

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

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 107
corporation that owns or operates facilities to generate, 108
transmit, or distribute electricity. 109

(21) "Noncompetitive retail electric service" means a 110
component of retail electric service that is noncompetitive as 111
provided under division (B) of this section. 112

(22) "Nonfirm electric service" means electric service 113
provided pursuant to a schedule filed under section 4905.30 of 114
the Revised Code or pursuant to an arrangement under section 115
4905.31 of the Revised Code, which schedule or arrangement 116
includes conditions that may require the customer to curtail or 117
interrupt electric usage during nonemergency circumstances upon 118
notification by an electric utility. 119

(23) "Percentage of income payment plan arrears" means 120
funds eligible for collection through the percentage of income 121
payment plan rider, but uncollected as of July 1, 2000. 122

(24) "Person" has the same meaning as in section 1.59 of 123
the Revised Code. 124

(25) "Advanced energy project" means any technologies, 125
products, activities, or management practices or strategies that 126
facilitate the generation or use of electricity or energy and 127
that reduce or support the reduction of energy consumption or 128
support the production of clean, renewable energy for 129
industrial, distribution, commercial, institutional, 130
governmental, research, not-for-profit, or residential energy 131
users, including, but not limited to, advanced energy resources 132
and renewable energy resources. "Advanced energy project" also 133
includes any project described in division (A), (B), or (C) of 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 167
service" means January 1, 2001. 168

(29) "Customer-generator" means a user of a net metering 169
system. 170

(30) "Net metering" means measuring the difference in an 171
applicable billing period between the electricity supplied by an 172
electric service provider and the electricity generated by a 173
customer-generator that is fed back to the electric service 174
provider. 175

(31) "Net metering system" means a facility for the 176
production of electrical energy that does all of the following: 177

(a) Uses as its fuel either solar, wind, biomass, landfill 178
gas, or hydropower, or uses a microturbine or a fuel cell; 179

(b) Is located on a customer-generator's premises; 180

(c) Operates in parallel with the electric utility's 181
transmission and distribution facilities; 182

(d) Is intended primarily to offset part or all of the 183
customer-generator's requirements for electricity. For an 184
industrial customer-generator with a net metering system that 185
has a capacity of less than twenty megawatts and uses wind as 186
energy, this means the net metering system was sized so as to 187
not exceed one hundred per cent of the customer-generator's 188
annual requirements for electric energy at the time of 189
interconnection. 190

(32) "Self-generator" means an entity in this state that 191
owns or hosts on property the entity controls an electric 192
generation facility that produces electricity primarily for the 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	280
section 3734.01 of the Revised Code, through fractionation,	281
biological decomposition, or other process that does not	282
principally involve combustion;	283
(viii) Biomass energy;	284
(ix) Energy produced by cogeneration technology that is	285
placed into service on or before December 31, 2015, and for	286
which more than ninety per cent of the total annual energy input	287
is from combustion of a waste or byproduct gas from an air	288
contaminant source in this state, which source has been in	289
operation since on or before January 1, 1985, provided that the	290
cogeneration technology is a part of a facility located in a	291
county having a population of more than three hundred sixty-five	292
thousand but less than three hundred seventy thousand according	293
to the most recent federal decennial census;	294
(x) Biologically derived methane gas;	295
(xi) Heat captured from a generator of electricity,	296
boiler, or heat exchanger fueled by biologically derived methane	297
gas;	298
(xii) Energy derived from nontreated by-products of the	299
pulping process or wood manufacturing process, including bark,	300
wood chips, sawdust, and lignin in spent pulping liquors.	301
"Renewable energy resource" includes, but is not limited	302
to, any fuel cell used in the generation of electricity,	303
including, but not limited to, a proton exchange membrane fuel	304
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	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