

As Reported by the Senate Public Utilities Committee

136th General Assembly

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Sub. S. B. No. 103

Senator Wilkin

Cosponsor: Senator Brenner

To amend sections 4909.042, 4909.05, 4909.06, 1
4909.07, 4909.08, 4909.15, 4909.156, 4909.159, 2
4909.173, 4909.174, 4909.18, 4909.421, 4928.01, 3
and 4928.05 and to enact sections 4909.157, 4
4909.182, 4929.052, 4929.053, 4929.054, 5
4929.055, 4929.056, 4929.057, and 4929.058 of 6
the Revised Code to allow for alternative rate 7
plans for natural gas companies to serve large 8
load customers and to make changes to the 9
process of valuating property for certain public 10
utilities. 11

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

Section 1. That sections 4909.042, 4909.05, 4909.06, 12
4909.07, 4909.08, 4909.15, 4909.156, 4909.159, 4909.173, 13
4909.174, 4909.18, 4909.421, 4928.01, and 4928.05 be amended and 14
sections 4909.157, 4909.182, 4929.052, 4929.053, 4929.054, 15
4929.055, 4929.056, 4929.057, and 4929.058 of the Revised Code 16
be enacted to read as follows: 17

Sec. 4909.042. (A) With respect to an electric light- 18
company, natural gas, water-works, or sewage disposal system 19
company that chooses to file a forecasted test period under 20

section 4909.18 of the Revised Code, the public utilities 21
commission shall prescribe the form and details of the valuation 22
report of the property of the utility company. Such report shall 23
include all the kinds and classes of property, with the value of 24
each, owned, held, or projected to be owned or held during the 25
test period, by the utility company for the service and 26
convenience of the public. 27

(B) Such report shall contain the following facts in 28
detail: 29

(1) The original cost of each parcel of land owned in fee 30
and projected to be owned in fee and in use during the test 31
period, determined by the commission; and also a statement of 32
the conditions of acquisition, whether by direct purchase, by 33
donation, by exercise of the power of eminent domain, or 34
otherwise; 35

(2) The actual acquisition cost, not including periodic 36
rental fees, of rights-of-way, trailways, or other land rights 37
projected to be held during the test period, by virtue of 38
easements, leases, or other forms of grants of rights as to 39
usage; 40

(3) The original cost of all other kinds and classes of 41
property projected to be used and useful during the test period, 42
in the rendition of service to the public. Such original costs 43
of property, other than land owned in fee, shall be the cost, as 44
determined to be reasonable by the commission, to the person 45
that first dedicated or dedicates the property to the public use 46
and shall be set forth in property accounts and subaccounts as 47
prescribed by the commission; 48

(4) The cost of property constituting all or part of a 49

project projected to be leased to or used by the ~~utility company~~ 50
during the test period, under Chapter 165., 3706., 6121., or 51
6123. of the Revised Code and not included under division (B) (3) 52
of this section exclusive of any interest directly or indirectly 53
paid by the ~~utility company~~ with respect thereto whether or not 54
capitalized; 55

(5) In the discretion of the commission, the cost to a 56
~~utility company~~, in an amount determined to be reasonable by the 57
commission, of property constituting all or part of a project 58
projected to be leased to the ~~utility company~~ during the test 59
period, under a lease purchase agreement or a leaseback and not 60
included under division (B) (3) of this section exclusive of any 61
interest directly or indirectly paid by the ~~utility company~~ with 62
respect thereto whether or not capitalized; 63

(6) The proper and adequate reserve for depreciation, as 64
determined to be reasonable by the commission; 65

(7) Any sums of money or property that the ~~utility company~~ 66
is projected to receive during the test period, as total or 67
partial defrayal of the cost of its property; 68

(8) The valuation of the property of the ~~utility company~~, 69
which shall be the sum of the amounts contained in the report 70
pursuant to divisions (B) (1) to (5) of this section, less the 71
sum of the amounts contained in the report pursuant to divisions 72
(B) (6) and (7) of this section; 73

(9) The cost of the replacement of water service lines 74
incurred by a water-works company under section 4909.173 of the 75
Revised Code and the water service line replacement 76
reimbursement amounts provided to customers under section 77
4909.174 of the Revised Code. 78

(C) The report shall show separately the property 79
projected to be used and useful to or held by the ~~utility-~~ 80
company during the test period, and such other items as the 81
commission considers proper. The commission may require an 82
additional report showing the extent to which the property is 83
projected to be used and useful during the test period. Such 84
reports shall be filed in the office of the commission for the 85
information of the governor and the general assembly. 86

(D) Any financial information required to be submitted by 87
an electric light ~~company,~~ natural gas, water-works, or sewage 88
disposal system company under this section shall be provided 89
from the company's full books. The commission shall ensure 90
appropriate protections against the disclosure of the company's 91
trade secrets or proprietary information. 92

Sec. 4909.05. ~~As used in this section:~~ 93

(A) With respect to every public utility, ~~other than an~~ 94
~~electric light company that chooses to file a forecasted test-~~ 95
~~period under section 4909.18 of the Revised Code,~~ the public 96
utilities commission shall prescribe the form and details of the 97
valuation report of the property of each public utility or 98
railroad in the state. Such report shall include all the kinds 99
and classes of property, with the value of each, owned, held, 100
or, with respect to a natural gas, water-works, or sewage 101
disposal system company, projected to be owned or held as of the 102
date certain, by each public utility or railroad used and 103
useful, or, with respect to a natural gas, water-works, or 104
sewage disposal system company, projected to be used and useful 105
as of the date certain, for the service and convenience of the 106
public. 107

(B) Such report shall contain the following facts in 108

detail: 109

(1) The original cost of each parcel of land owned in fee 110
and in use, or, with respect to a natural gas, water-works, or 111
sewage disposal system company, projected to be owned in fee and 112
in use as of the date certain, determined by the commission; and 113
also a statement of the conditions of acquisition, whether by 114
direct purchase, by donation, by exercise of the power of 115
eminent domain, or otherwise; 116

(2) The actual acquisition cost, not including periodic 117
rental fees, of rights-of-way, trailways, or other land rights 118
held, or, with respect to a natural gas, water-works, or sewage 119
disposal system company, projected to be held as of the date 120
certain, by virtue of easements, leases, or other forms of 121
grants of rights as to usage; 122

(3) The original cost of all other kinds and classes of 123
property used and useful, or, with respect to a natural gas, 124
water-works, or sewage disposal system company, projected to be 125
used and useful as of the date certain, in the rendition of 126
service to the public. Subject to section 4909.052 of the 127
Revised Code, such original costs of property, other than land 128
owned in fee, shall be the cost, as determined to be reasonable 129
by the commission, to the person that first dedicated or 130
dedicates the property to the public use and shall be set forth 131
in property accounts and subaccounts as prescribed by the 132
commission. To the extent that the costs of property comprising 133
a coal research and development facility, as defined in section 134
1555.01 of the Revised Code, or a coal development project, as 135
defined in section 1551.30 of the Revised Code, have been 136
allowed for recovery as Ohio coal research and development costs 137
under section 4905.304 of the Revised Code, none of those costs 138

shall be included as a cost of property under this division. 139

(4) The cost of property constituting all or part of a 140
project leased to or used by the utility, or, with respect to a 141
natural gas, water-works, or sewage disposal system company, 142
projected to be leased to or used by the utility as of the date 143
certain, under Chapter 165., 3706., 6121., or 6123. of the 144
Revised Code and not included under division (B) (3) of this 145
section exclusive of any interest directly or indirectly paid by 146
the utility with respect thereto whether or not capitalized; 147

(5) In the discretion of the commission, the cost to a 148
utility, in an amount determined to be reasonable by the 149
commission, of property constituting all or part of a project 150
leased to the utility, or, with respect to a natural gas, water- 151
works, or sewage disposal system company, projected to be leased 152
to the utility as of the date certain, under a lease purchase 153
agreement or a leaseback and not included under division (B) (3) 154
of this section exclusive of any interest directly or indirectly 155
paid by the utility with respect thereto whether or not 156
capitalized; 157

(6) The cost of the replacement of water service lines 158
incurred by a water-works company under section 4909.173 of the 159
Revised Code and the water service line replacement 160
reimbursement amounts provided to customers under section 161
4909.174 of the Revised Code; 162

(7) The proper and adequate reserve for depreciation, as 163
determined to be reasonable by the commission; 164

(8) Any sums of money or property that the company may 165
have received, or, with respect to a natural gas, water-works, 166
or sewage disposal system company, is projected to receive as of 167

the date certain, as total or partial defrayal of the cost of 168
its property; 169

(9) The valuation of the property of the company, which 170
shall be the sum of the amounts contained in the report pursuant 171
to divisions (B)(1) to (6) of this section, less the sum of the 172
amounts contained in the report pursuant to divisions (B)(7) and 173
(8) of this section. 174

(C) The report shall show separately the property used and 175
useful to such public utility or railroad in the furnishing of 176
the service to the public, the property held by such public 177
utility or railroad for other purposes, and the property 178
projected to be used and useful to or held by a natural gas, 179
water-works, or sewage disposal system company as of the date 180
certain, and such other items as the commission considers 181
proper. The commission may require an additional report showing 182
the extent to which the property is used and useful, or, with 183
respect to a natural gas, water-works, or sewage disposal system 184
company, projected to be used and useful as of the date certain. 185
Such reports shall be filed in the office of the commission for 186
the information of the governor and the general assembly. 187

(D) The requirements of section 4909.05 of the Revised 188
Code do not apply to an electric light, natural gas, water- 189
works, or sewage disposal system company that chooses to file a 190
forecasted test period under section 4909.18 of the Revised 191
Code. 192

Sec. 4909.06. The investigation and report required by 193
section 4909.042 or 4909.05 of the Revised Code shall show, when 194
the public utilities commission deems it necessary, the amounts, 195
dates, and rates of interest of all bonds outstanding against 196
each public utility or railroad, the property upon which such 197

bonds are a lien, the amounts paid for them, and, the original 198
capital stock and the moneys received by any such public utility 199
or railroad by reason of any issue of stock, bonds, or other 200
securities. Such report shall also show the net and gross 201
receipts of such public utility or railroad and the method by 202
which moneys were expended or paid out and the purpose of such 203
payments. The commission may prescribe the procedure to be 204
followed in making the investigation and valuation, the form in 205
which the results of the ascertainment of the value of each 206
public utility or railroad shall be submitted, and the 207
classifications of the elements that constitute the ascertained 208
value. Such investigation shall also show the value of the 209
property of every public utility or railroad as a whole, and if 210
such property is in more than one county, the value of its 211
property in each of such counties. 212

"Valuation" and "value," as used in this section, may 213
include: 214

(A) With respect to a public utility that is a natural 215
gas, water-works, or sewage disposal system company, projected 216
valuation and value as of the date certain, if applicable 217
because of a future date certain under section 4909.15 of the 218
Revised Code; 219

(B) With respect to an electric light ~~company~~, natural 220
gas, water-works, or sewage disposal system company that chooses 221
to file a forecasted test period under section 4909.18 of the 222
Revised Code, the valuation and value during the forecasted test 223
period. 224

Sec. 4909.07. The public utilities commission, during the 225
making of the valuation provided for in sections 4909.04 to 226
4909.13 of the Revised Code, and after its completion, shall in 227

like manner keep itself informed through its engineers, experts, 228
and other assistants of all extensions, improvements, or other 229
changes in the condition and value of the property of all public 230
utilities or railroads and shall ascertain the value of such 231
extensions, improvements, and changes. The commission shall, as 232
is required for the proper regulation of such public utilities 233
or railroads, revise and correct its valuations of property, 234
showing such revisions and corrections as a whole and as to each 235
county. Such revisions and corrections shall be filed in the 236
same manner as original reports. 237

"Valuation" and "value," as used in this section, may 238
include: 239

(A) With respect to a public utility that is a natural 240
gas, water-works, or sewage disposal system company, projected 241
valuation and value as of the date certain, if applicable 242
because of a future date certain under section 4909.15 of the 243
Revised Code; 244

(B) With respect to an electric light~~-company~~, natural 245
gas, water-works, or sewage disposal system company that chooses 246
to file a forecasted test period under section 4909.18 of the 247
Revised Code, the valuation and value during the forecasted test 248
period. 249

Sec. 4909.08. When the public utilities commission has 250
completed the valuation of the property of any public utility or 251
railroad and before such valuation becomes final, it shall give 252
notice by registered letter to such public utility or railroad, 253
and if a substantial portion of said public utility or railroad 254
is situated in a municipal corporation, then to the mayor of 255
such municipal corporation, stating the valuations placed upon 256
the several kinds and classes of property of such public utility 257

or railroad and upon the property as a whole and give such 258
further notice by publication or otherwise as it shall deem 259
necessary to apprise the public of such valuation. If, within 260
thirty days after such notification, no protest has been filed 261
with the commission, such valuation becomes final. If notice of 262
protest has been filed by any public utility or railroad, the 263
commission shall fix a time for hearing such protest and shall 264
consider at such hearing any matter material thereto presented 265
by such public utility, railroad, or municipal corporation, in 266
support of its protest or by any representative of the public 267
against such protest. If, after the hearing of any protest of 268
any valuation so fixed, the commission is of the opinion that 269
its inventory is incomplete or inaccurate or that its valuation 270
is incorrect, it shall make such changes as are necessary and 271
shall issue an order making such corrected valuations final. A 272
final valuation by the commission and all classifications made 273
for the ascertainment of such valuations shall be public and are 274
prima-facie evidence relative to the value of the property. 275

"Valuation" and "value," as used in this section, may 276
include: 277

(A) With respect to a public utility that is a natural 278
gas, water-works, or sewage disposal system company, projected 279
valuation and value as of the date certain, if applicable 280
because of a future date certain under section 4909.15 of the 281
Revised Code; 282

(B) With respect to an electric light ~~company~~, natural 283
gas, water-works, or sewage disposal system company that chooses 284
to file a forecasted test period under section 4909.18 of the 285
Revised Code, the valuation and value during the forecasted test 286
period. 287

Sec. 4909.15. (A) The public utilities commission, when 288
fixing and determining just and reasonable rates, fares, tolls, 289
rentals, and charges, shall determine: 290

(1) (a) With respect to a public utility ~~that is a natural~~ 291
~~gas, water-works, or sewage disposal system company, or that is~~ 292
an electric light ~~company~~, natural gas, water-works, or sewage 293
disposal system company that chooses not to file a forecasted 294
test period under section 4909.18 of the Revised Code, the 295
valuation as of the date certain of the property of the public 296
utility that is used and useful or, with respect to a natural 297
gas, water-works, or sewage disposal system company that chooses 298
not to file a forecasted test period under section 4909.18 of 299
the Revised Code, is projected to be used and useful as of the 300
date certain, in rendering the public utility service for which 301
rates are to be fixed and determined. 302

(b) With respect to an electric light ~~company~~, natural 303
gas, water-works, or sewage disposal system company that chooses 304
to file a forecasted test period under section 4909.18 of the 305
Revised Code, the valuation of the property of the utility that 306
is projected to be used and useful during the forecasted test 307
period in rendering the public utility service for which rates 308
are to be fixed and determined. 309

(c) The valuation so determined under division (A) (1) of 310
this section for any public utility shall be the total value as 311
set forth in division (B) (8) of section 4909.042 of the Revised 312
Code and division (B) (9) of section 4909.05 of the Revised Code, 313
and a reasonable allowance for materials and supplies and a 314
reasonable allowance for cash working capital as determined by 315
the commission. 316

(2) A fair and reasonable rate of return to the utility on 317

the valuation as determined in division (A) (1) of this section; 318

(3) The dollar annual return to which the utility is 319
entitled by applying the fair and reasonable rate of return as 320
determined under division (A) (2) of this section to the 321
valuation of the utility determined under division (A) (1) of 322
this section; 323

(4) The cost to the utility of rendering the public 324
utility service for the test period used for the determination 325
under division (C) (1) of this section by the utility during the 326
test period. 327

Federal, state, and local taxes imposed on or measured by 328
net income may, in the discretion of the commission, be computed 329
by the normalization method of accounting, provided the utility 330
maintains accounting reserves that reflect differences between 331
taxes actually payable and taxes on a normalized basis, provided 332
that no determination as to the treatment in the rate-making 333
process of such taxes shall be made that will result in loss of 334
any tax depreciation or other tax benefit to which the utility 335
would otherwise be entitled, and further provided that such tax 336
benefit as redounds to the utility as a result of such a 337
computation may not be retained by the company, used to fund any 338
dividend or distribution, or utilized for any purpose other than 339
the defrayal of the operating expenses of the utility and the 340
defrayal of the expenses of the utility in connection with 341
construction work. 342

(B) The commission shall compute the gross annual revenues 343
to which the utility is entitled by adding the dollar amount of 344
return under division (A) (3) of this section to the cost, for 345
the test period used for the determination under division (C) (1) 346
of this section, of rendering the public utility service under 347

division (A) (4) of this section. 348

(C) (1) Except as provided in division (D) of this section, 349
the revenues and expenses of the utility shall be determined 350
during a test period as follows: 351

(a) Electric light-companies, natural gas, water-works, 352
and sewage disposal companies may propose a forecasted test 353
period. If the company proposes a forecasted test period, the 354
company shall propose annual base rates for three consecutive 355
twelve-month periods in a single forecasted test period 356
application. 357

During the first twelve-month period, the company shall 358
propose a reasonably forecasted rate base using a thirteen-month 359
average, revenues, and expenses for the first twelve months that 360
new base rates will be in effect. 361

During the second twelve-month period, the base rate 362
revenue requirement shall be adjusted for the return of, and 363
return on, incremental rate base additions approved by the 364
commission in the initial application. During the third twelve- 365
month period, the base rate revenue requirement shall be 366
adjusted for the return of and return on incremental rate base 367
additions approved by the commission in the initial application. 368

For each twelve-month period, forecasted plant investment, 369
forecasted revenues, and forecasted expenses versus actual 370
investment, actual revenues, and actual expenses shall be trued 371
up via a cost recovery mechanism approved by the commission. 372

Each true-up process shall include an adjustment to actual 373
for the rate of return that the company is authorized to earn on 374
the actual investments made. The company shall provide the 375
commission with actual financial information during the true-up 376

process to ensure accuracy. As part of the true-up process, the
commission shall include only rate base components that have
been found by the commission to be used and useful in rendering
public utility service.

At the end of the last test period, the company shall file
for a rate case under section 4909.18 of the Revised Code.

(b) All utilities, except for electric light ~~companies,~~
natural gas, water-works, or sewage disposal system companies
that choose to file under division (C) (1) (a) of this section,
shall propose a test period that is any twelve-month period
beginning not more than six months prior to the date the
application is filed and ending not more than nine months
subsequent to that date.

(2) For utilities filing under division (C) (1) (b) of this
section, the date certain shall be not later than the date of
filing, except that it shall be, for a natural gas, water-works,
or sewage disposal system company, not later than the end of the
test period.

(D) Utilities filing under division (C) (1) (b) of this
section may propose adjustments to the revenues and expenses for
any changes that are, during the test period or the twelve-month
period immediately following the test period, reasonably
expected to occur. The utility shall identify and quantify,
individually, any proposed adjustments. The commission shall
incorporate the proposed adjustments into the determination if
the adjustments are just and reasonable.

(E) When the commission is of the opinion, after hearing
and after making the determinations under divisions (A) and (B)
of this section, that any rate, fare, charge, toll, rental,

schedule, classification, or service, or any joint rate, fare, 406
charge, toll, rental, schedule, classification, or service 407
rendered, charged, demanded, exacted, or proposed to be 408
rendered, charged, demanded, or exacted, is, or will be, unjust, 409
unreasonable, unjustly discriminatory, unjustly preferential, or 410
in violation of law, that the service is, or will be, 411
inadequate, or that the maximum rates, charges, tolls, or 412
rentals chargeable by any such public utility are insufficient 413
to yield reasonable compensation for the service rendered, and 414
are unjust and unreasonable, the commission shall: 415

(1) With due regard among other things to the value of all 416
property of the public utility as determined under division (A) 417
(1) of this section, excluding from such value the value of any 418
franchise or right to own, operate, or enjoy the same in excess 419
of the amount, exclusive of any tax or annual charge, actually 420
paid to any political subdivision of the state or county, as the 421
consideration for the grant of such franchise or right, and 422
excluding any value added to such property by reason of a 423
monopoly or merger, with due regard in determining the dollar 424
annual return under division (A) (3) of this section to the 425
necessity of making reservation out of the income for surplus, 426
depreciation, and contingencies, and; 427

(2) With due regard to all such other matters as are 428
proper, according to the facts in each case, 429

(a) Including a fair and reasonable rate of return 430
determined by the commission with reference to a cost of debt 431
equal to the actual embedded cost of debt of such public 432
utility, 433

(b) But not including the portion of any periodic rental 434
or use payments representing that cost of property that is 435

included in the valuation report under divisions (B) (4) and (5) 436
of section 4909.042 of the Revised Code and divisions (B) (4) and 437
(5) of section 4909.05 of the Revised Code, fix and determine 438
the just and reasonable rate, fare, charge, toll, rental, or 439
service to be rendered, charged, demanded, exacted, or collected 440
for the performance or rendition of the service that will 441
provide the public utility the allowable gross annual revenues 442
under division (B) of this section, and order such just and 443
reasonable rate, fare, charge, toll, rental, or service to be 444
substituted for the existing one. After such determination and 445
order no change in the rate, fare, toll, charge, rental, 446
schedule, classification, or service shall be made, rendered, 447
charged, demanded, exacted, or changed by such public utility 448
without the order of the commission, and any other rate, fare, 449
toll, charge, rental, classification, or service is prohibited. 450

(F) Upon application of any person or any public utility, 451
and after notice to the parties in interest and opportunity to 452
be heard as provided in Chapters 4901., 4903., 4905., 4907., 453
4909., 4921., and 4923. of the Revised Code for other hearings, 454
has been given, the commission may rescind, alter, or amend an 455
order fixing any rate, fare, toll, charge, rental, 456
classification, or service, or any other order made by the 457
commission. Certified copies of such orders shall be served and 458
take effect as provided for original orders. 459

Sec. 4909.156. In fixing the just, reasonable, and 460
compensatory rates, joint rates, tolls, classifications, 461
charges, or rentals to be observed and charged for service by 462
any public utility, the public utilities commission shall, in 463
action upon an application filed pursuant to section 4909.18 of 464
the Revised Code, require a public utility to file a report 465
showing the proportionate amounts of the valuation of the 466

property of the utility, as determined under section 4909.042 or 467
4909.05 of the Revised Code, and the proportionate amounts of 468
the revenues and expenses of the utility that are proposed to be 469
considered as attributable to the service area involved in the 470
application. 471

"Valuation," as used in this section, may include: 472

(A) With respect to a public utility that is a natural 473
gas, water-works, or sewage disposal system company, projected 474
valuation as of the date certain, if applicable because of a 475
future date certain under section 4909.15 of the Revised Code; 476

(B) With respect to an electric light ~~company~~, natural 477
gas, water-works, or sewage disposal system company that chooses 478
to file a forecasted test period under section 4909.18 of the 479
Revised Code, the valuation and value during the forecasted test 480
period. 481

Sec. 4909.157. (A) Except for a cost recovery mechanism 482
provided under division (C) (1) (a) of section 4909.15 of the 483
Revised Code, a natural gas, water-works, or sewage disposal 484
system company that applies for a forecasted test period under 485
that division shall not request, and the public utilities 486
commission shall not approve, any rider or other cost recovery 487
mechanism to recover capital investment that would be in 488
addition to the company's base rates. 489

(B) Upon rates going into effect based on a company's use 490
of a forecasted test period under division (C) (1) (a) of section 491
4909.15 of the Revised Code, any riders and other cost recovery 492
mechanisms previously approved to recover capital investment for 493
the company shall terminate. 494

(C) Notwithstanding divisions (A) and (B) of this section, 495

a natural gas company may still apply for, or continue 496
collecting from, an infrastructure development rider under 497
section 4929.161 of the Revised Code. 498

Sec. 4909.159. An electric light~~company~~, natural gas, 499
water-works, or sewage disposal system company proposing a 500
forecasted test period under division (C) (1) (a) of section 501
4909.15 of the Revised Code shall provide any financial 502
information required by that section from the company's full 503
books. The public utilities commission shall ensure appropriate 504
protections against the disclosure of the company's trade 505
secrets or proprietary information. 506

Sec. 4909.173. (A) As used in this section and section 507
4909.174 of the Revised Code: 508

(1) "Customer-owned water service line" means the water 509
service line connected to the water-works company's water 510
service line at the curb of a customer's property. 511

(2) "Water-works company" means an entity defined under 512
division (G) of section 4905.03 of the Revised Code that is a 513
public utility under section 4905.02 of the Revised Code. 514

(B) A water-works company may do any of the following: 515

(1) Replace lead customer-owned water service lines 516
concurrently with a scheduled utility main replacement project, 517
an emergency replacement, or company-initiated lead water 518
service line replacement program; 519

(2) Replace lead customer-owned water service lines when 520
mandated or ordered to replace such lines by law or a state or 521
federal regulatory agency; 522

(3) Replace customer-owned water service lines of other 523

composition when mandated or ordered to replace such lines by 524
law or a state or federal regulatory agency. 525

(C) If a water-works company replaces customer-owned water 526
service lines under this section, then the company shall include 527
the cost of the replacement of the water service lines, 528
including the cost of replacement of both company side and 529
customer-owned water service lines and the cost to evaluate 530
customer-owned water service lines of unknown composition, in 531
the valuation report of the property of the company as required 532
under division (B) (9) of section 4909.042 the Revised Code or 533
division (B) (6) of section 4909.05 of the Revised Code, 534
whichever is applicable, for inclusion in a rate case under this 535
chapter. 536

(D) The water service customer who is responsible for the 537
customer-owned water service line that was replaced under this 538
section shall hold legal title to the replaced water service 539
line. 540

Sec. 4909.174. (A) A water-works company shall reimburse a 541
customer who replaces the customer's customer-owned water 542
service line, if both of the following occur: 543

(1) The company confirms that the customer-owned water 544
service line was composed of lead or other composition that was 545
mandated or ordered to be replaced by law or a state or federal 546
regulatory agency; 547

(2) The customer submits the reimbursement request to the 548
company not later than twelve months after the completion of the 549
water line replacement. 550

(B) A water-works company that provides a reimbursement to 551
a customer under this section shall include the reimbursement 552

amount in the valuation report of the property of the company as 553
required under division (B) (9) of section 4909.042 of the 554
Revised Code or (B) (6) of section 4909.05 of the Revised Code, 555
whichever is applicable, for inclusion in a rate case under this 556
chapter. 557

Sec. 4909.18. Any public utility desiring to establish any 558
rate, joint rate, toll, classification, charge, or rental, or to 559
modify, amend, change, increase, or reduce any existing rate, 560
joint rate, toll, classification, charge, or rental, or any 561
regulation or practice affecting the same, shall file a written 562
application with the public utilities commission. Except for 563
actions under section 4909.16 of the Revised Code, no public 564
utility may issue the notice of intent to file an application 565
pursuant to division (B) of section 4909.43 of the Revised Code 566
to increase any existing rate, joint rate, toll, classification, 567
charge, or rental, until a final order under this section has 568
been issued by the commission on any pending prior application 569
to increase the same rate, joint rate, toll, classification, 570
charge, or rental or until two hundred seventy-five days after 571
filing such application, whichever is sooner. Such application 572
shall be verified by the president or a vice-president and the 573
secretary or treasurer of the applicant. Such application shall 574
contain a schedule of the existing rate, joint rate, toll, 575
classification, charge, or rental, or regulation or practice 576
affecting the same, a schedule of the modification amendment, 577
change, increase, or reduction sought to be established, and a 578
statement of the facts and grounds upon which such application 579
is based. If such application proposes a new service or the use 580
of new equipment, or proposes the establishment or amendment of 581
a regulation, the application shall fully describe the new 582
service or equipment, or the regulation proposed to be 583

established or amended, and shall explain how the proposed 584
service or equipment differs from services or equipment 585
presently offered or in use, or how the regulation proposed to 586
be established or amended differs from regulations presently in 587
effect. The application shall provide such additional 588
information as the commission may require in its discretion. If 589
the commission determines that such application is not for an 590
increase in any rate, joint rate, toll, classification, charge, 591
or rental, the commission may permit the filing of the schedule 592
proposed in the application and fix the time when such schedule 593
shall take effect. If it appears to the commission that the 594
proposals in the application may be unjust or unreasonable, the 595
commission shall set the matter for hearing and shall give 596
notice of such hearing by sending written notice of the date set 597
for the hearing to the public utility and publishing notice of 598
the hearing one time in a newspaper of general circulation in 599
each county in the service area affected by the application. At 600
such hearing, the burden of proof to show that the proposals in 601
the application are just and reasonable shall be upon the public 602
utility. After such hearing, the commission shall, where 603
practicable, issue an appropriate order within six months from 604
the date the application was filed. 605

If the commission determines that said application is for 606
an increase in any rate, joint rate, toll, classification, 607
charge, or rental there shall also, unless otherwise ordered by 608
the commission, be filed with the application in duplicate the 609
following exhibits: 610

(A) A report of its property used and useful, or, with 611
respect to a natural gas, water-works, or sewage disposal system 612
company that chooses not to file a forecasted test period under 613
division (C) (1) (a) of section 4909.15 of the Revised Code, 614

projected to be used and useful, as of the date certain, or 615
during the forecasted test period, if the application is filed 616
under division (C) (1) (a) of section 4909.15 of the Revised Code, 617
in rendering the service referred to in such application, as 618
provided in sections 4909.042 and 4909.05 of the Revised Code; 619

(B) A complete operating statement of its last fiscal 620
year, showing in detail all its receipts, revenues, and incomes 621
from all sources, all of its operating costs and other 622
expenditures, and any analysis such public utility deems 623
applicable to the matter referred to in said application; 624

(C) A statement of the income and expense anticipated 625
under the application filed; 626

(D) A statement of financial condition summarizing assets, 627
liabilities, and net worth; 628

(E) Such other information as the commission may require 629
in its discretion. 630

Sec. 4909.182. Not later than December 31, 2029, and at 631
least every three years thereafter, each natural gas company 632
that provides utility service to two hundred fifty thousand or 633
more customers shall file a rate case application under section 634
4909.18 of the Revised Code. 635

Sec. 4909.421. (A) If the proceeding on an application 636
filed with the public utilities commission under section 4909.18 637
of the Revised Code by an electric light ~~company~~, natural gas, 638
water-works, or sewage disposal system company requesting an 639
increase on any rate, rate mechanism, joint rate, toll, 640
classification, charge, or rental or requesting a change in a 641
regulation or practice affecting the same has not been concluded 642
and an opinion and order entered pursuant to section 4909.19 of 643

the Revised Code at the expiration of two hundred seventy-five 644
days from the date of the filing of the application, the company 645
may request a temporary increase, and any party to the 646
proceeding may request a temporary decrease, which shall go into 647
effect and remain in effect until modified in accordance with 648
the commission's order based upon the merits of the application. 649

(B) Not later than three hundred sixty days from the date 650
of filing the application as established by section 4909.193 of 651
the Revised Code, the commission shall issue an order to 652
approve, deny, or modify an application filed under section 653
4909.18 of the Revised Code. If the commission does not issue an 654
order within three hundred sixty days after the date of filing 655
of the application, the application shall be deemed approved by 656
operation of law. A temporary increase or decrease under this 657
section shall not exceed the midpoint of the rates recommended 658
in the staff report filed pursuant to section 4909.19 of the 659
Revised Code and shall be subject to reconciliation and refund. 660

(C) Nothing in this section shall be construed to mitigate 661
any duty of the commission to issue a final order under section 662
4909.19 of the Revised Code. 663

Sec. 4928.01. (A) As used in this chapter: 664

(1) "Ancillary service" means any function necessary to 665
the provision of electric transmission or distribution service 666
to a retail customer and includes, but is not limited to, 667
scheduling, system control, and dispatch services; reactive 668
supply from generation resources and voltage control service; 669
reactive supply from transmission resources service; regulation 670
service; frequency response service; energy imbalance service; 671
operating reserve-spinning reserve service; operating reserve- 672
supplemental reserve service; load following; back-up supply 673

service; real-power loss replacement service; dynamic 674
scheduling; system black start capability; and network stability 675
service. 676

(2) "Billing and collection agent" means a fully 677
independent agent, not affiliated with or otherwise controlled 678
by an electric utility, electric services company, electric 679
cooperative, or governmental aggregator subject to certification 680
under section 4928.08 of the Revised Code, to the extent that 681
the agent is under contract with such utility, company, 682
cooperative, or aggregator solely to provide billing and 683
collection for retail electric service on behalf of the utility 684
company, cooperative, or aggregator. 685

(3) "Certified territory" means the certified territory 686
established for an electric supplier under sections 4933.81 to 687
4933.90 of the Revised Code. 688

(4) "Competitive retail electric service" means a 689
component of retail electric service that is competitive as 690
provided under division (B) of this section. 691

(5) "Electric cooperative" means a not-for-profit electric 692
light company that both is or has been financed in whole or in 693
part under the "Rural Electrification Act of 1936," 49 Stat. 694
1363, 7 U.S.C. 901, and owns or operates facilities in this 695
state to generate, transmit, or distribute electricity, or a 696
not-for-profit successor of such company. 697

(6) "Electric distribution utility" means an electric 698
utility that supplies at least retail electric distribution 699
service and does not own or operate an electric generating 700
facility. 701

(7) "Electric light company" has the same meaning as in 702

section 4905.03 of the Revised Code and includes an electric 703
services company. 704

(8) "Electric load center" has the same meaning as in 705
section 4933.81 of the Revised Code. 706

(9) "Electric services company" means an electric light 707
company that is engaged on a for-profit or not-for-profit basis 708
in the business of supplying or arranging for the supply of only 709
a competitive retail electric service in this state. "Electric 710
services company" includes a power marketer, power broker, 711
aggregator, or independent power producer but excludes an 712
electric cooperative, municipal electric utility, governmental 713
aggregator, or billing and collection agent. 714

(10) "Electric supplier" has the same meaning as in 715
section 4933.81 of the Revised Code. 716

(11) "Electric utility" means an electric light company 717
that has a certified territory and is engaged on a for-profit 718
basis in the business of supplying at least a noncompetitive 719
retail electric service in this state. "Electric utility" 720
excludes a municipal electric utility or a billing and 721
collection agent. 722

(12) "Firm electric service" means electric service other 723
than nonfirm electric service. 724

(13) "Governmental aggregator" means a legislative 725
authority of a municipal corporation, a board of township 726
trustees, or a board of county commissioners acting as an 727
aggregator for the provision of a competitive retail electric 728
service under authority conferred under section 4928.20 of the 729
Revised Code. 730

(14) A person acts "knowingly," regardless of the person's 731

purpose, when the person is aware that the person's conduct will 732
probably cause a certain result or will probably be of a certain 733
nature. A person has knowledge of circumstances when the person 734
is aware that such circumstances probably exist. 735

(15) "Level of funding for low-income customer energy 736
efficiency programs provided through electric utility rates" 737
means the level of funds specifically included in an electric 738
utility's rates on October 5, 1999, pursuant to an order of the 739
public utilities commission issued under Chapter 4905. or 4909. 740
of the Revised Code and in effect on October 4, 1999, for the 741
purpose of improving the energy efficiency of housing for the 742
utility's low-income customers. The term excludes the level of 743
any such funds committed to a specific nonprofit organization or 744
organizations pursuant to a stipulation or contract. 745

(16) "Low-income customer assistance programs" means the 746
percentage of income payment plan program, the home energy 747
assistance program, the home weatherization assistance program, 748
and the targeted energy efficiency and weatherization program. 749

(17) "Market development period" for an electric utility 750
means the period of time beginning on the starting date of 751
competitive retail electric service and ending on the applicable 752
date for that utility as specified in section 4928.40 of the 753
Revised Code, irrespective of whether the utility applies to 754
receive transition revenues under this chapter. 755

(18) "Market power" means the ability to impose on 756
customers a sustained price for a product or service above the 757
price that would prevail in a competitive market. 758

(19) "Mercantile customer" means a commercial or 759
industrial customer if the electricity consumed is for 760

nonresidential use and the customer consumes more than seven 761
hundred thousand kilowatt hours per year or is part of a 762
national account involving multiple facilities in one or more 763
states. 764

(20) "Municipal electric utility" means a municipal 765
corporation that owns or operates facilities to generate, 766
transmit, or distribute electricity. 767

(21) "Noncompetitive retail electric service" means a 768
component of retail electric service that is noncompetitive as 769
provided under division (B) of this section. 770

(22) "Nonfirm electric service" means electric service 771
provided pursuant to a schedule filed under section 4905.30 of 772
the Revised Code or pursuant to an arrangement under section 773
4905.31 of the Revised Code, which schedule or arrangement 774
includes conditions that may require the customer to curtail or 775
interrupt electric usage during nonemergency circumstances upon 776
notification by an electric utility. 777

(23) "Percentage of income payment plan arrears" means 778
funds eligible for collection through the percentage of income 779
payment plan rider, but uncollected as of July 1, 2000. 780

(24) "Person" has the same meaning as in section 1.59 of 781
the Revised Code. 782

(25) "Advanced energy project" means any technologies, 783
products, activities, or management practices or strategies that 784
facilitate the generation or use of electricity or energy and 785
that reduce or support the reduction of energy consumption or 786
support the production of clean, renewable energy for 787
industrial, distribution, commercial, institutional, 788
governmental, research, not-for-profit, or residential energy 789

users, including, but not limited to, advanced energy resources 790
and renewable energy resources. "Advanced energy project" also 791
includes any project described in division (A), (B), or (C) of 792
section 4928.621 of the Revised Code. 793

(26) "Regulatory assets" means the unamortized net 794
regulatory assets that are capitalized or deferred on the 795
regulatory books of the electric utility, pursuant to an order 796
or practice of the public utilities commission or pursuant to 797
generally accepted accounting principles as a result of a prior 798
commission rate-making decision, and that would otherwise have 799
been charged to expense as incurred or would not have been 800
capitalized or otherwise deferred for future regulatory 801
consideration absent commission action. "Regulatory assets" 802
includes, but is not limited to, all deferred demand-side 803
management costs; all deferred percentage of income payment plan 804
arrears; post-in-service capitalized charges and assets 805
recognized in connection with statement of financial accounting 806
standards no. 109 (receivables from customers for income taxes); 807
future nuclear decommissioning costs and fuel disposal costs as 808
those costs have been determined by the commission in the 809
electric utility's most recent rate or accounting application 810
proceeding addressing such costs; the undepreciated costs of 811
safety and radiation control equipment on nuclear generating 812
plants owned or leased by an electric utility; and fuel costs 813
currently deferred pursuant to the terms of one or more 814
settlement agreements approved by the commission. 815

(27) "Retail electric service" means any service involved 816
in supplying or arranging for the supply of electricity to 817
ultimate consumers in this state, from the point of generation 818
to the point of consumption. For the purposes of this chapter, 819
retail electric service includes one or more of the following 820

"service components": generation service, aggregation service, 821
power marketing service, power brokerage service, transmission 822
service, distribution service, ancillary service, metering 823
service, and billing and collection service. 824

(28) "Starting date of competitive retail electric 825
service" means January 1, 2001. 826

(29) "Customer-generator" means a user of a net metering 827
system. 828

(30) "Net metering" means measuring the difference in an 829
applicable billing period between the electricity supplied by an 830
electric service provider and the electricity generated by a 831
customer-generator that is fed back to the electric service 832
provider. 833

(31) "Net metering system" means a facility for the 834
production of electrical energy that does all of the following: 835

(a) Uses as its fuel either solar, wind, biomass, landfill 836
gas, or hydropower, or uses a microturbine or a fuel cell; 837

(b) Is located on a customer-generator's premises; 838

(c) Operates in parallel with the electric utility's 839
transmission and distribution facilities; 840

(d) Is intended primarily to offset part or all of the 841
customer-generator's requirements for electricity. For an 842
industrial customer-generator with a net metering system that 843
has a capacity of less than twenty megawatts and uses wind as 844
energy, this means the net metering system was sized so as to 845
not exceed one hundred per cent of the customer-generator's 846
annual requirements for electric energy at the time of 847
interconnection. 848

(32) "Self-generator" means an entity in this state that 849
owns or hosts on property the entity controls an electric 850
generation facility that produces electricity primarily for the 851
owner's consumption and that may provide any such excess 852
electricity to another entity, and that meets all of the 853
following: 854

(a) The facility is installed or operated by the owner or 855
by a third party under a contract, including a lease, purchase 856
power agreement, or other service contract. 857

(b) The facility connects directly to the owner's side of 858
the electric meter. 859

(c) The facility delivers electricity to the owner's side 860
of the electric meter without the use of an electric 861
distribution utility's or electric cooperative's distribution 862
system or transmission system. 863

(33) "Rate plan" means the standard service offer in 864
effect on the effective date of the amendment of this section by 865
S.B. 221 of the 127th general assembly, July 31, 2008. 866

(34) "Advanced energy resource" means any of the 867
following: 868

(a) Any method or any modification or replacement of any 869
property, process, device, structure, or equipment that 870
increases the generation output of an electric generating 871
facility to the extent such efficiency is achieved without 872
additional carbon dioxide emissions by that facility; 873

(b) Any distributed generation system consisting of 874
customer cogeneration technology; 875

(c) Clean coal technology that includes a carbon-based 876

product that is chemically altered before combustion to 877
demonstrate a reduction, as expressed as ash, in emissions of 878
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 879
sulfur trioxide in accordance with the American society of 880
testing and materials standard D1757A or a reduction of metal 881
oxide emissions in accordance with standard D5142 of that 882
society, or clean coal technology that includes the design 883
capability to control or prevent the emission of carbon dioxide, 884
which design capability the commission shall adopt by rule and 885
shall be based on economically feasible best available 886
technology or, in the absence of a determined best available 887
technology, shall be of the highest level of economically 888
feasible design capability for which there exists generally 889
accepted scientific opinion; 890

(d) Advanced nuclear energy technology consisting of 891
generation III technology as defined by the nuclear regulatory 892
commission; other, later technology; or significant improvements 893
to existing facilities; 894

(e) Any fuel cell used in the generation of electricity, 895
including, but not limited to, a proton exchange membrane fuel 896
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 897
solid oxide fuel cell; 898

(f) Advanced solid waste or construction and demolition 899
debris conversion technology, including, but not limited to, 900
advanced stoker technology, and advanced fluidized bed 901
gasification technology, that results in measurable greenhouse 902
gas emissions reductions as calculated pursuant to the United 903
States environmental protection agency's waste reduction model 904
(WARM); 905

(g) Demand-side management and any energy efficiency 906

improvement; 907

(h) Any new, retrofitted, refueled, or repowered 908
generating facility located in Ohio, including a simple or 909
combined-cycle natural gas generating facility or a generating 910
facility that uses biomass, coal, modular nuclear, or any other 911
fuel as its input; 912

(i) Any uprated capacity of an existing electric 913
generating facility if the uprated capacity results from the 914
deployment of advanced technology. 915

"Advanced energy resource" does not include a waste energy 916
recovery system that is, or has been, included in an energy 917
efficiency program of an electric distribution utility pursuant 918
to requirements under section 4928.66 of the Revised Code. 919

(35) "Air contaminant source" has the same meaning as in 920
section 3704.01 of the Revised Code. 921

(36) "Cogeneration technology" means technology that 922
produces electricity and useful thermal output simultaneously. 923

(37) (a) "Renewable energy resource" means any of the 924
following: 925

(i) Solar photovoltaic or solar thermal energy; 926

(ii) Wind energy; 927

(iii) Power produced by a hydroelectric facility; 928

(iv) Power produced by a small hydroelectric facility, 929
which is a facility that operates, or is rated to operate, at an 930
aggregate capacity of less than six megawatts; 931

(v) Power produced by a run-of-the-river hydroelectric 932
facility placed in service on or after January 1, 1980, that is 933

located within this state, relies upon the Ohio river, and 934
operates, or is rated to operate, at an aggregate capacity of 935
forty or more megawatts; 936

(vi) Geothermal energy; 937

(vii) Fuel derived from solid wastes, as defined in 938
section 3734.01 of the Revised Code, through fractionation, 939
biological decomposition, or other process that does not 940
principally involve combustion; 941

(viii) Biomass energy; 942

(ix) Energy produced by cogeneration technology that is 943
placed into service on or before December 31, 2015, and for 944
which more than ninety per cent of the total annual energy input 945
is from combustion of a waste or byproduct gas from an air 946
contaminant source in this state, which source has been in 947
operation since on or before January 1, 1985, provided that the 948
cogeneration technology is a part of a facility located in a 949
county having a population of more than three hundred sixty-five 950
thousand but less than three hundred seventy thousand according 951
to the most recent federal decennial census; 952

(x) Biologically derived methane gas; 953

(xi) Heat captured from a generator of electricity, 954
boiler, or heat exchanger fueled by biologically derived methane 955
gas; 956

(xii) Energy derived from nontreated by-products of the 957
pulpig process or wood manufacturing process, including bark, 958
wood chips, sawdust, and lignin in spent pulpig liquors. 959

"Renewable energy resource" includes, but is not limited 960
to, any fuel cell used in the generation of electricity, 961

including, but not limited to, a proton exchange membrane fuel 962
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 963
solid oxide fuel cell; a linear generator; wind turbine located 964
in the state's territorial waters of Lake Erie; methane gas 965
emitted from an abandoned or active coal mine; waste energy 966
recovery system placed into service or retrofitted on or after 967
the effective date of the amendment of this section by S.B. 315 968
of the 129th general assembly, September 10, 2012, except that a 969
waste energy recovery system described in division (A) (38) (b) of 970
this section may be included only if it was placed into service 971
between January 1, 2002, and December 31, 2004; storage facility 972
that will promote the better utilization of a renewable energy 973
resource; or distributed generation system used by a customer to 974
generate electricity from any such energy. 975

"Renewable energy resource" does not include a waste 976
energy recovery system that is, or was, on or after January 1, 977
2012, included in an energy efficiency program of an electric 978
distribution utility pursuant to requirements under section 979
4928.66 of the Revised Code. 980

(b) As used in division (A) (37) of this section, 981
"hydroelectric facility" means a hydroelectric generating 982
facility that is located at a dam on a river, or on any water 983
discharged to a river, that is within or bordering this state or 984
within or bordering an adjoining state and meets all of the 985
following standards: 986

(i) The facility provides for river flows that are not 987
detrimental for fish, wildlife, and water quality, including 988
seasonal flow fluctuations as defined by the applicable 989
licensing agency for the facility. 990

(ii) The facility demonstrates that it complies with the 991

water quality standards of this state, which compliance may 992
consist of certification under Section 401 of the "Clean Water 993
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 994
demonstrates that it has not contributed to a finding by this 995
state that the river has impaired water quality under Section 996
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 997
U.S.C. 1313. 998

(iii) The facility complies with mandatory prescriptions 999
regarding fish passage as required by the federal energy 1000
regulatory commission license issued for the project, regarding 1001
fish protection for riverine, anadromous, and catadromous fish. 1002

(iv) The facility complies with the recommendations of the 1003
Ohio environmental protection agency and with the terms of its 1004
federal energy regulatory commission license regarding watershed 1005
protection, mitigation, or enhancement, to the extent of each 1006
agency's respective jurisdiction over the facility. 1007

(v) The facility complies with provisions of the 1008
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 1009
to 1544, as amended. 1010

(vi) The facility does not harm cultural resources of the 1011
area. This can be shown through compliance with the terms of its 1012
federal energy regulatory commission license or, if the facility 1013
is not regulated by that commission, through development of a 1014
plan approved by the Ohio historic preservation office, to the 1015
extent it has jurisdiction over the facility. 1016

(vii) The facility complies with the terms of its federal 1017
energy regulatory commission license or exemption that are 1018
related to recreational access, accommodation, and facilities 1019
or, if the facility is not regulated by that commission, the 1020

facility complies with similar requirements as are recommended 1021
by resource agencies, to the extent they have jurisdiction over 1022
the facility; and the facility provides access to water to the 1023
public without fee or charge. 1024

(viii) The facility is not recommended for removal by any 1025
federal agency or agency of any state, to the extent the 1026
particular agency has jurisdiction over the facility. 1027

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 1028
this section do not apply to a small hydroelectric facility 1029
under division (A) (37) (a) (iv) of this section. 1030

(38) "Waste energy recovery system" means any of the 1031
following: 1032

(a) A facility that generates electricity through the 1033
conversion of energy from either of the following: 1034

(i) Exhaust heat from engines or manufacturing, 1035
industrial, commercial, or institutional sites, except for 1036
exhaust heat from a facility whose primary purpose is the 1037
generation of electricity; 1038

(ii) Reduction of pressure in gas pipelines before gas is 1039
distributed through the pipeline, provided that the conversion 1040
of energy to electricity is achieved without using additional 1041
fossil fuels. 1042

(b) A facility at a state institution of higher education 1043
as defined in section 3345.011 of the Revised Code that recovers 1044
waste heat from electricity-producing engines or combustion 1045
turbines and that simultaneously uses the recovered heat to 1046
produce steam, provided that the facility was placed into 1047
service between January 1, 2002, and December 31, 2004; 1048

(c) A facility that produces steam from recovered waste 1049
heat from a manufacturing process and uses that steam, or 1050
transfers that steam to another facility, to provide heat to 1051
another manufacturing process or to generate electricity. 1052

(39) "Smart grid" means capital improvements to an 1053
electric distribution utility's distribution infrastructure that 1054
improve reliability, efficiency, resiliency, or reduce energy 1055
demand or use, including, but not limited to, advanced metering 1056
and automation of system functions. 1057

(40) "Combined heat and power system" means the 1058
coproduction of electricity and useful thermal energy from the 1059
same fuel source designed to achieve thermal-efficiency levels 1060
of at least sixty per cent, with at least twenty per cent of the 1061
system's total useful energy in the form of thermal energy. 1062

(41) (a) "Green energy" means any energy generated by using 1063
an energy resource that does one or more of the following: 1064

(i) Releases reduced air pollutants, thereby reducing 1065
cumulative air emissions; 1066

(ii) Is more sustainable and reliable relative to some 1067
fossil fuels. 1068

(b) "Green energy" includes energy generated using the 1069
following: 1070

(i) Natural gas as a resource; 1071

(ii) Nuclear reaction. 1072

(42) "Energy storage" means electrical generation and 1073
storage performed by a distributed energy system connected 1074
battery. 1075

(43) "Linear generator" means an integrated system 1076
~~consisting that may consist of~~ oscillators, cylinders, 1077
electricity conversion equipment, and associated balance of 1078
plant components that meet the following criteria: 1079

(a) Converts ~~the linear motion of oscillators~~ directly 1080
into electricity ~~without the use of a flame or spark;~~ 1081

(b) Is dispatchable with the ability to vary power output 1082
across all loads; 1083

~~(c) Can operate on multiple fuel types including renewable~~ 1084
~~fuels such as hydrogen, ammonia, and biogas.~~ 1085

(B) For the purposes of this chapter, a retail electric 1086
service component shall be deemed a competitive retail electric 1087
service if the service component is competitive pursuant to a 1088
declaration by a provision of the Revised Code or pursuant to an 1089
order of the public utilities commission authorized under 1090
division (A) of section 4928.04 of the Revised Code. Otherwise, 1091
the service component shall be deemed a noncompetitive retail 1092
electric service. 1093

Sec. 4928.05. (A) (1) A competitive retail electric service 1094
supplied by an electric services company, or by an electric 1095
utility consistent with section 4928.141 of the Revised Code, 1096
shall not be subject to supervision and regulation by a 1097
municipal corporation under Chapter 743. of the Revised Code or 1098
by the public utilities commission under Chapters 4901. to 1099
4909., 4933., 4935., and 4963. of the Revised Code, except 1100
sections 4905.10 and 4905.31, division (B) of section 4905.33, 1101
and sections 4905.35 and 4933.81 to 4933.90; except sections 1102
4905.06, 4935.03, 4963.40, and 4963.41 of the Revised Code only 1103
to the extent related to service reliability and public safety; 1104

and except as otherwise provided in this chapter. The 1105
commission's authority to enforce those excepted provisions with 1106
respect to a competitive retail electric service shall be such 1107
authority as is provided for their enforcement under Chapters 1108
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 1109
this chapter. Nothing in this division shall be construed to 1110
limit the commission's authority under sections 4928.141, 1111
4928.142, and 4928.144 of the Revised Code. 1112

(2) A competitive retail electric service supplied by an 1113
electric cooperative shall not be subject to supervision and 1114
regulation by the commission under Chapters 4901. to 4909., 1115
4933., 4935., and 4963. of the Revised Code, except as otherwise 1116
expressly provided in sections 4928.01 to 4928.10 and 4928.16 of 1117
the Revised Code. 1118

(B) (1) A noncompetitive retail electric service supplied 1119
by an electric utility shall be subject to supervision and 1120
regulation by the commission under Chapters 4901. to 4909., 1121
4933., 4935., and 4963. of the Revised Code and this chapter, to 1122
the extent that authority is not preempted by federal law. The 1123
commission's authority to enforce those provisions with respect 1124
to a noncompetitive retail electric service shall be the 1125
authority provided under those chapters and this chapter, to the 1126
extent the authority is not preempted by federal law. 1127
Notwithstanding Chapters 4905. and 4909. of the Revised Code, 1128
commission authority under this chapter shall include the 1129
authority to provide for the recovery, through a reconcilable 1130
rider on an electric distribution utility's distribution rates, 1131
of all transmission and transmission-related costs, including 1132
ancillary and congestion costs, imposed on or charged to the 1133
utility by the federal energy regulatory commission or a 1134
regional transmission organization, independent transmission 1135

operator, or similar organization approved by the federal energy 1136
regulatory commission. 1137

~~The commission shall adopt, for each electric distribution 1138
utility that provides customers with a standard service offer in 1139
compliance with sections 4928.141 and 4928.142 of the Revised 1140
Code, a nonbypassable cost recovery mechanism relating to 1141
transmission, ancillary, congestion, or any related service 1142
required for such standard service offer that includes 1143
provisions for the recovery of any cost of such service that the 1144
electric distribution utility incurs pursuant to the standard 1145
service offer. 1146~~

(2) The commission shall exercise its jurisdiction with 1147
respect to the delivery of electricity by an electric utility in 1148
this state so as to ensure that no aspect of the delivery of 1149
electricity by the utility to consumers in this state that 1150
consists of a noncompetitive retail electric service is 1151
unregulated. 1152

(3) A noncompetitive retail electric service supplied by 1153
an electric cooperative shall not be subject to supervision and 1154
regulation by the commission under Chapters 4901. to 4909., 1155
4933., 4935., and 4963. of the Revised Code, except sections 1156
4933.81 to 4933.90 and 4935.03 of the Revised Code. The 1157
commission's authority to enforce those excepted sections with 1158
respect to a noncompetitive retail electric service of an 1159
electric cooperative shall be such authority as is provided for 1160
their enforcement under Chapters 4933. and 4935. of the Revised 1161
Code. 1162

Sec. 4929.052. (A) As used in sections 4929.052 to 1163
4929.058 of the Revised Code, "large load customer" means a 1164
customer that a natural gas company projected or anticipated to 1165

consume, or actually consumed, in a prior, current, or future 1166
twelve-month period, more than one million two hundred thousand 1167
Mcf of natural gas. 1168

(B) A natural gas company that has applied for, or was 1169
already approved for, an infrastructure development rider 1170
pursuant to section 4929.161 of the Revised Code may file an 1171
application to the public utilities commission for an 1172
alternative rate plan to serve large load customers. 1173

(C) An alternative rate plan established under division 1174
(B) of this section must support commercial agreements entered 1175
into between the natural gas company and a large load customer. 1176

Sec. 4929.053. (A) An alternative rate plan proposed by a 1177
natural gas company pursuant to section 4929.052 of the Revised 1178
Code shall be approved by the public utilities commission if the 1179
natural gas company meets its burden of proof in a proceeding 1180
before the commission that the alternative rate plan does all of 1181
the following to protect existing customers: 1182

(1) Protects the company's customers that are not served 1183
under the alternative rate plan pursuant to section 4929.052 of 1184
the Revised Code from paying direct or indirect costs, including 1185
any stranded costs, associated with the large load customer's 1186
share of infrastructure investments made under any commercial 1187
agreements entered into under that plan; 1188

(2) Provides any commercial agreement entered into under 1189
the plan, once the large load customer begins natural gas 1190
service and monthly payments to the natural gas company, shall 1191
require a monthly cost credit, to compensate other customers for 1192
the cost of the large load customer's use of the natural gas 1193
company's system and infrastructure, to the annual 1194

infrastructure development rider rate charged by the natural gas 1195
company pursuant to section 4929.162 of the Revised Code, which 1196
will be the cost of the large load customer's use of the natural 1197
gas company system and infrastructure; 1198

(3) Supports economic development in the state by serving 1199
the large load customer, which is proven by a letter of support 1200
by an economic development entity, as defined in division (C) (4) 1201
of section 4929.163 of the Revised Code. 1202

(B) The monthly cost credit described in division (A) (2) 1203
of this section shall be determined pursuant to a separate 1204
infrastructure development rider regulatory liability proceeding 1205
in which the natural gas company shall propose the credit amount 1206
based on cost allocation principles. 1207

Sec. 4929.054. Any payment received from a large load 1208
customer pursuant to a commercial agreement under an alternative 1209
rate plan filed and approved under sections 4929.052 and 1210
4929.053 of the Revised Code shall not be considered revenue in 1211
any proceeding held pursuant to Chapter 4909. of the Revised 1212
Code. 1213

Sec. 4929.055. An alternative rate plan application filed 1214
and approved pursuant to sections 4929.052 and 4929.053 of the 1215
Revised Code shall not be considered an application for an 1216
increase in rates. 1217

Sec. 4929.056. (A) A natural gas company shall file a 1218
commercial agreement with a large load customer entered into 1219
pursuant to a proposed or approved alternative rate plan under 1220
sections 4929.052 and 4929.053 of the Revised Code with the 1221
public utilities commission. 1222

(B) A commercial agreement described in division (A) of 1223

this section shall be deemed automatically approved unless the 1224
commission determines within ninety days from the date of the 1225
filing that the commercial agreement is inconsistent with the 1226
requirements of this section or sections 4929.052 and 4929.053 1227
of the Revised Code. 1228

(C) A natural gas company may propose that the commercial 1229
agreement include any negotiated terms that differ from the 1230
rates or terms of service approved in the company's most recent 1231
rate case proceeding under section 4909.18 of the Revised Code. 1232

Sec. 4929.057. (A) An application for an alternative rate 1233
plan filed pursuant to sections 4929.052 and 4929.053 of the 1234
Revised Code shall be deemed approved ninety days after the date 1235
the natural gas company filed the application with the public 1236
utilities commission. The commission may suspend the approval of 1237
the application for good cause shown. 1238

(B) If the public utilities commission does not issue an 1239
order within ninety days from the date an alternative rate plan 1240
application is suspended pursuant to division (A) of this 1241
section, the company's proposed alternative rate plan shall be 1242
deemed approved by operation of law. 1243

Sec. 4929.058. A natural gas company with an alternative 1244
rate plan approved under section 4929.053 of the Revised Code, 1245
or deemed approved under section 4929.057 of the Revised Code, 1246
shall, upon the approval of a commercial agreement under section 1247
4929.056 of the Revised Code, file with the public utilities 1248
commission a written statement, on a form prescribed by the 1249
commission, agreeing to the following: 1250

(A) Any costs associated with the alternative rate plan, 1251
or any commercial agreements entered into pursuant to that plan, 1252

shall not be recovered, directly or indirectly, from the 1253
company's other customers; 1254

(B) There shall be no increase in the company's base rates 1255
as a direct or indirect result of any provision of an approved 1256
commercial agreement or the alternative rate plan. 1257

Section 2. That existing sections 4909.042, 4909.05, 1258
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.159, 1259
4909.173, 4909.174, 4909.18, 4909.421, 4928.01, and 4928.05 of 1260
the Revised Code are hereby repealed. 1261