

As Introduced

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H. B. No. 862

Representatives Mathews, A., Peterson

To amend sections 4164.11, 4906.01, 4906.03, 1
4928.01, and 4928.041 and to enact sections 2
4164.20, 4928.76, 4928.761, 4928.762, 4928.763, 3
4928.764, 4928.765, 4928.766, 4928.767, 4
4928.768, and 4928.769 of the Revised Code to 5
authorize electric distribution utilities to 6
construct, own, and operate nuclear generating 7
facilities in limited circumstances and to 8
require the Ohio Nuclear Development Authority 9
to appoint a State Nuclear Coordinator. 10

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

Section 1. That sections 4164.11, 4906.01, 4906.03, 11
4928.01, and 4928.041 be amended and sections 4164.20, 4928.76, 12
4928.761, 4928.762, 4928.763, 4928.764, 4928.765, 4928.766, 13
4928.767, 4928.768, and 4928.769 of the Revised Code be enacted 14
to read as follows: 15

Sec. 4164.11. The Ohio nuclear development authority shall 16
have all powers necessary and convenient for carrying out its 17
statutory purposes, including the following powers: 18

(A) To adopt bylaws for the management and regulation of 19
its affairs; 20

(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; 48
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(4) Engage communities and local governments on nuclear education and infrastructure needs; 51
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(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. 53
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Sec. 4906.01. As used in Chapter 4906. of the Revised Code: 58
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(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. 60
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(B)(1) "Major utility facility" means: 65

(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more; 66
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(b) An electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more; 69
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(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 72
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hundred twenty-five pounds per square inch.	76
(2) "Major utility facility" does not include any of the following:	77
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	78
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	79
(c) Electric distributing lines and associated facilities as defined by the power siting board;	80
(d) Any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by the power siting board;	81
(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;	82
(f) Any gas processing plant as defined in section 4905.90 of the Revised Code;	83
(g) Natural gas liquids finished product pipelines;	84
(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;	85
(i) Any natural gas liquids fractionation plant;	86
(j) A production operation as defined in section 1509.01 of the Revised Code, including all pipelines upstream of any gathering lines;	87
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(k) Any compressor stations used by the following:	103
(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;	104 105 106
(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	107 108 109
(iii) A production operation as defined in section 1509.01 of the Revised Code.	110 111
(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.	112 113 114 115 116 117 118
(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) <u>(I)</u> of section 4906.03 of the Revised Code.	119 120 121 122 123
(E) "Gas" means natural gas, flammable gas, or gas that is toxic or corrosive.	124 125
(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.	126 127 128 129 130

(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 160
transmission system, including grid-enhancing technologies such 161
as dynamic line rating, advanced power flow controllers, and 162
topology optimization; advanced conductors; and other 163
technologies designed to reduce transmission congestion, or 164
increase the capacity, efficiency, reliability, or safety of an 165
existing or new electric transmission system. 166

(N) "Advanced conductor" means a conductor with a direct 167
current electrical resistance that is at least ten per cent 168
lower than existing conductors of a similar diameter on the 169
electric transmission system while simultaneously increasing the 170
energy carrying capacity by at least seventy-five per cent. 171

Sec. 4906.03. The power siting board shall: 172

(A) Require such information from persons subject to its 173
jurisdiction as it considers necessary to assist in the conduct 174
of hearings and any investigations or studies it may undertake; 175

(B) Conduct any studies or investigations that it 176
considers necessary or appropriate to carry out its 177
responsibilities under this chapter; 178

(C) Adopt rules establishing criteria for evaluating the 179
effects on environmental values of proposed and alternative 180
sites, and projected needs for electric power, and such other 181
rules as are necessary and convenient to implement this chapter, 182
including rules governing application fees, supplemental 183
application fees, and other reasonable fees to be paid by 184
persons subject to the board's jurisdiction. The board shall 185
make an annual accounting of its collection and use of these 186
fees and shall issue an annual report of its accounting, in the 187
form and manner prescribed by its rules, not later than the last 188

day of June of the year following the calendar year to which the report applies.	189 190
(D) Approve, disapprove, or modify and approve applications for certificates;	191 192
(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.	193 194 195 196 197 198 199 200 201 202 203 204 205 206
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.	207 208 209 210 211 212 213 214
(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:	215 216 217 218

(1) An electric transmission line that is:	219
(a) Not more than two miles in length;	220
(b) Primarily needed to attract or meet the requirements of a specific customer or specific customers;	221 222
(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	223 224 225
(d) A rebuilding of an existing transmission line.	226
(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;	227 228 229
(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.	230 231 232
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.	233 234 235 236 237 238 239 240 241
(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	242 243 244 245 246

122.161 of the Revised Code:	247
(1) An electric generating plant and associated facilities;	248 249
(2) An electric transmission line and associated facilities;	250 251
(3) Gas pipeline infrastructure.	252
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.	253 254 255 256 257 258 259
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.	260 261 262 263 264 265 266
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.	267 268 269
(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:	270 271 272 273 274 275

(1) In whole, on property owned by, or under a lease with	276
a term of twenty-five years or more with, the applicant;	277
(2) In whole or in part, on an easement or right-of-way;	278
(3) On any combination of such property, easement, or	279
right-of-way described in divisions (H) (1) and (2) of this	280
section.	281
No accelerated application shall be granted under the	282
rules adopted under division (H) of this section for	283
construction of a major utility facility, in whole or in part,	284
on property under a lease or an easement or right-of-way, if	285
additional consent for construction on the property, easement,	286
or right-of-way is required by any person or entity other than	287
the power siting board.	288
The board shall render a decision on an application	289
submitted under this division not later than sixty days after	290
receipt of the application. If the board does not render a	291
decision within sixty days, the application shall be considered	292
approved by operation of law, and the board shall issue a	293
certificate to the applicant.	294
<u>(I) (1) Notwithstanding sections 4906.06 to 4906.14 of the</u>	295
<u>Revised Code, the board shall adopt rules to provide for the</u>	296
<u>efficient review of an application for a construction</u>	297
<u>certificate for a nuclear generating facility to which both of</u>	298
<u>the following apply:</u>	299
<u>(a) The facility is to be constructed pursuant to a</u>	300
<u>nuclear project financing order issued by the public utilities</u>	301
<u>commission under section 4928.764 of the Revised Code.</u>	302
<u>(b) The federal government, government of this state, or</u>	303
<u>both, provide financial support for the facility on a brownfield</u>	304

or former coal mine. 305

(2) (a) The chairperson of the board, not later than forty- 306
five days after the application submitted under division (I) (1) 307
of this section is deemed complete, shall determine if it 308
complies with both of the following: 309

(i) All application requirements set by the power siting 310
board by rule; 311

(ii) All federal statutes, as well as regulations 312
promulgated by the United States nuclear regulatory commission 313
with respect to permitting, licensing, operation, and 314
decommissioning. 315

(b) If the chairperson does not issue a determination 316
within the time period required by division (I) (2) (a) of this 317
section, the application shall be deemed in compliance by 318
operation of law. 319

(c) An application being deemed in compliance under 320
division (I) (2) of this section does not waive or abrogate any 321
other requirements imposed by law for constructing, owning, or 322
operating a nuclear generating facility, including any 323
requirements to obtain a certificate under this chapter or any 324
environmental requirements. 325

(3) (a) Subject to division (I) (3) (b) of this section, the 326
board shall render a decision on an application submitted under 327
division (I) (1) of this section not later than one hundred fifty 328
days after the application is determined in compliance with all 329
requirements set by the commission. 330

(b) The board may in its discretion extend the period to 331
render a decision described in division (I) (3) (a) of this 332
section by not more than one hundred fifty additional days if 333

the applicant consents to such extension. 334

(c) If the board does not render a decision within the 335
time required by divisions (I) (3) (a) and (b) of this section, 336
the application shall be considered approved by operation of 337
law, and the board shall issue a certificate to the applicant. 338

As used in division (I) of this section, "brownfield" has 339
the same meaning as in section 122.6511 of the Revised Code, 340
"former coal mine" has the same meaning as in section 122.161 of 341
the Revised Code, and "nuclear project financing order" has the 342
same meaning as in section 4928.76 of the Revised Code. 343

Sec. 4928.01. (A) As used in this chapter: 344

(1) "Ancillary service" means any function necessary to 345
the provision of electric transmission or distribution service 346
to a retail customer and includes, but is not limited to, 347
scheduling, system control, and dispatch services; reactive 348
supply from generation resources and voltage control service; 349
reactive supply from transmission resources service; regulation 350
service; frequency response service; energy imbalance service; 351
operating reserve-spinning reserve service; operating reserve- 352
supplemental reserve service; load following; back-up supply 353
service; real-power loss replacement service; dynamic 354
scheduling; system black start capability; and network stability 355
service. 356

(2) "Billing and collection agent" means a fully 357
independent agent, not affiliated with or otherwise controlled 358
by an electric utility, electric services company, electric 359
cooperative, or governmental aggregator subject to certification 360
under section 4928.08 of the Revised Code, to the extent that 361
the agent is under contract with such utility, company, 362

cooperative, or aggregator solely to provide billing and 363
collection for retail electric service on behalf of the utility 364
company, cooperative, or aggregator. 365

(3) "Certified territory" means the certified territory 366
established for an electric supplier under sections 4933.81 to 367
4933.90 of the Revised Code. 368

(4) "Competitive retail electric service" means a 369
component of retail electric service that is competitive as 370
provided under division (B) of this section. 371

(5) "Electric cooperative" means a not-for-profit electric 372
light company that both is or has been financed in whole or in 373
part under the "Rural Electrification Act of 1936," 49 Stat. 374
1363, 7 U.S.C. 901, and owns or operates facilities in this 375
state to generate, transmit, or distribute electricity, or a 376
not-for-profit successor of such company. 377

(6) "Electric distribution utility" means an electric 378
utility that supplies at least retail electric distribution 379
service and, except as provided in sections 4928.76 to 4928.769 380
of the Revised Code, does not own or operate an electric 381
generating facility. 382

(7) "Electric light company" has the same meaning as in 383
section 4905.03 of the Revised Code and includes an electric 384
services company. 385

(8) "Electric load center" has the same meaning as in 386
section 4933.81 of the Revised Code. 387

(9) "Electric services company" means an electric light 388
company that is engaged on a for-profit or not-for-profit basis 389
in the business of supplying or arranging for the supply of only 390
a competitive retail electric service in this state. "Electric 391

services company" includes a power marketer, power broker, 392
aggregator, or independent power producer but excludes an 393
electric cooperative, municipal electric utility, governmental 394
aggregator, or billing and collection agent. 395

(10) "Electric supplier" has the same meaning as in 396
section 4933.81 of the Revised Code. 397

(11) "Electric utility" means an electric light company 398
that has a certified territory and is engaged on a for-profit 399
basis in the business of supplying at least a noncompetitive 400
retail electric service in this state. "Electric utility" 401
excludes a municipal electric utility or a billing and 402
collection agent. 403

(12) "Firm electric service" means electric service other 404
than nonfirm electric service. 405

(13) "Governmental aggregator" means a legislative 406
authority of a municipal corporation, a board of township 407
trustees, or a board of county commissioners acting as an 408
aggregator for the provision of a competitive retail electric 409
service under authority conferred under section 4928.20 of the 410
Revised Code. 411

(14) A person acts "knowingly," regardless of the person's 412
purpose, when the person is aware that the person's conduct will 413
probably cause a certain result or will probably be of a certain 414
nature. A person has knowledge of circumstances when the person 415
is aware that such circumstances probably exist. 416

(15) "Level of funding for low-income customer energy 417
efficiency programs provided through electric utility rates" 418
means the level of funds specifically included in an electric 419
utility's rates on October 5, 1999, pursuant to an order of the 420

public utilities commission issued under Chapter 4905. or 4909. 421
of the Revised Code and in effect on October 4, 1999, for the 422
purpose of improving the energy efficiency of housing for the 423
utility's low-income customers. The term excludes the level of 424
any such funds committed to a specific nonprofit organization or 425
organizations pursuant to a stipulation or contract. 426

(16) "Low-income customer assistance programs" means the 427
percentage of income payment plan program, the home energy 428
assistance program, the home weatherization assistance program, 429
and the targeted energy efficiency and weatherization program. 430

(17) "Market development period" for an electric utility 431
means the period of time beginning on the starting date of 432
competitive retail electric service and ending on the applicable 433
date for that utility as specified in section 4928.40 of the 434
Revised Code, irrespective of whether the utility applies to 435
receive transition revenues under this chapter. 436

(18) "Market power" means the ability to impose on 437
customers a sustained price for a product or service above the 438
price that would prevail in a competitive market. 439

(19) "Mercantile customer" means a commercial or 440
industrial customer if the electricity consumed is for 441
nonresidential use and the customer consumes more than seven 442
hundred thousand kilowatt hours per year or is part of a 443
national account involving multiple facilities in one or more 444
states. 445

(20) "Municipal electric utility" means a municipal 446
corporation that owns or operates facilities to generate, 447
transmit, or distribute electricity. 448

(21) "Noncompetitive retail electric service" means a 449

component of retail electric service that is noncompetitive as 450
provided under division (B) of this section. 451

(22) "Nonfirm electric service" means electric service 452
provided pursuant to a schedule filed under section 4905.30 of 453
the Revised Code or pursuant to an arrangement under section 454
4905.31 of the Revised Code, which schedule or arrangement 455
includes conditions that may require the customer to curtail or 456
interrupt electric usage during nonemergency circumstances upon 457
notification by an electric utility. 458

(23) "Percentage of income payment plan arrears" means 459
funds eligible for collection through the percentage of income 460
payment plan rider, but uncollected as of July 1, 2000. 461

(24) "Person" has the same meaning as in section 1.59 of 462
the Revised Code. 463

(25) "Advanced energy project" means any technologies, 464
products, activities, or management practices or strategies that 465
facilitate the generation or use of electricity or energy and 466
that reduce or support the reduction of energy consumption or 467
support the production of clean, renewable energy for 468
industrial, distribution, commercial, institutional, 469
governmental, research, not-for-profit, or residential energy 470
users, including, but not limited to, advanced energy resources 471
and renewable energy resources. "Advanced energy project" also 472
includes any project described in division (A), (B), or (C) of 473
section 4928.621 of the Revised Code. 474

(26) "Regulatory assets" means the unamortized net 475
regulatory assets that are capitalized or deferred on the 476
regulatory books of the electric utility, pursuant to an order 477
or practice of the public utilities commission or pursuant to 478

generally accepted accounting principles as a result of a prior 479
commission rate-making decision, and that would otherwise have 480
been charged to expense as incurred or would not have been 481
capitalized or otherwise deferred for future regulatory 482
consideration absent commission action. "Regulatory assets" 483
includes, but is not limited to, all deferred demand-side 484
management costs; all deferred percentage of income payment plan 485
arrears; post-in-service capitalized charges and assets 486
recognized in connection with statement of financial accounting 487
standards no. 109 (receivables from customers for income taxes); 488
future nuclear decommissioning costs and fuel disposal costs as 489
those costs have been determined by the commission in the 490
electric utility's most recent rate or accounting application 491
proceeding addressing such costs; the undepreciated costs of 492
safety and radiation control equipment on nuclear generating 493
plants owned or leased by an electric utility; and fuel costs 494
currently deferred pursuant to the terms of one or more 495
settlement agreements approved by the commission. 496

(27) "Retail electric service" means any service involved 497
in supplying or arranging for the supply of electricity to 498
ultimate consumers in this state, from the point of generation 499
to the point of consumption. For the purposes of this chapter, 500
retail electric service includes one or more of the following 501
"service components": generation service, aggregation service, 502
power marketing service, power brokerage service, transmission 503
service, distribution service, ancillary service, metering 504
service, and billing and collection service. 505

(28) "Starting date of competitive retail electric 506
service" means January 1, 2001. 507

(29) "Customer-generator" means a user of a net metering 508

system. 509

(30) "Net metering" means measuring the difference in an 510
applicable billing period between the electricity supplied by an 511
electric service provider and the electricity generated by a 512
customer-generator that is fed back to the electric service 513
provider. 514

(31) "Net metering system" means a facility for the 515
production of electrical energy that does all of the following: 516

(a) Uses as its fuel either solar, wind, biomass, landfill 517
gas, or hydropower, or uses a microturbine or a fuel cell; 518

(b) Is located on a customer-generator's premises; 519

(c) Operates in parallel with the electric utility's 520
transmission and distribution facilities; 521

(d) Is intended primarily to offset part or all of the 522
customer-generator's requirements for electricity. For an 523
industrial customer-generator with a net metering system that 524
has a capacity of less than twenty megawatts and uses wind as 525
energy, this means the net metering system was sized so as to 526
not exceed one hundred per cent of the customer-generator's 527
annual requirements for electric energy at the time of 528
interconnection. 529

(32) "Self-generator" means an entity in this state that 530
owns or hosts on property the entity controls an electric 531
generation facility that produces electricity primarily for the 532
owner's consumption and that may provide any such excess 533
electricity to another entity, and that meets all of the 534
following: 535

(a) The facility is installed or operated by the owner or 536

by a third party under a contract, including a lease, purchase 537
power agreement, or other service contract. 538

(b) The facility connects directly to the owner's side of 539
the electric meter. 540

(c) The facility delivers electricity to the owner's side 541
of the electric meter without the use of an electric 542
distribution utility's or electric cooperative's distribution 543
system or transmission system. 544

(33) "Rate plan" means the standard service offer in 545
effect on the effective date of the amendment of this section by 546
S.B. 221 of the 127th general assembly, July 31, 2008. 547

(34) "Advanced energy resource" means any of the 548
following: 549

(a) Any method or any modification or replacement of any 550
property, process, device, structure, or equipment that 551
increases the generation output of an electric generating 552
facility to the extent such efficiency is achieved without 553
additional carbon dioxide emissions by that facility; 554

(b) Any distributed generation system consisting of 555
customer cogeneration technology; 556

(c) Clean coal technology that includes a carbon-based 557
product that is chemically altered before combustion to 558
demonstrate a reduction, as expressed as ash, in emissions of 559
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 560
sulfur trioxide in accordance with the American society of 561
testing and materials standard D1757A or a reduction of metal 562
oxide emissions in accordance with standard D5142 of that 563
society, or clean coal technology that includes the design 564
capability to control or prevent the emission of carbon dioxide, 565

which design capability the commission shall adopt by rule and 566
shall be based on economically feasible best available 567
technology or, in the absence of a determined best available 568
technology, shall be of the highest level of economically 569
feasible design capability for which there exists generally 570
accepted scientific opinion; 571

(d) Advanced nuclear energy technology consisting of 572
generation III technology as defined by the nuclear regulatory 573
commission; other, later technology; or significant improvements 574
to existing facilities; 575

(e) Any fuel cell used in the generation of electricity, 576
including, but not limited to, a proton exchange membrane fuel 577
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 578
solid oxide fuel cell; 579

(f) Advanced solid waste or construction and demolition 580
debris conversion technology, including, but not limited to, 581
advanced stoker technology, and advanced fluidized bed 582
gasification technology, that results in measurable greenhouse 583
gas emissions reductions as calculated pursuant to the United 584
States environmental protection agency's waste reduction model 585
(WARM); 586

(g) Demand-side management and any energy efficiency 587
improvement; 588

(h) Any new, retrofitted, refueled, or repowered 589
generating facility located in Ohio, including a simple or 590
combined-cycle natural gas generating facility or a generating 591
facility that uses biomass, coal, modular nuclear, or any other 592
fuel as its input; 593

(i) Any uprated capacity of an existing electric 594

generating facility if the uprated capacity results from the 595
deployment of advanced technology. 596

"Advanced energy resource" does not include a waste energy 597
recovery system that is, or has been, included in an energy 598
efficiency program of an electric distribution utility pursuant 599
to requirements under section 4928.66 of the Revised Code. 600

(35) "Air contaminant source" has the same meaning as in 601
section 3704.01 of the Revised Code. 602

(36) "Cogeneration technology" means technology that 603
produces electricity and useful thermal output simultaneously. 604

(37) (a) "Renewable energy resource" means any of the 605
following: 606

(i) Solar photovoltaic or solar thermal energy; 607

(ii) Wind energy; 608

(iii) Power produced by a hydroelectric facility; 609

(iv) Power produced by a small hydroelectric facility, 610
which is a facility that operates, or is rated to operate, at an 611
aggregate capacity of less than six megawatts; 612

(v) Power produced by a run-of-the-river hydroelectric 613
facility placed in service on or after January 1, 1980, that is 614
located within this state, relies upon the Ohio river, and 615
operates, or is rated to operate, at an aggregate capacity of 616
forty or more megawatts; 617

(vi) Geothermal energy; 618

(vii) Fuel derived from solid wastes, as defined in 619
section 3734.01 of the Revised Code, through fractionation, 620
biological decomposition, or other process that does not 621

principally involve combustion; 622

(viii) Biomass energy; 623

(ix) Energy produced by cogeneration technology that is 624
placed into service on or before December 31, 2015, and for 625
which more than ninety per cent of the total annual energy input 626
is from combustion of a waste or byproduct gas from an air 627
contaminant source in this state, which source has been in 628
operation since on or before January 1, 1985, provided that the 629
cogeneration technology is a part of a facility located in a 630
county having a population of more than three hundred sixty-five 631
thousand but less than three hundred seventy thousand according 632
to the most recent federal decennial census; 633

(x) Biologically derived methane gas; 634

(xi) Heat captured from a generator of electricity, 635
boiler, or heat exchanger fueled by biologically derived methane 636
gas; 637

(xii) Energy derived from nontreated by-products of the 638
pulping process or wood manufacturing process, including bark, 639
wood chips, sawdust, and lignin in spent pulping liquors. 640

"Renewable energy resource" includes, but is not limited 641
to, any fuel cell used in the generation of electricity, 642
including, but not limited to, a proton exchange membrane fuel 643
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 644
solid oxide fuel cell; a linear generator; wind turbine located 645
in the state's territorial waters of Lake Erie; methane gas 646
emitted from an abandoned or active coal mine; waste energy 647
recovery system placed into service or retrofitted on or after 648
the effective date of the amendment of this section by S.B. 315 649
of the 129th general assembly, September 10, 2012, except that a 650

waste energy recovery system described in division (A) (38) (b) of 651
this section may be included only if it was placed into service 652
between January 1, 2002, and December 31, 2004; storage facility 653
that will promote the better utilization of a renewable energy 654
resource; or distributed generation system used by a customer to 655
generate electricity from any such energy. 656

"Renewable energy resource" does not include a waste 657
energy recovery system that is, or was, on or after January 1, 658
2012, included in an energy efficiency program of an electric 659
distribution utility pursuant to requirements under section 660
4928.66 of the Revised Code. 661

(b) As used in division (A) (37) of this section, 662
"hydroelectric facility" means a hydroelectric generating 663
facility that is located at a dam on a river, or on any water 664
discharged to a river, that is within or bordering this state or 665
within or bordering an adjoining state and meets all of the 666
following standards: 667

(i) The facility provides for river flows that are not 668
detrimental for fish, wildlife, and water quality, including 669
seasonal flow fluctuations as defined by the applicable 670
licensing agency for the facility. 671

(ii) The facility demonstrates that it complies with the 672
water quality standards of this state, which compliance may 673
consist of certification under Section 401 of the "Clean Water 674
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 675
demonstrates that it has not contributed to a finding by this 676
state that the river has impaired water quality under Section 677
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 678
U.S.C. 1313. 679

(iii) The facility complies with mandatory prescriptions 680
regarding fish passage as required by the federal energy 681
regulatory commission license issued for the project, regarding 682
fish protection for riverine, anadromous, and catadromous fish. 683

(iv) The facility complies with the recommendations of the 684
Ohio environmental protection agency and with the terms of its 685
federal energy regulatory commission license regarding watershed 686
protection, mitigation, or enhancement, to the extent of each 687
agency's respective jurisdiction over the facility. 688

(v) The facility complies with provisions of the 689
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 690
to 1544, as amended. 691

(vi) The facility does not harm cultural resources of the 692
area. This can be shown through compliance with the terms of its 693
federal energy regulatory commission license or, if the facility 694
is not regulated by that commission, through development of a 695
plan approved by the Ohio historic preservation office, to the 696
extent it has jurisdiction over the facility. 697

(vii) The facility complies with the terms of its federal 698
energy regulatory commission license or exemption that are 699
related to recreational access, accommodation, and facilities 700
or, if the facility is not regulated by that commission, the 701
facility complies with similar requirements as are recommended 702
by resource agencies, to the extent they have jurisdiction over 703
the facility; and the facility provides access to water to the 704
public without fee or charge. 705

(viii) The facility is not recommended for removal by any 706
federal agency or agency of any state, to the extent the 707
particular agency has jurisdiction over the facility. 708

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 709
this section do not apply to a small hydroelectric facility 710
under division (A) (37) (a) (iv) of this section. 711

(38) "Waste energy recovery system" means any of the 712
following: 713

(a) A facility that generates electricity through the 714
conversion of energy from either of the following: 715

(i) Exhaust heat from engines or manufacturing, 716
industrial, commercial, or institutional sites, except for 717
exhaust heat from a facility whose primary purpose is the 718
generation of electricity; 719

(ii) Reduction of pressure in gas pipelines before gas is 720
distributed through the pipeline, provided that the conversion 721
of energy to electricity is achieved without using additional 722
fossil fuels. 723

(b) A facility at a state institution of higher education 724
as defined in section 3345.011 of the Revised Code that recovers 725
waste heat from electricity-producing engines or combustion 726
turbines and that simultaneously uses the recovered heat to 727
produce steam, provided that the facility was placed into 728
service between January 1, 2002, and December 31, 2004; 729

(c) A facility that produces steam from recovered waste 730
heat from a manufacturing process and uses that steam, or 731
transfers that steam to another facility, to provide heat to 732
another manufacturing process or to generate electricity. 733

(39) "Smart grid" means capital improvements to an 734
electric distribution utility's distribution infrastructure that 735
improve reliability, efficiency, resiliency, or reduce energy 736
demand or use, including, but not limited to, advanced metering 737

and automation of system functions.	738
(40) "Combined heat and power system" means the	739
coproduction of electricity and useful thermal energy from the	740
same fuel source designed to achieve thermal-efficiency levels	741
of at least sixty per cent, with at least twenty per cent of the	742
system's total useful energy in the form of thermal energy.	743
(41) (a) "Green energy" means any energy generated by using	744
an energy resource that does one or more of the following:	745
(i) Releases reduced air pollutants, thereby reducing	746
cumulative air emissions;	747
(ii) Is more sustainable and reliable relative to some	748
fossil fuels.	749
(b) "Green energy" includes energy generated using the	750
following:	751
(i) Natural gas as a resource;	752
(ii) Nuclear reaction.	753
(42) "Energy storage" means electrical generation and	754
storage performed by a distributed energy system connected	755
battery.	756
(43) "Linear generator" means an integrated system that	757
may consist of oscillators, cylinders, electricity conversion	758
equipment, and associated balance of plant components that meet	759
the following criteria:	760
(a) Converts linear motion directly into electricity;	761
(b) Is dispatchable with the ability to vary power output	762
across all loads.	763
<u>(44) "Brownfield" has the same meaning as in section</u>	764

122.6511 of the Revised Code. 765

(45) "Former coal mine" has the same meaning as in section 766
122.161 of the Revised Code. 767

(B) For the purposes of this chapter, a retail electric 768
service component shall be deemed a competitive retail electric 769
service if the service component is competitive pursuant to a 770
declaration by a provision of the Revised Code or pursuant to an 771
order of the public utilities commission authorized under 772
division (A) of section 4928.04 of the Revised Code. Otherwise, 773
the service component shall be deemed a noncompetitive retail 774
electric service. 775

Sec. 4928.041. (A) Except as provided in sections 4928.141 776
~~and~~, 4928.142, and 4928.76 to ~~4928.769~~ of the Revised Code, no 777
electric utility shall provide a competitive retail electric 778
service in this state if that service was deemed competitive or 779
otherwise legally classified as competitive prior to ~~the~~ 780
~~effective date of this section~~August 14, 2025. 781

(B) The standard service offer under section 4928.141 of 782
the Revised Code shall continue to be provided to consumers in 783
this state by electric utilities. 784

Sec. 4928.76. As used in sections 4928.76 to 4928.769 of 785
the Revised Code: 786

(A) "Net prudently incurred costs" means the monthly 787
allocation of prudently incurred costs related to a nuclear 788
generating facility, less a monthly allocation of any revenues 789
realized by the electric distribution utility from offering the 790
output of the nuclear generating facility into the wholesale 791
markets. 792

(B) "Nuclear generating facility" means a nuclear 793

generating plant, including a group of individual generating 794
units located on a single real estate parcel or group of 795
adjacent parcels. 796

(C) "Nuclear project financing order" means a nuclear 797
project financing order issued by the public utilities 798
commission under section 4928.764 of the Revised Code. 799

(D) "Retail participation agreement" means one or more 800
reasonable arrangements described in section 4928.767 of the 801
Revised Code. 802

Sec. 4928.761. (A) Notwithstanding any provision of the 803
Revised Code to the contrary, an electric distribution utility 804
that obtains a nuclear project financing order may, subject to 805
division (D) of this section, construct, own, and operate a 806
nuclear generating facility in this state for each nuclear 807
project financing order obtained. 808

(B) No utility shall construct, own, or operate a nuclear 809
generating facility except pursuant to a nuclear project 810
financing order issued for the facility. 811

(C) The utility shall obtain a separate nuclear project 812
financing order for each nuclear generating facility it seeks to 813
construct, own, or operate. 814

(D) This section does not waive or abrogate any other 815
requirements imposed by law for constructing, owning, or 816
operating a nuclear generating facility, including any 817
requirements to obtain a certificate under Chapter 4906. of the 818
Revised Code or any environmental requirements. 819

Sec. 4928.762. An electric distribution utility may file 820
an application with the public utilities commission for a 821
nuclear project financing order in such form as the commission 822

<u>prescribes in a manner consistent with sections 4928.76 to</u>	823
<u>4928.769 of the Revised Code. The application shall contain all</u>	824
<u>of the following:</u>	825
<u>(A) Proof supporting a finding of need pursuant to section</u>	826
<u>4928.764 of the Revised Code;</u>	827
<u>(B) Proof that one or more retail participation agreements</u>	828
<u>are signed between the utility and a customer or group of</u>	829
<u>customers, with a minimum term of twenty years and a renewal</u>	830
<u>option, subject to commission approval pursuant to section</u>	831
<u>4928.767 of the Revised Code;</u>	832
<u>(C) An application for a proposed ratemaking order</u>	833
<u>consistent with section 4928.765 of the Revised Code;</u>	834
<u>(D) Proof that the utility will own the nuclear generating</u>	835
<u>facility based on a price structure approved by the commission;</u>	836
<u>(E) Proof of any financial guarantees required by federal</u>	837
<u>law.</u>	838
<u>Sec. 4928.763. (A) Except as provided in division (B) of</u>	839
<u>this section, the public utilities commission shall do all of</u>	840
<u>the following regarding a nuclear project financing order</u>	841
<u>application:</u>	842
<u>(1) Determine whether the application is in compliance</u>	843
<u>with section 4928.672 not more than forty-five days after the</u>	844
<u>application is deemed complete;</u>	845
<u>(2) Upon determination that an application complies with</u>	846
<u>section 4928.672 of the Revised Code, promptly fix a date for a</u>	847
<u>public hearing thereon, not less than forty-five nor more than</u>	848
<u>sixty days after the determination, and conclude the proceeding</u>	849
<u>as expeditiously as practicable;</u>	850

(3) Render a decision to approve or deny the application 851
not later than three hundred sixty days after the date the 852
application is determined in compliance with all requirements. 853
If the nuclear project financing order is granted, the order 854
shall also make a finding of need under section 4928.764 of the 855
Revised Code and issue a ratemaking order consistent with 856
section 4928.765 of the Revised Code. 857

(B) The commission shall do both of the following 858
regarding a nuclear project financing order application if the 859
federal government, government of this state, or both, provide 860
financial support for constructing the nuclear generating 861
facility in the application on a brownfield or former coal mine: 862

(1) Determine whether the application is in compliance 863
with section 4928.672 not more than forty-five days after the 864
application is deemed complete; 865

(2) Render a decision to approve or deny the application 866
not later than three hundred sixty days after the application is 867
determined in compliance with all requirements. If the nuclear 868
project financing order is granted, the order shall also make a 869
finding of need under section 4928.764 of the Revised Code and 870
issue a ratemaking order consistent with section 4928.765 of the 871
Revised Code. 872

(C) (1) If the commission does not issue a determination 873
within the time periods required by divisions (A) (1) and (B) (1) 874
of this section, the application shall be deemed in compliance 875
by operation of law. 876

(2) If the commission does not issue a determination 877
within the time periods required by divisions (A) (3) and (B) (2) 878
of this section, the application shall be approved as a matter 879

of law, and the commission shall do all of the following: 880

(a) Issue a nuclear project financing order to the 881
applicant; 882

(b) Make a finding of need under section 4928.764 of the 883
Revised Code; 884

(c) Issue a ratemaking order consistent with section 885
4928.765 of the Revised Code. 886

Sec. 4928.764. The public utilities commission shall 887
issue a nuclear project financing order if both of the following 888
are satisfied: 889

(A) All application requirements are met under section 890
4928.762 of the Revised Code. 891

(B) The commission makes a finding that this state has a 892
need for new electric distribution utility generation in order 893
to help this state become more energy independent and ensure 894
adequate supply to fulfill the electric distribution utility's 895
long-term projections of load. 896

Sec. 4928.765. At the same time that the public utilities 897
commission issues a nuclear project financing order, the 898
commission shall issue a final ratemaking order that ensures all 899
of the following: 900

(A) The electric distribution utility establishes a 901
separate accounting ledger to record all costs and revenues 902
associated with owning and operating the nuclear generating 903
facility, including the accrual for construction work in 904
progress during the period following technical completion and 905
continuing until the facility commences commercial operation. 906

(B) For purposes of establishing the utility's base rates 907

under Chapter 4909. of the Revised Code, the nuclear generating 908
facility shall be reflected in the utility's rate base for the 909
life of the nuclear generating facility and this ratemaking 910
treatment shall be afforded during the retail participation 911
agreement term. Subject to divisions (C) and (D) of this 912
section, all prudently incurred costs related to the nuclear 913
generating facility shall be reflected in the utility's 914
distribution rates established under Chapter 4909. of the 915
Revised Code for the life of the facility and including during 916
the retail participation agreement term. 917

(C) During the entire period of time that one or more 918
retail participation agreements established and approved by the 919
commission remain in effect, all of the following apply: 920

(1) The net prudently incurred costs for the nuclear 921
generating facility shall be recovered from the customer or 922
group of customers that entered into the retail participation 923
agreement. 924

(2) No costs for a nuclear generating facility authorized 925
by a nuclear project financing order shall be recovered from any 926
electric distribution utility customer except for the customer 927
or group of customers that entered into the retail participation 928
agreement regarding the facility. 929

(3) All of the revenue collected under such retail 930
participation agreement shall be credited against the utility's 931
cost of service in setting rates for the utility under Chapter 932
4909. of the Revised Code. 933

(4) The commission shall defer or, to the extent costs 934
incurred are determined to be imprudent, disallow any costs not 935
offset by such revenues during the entire period of time that 936

one or more retail participation agreements remain in effect. 937

(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: 938
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(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. 950
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(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. 960
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(E) Any sale, disposition, or transfer of the nuclear 967
generating facility must be approved by the commission, and the 968
net proceeds from the sale, disposition, or transfer shall be 969
credited to customers through the adjustment to the utility's 970
revenue requirement or rates, as determined by the commission. 971

Sec. 4928.766. In the event of a reversal or vacatur of 972
the public utilities commission's ratemaking order under section 973
4928.765 of the Revised Code, the electric distribution 974
utility's recovery of costs incurred prior to such reversal or 975
vacatur shall be collected consistent with the ratemaking order 976
issued in conjunction with the granting of the nuclear project 977
financing order. 978

Sec. 4928.767. (A) At the same time an electric 979
distribution utility files its nuclear project financing order 980
application, the utility shall file an application for approval 981
of one or more reasonable arrangements under section 4905.31 of 982
the Revised Code pursuant to this section. 983

(B) Each reasonable arrangement described by this section 984
shall have a term of not less than twenty years that must pay 985
monthly retail electric charges to the utility equal to the net 986
prudently incurred costs for the nuclear generating facility. 987

(C) Each reasonable arrangement described by this section 988
shall have a renewal option that is presumed to be elected 989
unless notice that the renewal option is declined is received 990
not later than three hundred sixty-five days prior to the 991
expiration of the reasonable arrangement. 992

(D) The utility shall arrange for the output of the 993
facility, including capacity and energy, be liquidated into the 994
wholesale markets, but the reasonable arrangement shall provide 995

that the customer or group of customers shall retain 996
environmental attributes of the output of the facility. 997

(E) The reasonable arrangement shall include reasonable 998
collateral and security provisions to ensure performance and 999
also require the customer or group of customers to pay all 1000
distribution and transmission rates and charges in accordance 1001
with the utility's tariffs. 1002

(F) The reasonable arrangement shall permit the customer 1003
or group of customers to shop for generation supply and, to the 1004
extent that utility issues a consolidated bill, the utility 1005
shall pass through the applicable charges that each 1006
participating customer incurs for generation supply either from 1007
a competitive retail electric service provider, to the extent 1008
that the participating customer is shopping and the utility 1009
issues a consolidated bill, or under the otherwise applicable 1010
standard service offer tariff rate of the utility for 1011
participating customers who are not shopping. 1012

(G) If the proposed reasonable arrangement meets all 1013
requirements of this section, it shall be approved by the public 1014
utilities commission. 1015

Sec. 4928.768. (A) A prudence and financial audit shall be 1016
conducted at the direction of the public utilities commission 1017
not more than three years from the date that a nuclear project 1018
financing order is approved, subject to division (B) of this 1019
section, and not less than every three years thereafter, by the 1020
staff of the public utilities commission or an independent 1021
auditor approved by the commission to review the electric 1022
distribution utility's accounting ledgers for a nuclear 1023
generating facility built pursuant to a nuclear project 1024
financing order and confirm that the total revenue from each 1025

approved retail participation agreement equals or exceeds the 1026
net prudently incurred costs during each audit period. 1027

(B) Each audit proceeding shall commence not more than 1028
sixty days after the end of each three-year period and shall be 1029
fully decided through an order of the commission not more than 1030
one hundred eighty days after the audit is commenced. 1031

(C) Notwithstanding any provision of sections 4928.76 to 1032
4928.767 of the Revised Code to the contrary, no costs that are 1033
deemed imprudent by the audit conducted pursuant to this section 1034
shall be recovered from any customer of the utility. 1035

Sec. 4928.769. The public utilities commission shall adopt 1036
rules to implement sections 4928.76 to 4928.768 of the Revised 1037
Code. 1038

Section 2. That existing sections 4164.11, 4906.01, 1039
4906.03, 4928.01, and 4928.041 of the Revised Code are hereby 1040
repealed. 1041