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Representatives Brennan, Fischer

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

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:

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

Sec. 4905.02. (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