

**As Introduced**

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**H. B. No. 265**

**Representatives Brennan, Fischer**

**Cosponsors: Representatives Rogers, Upchurch, Synenberg, Lett, Dean, Hall, T.,  
Humphrey, Gross, Hiner, Workman**

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To amend sections 4905.02 and 4905.03 of the	1
Revised Code to regulate resellers of public	2
utility services as public utilities.	3

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

<b>Section 1.</b> That sections 4905.02 and 4905.03 of the	4
Revised Code be amended to read as follows:	5

<b>Sec. 4905.02.</b> (A) As used in this chapter, "public	6
utility" includes every corporation, company, copartnership,	7
person, or association, the lessees, trustees, or receivers of	8
the foregoing, defined in section 4905.03 of the Revised Code,	9
including any public utility that operates its utility not for	10
profit, except the following:	11

(1) An electric light company that operates its utility	12
not for profit;	13

(2) A public utility, other than a telephone company, that	14
is owned and operated exclusively by and solely for the	15
utility's customers, including any consumer or group of	16
consumers purchasing, delivering, storing, or transporting, or	17
seeking to purchase, deliver, store, or transport, natural gas	18

exclusively by and solely for the consumer's or consumers' own 19  
intended use as the end user or end users and not for profit; 20

(3) A public utility that is owned or operated by any 21  
municipal corporation; 22

(4) A railroad as defined in sections 4907.02 and 4907.03 23  
of the Revised Code; 24

(5) Any provider, including a telephone company, with 25  
respect to its provision of any of the following: 26

(a) Advanced services as defined in 47 C.F.R. 51.5; 27

(b) Broadband service, however defined or classified by 28  
the federal communications commission; 29

(c) Information service as defined in the 30  
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 31  
153(20); 32

(d) Subject to division (A) of section 4927.03 of the 33  
Revised Code, internet protocol-enabled services as defined in 34  
section 4927.01 of the Revised Code; 35

(e) Subject to division (A) of section 4927.03 of the 36  
Revised Code, any telecommunications service as defined in 37  
section 4927.01 of the Revised Code to which both of the 38  
following apply: 39

(i) The service was not commercially available on 40  
September 13, 2010, the effective date of the amendment of this 41  
section by S.B. 162 of the 128th general assembly. 42

(ii) The service employs technology that became available 43  
for commercial use only after September 13, 2010, the effective 44  
date of the amendment of this section by S.B. 162 of the 128th 45

general assembly. 46

(6) A landlord, condominium association or property owner 47  
that provides submetered public utility service solely for the 48  
purpose of allocating and billing utility costs to tenants or 49  
owners in residential properties, where such service is limited 50  
to cost allocation and does not constitute the redistribution or 51  
resale of a public utility service. 52

(B) (1) "Public utility" includes a for-hire motor carrier 53  
even if the carrier is operated in connection with an entity 54  
described in division (A) (1), (2), (4), or (5) of this section. 55

(2) Division (A) of this section shall not be construed to 56  
relieve a private motor carrier, operated in connection with an 57  
entity described in division (A) (1), (2), (4), or (5) of this 58  
section, from compliance with either of the following: 59

(a) Chapter 4923. of the Revised Code; 60

(b) Rules governing unified carrier registration adopted 61  
under section 4921.11 of the Revised Code. 62

**Sec. 4905.03.** As used in this chapter, any person, firm, 63  
copartnership, voluntary association, joint-stock association, 64  
company, or corporation, wherever organized or incorporated, is: 65

(A) A telephone company, when engaged in the business of 66  
transmitting telephonic messages to, from, through, or in this 67  
state; 68

(B) A for-hire motor carrier, when engaged in the business 69  
of transporting persons or property by motor vehicle for 70  
compensation, except when engaged in any of the operations in 71  
intrastate commerce described in divisions (B) (1) to (9) of 72  
section 4921.01 of the Revised Code, but including the carrier's 73

agents, officers, and representatives, as well as employees 74  
responsible for hiring, supervising, training, assigning, or 75  
dispatching drivers and employees concerned with the 76  
installation, inspection, and maintenance of motor-vehicle 77  
equipment and accessories; 78

(C) An electric light company, when engaged in the 79  
business of supplying electricity for light, heat, or power 80  
purposes to consumers within this state, including supplying 81  
electric transmission service for electricity delivered to 82  
consumers in this state, but excluding a regional transmission 83  
organization approved by the federal energy regulatory 84  
commission; 85

(D) A gas company, when engaged in the business of 86  
supplying artificial gas for lighting, power, or heating 87  
purposes to consumers within this state or when engaged in the 88  
business of supplying artificial gas to gas companies or to 89  
natural gas companies within this state, but a producer engaged 90  
in supplying to one or more gas or natural gas companies, only 91  
such artificial gas as is manufactured by that producer as a by- 92  
product of some other process in which the producer is primarily 93  
engaged within this state is not thereby a gas company. All 94  
rates, rentals, tolls, schedules, charges of any kind, or 95  
agreements between any gas company and any other gas company or 96  
any natural gas company providing for the supplying of 97  
artificial gas and for compensation for the same are subject to 98  
the jurisdiction of the public utilities commission. 99

(E) A natural gas company, when engaged in the business of 100  
supplying natural gas for lighting, power, or heating purposes 101  
to consumers within this state. Notwithstanding the above, 102  
neither the delivery nor sale of Ohio-produced natural gas or 103

Ohio-produced raw natural gas liquids by a producer or gatherer 104  
under a public utilities commission-ordered exemption, adopted 105  
before, as to producers, or after, as to producers or gatherers, 106  
January 1, 1996, or the delivery or sale of Ohio-produced 107  
natural gas or Ohio-produced raw natural gas liquids by a 108  
producer or gatherer of Ohio-produced natural gas or Ohio- 109  
produced raw natural gas liquids, either to a lessor under an 110  
oil and gas lease of the land on which the producer's drilling 111  
unit is located, or the grantor incident to a right-of-way or 112  
easement to the producer or gatherer, shall cause the producer 113  
or gatherer to be a natural gas company for the purposes of this 114  
section. 115

All rates, rentals, tolls, schedules, charges of any kind, 116  
or agreements between a natural gas company and other natural 117  
gas companies or gas companies providing for the supply of 118  
natural gas and for compensation for the same are subject to the 119  
jurisdiction of the public utilities commission. The commission, 120  
upon application made to it, may relieve any producer or 121  
gatherer of natural gas, defined in this section as a gas 122  
company or a natural gas company, of compliance with the 123  
obligations imposed by this chapter and Chapters 4901., 4903., 124  
4907., 4909., 4921., and 4923. of the Revised Code, so long as 125  
the producer or gatherer is not affiliated with or under the 126  
control of a gas company or a natural gas company engaged in the 127  
transportation or distribution of natural gas, or so long as the 128  
producer or gatherer does not engage in the distribution of 129  
natural gas to consumers. 130

Nothing in division (E) of this section limits the 131  
authority of the commission to enforce sections 4905.90 to 132  
4905.96 of the Revised Code. 133

(F) A pipe-line company, when engaged in the business of 134  
transporting natural gas, oil, or coal or its derivatives 135  
through pipes or tubing, either wholly or partly within this 136  
state, but not when engaged in the business of the transport 137  
associated with gathering lines, raw natural gas liquids, or 138  
finished product natural gas liquids; 139

(G) A water-works company, when engaged in the business of 140  
supplying water through pipes or tubing, or in a similar manner, 141  
to consumers within this state; 142

(H) A heating or cooling company, when engaged in the 143  
business of supplying water, steam, or air through pipes or 144  
tubing to consumers within this state for heating or cooling 145  
purposes; 146

(I) A messenger company, when engaged in the business of 147  
supplying messengers for any purpose; 148

(J) A street railway company, when engaged in the business 149  
of operating as a common carrier, a railway, wholly or partly 150  
within this state, with one or more tracks upon, along, above, 151  
or below any public road, street, alleyway, or ground, within 152  
any municipal corporation, operated by any motive power other 153  
than steam and not a part of an interurban railroad, whether the 154  
railway is termed street, inclined-plane, elevated, or 155  
underground railway; 156

(K) A suburban railroad company, when engaged in the 157  
business of operating as a common carrier, whether wholly or 158  
partially within this state, a part of a street railway 159  
constructed or extended beyond the limits of a municipal 160  
corporation, and not a part of an interurban railroad; 161

(L) An interurban railroad company, when engaged in the 162

business of operating a railroad, wholly or partially within 163  
this state, with one or more tracks from one municipal 164  
corporation or point in this state to another municipal 165  
corporation or point in this state, whether constructed upon the 166  
public highways or upon private rights-of-way, outside of 167  
municipal corporations, using electricity or other motive power 168  
than steam power for the transportation of passengers, packages, 169  
express matter, United States mail, baggage, and freight. Such 170  
an interurban railroad company is included in the term 171  
"railroad" as used in section 4907.02 of the Revised Code. 172

(M) A sewage disposal system company, when engaged in the 173  
business of sewage disposal services through pipes or tubing, 174  
and treatment works, or in a similar manner, within this state. 175

(N) A submetering company, when engaged in the business of 176  
reselling or redistributing, either on behalf of the property 177  
owner, or as a third-party provider serving the property owner, 178  
utility service consisting of electric, gas, sewer, sewage 179  
disposal, or water service otherwise provided by one of the 180  
following, in which consumption to end-user consumers is 181  
measured by submeters installed at individual service points 182  
within a building or facility: 183

(1) A public utility regulated under this chapter; 184

(2) A public utility, other than a telephone company, that 185  
is owned and operated exclusively by and solely for the 186  
utility's customers, including any consumer or group of 187  
consumers purchasing, delivering, storing, or transporting, or 188  
seeking to purchase, deliver, store, or transport, natural gas 189  
exclusively by and solely for the consumer's or consumers' own 190  
intended use as the end user or end users and not for profit; 191

(3) A public utility that is owned or operated by any 192  
municipal corporation. 193

As used in division (E) of this section, "natural gas" 194  
includes natural gas that has been processed to enable 195  
consumption or to meet gas quality standards or that has been 196  
blended with propane, hydrogen, biologically derived methane 197  
gas, or any other artificially produced or processed gas. 198

As used in this section, "gathering lines" has the same 199  
meaning as in section 4905.90 of the Revised Code, and "raw 200  
natural gas liquids" and "finished product natural gas liquids" 201  
have the same meanings as in section 4906.01 of the Revised 202  
Code. 203

**Section 2.** That existing sections 4905.02 and 4905.03 of 204  
the Revised Code are hereby repealed. 205