of the Revised Code, no submetered 609
utility service provider that resells electricity to a tenant 610
based on metered consumption at the tenant's dwelling unit at a 611
property or community with more than fifty dwelling units shall 612
provide a submetered utility service to a consumer in this state 613
without an approved interim compliance plan under section 614
4933.57 of the Revised Code. 615

(C) Beginning one hundred twenty days after the effective 616
date of rules adopted to implement section 4933.58 of the 617
Revised Code, no submetered utility service provider that 618
resells electricity to a tenant based on metered consumption at 619
the tenant's dwelling unit at a property or community with more 620
than fifty dwelling units shall provide a submetered utility 621
service to a consumer in this state without an approved 622
compliance plan under section 4933.58 of the Revised Code. 623

Sec. 4933.65. (A) Any submetered utility service provider 624
that is found to have violated or failed to comply with the 625
requirements under sections 4933.55 to 4933.59 of the Revised 626
Code may be assessed, or have any or all of the following 627

<u>penalties imposed, at the discretion of the public utilities</u>	628
<u>commission:</u>	629
<u>(1) A forfeiture of not more than one hundred dollars for</u>	630
<u>each violation or compliance failure per impacted dwelling unit.</u>	631
<u>For purposes of a forfeiture under division (A) (1) of this</u>	632
<u>section, each day that a provider violates or fails to comply</u>	633
<u>with sections 4933.55 to 4933.59 of the Revised Code is a</u>	634
<u>separate violation or compliance failure for each violation or</u>	635
<u>compliance failure.</u>	636
<u>(2) A forfeiture of ten thousand dollars if the submetered</u>	637
<u>utility service provider is found to have violated or failed to</u>	638
<u>comply with division (C) of section 4933.62 of the Revised Code.</u>	639
<u>A forfeiture under division (A) (2) of this section may be in</u>	640
<u>addition to a forfeiture under division (A) (1) of this section.</u>	641
<u>(3) Revocation, vacation, or nullification of the</u>	642
<u>provider's registration under section 4933.56 or 4933.59 of the</u>	643
<u>Revised Code and issuance of an order and entry of the order in</u>	644
<u>the journal of the commission barring such provider from</u>	645
<u>providing submetered utility service in this state for not more</u>	646
<u>than two years or permanently;</u>	647
<u>(4) Restitution paid to the provider's customers;</u>	648
<u>(5) Re-rating of the provider's customers;</u>	649
<u>(6) A refund or bill credit to the provider's customers.</u>	650
<u>(B) In addition to penalties under division (A) of this</u>	651
<u>section, a submetered utility service provider that violates</u>	652
<u>section 4933.55 or 4933.56 of the Revised Code shall be subject</u>	653
<u>to the following graduated penalties, per tenant and per</u>	654
<u>violation, where each billing period in which a tenant is</u>	655
<u>overcharged is a separate violation:</u>	656

(1) For a first violation, five times the amount of the 657
overcharge to that tenant; 658

(2) For a second violation, ten times the amount of 659
overcharge to that tenant; 660

(3) For a third or subsequent violation, ten times the 661
amount of the overcharge to that tenant, plus an additional five 662
thousand dollars. 663

(C) The commission shall track violations on a per- 664
provider, per-property basis. Forfeitures under division (B) of 665
this section shall first be paid as restitution to the affected 666
tenant with any remainder credited to the general revenue fund. 667

(D) Forfeitures under this section shall be recovered by 668
action prosecuted in the name of the state and may be brought in 669
the court of common pleas of any county in which the provider 670
who committed the violation or failed to comply is located. The 671
action shall be commenced and prosecuted by the attorney general 672
when directed by the commission. All forfeitures are cumulative, 673
and an action for recovery of one does not bar the recovery of 674
another. Except as provided in division (C) of this section, 675
forfeitures collected under this section shall be credited to 676
the general revenue fund. 677

Sec. 4933.66. The public utilities commission may enter an 678
order in the journal of the commission barring, for not more 679
than two years or permanently, the provision of submetered 680
utility service to the property or community of a landlord that 681
is found to have failed to comply with division (C) of section 682
4933.58 of the Revised Code. 683

Sec. 5321.04. (A) A landlord who is a party to a rental 684
agreement shall do all of the following: 685

- (1) Comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety;
- (2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;
- (3) Keep all common areas of the premises in a safe and sanitary condition;
- (4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by the landlord;
- (5) When the landlord is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;
- (6) Supply running water, reasonable amounts of hot water, and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection;
- (7) Not abuse the right of access conferred by division (B) of section 5321.05 of the Revised Code;
- (8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of the landlord's intent to enter and enter only at reasonable times.

Twenty-four hours is presumed to be a reasonable notice in the 715
absence of evidence to the contrary. 716

(9) Promptly commence an action under Chapter 1923. of the 717
Revised Code, after complying with division (C) of section 718
5321.17 of the Revised Code, to remove a tenant from particular 719
residential premises, if the tenant fails to vacate the premises 720
within three days after the giving of the notice required by 721
that division and if the landlord has actual knowledge of or has 722
reasonable cause to believe that the tenant, any person in the 723
tenant's household, or any person on the premises with the 724
consent of the tenant previously has or presently is engaged in 725
a violation as described in division (A) (6) (a) (i) of section 726
1923.02 of the Revised Code, whether or not the tenant or other 727
person has been charged with, has pleaded guilty to or been 728
convicted of, or has been determined to be a delinquent child 729
for an act that, if committed by an adult, would be a violation 730
as described in that division. Such actual knowledge or 731
reasonable cause to believe shall be determined in accordance 732
with that division. 733

(10) Comply with the rights of tenants under the 734
Servicemembers Civil Relief Act, 117 Stat. 2835, 50 U.S.C. App. 735
501; 736

(11) If the landlord, whether by itself or with the 737
assistance of a submetered utility service provider, resells or 738
permits resale of utility service to tenants, disclose the 739
nature of such utility service and all related charges or fees 740
in its leases with tenants, and, as applicable, comply with 741
sections 4933.51 to 4933.66 of the Revised Code; 742

(12) Not independently bill or collect common area 743
electricity charges from tenants at any property where a 744

submetered utility service provider operates pursuant to section 745
4933.555 of the Revised Code. 746

(B) If the landlord makes an entry in violation of 747
division (A) (8) of this section, makes a lawful entry in an 748
unreasonable manner, or makes repeated demands for entry 749
otherwise lawful that have the effect of harassing the tenant, 750
the tenant may recover actual damages resulting from the entry 751
or demands, obtain injunctive relief to prevent the recurrence 752
of the conduct, and obtain a judgment for reasonable attorney's 753
fees, or may terminate the rental agreement. 754

(C) As used in this section, "submetered utility service 755
provider" has the same meaning as in section 4933.51 of the 756
Revised Code. 757

Section 2. That existing sections 4905.02, 4905.10, and 758
5321.04 of the Revised Code are hereby repealed. 759