

**As Passed by the House**

**136th General Assembly**

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**Sub. S. B. No. 103**

**Senator Wilkin**

**Cosponsors: Senators Brenner, Blackshear, Chavez, Cirino, Craig, Cutrona, DeMora, Gavarone, Hicks-Hudson, Ingram, Johnson, Reineke, Smith, Timken, Weinstein**

**Representatives Holmes, Mathews, A., Brennan, Dovilla, Fischer, Rogers, Abdullahi, Barhorst, Bird, Brownlee, Bryant Bailey, Click, Deeter, Ghanbari, Glassburn, Hall, D., Hiner, King, Kishman, Klopfenstein, Lampton, Lorenz, Mathews, T., Miller, J., Mohamed, Newman, Peterson, Plummer, Ray, Ritter, Robb Blasdel, Roemer, Russo, Salvo, Schmidt, Sigrist, Swearingen, Upchurch, White, A., Williams, Willis, Young**

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|--------------------------------------------------|----|
| 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:**

|                                                                  |    |
|------------------------------------------------------------------|----|
| <b>Section 1.</b> 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,  
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 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 377  
commission shall include only rate base components that have 378  
been found by the commission to be used and useful in rendering 379  
public utility service. 380

At the end of the last test period, the company shall file 381  
for a rate case under section 4909.18 of the Revised Code. 382

(b) All utilities, except for electric light ~~companies~~, 383  
natural gas, water-works, or sewage disposal system companies 384  
that choose to file under division (C) (1) (a) of this section, 385  
shall propose a test period that is any twelve-month period 386  
beginning not more than six months prior to the date the 387  
application is filed and ending not more than nine months 388  
subsequent to that date. 389

(2) For utilities filing under division (C) (1) (b) of this 390  
section, the date certain shall be not later than the date of 391  
filing, except that it shall be, for a natural gas, water-works, 392  
or sewage disposal system company, not later than the end of the 393  
test period. 394

(D) Utilities filing under division (C) (1) (b) of this 395  
section may propose adjustments to the revenues and expenses for 396  
any changes that are, during the test period or the twelve-month 397

period immediately following the test period, reasonably 398  
expected to occur. The utility shall identify and quantify, 399  
individually, any proposed adjustments. The commission shall 400  
incorporate the proposed adjustments into the determination if 401  
the adjustments are just and reasonable. 402

(E) When the commission is of the opinion, after hearing 403  
and after making the determinations under divisions (A) and (B) 404  
of this section, that any rate, fare, charge, toll, rental, 405  
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.

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**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.

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(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.

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(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.

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

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(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 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;                                                | 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  
pulpung process or wood manufacturing process, including bark, 958  
wood chips, sawdust, and lignin in spent pulping 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 storage performed by a distributed energy system connected battery.                                                                                                                                                                                                                                                                                                                                        | 1073<br>1074<br>1075                                         |
| (43) "Linear generator" means an integrated system <del>consisting that may consist of</del> oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria:                                                                                                                                                                                                                              | 1076<br>1077<br>1078<br>1079                                 |
| (a) Converts <del>the linear motion of oscillators directly</del> into electricity <del>without the use of a flame or spark;</del>                                                                                                                                                                                                                                                                                                                               | 1080<br>1081                                                 |
| (b) Is dispatchable with the ability to vary power output across all loads;                                                                                                                                                                                                                                                                                                                                                                                      | 1082<br>1083                                                 |
| <del>(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas.</del>                                                                                                                                                                                                                                                                                                                                               | 1084<br>1085                                                 |
| (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. | 1086<br>1087<br>1088<br>1089<br>1090<br>1091<br>1092<br>1093 |
| <b>Sec. 4928.05.</b> (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                                                                                                                                             | 1094<br>1095<br>1096<br>1097<br>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