

**As Passed by the Senate**

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**Sub. S. B. No. 106**

**Senator Reineke**

**Cosponsors: Senators Antonio, Brenner, Cirino, Craig, DeMora, Gavarone, Hicks-Hudson, Lang, Liston, O'Brien, Romanchuk, Smith, Weinstein**

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To amend sections 4928.01, 4928.03, and 4928.041 of 1  
the Revised Code regarding electric vehicle 2  
charging stations. 3

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

**Section 1.** That sections 4928.01, 4928.03, and 4928.041 of 4  
the Revised Code be amended to read as follows: 5

**Sec. 4928.01.** (A) As used in this chapter: 6

(1) "Ancillary service" means any function necessary to 7  
the provision of electric transmission or distribution service 8  
to a retail customer and includes, but is not limited to, 9  
scheduling, system control, and dispatch services; reactive 10  
supply from generation resources and voltage control service; 11  
reactive supply from transmission resources service; regulation 12  
service; frequency response service; energy imbalance service; 13  
operating reserve-spinning reserve service; operating reserve- 14  
supplemental reserve service; load following; back-up supply 15  
service; real-power loss replacement service; dynamic 16  
scheduling; system black start capability; and network stability 17  
service. 18

(2) "Billing and collection agent" means a fully 19  
independent agent, not affiliated with or otherwise controlled 20  
by an electric utility, electric services company, electric 21  
cooperative, or governmental aggregator subject to certification 22  
under section 4928.08 of the Revised Code, to the extent that 23  
the agent is under contract with such utility, company, 24  
cooperative, or aggregator solely to provide billing and 25  
collection for retail electric service on behalf of the utility 26  
company, cooperative, or aggregator. 27

(3) "Certified territory" means the certified territory 28  
established for an electric supplier under sections 4933.81 to 29  
4933.90 of the Revised Code. 30

(4) "Competitive retail electric service" means a 31  
component of retail electric service that is competitive as 32  
provided under division (B) of this section. 33

(5) "Electric cooperative" means a not-for-profit electric 34  
light company that both is or has been financed in whole or in 35  
part under the "Rural Electrification Act of 1936," 49 Stat. 36  
1363, 7 U.S.C. 901, and owns or operates facilities in this 37  
state to generate, transmit, or distribute electricity, or a 38  
not-for-profit successor of such company. 39

(6) "Electric distribution utility" means an electric 40  
utility that supplies at least retail electric distribution 41  
service and does not own or operate an electric generating 42  
facility. 43

(7) "Electric light company" has the same meaning as in 44  
section 4905.03 of the Revised Code and includes an electric 45  
services company. 46

(8) "Electric load center" has the same meaning as in 47

section 4933.81 of the Revised Code. 48

(9) "Electric services company" means an electric light 49  
company that is engaged on a for-profit or not-for-profit basis 50  
in the business of supplying or arranging for the supply of only 51  
a competitive retail electric service in this state. "Electric 52  
services company" includes a power marketer, power broker, 53  
aggregator, or independent power producer but excludes an 54  
electric cooperative, municipal electric utility, governmental 55  
aggregator, or billing and collection agent. 56

(10) "Electric supplier" has the same meaning as in 57  
section 4933.81 of the Revised Code. 58

(11) "Electric utility" means an electric light company 59  
that has a certified territory and is engaged on a for-profit 60  
basis in the business of supplying at least a noncompetitive 61  
retail electric service in this state. "Electric utility" 62  
excludes a municipal electric utility or a billing and 63  
collection agent. 64

(12) "Firm electric service" means electric service other 65  
than nonfirm electric service. 66

(13) "Governmental aggregator" means a legislative 67  
authority of a municipal corporation, a board of township 68  
trustees, or a board of county commissioners acting as an 69  
aggregator for the provision of a competitive retail electric 70  
service under authority conferred under section 4928.20 of the 71  
Revised Code. 72

(14) A person acts "knowingly," regardless of the person's 73  
purpose, when the person is aware that the person's conduct will 74  
probably cause a certain result or will probably be of a certain 75  
nature. A person has knowledge of circumstances when the person 76

is aware that such circumstances probably exist. 77

(15) "Level of funding for low-income customer energy 78  
efficiency programs provided through electric utility rates" 79  
means the level of funds specifically included in an electric 80  
utility's rates on October 5, 1999, pursuant to an order of the 81  
public utilities commission issued under Chapter 4905. or 4909. 82  
of the Revised Code and in effect on October 4, 1999, for the 83  
purpose of improving the energy efficiency of housing for the 84  
utility's low-income customers. The term excludes the level of 85  
any such funds committed to a specific nonprofit organization or 86  
organizations pursuant to a stipulation or contract. 87

(16) "Low-income customer assistance programs" means the 88  
percentage of income payment plan program, the home energy 89  
assistance program, the home weatherization assistance program, 90  
and the targeted energy efficiency and weatherization program. 91

(17) "Market development period" for an electric utility 92  
means the period of time beginning on the starting date of 93  
competitive retail electric service and ending on the applicable 94  
date for that utility as specified in section 4928.40 of the 95  
Revised Code, irrespective of whether the utility applies to 96  
receive transition revenues under this chapter. 97

(18) "Market power" means the ability to impose on 98  
customers a sustained price for a product or service above the 99  
price that would prevail in a competitive market. 100

(19) "Mercantile customer" means a commercial or 101  
industrial customer if the electricity consumed is for 102  
nonresidential use and the customer consumes more than seven 103  
hundred thousand kilowatt hours per year or is part of a 104  
national account involving multiple facilities in one or more 105

states.	106
(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.	107 108 109
(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.	110 111 112
(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.	113 114 115 116 117 118 119
(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.	120 121 122
(24) "Person" has the same meaning as in section 1.59 of the Revised Code.	123 124
(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	125 126 127 128 129 130 131 132 133 134

section 4928.621 of the Revised Code. 135

(26) "Regulatory assets" means the unamortized net 136  
regulatory assets that are capitalized or deferred on the 137  
regulatory books of the electric utility, pursuant to an order 138  
or practice of the public utilities commission or pursuant to 139  
generally accepted accounting principles as a result of a prior 140  
commission rate-making decision, and that would otherwise have 141  
been charged to expense as incurred or would not have been 142  
capitalized or otherwise deferred for future regulatory 143  
consideration absent commission action. "Regulatory assets" 144  
includes, but is not limited to, all deferred demand-side 145  
management costs; all deferred percentage of income payment plan 146  
arrears; post-in-service capitalized charges and assets 147  
recognized in connection with statement of financial accounting 148  
standards no. 109 (receivables from customers for income taxes); 149  
future nuclear decommissioning costs and fuel disposal costs as 150  
those costs have been determined by the commission in the 151  
electric utility's most recent rate or accounting application 152  
proceeding addressing such costs; the undepreciated costs of 153  
safety and radiation control equipment on nuclear generating 154  
plants owned or leased by an electric utility; and fuel costs 155  
currently deferred pursuant to the terms of one or more 156  
settlement agreements approved by the commission. 157

(27) "Retail electric service" means any service involved 158  
in supplying or arranging for the supply of electricity to 159  
ultimate consumers in this state, from the point of generation 160  
to the point of consumption. For the purposes of this chapter, 161  
retail electric service includes one or more of the following 162  
"service components": generation service, aggregation service, 163  
power marketing service, power brokerage service, transmission 164  
service, distribution service, ancillary service, metering 165

service, and billing and collection service.	166
(28) "Starting date of competitive retail electric service" means January 1, 2001.	167 168
(29) "Customer-generator" means a user of a net metering system.	169 170
(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.	171 172 173 174 175
(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:	176 177
(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;	178 179
(b) Is located on a customer-generator's premises;	180
(c) Operates in parallel with the electric utility's transmission and distribution facilities;	181 182
(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.	183 184 185 186 187 188 189 190
(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	191 192 193

owner's consumption and that may provide any such excess 194  
electricity to another entity, and that meets all of the 195  
following: 196

(a) The facility is installed or operated by the owner or 197  
by a third party under a contract, including a lease, purchase 198  
power agreement, or other service contract. 199

(b) The facility connects directly to the owner's side of 200  
the electric meter. 201

(c) The facility delivers electricity to the owner's side 202  
of the electric meter without the use of an electric 203  
distribution utility's or electric cooperative's distribution 204  
system or transmission system. 205

(33) "Rate plan" means the standard service offer in 206  
effect on the effective date of the amendment of this section by 207  
S.B. 221 of the 127th general assembly, July 31, 2008. 208

(34) "Advanced energy resource" means any of the 209  
following: 210

(a) Any method or any modification or replacement of any 211  
property, process, device, structure, or equipment that 212  
increases the generation output of an electric generating 213  
facility to the extent such efficiency is achieved without 214  
additional carbon dioxide emissions by that facility; 215

(b) Any distributed generation system consisting of 216  
customer cogeneration technology; 217

(c) Clean coal technology that includes a carbon-based 218  
product that is chemically altered before combustion to 219  
demonstrate a reduction, as expressed as ash, in emissions of 220  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 221

sulfur trioxide in accordance with the American society of 222  
testing and materials standard D1757A or a reduction of metal 223  
oxide emissions in accordance with standard D5142 of that 224  
society, or clean coal technology that includes the design 225  
capability to control or prevent the emission of carbon dioxide, 226  
which design capability the commission shall adopt by rule and 227  
shall be based on economically feasible best available 228  
technology or, in the absence of a determined best available 229  
technology, shall be of the highest level of economically 230  
feasible design capability for which there exists generally 231  
accepted scientific opinion; 232

(d) Advanced nuclear energy technology consisting of 233  
generation III technology as defined by the nuclear regulatory 234  
commission; other, later technology; or significant improvements 235  
to existing facilities; 236

(e) Any fuel cell used in the generation of electricity, 237  
including, but not limited to, a proton exchange membrane fuel 238  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 239  
solid oxide fuel cell; 240

(f) Advanced solid waste or construction and demolition 241  
debris conversion technology, including, but not limited to, 242  
advanced stoker technology, and advanced fluidized bed 243  
gasification technology, that results in measurable greenhouse 244  
gas emissions reductions as calculated pursuant to the United 245  
States environmental protection agency's waste reduction model 246  
(WARM); 247

(g) Demand-side management and any energy efficiency 248  
improvement; 249

(h) Any new, retrofitted, refueled, or repowered 250

generating facility located in Ohio, including a simple or	251
combined-cycle natural gas generating facility or a generating	252
facility that uses biomass, coal, modular nuclear, or any other	253
fuel as its input;	254
(i) Any uprated capacity of an existing electric	255
generating facility if the uprated capacity results from the	256
deployment of advanced technology.	257
"Advanced energy resource" does not include a waste energy	258
recovery system that is, or has been, included in an energy	259
efficiency program of an electric distribution utility pursuant	260
to requirements under section 4928.66 of the Revised Code.	261
(35) "Air contaminant source" has the same meaning as in	262
section 3704.01 of the Revised Code.	263
(36) "Cogeneration technology" means technology that	264
produces electricity and useful thermal output simultaneously.	265
(37) (a) "Renewable energy resource" means any of the	266
following:	267
(i) Solar photovoltaic or solar thermal energy;	268
(ii) Wind energy;	269
(iii) Power produced by a hydroelectric facility;	270
(iv) Power produced by a small hydroelectric facility,	271
which is a facility that operates, or is rated to operate, at an	272
aggregate capacity of less than six megawatts;	273
(v) Power produced by a run-of-the-river hydroelectric	274
facility placed in service on or after January 1, 1980, that is	275
located within this state, relies upon the Ohio river, and	276
operates, or is rated to operate, at an aggregate capacity of	277

forty or more megawatts;	278
(vi) Geothermal energy;	279
(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;	280 281 282 283
(viii) Biomass energy;	284
(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;	285 286 287 288 289 290 291 292 293 294
(x) Biologically derived methane gas;	295
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	296 297 298
(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.	299 300 301
"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	302 303 304 305

solid oxide fuel cell; a linear generator; wind turbine located 306  
in the state's territorial waters of Lake Erie; methane gas 307  
emitted from an abandoned or active coal mine; waste energy 308  
recovery system placed into service or retrofitted on or after 309  
the effective date of the amendment of this section by S.B. 315 310  
of the 129th general assembly, September 10, 2012, except that a 311  
waste energy recovery system described in division (A) (38) (b) of 312  
this section may be included only if it was placed into service 313  
between January 1, 2002, and December 31, 2004; storage facility 314  
that will promote the better utilization of a renewable energy 315  
resource; or distributed generation system used by a customer to 316  
generate electricity from any such energy. 317

"Renewable energy resource" does not include a waste 318  
energy recovery system that is, or was, on or after January 1, 319  
2012, included in an energy efficiency program of an electric 320  
distribution utility pursuant to requirements under section 321  
4928.66 of the Revised Code. 322

(b) As used in division (A) (37) of this section, 323  
"hydroelectric facility" means a hydroelectric generating 324  
facility that is located at a dam on a river, or on any water 325  
discharged to a river, that is within or bordering this state or 326  
within or bordering an adjoining state and meets all of the 327  
following standards: 328

(i) The facility provides for river flows that are not 329  
detrimental for fish, wildlife, and water quality, including 330  
seasonal flow fluctuations as defined by the applicable 331  
licensing agency for the facility. 332

(ii) The facility demonstrates that it complies with the 333  
water quality standards of this state, which compliance may 334  
consist of certification under Section 401 of the "Clean Water 335

Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 336  
demonstrates that it has not contributed to a finding by this 337  
state that the river has impaired water quality under Section 338  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 339  
U.S.C. 1313. 340

(iii) The facility complies with mandatory prescriptions 341  
regarding fish passage as required by the federal energy 342  
regulatory commission license issued for the project, regarding 343  
fish protection for riverine, anadromous, and catadromous fish. 344

(iv) The facility complies with the recommendations of the 345  
Ohio environmental protection agency and with the terms of its 346  
federal energy regulatory commission license regarding watershed 347  
protection, mitigation, or enhancement, to the extent of each 348  
agency's respective jurisdiction over the facility. 349

(v) The facility complies with provisions of the 350  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 351  
to 1544, as amended. 352

(vi) The facility does not harm cultural resources of the 353  
area. This can be shown through compliance with the terms of its 354  
federal energy regulatory commission license or, if the facility 355  
is not regulated by that commission, through development of a 356  
plan approved by the Ohio historic preservation office, to the 357  
extent it has jurisdiction over the facility. 358

(vii) The facility complies with the terms of its federal 359  
energy regulatory commission license or exemption that are 360  
related to recreational access, accommodation, and facilities 361  
or, if the facility is not regulated by that commission, the 362  
facility complies with similar requirements as are recommended 363  
by resource agencies, to the extent they have jurisdiction over 364

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 393  
another manufacturing process or to generate electricity. 394

(39) "Smart grid" means capital improvements to an 395  
electric distribution utility's distribution infrastructure that 396  
improve reliability, efficiency, resiliency, or reduce energy 397  
demand or use, including, but not limited to, advanced metering 398  
and automation of system functions. 399

(40) "Combined heat and power system" means the 400  
coproduction of electricity and useful thermal energy from the 401  
same fuel source designed to achieve thermal-efficiency levels 402  
of at least sixty per cent, with at least twenty per cent of the 403  
system's total useful energy in the form of thermal energy. 404

(41) (a) "Green energy" means any energy generated by using 405  
an energy resource that does one or more of the following: 406

(i) Releases reduced air pollutants, thereby reducing 407  
cumulative air emissions; 408

(ii) Is more sustainable and reliable relative to some 409  
fossil fuels. 410

(b) "Green energy" includes energy generated using the 411  
following: 412

(i) Natural gas as a resource; 413

(ii) Nuclear reaction. 414

(42) "Energy storage" means electrical generation and 415  
storage performed by a distributed energy system connected 416  
battery. 417

(43) "Linear generator" means an integrated system 418  
consisting of oscillators, cylinders, electricity conversion 419

equipment, and associated balance of plant components that meet 420  
the following criteria: 421

(a) Converts the linear motion of oscillators directly 422  
into electricity without the use of a flame or spark; 423

(b) Is dispatchable with the ability to vary power output 424  
across all loads; 425

(c) Can operate on multiple fuel types including renewable 426  
fuels such as hydrogen, ammonia, and biogas. 427

(44) "Electric vehicle" means a vehicle that is powered 428  
wholly by a system that can be recharged via an external source 429  
of electricity, including a vehicle for public or private use 430  
that is a passenger car, commercial car or truck, a vehicle used 431  
for public transit, a vehicle used in a vehicle fleet, a vehicle 432  
used in construction work, and a vehicle used in industrial or 433  
warehouse work. 434

(45) "Electric vehicle charging station" means behind the 435  
meter electric equipment by which electric current is 436  
transferred to the power system of an electric vehicle. 437

(B) For the purposes of this chapter, a retail electric 438  
service component shall be deemed a competitive retail electric 439  
service if the service component is competitive pursuant to a 440  
declaration by a provision of the Revised Code or pursuant to an 441  
order of the public utilities commission authorized under 442  
division (A) of section 4928.04 of the Revised Code. Otherwise, 443  
the service component shall be deemed a noncompetitive retail 444  
electric service. 445

~~Sec. 4928.03. Beginning on the starting date of 446~~  
~~competitive retail electric service, retail electric generation, 447~~  
~~aggregation, power marketing, and power brokerage services (A) 448~~

The following services supplied to consumers within the 449  
certified territory of an electric utility are competitive 450  
retail electric services that the consumers may obtain subject 451  
to this chapter from any supplier or suppliers: 452

(1) Retail electric generation; 453

(2) Aggregation; 454

(3) Power marketing; 455

(4) Power brokerage services; 456

(5) Electric vehicle charging stations. 457

(B) In accordance with a filing under division (F) of 458  
section 4933.81 of the Revised Code, ~~retail electric generation,~~ 459  
~~aggregation, power marketing, or power brokerage services~~ the 460  
following services supplied to consumers within the certified 461  
territory of an electric cooperative that has made the filing 462  
are competitive retail electric services that the consumers may 463  
obtain subject to this chapter from any supplier or suppliers: 464

(1) Retail electric generation; 465

(2) Aggregation; 466

(3) Power marketing; 467

(4) Power brokerage services; 468

(5) Electric vehicle charging stations. 469

(C) Beginning on the starting date of competitive retail 470  
electric service and notwithstanding any other provision of law, 471  
each consumer in this state and the suppliers to a consumer 472  
shall have comparable and nondiscriminatory access to 473  
noncompetitive retail electric services of an electric utility 474  
in this state within its certified territory for the purpose of 475

satisfying the consumer's electricity requirements in keeping 476  
with the policy specified in section 4928.02 of the Revised 477  
Code. 478

**Sec. 4928.041.** (A) Except as provided in sections 4928.141 479  
and 4928.142 of the Revised Code, no electric utility shall 480  
provide a competitive retail electric service in this state if 481  
that service was deemed competitive or otherwise legally 482  
classified as competitive prior to or upon the effective date of 483  
~~this section~~ S.B. 106 of the 136th general assembly. 484

(B) The standard service offer under section 4928.141 of 485  
the Revised Code shall continue to be provided to consumers in 486  
this state by electric utilities. 487

**Section 2.** That existing sections 4928.01, 4928.03, and 488  
4928.041 of the Revised Code are hereby repealed. 489