As Introduced

136th General Assembly
Regular Session **H. B. No. 862**
2025-2026

Representatives Mathews, A., Peterson

To amend sections 4164.11, 4906.01, 4906.03, 4928.01, and 4928.041 and to enact sections 4164.20, 4928.76, 4928.761, 4928.762, 4928.763, 4928.764, 4928.765, 4928.766, 4928.767, 4928.768, and 4928.769 of the Revised Code to authorize electric distribution utilities to construct, own, and operate nuclear generating facilities in limited circumstances and to require the Ohio Nuclear Development Authority to appoint a State Nuclear Coordinator.

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

Section 1. That sections 4164.11, 4906.01, 4906.03, 4928.01, and 4928.041 be amended and sections 4164.20, 4928.76, 4928.761, 4928.762, 4928.763, 4928.764, 4928.765, 4928.766, 4928.767, 4928.768, and 4928.769 of the Revised Code be enacted to read as follows:

Sec. 4164.11. The Ohio nuclear development authority shall have all powers necessary and convenient for carrying out its statutory purposes, including the following powers:

(A) To adopt bylaws for the management and regulation of its affairs;

(B) To develop and adopt a strategic plan for carrying out the purposes set forth in this chapter;

(C) To foster innovative partnerships and relationships in the state and among the state's public institutions of higher education, private companies, federal laboratories, and nonprofit organizations, to accomplish the purposes set forth in this chapter;

(D) To identify and support, in cooperation with the public and private sectors, the development of education programs related to Ohio's isotope industry;

(E) To appoint the state nuclear coordinator under section 4164.20 of the Revised Code.

Sec. 4164.20. (A) The Ohio nuclear development authority shall appoint a state nuclear coordinator. The coordinator may be a member of the authority.

(B) The state nuclear coordinator shall be appointed by a majority vote of the authority for a five-year term, except that the coordinator may be removed by a majority vote of the authority.

(C) The state nuclear coordinator shall receive no compensation for the coordinator's services.

(D) The coordinator shall do all of the following:

(1) Act as the internal advocate and ombudsperson for nuclear energy facilities within state government;

(2) Facilitate permitting and siting by coordinating agency timelines, identifying critical path items, and providing a single point of contact for project sponsors and communities;

(3) Coordinating with federal entities, including the United States nuclear regulatory commission and the United States department of energy, on matters within state purview;

(4) Engage communities and local governments on nuclear education and infrastructure needs;

(5) File an annual report with the governor and the general assembly that details nuclear deployment progress, interagency performances against timelines, workforce needs, infrastructure needs, and recommended statutory or regulatory improvements to existing state law and practice.

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

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

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

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

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

(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one

hundred twenty-five pounds per square inch.

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

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

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

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

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

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

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

(g) Natural gas liquids finished product pipelines;

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

(i) Any natural gas liquids fractionation plant;

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

(k) Any compressor stations used by the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(M) "Advanced transmission technologies" means software or hardware technologies that increase the capacity, efficiency,

reliability, or safety of an existing or new electric transmission system, including grid-enhancing technologies such as dynamic line rating, advanced power flow controllers, and topology optimization; advanced conductors; and other technologies designed to reduce transmission congestion, or increase the capacity, efficiency, reliability, or safety of an existing or new electric transmission system.

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

Sec. 4906.03. The power siting board shall:

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

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

(C) Adopt rules establishing criteria for evaluating the effects on environmental values of proposed and alternative sites, and projected needs for electric power, and such other rules as are necessary and convenient to implement this chapter, including rules governing application fees, supplemental application fees, and other reasonable fees to be paid by persons subject to the board's jurisdiction. The board shall make an annual accounting of its collection and use of these fees and shall issue an annual report of its accounting, in the form and manner prescribed by its rules, not later than the last

day of June of the year following the calendar year to which the report applies.

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

(E) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board may adopt rules to provide for an accelerated review of an application for a construction certificate for construction of a major utility facility related to a coal research and development project as defined in section 1555.01 of the Revised Code, or to a coal development project as defined in section 1551.30 of the Revised Code, submitted to the Ohio coal development office for review under division (B)(7) of section 1551.33 of the Revised Code. Applications for construction certificates for construction of major utility facilities for Ohio coal research and development shall be filed with the board on the same day as the proposed facility or project is submitted to the Ohio coal development office for review.

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

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

(1) An electric transmission line that is:

(a) Not more than two miles in length;

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

(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

(d) A rebuilding of an existing transmission line.

(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;

(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.

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.

(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:

(1) An electric generating plant and associated facilities;

(2) An electric transmission line and associated facilities;

(3) Gas pipeline infrastructure.

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

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

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

(H) 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 a major utility facility if at the time the application is filed the construction will be located on the following:

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

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

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

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

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

(I)(1) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board shall adopt rules to provide for the efficient review of an application for a construction certificate for a nuclear generating facility to which both of the following apply:

(a) The facility is to be constructed pursuant to a nuclear project financing order issued by the public utilities commission under section 4928.764 of the Revised Code.

(b) The federal government, government of this state, or both, provide financial support for the facility on a brownfield

or former coal mine.

(2)(a) The chairperson of the board, not later than forty-five days after the application submitted under division (I)(1) of this section is deemed complete, shall determine if it complies with both of the following:

(i) All application requirements set by the power siting board by rule;

(ii) All federal statutes, as well as regulations promulgated by the United States nuclear regulatory commission with respect to permitting, licensing, operation, and decommissioning.

(b) If the chairperson does not issue a determination within the time period required by division (I)(2)(a) of this section, the application shall be deemed in compliance by operation of law.

(c) An application being deemed in compliance under division (I)(2) of this section does not waive or abrogate any other requirements imposed by law for constructing, owning, or operating a nuclear generating facility, including any requirements to obtain a certificate under this chapter or any environmental requirements.

(3)(a) Subject to division (I)(3)(b) of this section, the board shall render a decision on an application submitted under division (I)(1) of this section not later than one hundred fifty days after the application is determined in compliance with all requirements set by the commission.

(b) The board may in its discretion extend the period to render a decision described in division (I)(3)(a) of this section by not more than one hundred fifty additional days if

the applicant consents to such extension.

(c) If the board does not render a decision within the time required by divisions (I)(3)(a) and (b) of this section, the application shall be considered approved by operation of law, and the board shall issue a certificate to the applicant.

As used in division (I) of this section, "brownfield" has the same meaning as in section 122.6511 of the Revised Code, "former coal mine" has the same meaning as in section 122.161 of the Revised Code, and "nuclear project financing order" has the same meaning as in section 4928.76 of the Revised Code.

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

(1) "Ancillary service" means any function necessary to the provision of electric transmission or distribution service to a retail customer and includes, but is not limited to, scheduling, system control, and dispatch services; reactive supply from generation resources and voltage control service; reactive supply from transmission resources service; regulation service; frequency response service; energy imbalance service; operating reserve-spinning reserve service; operating reserve-supplemental reserve service; load following; back-up supply service; real-power loss replacement service; dynamic scheduling; system black start capability; and network stability service.

(2) "Billing and collection agent" means a fully independent agent, not affiliated with or otherwise controlled by an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent that the agent is under contract with such utility, company,

cooperative, or aggregator solely to provide billing and collection for retail electric service on behalf of the utility company, cooperative, or aggregator.

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

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

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

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service and, except as provided in sections 4928.76 to 4928.769 of the Revised Code, does not own or operate an electric generating facility.

(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company.

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

(9) "Electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric

services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

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

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis in the business of supplying at least a noncompetitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent.

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

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

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

(15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates" means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the

public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract.

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

(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter.

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

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

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

(21) "Noncompetitive retail electric service" means a

component of retail electric service that is noncompetitive as provided under division (B) of this section.

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

(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.

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

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

(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to

generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs currently deferred pursuant to the terms of one or more settlement agreements approved by the commission.

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

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

(29) "Customer-generator" means a user of a net metering

system.

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

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

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

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

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

(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.

(32) "Self-generator" means an entity in this state that owns or hosts on 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, and that meets all of the following:

(a) The facility is installed or operated by the owner or

by a third party under a contract, including a lease, purchase power agreement, or other service contract.

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

(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.

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

(34) "Advanced energy resource" means any of the following:

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

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

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide,

which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

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

(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

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

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

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

(i) Any uprated capacity of an existing electric

generating facility if the uprated capacity results from the deployment of advanced technology.

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

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

(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 county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;

(x) Biologically derived methane gas;

(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;

(xii) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors.

"Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; a linear generator; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned or active coal mine; waste energy recovery system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, except that a

waste energy recovery system described in division (A)(38)(b) of this section may be included only if it was placed into service between January 1, 2002, and December 31, 2004; storage facility that will promote the better utilization of a renewable energy resource; or distributed generation system used by a customer to generate electricity from any such energy.

"Renewable energy resource" does not include a waste energy recovery system that is, or was, on or after January 1, 2012, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.

(b) As used in division (A)(37) of this section, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state and meets all of the following standards:

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels.

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

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

(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering

and automation of system functions.

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

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

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

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

(b) "Green energy" includes energy generated using the following:

(i) Natural gas as a resource;

(ii) Nuclear reaction.

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

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

(a) Converts linear motion directly into electricity;

(b) Is dispatchable with the ability to vary power output across all loads.

(44) "Brownfield" has the same meaning as in section

122.6511 of the Revised Code.

(45) "Former coal mine" has the same meaning as in section 122.161 of the Revised Code.

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

Sec. 4928.041. (A) Except as provided in sections 4928.141 ~~and~~ , 4928.142, and 4928.76 to ~~-~~4928.769 of the Revised Code, no electric utility shall provide a competitive retail electric service in this state if that service was deemed competitive or otherwise legally classified as competitive prior to ~~the effective date of this section~~August 14, 2025.

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

Sec. 4928.76. As used in sections 4928.76 to 4928.769 of the Revised Code:

(A) "Net prudently incurred costs" means the monthly allocation of prudently incurred costs related to a nuclear generating facility, less a monthly allocation of any revenues realized by the electric distribution utility from offering the output of the nuclear generating facility into the wholesale markets.

(B) "Nuclear generating facility" means a nuclear

generating plant, including a group of individual generating units located on a single real estate parcel or group of adjacent parcels.

(C) "Nuclear project financing order" means a nuclear project financing order issued by the public utilities commission under section 4928.764 of the Revised Code.

(D) "Retail participation agreement" means one or more reasonable arrangements described in section 4928.767 of the Revised Code.

Sec. 4928.761. (A) Notwithstanding any provision of the Revised Code to the contrary, an electric distribution utility that obtains a nuclear project financing order may, subject to division (D) of this section, construct, own, and operate a nuclear generating facility in this state for each nuclear project financing order obtained.

(B) No utility shall construct, own, or operate a nuclear generating facility except pursuant to a nuclear project financing order issued for the facility.

(C) The utility shall obtain a separate nuclear project financing order for each nuclear generating facility it seeks to construct, own, or operate.

(D) This section does not waive or abrogate any other requirements imposed by law for constructing, owning, or operating a nuclear generating facility, including any requirements to obtain a certificate under Chapter 4906. of the Revised Code or any environmental requirements.

Sec. 4928.762. An electric distribution utility may file an application with the public utilities commission for a nuclear project financing order in such form as the commission

prescribes in a manner consistent with sections 4928.76 to 4928.769 of the Revised Code. The application shall contain all of the following:

(A) Proof supporting a finding of need pursuant to section 4928.764 of the Revised Code;

(B) Proof that one or more retail participation agreements are signed between the utility and a customer or group of customers, with a minimum term of twenty years and a renewal option, subject to commission approval pursuant to section 4928.767 of the Revised Code;

(C) An application for a proposed ratemaking order consistent with section 4928.765 of the Revised Code;

(D) Proof that the utility will own the nuclear generating facility based on a price structure approved by the commission;

(E) Proof of any financial guarantees required by federal law.

Sec. 4928.763. (A) Except as provided in division (B) of this section, the public utilities commission shall do all of the following regarding a nuclear project financing order application:

(1) Determine whether the application is in compliance with section 4928.672 not more than forty-five days after the application is deemed complete;

(2) Upon determination that an application complies with section 4928.672 of the Revised Code, promptly fix a date for a public hearing thereon, not less than forty-five nor more than sixty days after the determination, and conclude the proceeding as expeditiously as practicable;

(3) Render a decision to approve or deny the application not later than three hundred sixty days after the date the application is determined in compliance with all requirements. If the nuclear project financing order is granted, the order shall also make a finding of need under section 4928.764 of the Revised Code and issue a ratemaking order consistent with section 4928.765 of the Revised Code.

(B) The commission shall do both of the following regarding a nuclear project financing order application if the federal government, government of this state, or both, provide financial support for constructing the nuclear generating facility in the application on a brownfield or former coal mine:

(1) Determine whether the application is in compliance with section 4928.672 not more than forty-five days after the application is deemed complete;

(2) Render a decision to approve or deny the application not later than three hundred sixty days after the application is determined in compliance with all requirements. If the nuclear project financing order is granted, the order shall also make a finding of need under section 4928.764 of the Revised Code and issue a ratemaking order consistent with section 4928.765 of the Revised Code.

(C)(1) If the commission does not issue a determination within the time periods required by divisions (A)(1) and (B)(1) of this section, the application shall be deemed in compliance by operation of law.

(2) If the commission does not issue a determination within the time periods required by divisions (A)(3) and (B)(2) of this section, the application shall be approved as a matter

of law, and the commission shall do all of the following:

(a) Issue a nuclear project financing order to the applicant;

(b) Make a finding of need under section 4928.764 of the Revised Code;

(c) Issue a ratemaking order consistent with section 4928.765 of the Revised Code.

Sec. 4928.764. The public utilities commission shall issue a nuclear project financing order if both of the following are satisfied:

(A) All application requirements are met under section 4928.762 of the Revised Code.

(B) The commission makes a finding that this state has a need for new electric distribution utility generation in order to help this state become more energy independent and ensure adequate supply to fulfill the electric distribution utility's long-term projections of load.

Sec. 4928.765. At the same time that the public utilities commission issues a nuclear project financing order, the commission shall issue a final ratemaking order that ensures all of the following:

(A) The electric distribution utility establishes a separate accounting ledger to record all costs and revenues associated with owning and operating the nuclear generating facility, including the accrual for construction work in progress during the period following technical completion and continuing until the facility commences commercial operation.

(B) For purposes of establishing the utility's base rates

under Chapter 4909. of the Revised Code, the nuclear generating facility shall be reflected in the utility's rate base for the life of the nuclear generating facility and this ratemaking treatment shall be afforded during the retail participation agreement term. Subject to divisions (C) and (D) of this section, all prudently incurred costs related to the nuclear generating facility shall be reflected in the utility's distribution rates established under Chapter 4909. of the Revised Code for the life of the facility and including during the retail participation agreement term.

(C) During the entire period of time that one or more retail participation agreements established and approved by the commission remain in effect, all of the following apply:

(1) The net prudently incurred costs for the nuclear generating facility shall be recovered from the customer or group of customers that entered into the retail participation agreement.

(2) No costs for a nuclear generating facility authorized by a nuclear project financing order shall be recovered from any electric distribution utility customer except for the customer or group of customers that entered into the retail participation agreement regarding the facility.

(3) All of the revenue collected under such retail participation agreement shall be credited against the utility's cost of service in setting rates for the utility under Chapter 4909. of the Revised Code.

(4) The commission shall defer or, to the extent costs incurred are determined to be imprudent, disallow any costs not offset by such revenues during the entire period of time that

one or more retail participation agreements remain in effect.

(D) After the expiration or termination of any retail participation agreement, the commission shall conduct an audit of the nuclear generating facility to determine if the cost of electricity generated by the facility to customers of the utility is less than, equal to, or greater than the market price of electricity based on the most current utility base rate. Each audit proceeding shall commence not more than sixty days after the expiration or termination of the retail participation agreement and shall be fully resolved through an order of the commission not more than one hundred eighty days after the audit is commenced. Either of the following apply depending on the results of the audit under this division:

(1) If the cost of electricity generated by the facility to customers of the utility is less than or equal to the market price of electricity based on the most current utility base rate, then the nuclear generating facility shall remain in the utility's rate base and any remaining costs associated with the facility, including development costs, shall be collected from all customers of the utility for the remaining life of the facility, including recovery of the remaining decommissioning and retirements costs, if any, not already funded through any retail participation agreement.

(2) If the cost of electricity generated by the facility to customers of the utility is greater than the market price of electricity based on the most current utility base rate, then the nuclear generating facility shall remain in the utility's rate base but only the market price of electricity shall be collected from all customers of the utility for the remaining life of the facility.

(E) Any sale, disposition, or transfer of the nuclear generating facility must be approved by the commission, and the net proceeds from the sale, disposition, or transfer shall be credited to customers through the adjustment to the utility's revenue requirement or rates, as determined by the commission.

Sec. 4928.766. In the event of a reversal or vacatur of the public utilities commission's ratemaking order under section 4928.765 of the Revised Code, the electric distribution utility's recovery of costs incurred prior to such reversal or vacatur shall be collected consistent with the ratemaking order issued in conjunction with the granting of the nuclear project financing order.

Sec. 4928.767. (A) At the same time an electric distribution utility files its nuclear project financing order application, the utility shall file an application for approval of one or more reasonable arrangements under section 4905.31 of the Revised Code pursuant to this section.

(B) Each reasonable arrangement described by this section shall have a term of not less than twenty years that must pay monthly retail electric charges to the utility equal to the net prudently incurred costs for the nuclear generating facility.

(C) Each reasonable arrangement described by this section shall have a renewal option that is presumed to be elected unless notice that the renewal option is declined is received not later than three hundred sixty-five days prior to the expiration of the reasonable arrangement.

(D) The utility shall arrange for the output of the facility, including capacity and energy, be liquidated into the wholesale markets, but the reasonable arrangement shall provide

that the customer or group of customers shall retain environmental attributes of the output of the facility.

(E) The reasonable arrangement shall include reasonable collateral and security provisions to ensure performance and also require the customer or group of customers to pay all distribution and transmission rates and charges in accordance with the utility's tariffs.

(F) The reasonable arrangement shall permit the customer or group of customers to shop for generation supply and, to the extent that utility issues a consolidated bill, the utility shall pass through the applicable charges that each participating customer incurs for generation supply either from a competitive retail electric service provider, to the extent that the participating customer is shopping and the utility issues a consolidated bill, or under the otherwise applicable standard service offer tariff rate of the utility for participating customers who are not shopping.

(G) If the proposed reasonable arrangement meets all requirements of this section, it shall be approved by the public utilities commission.

Sec. 4928.768. (A) A prudence and financial audit shall be conducted at the direction of the public utilities commission not more than three years from the date that a nuclear project financing order is approved, subject to division (B) of this section, and not less than every three years thereafter, by the staff of the public utilities commission or an independent auditor approved by the commission to review the electric distribution utility's accounting ledgers for a nuclear generating facility built pursuant to a nuclear project financing order and confirm that the total revenue from each

approved retail participation agreement equals or exceeds the net prudently incurred costs during each audit period.

(B) Each audit proceeding shall commence not more than sixty days after the end of each three-year period and shall be fully decided through an order of the commission not more than one hundred eighty days after the audit is commenced.

(C) Notwithstanding any provision of sections 4928.76 to 4928.767 of the Revised Code to the contrary, no costs that are deemed imprudent by the audit conducted pursuant to this section shall be recovered from any customer of the utility.

Sec. 4928.769. The public utilities commission shall adopt rules to implement sections 4928.76 to 4928.768 of the Revised Code.

Section 2. That existing sections 4164.11, 4906.01, 4906.03, 4928.01, and 4928.041 of the Revised Code are hereby repealed.