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, 4909.07, 4909.08, 4909.15, 4909.156, 4909.159, 4909.173, 4909.174, 4909.18, 4909.421, 4928.01, and 4928.05 and to enact sections 4909.157, 4909.182, 4929.052, 4929.053, 4929.054, 4929.055, 4929.056, 4929.057, and 4929.058 of the Revised Code to allow for alternative rate plans for natural gas companies to serve large load customers and to make changes to the process of valuating property for certain public utilities.

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

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

Sec. 4909.042. (A) With respect to an electric light ~~company~~, natural gas, water-works, or sewage disposal system company that chooses to file a forecasted test period under section 4909.18 of the Revised Code, the public utilities commission shall prescribe the form and details of the valuation report of the property of the ~~utility~~company. Such report shall include all the kinds and classes of property, with the value of each, owned, held, or projected to be owned or held during the test period, by the ~~utility~~ company for the service and convenience of the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4909.06. The investigation and report required by section 4909.042 or 4909.05 of the Revised Code shall show, when the public utilities commission deems it necessary, the amounts, dates, and rates of interest of all bonds outstanding against each public utility or railroad, the property upon which such bonds are a lien, the amounts paid for them, and, the original capital stock and the moneys received by any such public utility or railroad by reason of any issue of stock, bonds, or other securities. Such report shall also show the net and gross receipts of such public utility or railroad and the method by which moneys were expended or paid out and the purpose of such payments. The commission may prescribe the procedure to be followed in making the investigation and valuation, the form in which the results of the ascertainment of the value of each public utility or railroad shall be submitted, and the classifications of the elements that constitute the ascertained value. Such investigation shall also show the value of the property of every public utility or railroad as a whole, and if such property is in more than one county, the value of its property in each of such counties.

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

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

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

Sec. 4909.07. The public utilities commission, during the making of the valuation provided for in sections 4909.04 to 4909.13 of the Revised Code, and after its completion, shall in like manner keep itself informed through its engineers, experts, and other assistants of all extensions, improvements, or other changes in the condition and value of the property of all public utilities or railroads and shall ascertain the value of such extensions, improvements, and changes. The commission shall, as is required for the proper regulation of such public utilities or railroads, revise and correct its valuations of property, showing such revisions and corrections as a whole and as to each county. Such revisions and corrections shall be filed in the same manner as original reports.

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

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

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

Sec. 4909.08. When the public utilities commission has completed the valuation of the property of any public utility or railroad and before such valuation becomes final, it shall give notice by registered letter to such public utility or railroad, and if a substantial portion of said public utility or railroad is situated in a municipal corporation, then to the mayor of such municipal corporation, stating the valuations placed upon the several kinds and classes of property of such public utility or railroad and upon the property as a whole and give such further notice by publication or otherwise as it shall deem necessary to apprise the public of such valuation. If, within thirty days after such notification, no protest has been filed with the commission, such valuation becomes final. If notice of protest has been filed by any public utility or railroad, the commission shall fix a time for hearing such protest and shall consider at such hearing any matter material thereto presented by such public utility, railroad, or municipal corporation, in support of its protest or by any representative of the public against such protest. If, after the hearing of any protest of any valuation so fixed, the commission is of the opinion that its inventory is incomplete or inaccurate or that its valuation is incorrect, it shall make such changes as are necessary and shall issue an order making such corrected valuations final. A final valuation by the commission and all classifications made for the ascertainment of such valuations shall be public and are prima-facie evidence relative to the value of the property.

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

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

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

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

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

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

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

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

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

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

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

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

(B) The commission shall compute the gross annual revenues to which the utility is entitled by adding the dollar amount of return under division (A)(3) of this section to the cost, for the test period used for the determination under division (C)(1) of this section, of rendering the public utility service under division (A)(4) of this section.

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

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

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

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

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

Each true-up process shall include an adjustment to actual for the rate of return that the company is authorized to earn on the actual investments made. The company shall provide the commission with actual financial information during the true-up 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, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is, or will be, unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, that the service is, or will be, inadequate, or that the maximum rates, charges, tolls, or rentals chargeable by any such public utility are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the commission shall:

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

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

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

(b) But not including the portion of any periodic rental or use payments representing that cost of property that is included in the valuation report under divisions (B)(4) and (5) of section 4909.042 of the Revised Code and divisions (B)(4) and (5) of section 4909.05 of the Revised Code, fix and determine the just and reasonable rate, fare, charge, toll, rental, or service to be rendered, charged, demanded, exacted, or collected for the performance or rendition of the service that will provide the public utility the allowable gross annual revenues under division (B) of this section, and order such just and reasonable rate, fare, charge, toll, rental, or service to be substituted for the existing one. After such determination and order no change in the rate, fare, toll, charge, rental, schedule, classification, or service shall be made, rendered, charged, demanded, exacted, or changed by such public utility without the order of the commission, and any other rate, fare, toll, charge, rental, classification, or service is prohibited.

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

Sec. 4909.156. In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission shall, in action upon an application filed pursuant to section 4909.18 of the Revised Code, require a public utility to file a report showing the proportionate amounts of the valuation of the property of the utility, as determined under section 4909.042 or 4909.05 of the Revised Code, and the proportionate amounts of the revenues and expenses of the utility that are proposed to be considered as attributable to the service area involved in the application.

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

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

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

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

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

(C) Notwithstanding divisions (A) and (B) of this section, a natural gas company may still apply for, or continue collecting from, an infrastructure development rider under section 4929.161 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) A water-works company that provides a reimbursement to a customer under this section shall include the reimbursement amount in the valuation report of the property of the company as required under division (B)(9) of section 4909.042 of the Revised Code or (B)(6) of section 4909.05 of the Revised Code, whichever is applicable, for inclusion in a rate case under this chapter.

Sec. 4909.18. Any public utility desiring to establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, shall file a written application with the public utilities commission. Except for actions under section 4909.16 of the Revised Code, no public utility may issue the notice of intent to file an application pursuant to division (B) of section 4909.43 of the Revised Code to increase any existing rate, joint rate, toll, classification, charge, or rental, until a final order under this section has been issued by the commission on any pending prior application to increase the same rate, joint rate, toll, classification, charge, or rental or until two hundred seventy-five days after filing such application, whichever is sooner. Such application shall be verified by the president or a vice-president and the secretary or treasurer of the applicant. Such application shall contain a schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice affecting the same, a schedule of the modification amendment, change, increase, or reduction sought to be established, and a statement of the facts and grounds upon which such application is based. If such application proposes a new service or the use of new equipment, or proposes the establishment or amendment of a regulation, the application shall fully describe the new service or equipment, or the regulation proposed to be established or amended, and shall explain how the proposed service or equipment differs from services or equipment presently offered or in use, or how the regulation proposed to be established or amended differs from regulations presently in effect. The application shall provide such additional information as the commission may require in its discretion. If the commission determines that such application is not for an increase in any rate, joint rate, toll, classification, charge, or rental, the commission may permit the filing of the schedule proposed in the application and fix the time when such schedule shall take effect. If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall give notice of such hearing by sending written notice of the date set for the hearing to the public utility and publishing notice of the hearing one time in a newspaper of general circulation in each county in the service area affected by the application. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility. After such hearing, the commission shall, where practicable, issue an appropriate order within six months from the date the application was filed.

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

(A) A report of its property used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company that chooses not to file a forecasted test period under division (C)(1)(a) of section 4909.15 of the Revised Code, projected to be used and useful, as of the date certain, or during the forecasted test period, if the application is filed under division (C)(1)(a) of section 4909.15 of the Revised Code, in rendering the service referred to in such application, as provided in sections 4909.042 and 4909.05 of the Revised Code;

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

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

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

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

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

Sec. 4909.421. (A) If the proceeding on an application filed with the public utilities commission under section 4909.18 of the Revised Code by an electric light ~~company~~ , natural gas, water-works, or sewage disposal system company requesting an increase on any rate, rate mechanism, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice affecting the same has not been concluded and an opinion and order entered pursuant to section 4909.19 of the Revised Code at the expiration of two hundred seventy-five days from the date of the filing of the application, the company may request a temporary increase, and any party to the proceeding may request a temporary decrease, which shall go into effect and remain in effect until modified in accordance with the commission's order based upon the merits of the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

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

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

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

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

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

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

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

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

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

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

(i) Solar photovoltaic or solar thermal energy;

(ii) Wind energy;

(iii) Power produced by a hydroelectric facility;

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

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

(vi) Geothermal energy;

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

(viii) Biomass energy;

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

(x) Biologically derived methane gas;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Natural gas as a resource;

(ii) Nuclear reaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4929.052. (A) As used in sections 4929.052 to 4929.058 of the Revised Code, "large load customer" means a customer that a natural gas company projected or anticipated to consume, or actually consumed, in a prior, current, or future twelve-month period, more than one million two hundred thousand Mcf of natural gas.

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

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

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

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

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

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

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

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

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

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

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

(B) A commercial agreement described in division (A) of this section shall be deemed automatically approved unless the commission determines within ninety days from the date of the filing that the commercial agreement is inconsistent with the requirements of this section or sections 4929.052 and 4929.053 of the Revised Code.

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

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

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

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

(A) Any costs associated with the alternative rate plan, or any commercial agreements entered into pursuant to that plan, shall not be recovered, directly or indirectly, from the company's other customers;

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

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