

As Reported by the House Energy Committee

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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

Representatives Mathews, A., Dovilla, Fischer, Hall, D.

To amend sections 4909.042, 4909.15, 4909.173, 1
4909.174, 4928.01, 4928.03, and 4928.041 of the 2
Revised Code regarding electric vehicle charging 3
stations and to make corrections to provisions 4
of Senate Bill 103 of the 136th General 5
Assembly. 6

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

Section 1. That sections 4909.042, 4909.15, 4909.173, 7
4909.174, 4928.01, 4928.03, and 4928.041 of the Revised Code be 8
amended to read as follows: 9

Sec. 4909.042. (A) With respect to an electric light, 10
natural gas, water-works, or sewage disposal system company that 11
chooses to file a forecasted test period under section 4909.18 12
of the Revised Code, the public utilities commission shall 13
prescribe the form and details of the valuation report of the 14
property of the company. Such report shall include all the kinds 15
and classes of property, with the value of each, owned, held, or 16
projected to be owned or held during the test period, by the 17
company for the service and convenience of the public. 18

(B) Such report shall contain the following facts in 19
detail: 20

(1) The original cost of each parcel of land owned in fee 21
and projected to be owned in fee and in use during the test 22
period, determined by the commission; and also a statement of 23
the conditions of acquisition, whether by direct purchase, by 24
donation, by exercise of the power of eminent domain, or 25
otherwise; 26

(2) The actual acquisition cost, not including periodic 27
rental fees, of rights-of-way, trailways, or other land rights 28
projected to be held during the test period, by virtue of 29
easements, leases, or other forms of grants of rights as to 30
usage; 31

(3) The original cost of all other kinds and classes of 32
property projected to be used and useful during the test period, 33
in the rendition of service to the public. Such original costs 34
of property, other than land owned in fee, shall be the cost, as 35
determined to be reasonable by the commission, to the person 36
that first dedicated or dedicates the property to the public use 37
and shall be set forth in property accounts and subaccounts as 38
prescribed by the commission; 39

(4) The cost of property constituting all or part of a 40
project projected to be leased to or used by the company during 41
the test period, under Chapter 165., 3706., 6121., or 6123. of 42
the Revised Code and not included under division (B) (3) of this 43
section exclusive of any interest directly or indirectly paid by 44
the company with respect thereto whether or not capitalized; 45

(5) In the discretion of the commission, the cost to a 46
company, in an amount determined to be reasonable by the 47

commission, of property constituting all or part of a project 48
projected to be leased to the company during the test period, 49
under a lease purchase agreement or a leaseback and not included 50
under division (B) (3) of this section exclusive of any interest 51
directly or indirectly paid by the company with respect thereto 52
whether or not capitalized; 53

(6) The cost of the replacement of water service lines 54
incurred by a water-works company under section 4909.173 of the 55
Revised Code and the water service line replacement 56
reimbursement amounts provided to customers under section 57
4909.174 of the Revised Code; 58

(7) The proper and adequate reserve for depreciation, as 59
determined to be reasonable by the commission; 60

~~(7)~~(8) Any sums of money or property that the company is 61
projected to receive during the test period, as total or partial 62
defrayal of the cost of its property; 63

~~(8)~~(9) The valuation of the property of the company, which 64
shall be the sum of the amounts contained in the report pursuant 65
to divisions (B) (1) to ~~(5)~~(6) of this section, less the sum of 66
the amounts contained in the report pursuant to divisions ~~(B) (6)~~
(B) (7) and ~~(7)~~(8) of this section; 67
68

~~(9) The cost of the replacement of water service lines~~ 69
~~incurred by a water-works company under section 4909.173 of the~~ 70
~~Revised Code and the water service line replacement~~ 71
~~reimbursement amounts provided to customers under section~~ 72
~~4909.174 of the Revised Code.~~ 73

(C) The report shall show separately the property 74
projected to be used and useful to or held by the company during 75
the test period, and such other items as the commission 76

considers proper. The commission may require an additional 77
report showing the extent to which the property is projected to 78
be used and useful during the test period. Such reports shall be 79
filed in the office of the commission for the information of the 80
governor and the general assembly. 81

(D) Any financial information required to be submitted by 82
an electric light, natural gas, water-works, or sewage disposal 83
system company under this section shall be provided from the 84
company's full books. The commission shall ensure appropriate 85
protections against the disclosure of the company's trade 86
secrets or proprietary information. 87

Sec. 4909.15. (A) The public utilities commission, when 88
fixing and determining just and reasonable rates, fares, tolls, 89
rentals, and charges, shall determine: 90

(1) (a) With respect to a public utility that is an 91
electric light, natural gas, water-works, or sewage disposal 92
system company that chooses not to file a forecasted test period 93
under section 4909.18 of the Revised Code, the valuation as of 94
the date certain of the property of the public utility that is 95
used and useful or, with respect to a natural gas, water-works, 96
or sewage disposal system company that chooses not to file a 97
forecasted test period under section 4909.18 of the Revised 98
Code, is projected to be used and useful as of the date certain, 99
in rendering the public utility service for which rates are to 100
be fixed and determined. 101

(b) With respect to an electric light, natural gas, water- 102
works, or sewage disposal system company that chooses to file a 103
forecasted test period under section 4909.18 of the Revised 104
Code, the valuation of the property of the utility that is 105
projected to be used and useful during the forecasted test 106

period in rendering the public utility service for which rates 107
are to be fixed and determined. 108

(c) The valuation so determined under division (A) (1) of 109
this section for any public utility shall be the total value as 110
set forth in division ~~(B) (8)~~ (B) (9) of section 4909.042 of the 111
Revised Code and division (B) (9) of section 4909.05 of the 112
Revised Code, and a reasonable allowance for materials and 113
supplies and a reasonable allowance for cash working capital as 114
determined by the commission. 115

(2) A fair and reasonable rate of return to the utility on 116
the valuation as determined in division (A) (1) of this section; 117

(3) The dollar annual return to which the utility is 118
entitled by applying the fair and reasonable rate of return as 119
determined under division (A) (2) of this section to the 120
valuation of the utility determined under division (A) (1) of 121
this section; 122

(4) The cost to the utility of rendering the public 123
utility service for the test period used for the determination 124
under division (C) (1) of this section by the utility during the 125
test period. 126

Federal, state, and local taxes imposed on or measured by 127
net income may, in the discretion of the commission, be computed 128
by the normalization method of accounting, provided the utility 129
maintains accounting reserves that reflect differences between 130
taxes actually payable and taxes on a normalized basis, provided 131
that no determination as to the treatment in the rate-making 132
process of such taxes shall be made that will result in loss of 133
any tax depreciation or other tax benefit to which the utility 134
would otherwise be entitled, and further provided that such tax 135

benefit as redounds to the utility as a result of such a 136
computation may not be retained by the company, used to fund any 137
dividend or distribution, or utilized for any purpose other than 138
the defrayal of the operating expenses of the utility and the 139
defrayal of the expenses of the utility in connection with 140
construction work. 141

(B) The commission shall compute the gross annual revenues 142
to which the utility is entitled by adding the dollar amount of 143
return under division (A) (3) of this section to the cost, for 144
the test period used for the determination under division (C) (1) 145
of this section, of rendering the public utility service under 146
division (A) (4) of this section. 147

(C) (1) Except as provided in division (D) of this section, 148
the revenues and expenses of the utility shall be determined 149
during a test period as follows: 150

(a) Electric light, natural gas, water-works, and sewage 151
disposal companies may propose a forecasted test period. If the 152
company proposes a forecasted test period, the company shall 153
propose annual base rates for three consecutive twelve-month 154
periods in a single forecasted test period application. 155

During the first twelve-month period, the company shall 156
propose a reasonably forecasted rate base using a thirteen-month 157
average, revenues, and expenses for the first twelve months that 158
new base rates will be in effect. 159

During the second twelve-month period, the base rate 160
revenue requirement shall be adjusted for the return of, and 161
return on, incremental rate base additions approved by the 162
commission in the initial application. During the third twelve- 163
month period, the base rate revenue requirement shall be 164

adjusted for the return of and return on incremental rate base 165
additions approved by the commission in the initial application. 166

For each twelve-month period, forecasted plant investment, 167
forecasted revenues, and forecasted expenses versus actual 168
investment, actual revenues, and actual expenses shall be trued 169
up via a cost recovery mechanism approved by the commission. 170

Each true-up process shall include an adjustment to actual 171
for the rate of return that the company is authorized to earn on 172
the actual investments made. The company shall provide the 173
commission with actual financial information during the true-up 174
process to ensure accuracy. As part of the true-up process, the 175
commission shall include only rate base components that have 176
been found by the commission to be used and useful in rendering 177
public utility service. 178

At the end of the last test period, the company shall file 179
for a rate case under section 4909.18 of the Revised Code. 180

(b) All utilities, except for electric light, natural gas, 181
water-works, or sewage disposal system companies that choose to 182
file under division (C) (1) (a) of this section, shall propose a 183
test period that is any twelve-month period beginning not more 184
than six months prior to the date the application is filed and 185
ending not more than nine months subsequent to that date. 186

(2) For utilities filing under division (C) (1) (b) of this 187
section, the date certain shall be not later than the date of 188
filing, except that it shall be, for a natural gas, water-works, 189
or sewage disposal system company, not later than the end of the 190
test period. 191

(D) Utilities filing under division (C) (1) (b) of this 192
section may propose adjustments to the revenues and expenses for 193

any changes that are, during the test period or the twelve-month 194
period immediately following the test period, reasonably 195
expected to occur. The utility shall identify and quantify, 196
individually, any proposed adjustments. The commission shall 197
incorporate the proposed adjustments into the determination if 198
the adjustments are just and reasonable. 199

(E) When the commission is of the opinion, after hearing 200
and after making the determinations under divisions (A) and (B) 201
of this section, that any rate, fare, charge, toll, rental, 202
schedule, classification, or service, or any joint rate, fare, 203
charge, toll, rental, schedule, classification, or service 204
rendered, charged, demanded, exacted, or proposed to be 205
rendered, charged, demanded, or exacted, is, or will be, unjust, 206
unreasonable, unjustly discriminatory, unjustly preferential, or 207
in violation of law, that the service is, or will be, 208
inadequate, or that the maximum rates, charges, tolls, or 209
rentals chargeable by any such public utility are insufficient 210
to yield reasonable compensation for the service rendered, and 211
are unjust and unreasonable, the commission shall: 212

(1) With due regard among other things to the value of all 213
property of the public utility as determined under division (A) 214
(1) of this section, excluding from such value the value of any 215
franchise or right to own, operate, or enjoy the same in excess 216
of the amount, exclusive of any tax or annual charge, actually 217
paid to any political subdivision of the state or county, as the 218
consideration for the grant of such franchise or right, and 219
excluding any value added to such property by reason of a 220
monopoly or merger, with due regard in determining the dollar 221
annual return under division (A) (3) of this section to the 222
necessity of making reservation out of the income for surplus, 223
depreciation, and contingencies, and; 224

(2) With due regard to all such other matters as are	225
proper, according to the facts in each case,	226
(a) Including a fair and reasonable rate of return	227
determined by the commission with reference to a cost of debt	228
equal to the actual embedded cost of debt of such public	229
utility,	230
(b) But not including the portion of any periodic rental	231
or use payments representing that cost of property that is	232
included in the valuation report under divisions (B) (4) and (5)	233
of section 4909.042 of the Revised Code and divisions (B) (4) and	234
(5) of section 4909.05 of the Revised Code, fix and determine	235
the just and reasonable rate, fare, charge, toll, rental, or	236
service to be rendered, charged, demanded, exacted, or collected	237
for the performance or rendition of the service that will	238
provide the public utility the allowable gross annual revenues	239
under division (B) of this section, and order such just and	240
reasonable rate, fare, charge, toll, rental, or service to be	241
substituted for the existing one. After such determination and	242
order no change in the rate, fare, toll, charge, rental,	243
schedule, classification, or service shall be made, rendered,	244
charged, demanded, exacted, or changed by such public utility	245
without the order of the commission, and any other rate, fare,	246
toll, charge, rental, classification, or service is prohibited.	247
(F) Upon application of any person or any public utility,	248
and after notice to the parties in interest and opportunity to	249
be heard as provided in Chapters 4901., 4903., 4905., 4907.,	250
4909., 4921., and 4923. of the Revised Code for other hearings,	251
has been given, the commission may rescind, alter, or amend an	252
order fixing any rate, fare, toll, charge, rental,	253
classification, or service, or any other order made by the	254

commission. Certified copies of such orders shall be served and	255
take effect as provided for original orders.	256
Sec. 4909.173. (A) As used in this section and section	257
4909.174 of the Revised Code:	258
(1) "Customer-owned water service line" means the water	259
service line connected to the water-works company's water	260
service line at the curb of a customer's property.	261
(2) "Water-works company" means an entity defined under	262
division (G) of section 4905.03 of the Revised Code that is a	263
public utility under section 4905.02 of the Revised Code.	264
(B) A water-works company may do any of the following:	265
(1) Replace lead customer-owned water service lines	266
concurrently with a scheduled utility main replacement project,	267
an emergency replacement, or company-initiated lead water	268
service line replacement program;	269
(2) Replace lead customer-owned water service lines when	270
mandated or ordered to replace such lines by law or a state or	271
federal regulatory agency;	272
(3) Replace customer-owned water service lines of other	273
composition when mandated or ordered to replace such lines by	274
law or a state or federal regulatory agency.	275
(C) If a water-works company replaces customer-owned water	276
service lines under this section, then the company shall include	277
the cost of the replacement of the water service lines,	278
including the cost of replacement of both company side and	279
customer-owned water service lines and the cost to evaluate	280
customer-owned water service lines of unknown composition, in	281
the valuation report of the property of the company as required	282

under division ~~(B)(9)~~(B)(6) of section 4909.042 the Revised Code 283
or division (B)(6) of section 4909.05 of the Revised Code, 284
whichever is applicable, for inclusion in a rate case under this 285
chapter. 286

(D) The water service customer who is responsible for the 287
customer-owned water service line that was replaced under this 288
section shall hold legal title to the replaced water service 289
line. 290

Sec. 4909.174. (A) A water-works company shall reimburse a 291
customer who replaces the customer's customer-owned water 292
service line, if both of the following occur: 293

(1) The company confirms that the customer-owned water 294
service line was composed of lead or other composition that was 295
mandated or ordered to be replaced by law or a state or federal 296
regulatory agency; 297

(2) The customer submits the reimbursement request to the 298
company not later than twelve months after the completion of the 299
water line replacement. 300

(B) A water-works company that provides a reimbursement to 301
a customer under this section shall include the reimbursement 302
amount in the valuation report of the property of the company as 303
required under division ~~(B)(9)~~(B)(6) of section 4909.042 of the 304
Revised Code or (B)(6) of section 4909.05 of the Revised Code, 305
whichever is applicable, for inclusion in a rate case under this 306
chapter. 307

Sec. 4928.01. (A) As used in this chapter: 308

(1) "Ancillary service" means any function necessary to 309
the provision of electric transmission or distribution service 310
to a retail customer and includes, but is not limited to, 311

scheduling, system control, and dispatch services; reactive 312
supply from generation resources and voltage control service; 313
reactive supply from transmission resources service; regulation 314
service; frequency response service; energy imbalance service; 315
operating reserve-spinning reserve service; operating reserve- 316
supplemental reserve service; load following; back-up supply 317
service; real-power loss replacement service; dynamic 318
scheduling; system black start capability; and network stability 319
service. 320

(2) "Billing and collection agent" means a fully 321
independent agent, not affiliated with or otherwise controlled 322
by an electric utility, electric services company, electric 323
cooperative, or governmental aggregator subject to certification 324
under section 4928.08 of the Revised Code, to the extent that 325
the agent is under contract with such utility, company, 326
cooperative, or aggregator solely to provide billing and 327
collection for retail electric service on behalf of the utility 328
company, cooperative, or aggregator. 329

(3) "Certified territory" means the certified territory 330
established for an electric supplier under sections 4933.81 to 331
4933.90 of the Revised Code. 332

(4) "Competitive retail electric service" means a 333
component of retail electric service that is competitive as 334
provided under division (B) of this section. 335

(5) "Electric cooperative" means a not-for-profit electric 336
light company that both is or has been financed in whole or in 337
part under the "Rural Electrification Act of 1936," 49 Stat. 338
1363, 7 U.S.C. 901, and owns or operates facilities in this 339
state to generate, transmit, or distribute electricity, or a 340
not-for-profit successor of such company. 341

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

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

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

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

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

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

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

(13) "Governmental aggregator" means a legislative authority of a municipal corporation, a board of township

trustees, or a board of county commissioners acting as an 371
aggregator for the provision of a competitive retail electric 372
service under authority conferred under section 4928.20 of the 373
Revised Code. 374

(14) A person acts "knowingly," regardless of the person's 375
purpose, when the person is aware that the person's conduct will 376
probably cause a certain result or will probably be of a certain 377
nature. A person has knowledge of circumstances when the person 378
is aware that such circumstances probably exist. 379

(15) "Level of funding for low-income customer energy 380
efficiency programs provided through electric utility rates" 381
means the level of funds specifically included in an electric 382
utility's rates on October 5, 1999, pursuant to an order of the 383
public utilities commission issued under Chapter 4905. or 4909. 384
of the Revised Code and in effect on October 4, 1999, for the 385
purpose of improving the energy efficiency of housing for the 386
utility's low-income customers. The term excludes the level of 387
any such funds committed to a specific nonprofit organization or 388
organizations pursuant to a stipulation or contract. 389

(16) "Low-income customer assistance programs" means the 390
percentage of income payment plan program, the home energy 391
assistance program, the home weatherization assistance program, 392
and the targeted energy efficiency and weatherization program. 393

(17) "Market development period" for an electric utility 394
means the period of time beginning on the starting date of 395
competitive retail electric service and ending on the applicable 396
date for that utility as specified in section 4928.40 of the 397
Revised Code, irrespective of whether the utility applies to 398
receive transition revenues under this chapter. 399

(18) "Market power" means the ability to impose on 400
customers a sustained price for a product or service above the 401
price that would prevail in a competitive market. 402

(19) "Mercantile customer" means a commercial or 403
industrial customer if the electricity consumed is for 404
nonresidential use and the customer consumes more than seven 405
hundred thousand kilowatt hours per year or is part of a 406
national account involving multiple facilities in one or more 407
states. 408

(20) "Municipal electric utility" means a municipal 409
corporation that owns or operates facilities to generate, 410
transmit, or distribute electricity. 411

(21) "Noncompetitive retail electric service" means a 412
component of retail electric service that is noncompetitive as 413
provided under division (B) of this section. 414

(22) "Nonfirm electric service" means electric service 415
provided pursuant to a schedule filed under section 4905.30 of 416
the Revised Code or pursuant to an arrangement under section 417
4905.31 of the Revised Code, which schedule or arrangement 418
includes conditions that may require the customer to curtail or 419
interrupt electric usage during nonemergency circumstances upon 420
notification by an electric utility. 421

(23) "Percentage of income payment plan arrears" means 422
funds eligible for collection through the percentage of income 423
payment plan rider, but uncollected as of July 1, 2000. 424

(24) "Person" has the same meaning as in section 1.59 of 425
the Revised Code. 426

(25) "Advanced energy project" means any technologies, 427
products, activities, or management practices or strategies that 428

facilitate the generation or use of electricity or energy and 429
that reduce or support the reduction of energy consumption or 430
support the production of clean, renewable energy for 431
industrial, distribution, commercial, institutional, 432
governmental, research, not-for-profit, or residential energy 433
users, including, but not limited to, advanced energy resources 434
and renewable energy resources. "Advanced energy project" also 435
includes any project described in division (A), (B), or (C) of 436
section 4928.621 of the Revised Code. 437

(26) "Regulatory assets" means the unamortized net 438
regulatory assets that are capitalized or deferred on the 439
regulatory books of the electric utility, pursuant to an order 440
or practice of the public utilities commission or pursuant to 441
generally accepted accounting principles as a result of a prior 442
commission rate-making decision, and that would otherwise have 443
been charged to expense as incurred or would not have been 444
capitalized or otherwise deferred for future regulatory 445
consideration absent commission action. "Regulatory assets" 446
includes, but is not limited to, all deferred demand-side 447
management costs; all deferred percentage of income payment plan 448
arrears; post-in-service capitalized charges and assets 449
recognized in connection with statement of financial accounting 450
standards no. 109 (receivables from customers for income taxes); 451
future nuclear decommissioning costs and fuel disposal costs as 452
those costs have been determined by the commission in the 453
electric utility's most recent rate or accounting application 454
proceeding addressing such costs; the undepreciated costs of 455
safety and radiation control equipment on nuclear generating 456
plants owned or leased by an electric utility; and fuel costs 457
currently deferred pursuant to the terms of one or more 458
settlement agreements approved by the commission. 459

(27) "Retail electric service" means any service involved 460
in supplying or arranging for the supply of electricity to 461
ultimate consumers in this state, from the point of generation 462
to the point of consumption. For the purposes of this chapter, 463
retail electric service includes one or more of the following 464
"service components": generation service, aggregation service, 465
power marketing service, power brokerage service, transmission 466
service, distribution service, ancillary service, metering 467
service, and billing and collection service. 468

(28) "Starting date of competitive retail electric 469
service" means January 1, 2001. 470

(29) "Customer-generator" means a user of a net metering 471
system. 472

(30) "Net metering" means measuring the difference in an 473
applicable billing period between the electricity supplied by an 474
electric service provider and the electricity generated by a 475
customer-generator that is fed back to the electric service 476
provider. 477

(31) "Net metering system" means a facility for the 478
production of electrical energy that does all of the following: 479

(a) Uses as its fuel either solar, wind, biomass, landfill 480
gas, or hydropower, or uses a microturbine or a fuel cell; 481

(b) Is located on a customer-generator's premises; 482

(c) Operates in parallel with the electric utility's 483
transmission and distribution facilities; 484

(d) Is intended primarily to offset part or all of the 485
customer-generator's requirements for electricity. For an 486
industrial customer-generator with a net metering system that 487

has a capacity of less than twenty megawatts and uses wind as 488
energy, this means the net metering system was sized so as to 489
not exceed one hundred per cent of the customer-generator's 490
annual requirements for electric energy at the time of 491
interconnection. 492

(32) "Self-generator" means an entity in this state that 493
owns or hosts on property the entity controls an electric 494
generation facility that produces electricity primarily for the 495
owner's consumption and that may provide any such excess 496
electricity to another entity, and that meets all of the 497
following: 498

(a) The facility is installed or operated by the owner or 499
by a third party under a contract, including a lease, purchase 500
power agreement, or other service contract. 501

(b) The facility connects directly to the owner's side of 502
the electric meter. 503

(c) The facility delivers electricity to the owner's side 504
of the electric meter without the use of an electric 505
distribution utility's or electric cooperative's distribution 506
system or transmission system. 507

(33) "Rate plan" means the standard service offer in 508
effect on the effective date of the amendment of this section by 509
S.B. 221 of the 127th general assembly, July 31, 2008. 510

(34) "Advanced energy resource" means any of the 511
following: 512

(a) Any method or any modification or replacement of any 513
property, process, device, structure, or equipment that 514
increases the generation output of an electric generating 515
facility to the extent such efficiency is achieved without 516

additional carbon dioxide emissions by that facility;	517
(b) Any distributed generation system consisting of	518
customer cogeneration technology;	519
(c) Clean coal technology that includes a carbon-based	520
product that is chemically altered before combustion to	521
demonstrate a reduction, as expressed as ash, in emissions of	522
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or	523
sulfur trioxide in accordance with the American society of	524
testing and materials standard D1757A or a reduction of metal	525
oxide emissions in accordance with standard D5142 of that	526
society, or clean coal technology that includes the design	527
capability to control or prevent the emission of carbon dioxide,	528
which design capability the commission shall adopt by rule and	529
shall be based on economically feasible best available	530
technology or, in the absence of a determined best available	531
technology, shall be of the highest level of economically	532
feasible design capability for which there exists generally	533
accepted scientific opinion;	534
(d) Advanced nuclear energy technology consisting of	535
generation III technology as defined by the nuclear regulatory	536
commission; other, later technology; or significant improvements	537
to existing facilities;	538
(e) Any fuel cell used in the generation of electricity,	539
including, but not limited to, a proton exchange membrane fuel	540
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	541
solid oxide fuel cell;	542
(f) Advanced solid waste or construction and demolition	543
debris conversion technology, including, but not limited to,	544
advanced stoker technology, and advanced fluidized bed	545

gasification technology, that results in measurable greenhouse	546
gas emissions reductions as calculated pursuant to the United	547
States environmental protection agency's waste reduction model	548
(WARM);	549
(g) Demand-side management and any energy efficiency	550
improvement;	551
(h) Any new, retrofitted, refueled, or repowered	552
generating facility located in Ohio, including a simple or	553
combined-cycle natural gas generating facility or a generating	554
facility that uses biomass, coal, modular nuclear, or any other	555
fuel as its input;	556
(i) Any uprated capacity of an existing electric	557
generating facility if the uprated capacity results from the	558
deployment of advanced technology.	559
"Advanced energy resource" does not include a waste energy	560
recovery system that is, or has been, included in an energy	561
efficiency program of an electric distribution utility pursuant	562
to requirements under section 4928.66 of the Revised Code.	563
(35) "Air contaminant source" has the same meaning as in	564
section 3704.01 of the Revised Code.	565
(36) "Cogeneration technology" means technology that	566
produces electricity and useful thermal output simultaneously.	567
(37) (a) "Renewable energy resource" means any of the	568
following:	569
(i) Solar photovoltaic or solar thermal energy;	570
(ii) Wind energy;	571
(iii) Power produced by a hydroelectric facility;	572

(iv) Power produced by a small hydroelectric facility,	573
which is a facility that operates, or is rated to operate, at an	574
aggregate capacity of less than six megawatts;	575
(v) Power produced by a run-of-the-river hydroelectric	576
facility placed in service on or after January 1, 1980, that is	577
located within this state, relies upon the Ohio river, and	578
operates, or is rated to operate, at an aggregate capacity of	579
forty or more megawatts;	580
(vi) Geothermal energy;	581
(vii) Fuel derived from solid wastes, as defined in	582
section 3734.01 of the Revised Code, through fractionation,	583
biological decomposition, or other process that does not	584
principally involve combustion;	585
(viii) Biomass energy;	586
(ix) Energy produced by cogeneration technology that is	587
placed into service on or before December 31, 2015, and for	588
which more than ninety per cent of the total annual energy input	589
is from combustion of a waste or byproduct gas from an air	590
contaminant source in this state, which source has been in	591
operation since on or before January 1, 1985, provided that the	592
cogeneration technology is a part of a facility located in a	593
county having a population of more than three hundred sixty-five	594
thousand but less than three hundred seventy thousand according	595
to the most recent federal decennial census;	596
(x) Biologically derived methane gas;	597
(xi) Heat captured from a generator of electricity,	598
boiler, or heat exchanger fueled by biologically derived methane	599
gas;	600

(xii) Energy derived from nontreated by-products of the 601
pulping process or wood manufacturing process, including bark, 602
wood chips, sawdust, and lignin in spent pulping liquors. 603

"Renewable energy resource" includes, but is not limited 604
to, any fuel cell used in the generation of electricity, 605
including, but not limited to, a proton exchange membrane fuel 606
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 607
solid oxide fuel cell; a linear generator; wind turbine located 608
in the state's territorial waters of Lake Erie; methane gas 609
emitted from an abandoned or active coal mine; waste energy 610
recovery system placed into service or retrofitted on or after 611
the effective date of the amendment of this section by S.B. 315 612
of the 129th general assembly, September 10, 2012, except that a 613
waste energy recovery system described in division (A) (38) (b) of 614
this section may be included only if it was placed into service 615
between January 1, 2002, and December 31, 2004; storage facility 616
that will promote the better utilization of a renewable energy 617
resource; or distributed generation system used by a customer to 618
generate electricity from any such energy. 619

"Renewable energy resource" does not include a waste 620
energy recovery system that is, or was, on or after January 1, 621
2012, included in an energy efficiency program of an electric 622
distribution utility pursuant to requirements under section 623
4928.66 of the Revised Code. 624

(b) As used in division (A) (37) of this section, 625
"hydroelectric facility" means a hydroelectric generating 626
facility that is located at a dam on a river, or on any water 627
discharged to a river, that is within or bordering this state or 628
within or bordering an adjoining state and meets all of the 629
following standards: 630

(i) The facility provides for river flows that are not 631
detrimental for fish, wildlife, and water quality, including 632
seasonal flow fluctuations as defined by the applicable 633
licensing agency for the facility. 634

(ii) The facility demonstrates that it complies with the 635
water quality standards of this state, which compliance may 636
consist of certification under Section 401 of the "Clean Water 637
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 638
demonstrates that it has not contributed to a finding by this 639
state that the river has impaired water quality under Section 640
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 641
U.S.C. 1313. 642

(iii) The facility complies with mandatory prescriptions 643
regarding fish passage as required by the federal energy 644
regulatory commission license issued for the project, regarding 645
fish protection for riverine, anadromous, and catadromous fish. 646

(iv) The facility complies with the recommendations of the 647
Ohio environmental protection agency and with the terms of its 648
federal energy regulatory commission license regarding watershed 649
protection, mitigation, or enhancement, to the extent of each 650
agency's respective jurisdiction over the facility. 651

(v) The facility complies with provisions of the 652
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 653
to 1544, as amended. 654

(vi) The facility does not harm cultural resources of the 655
area. This can be shown through compliance with the terms of its 656
federal energy regulatory commission license or, if the facility 657
is not regulated by that commission, through development of a 658
plan approved by the Ohio historic preservation office, to the 659

extent it has jurisdiction over the facility. 660

(vii) The facility complies with the terms of its federal 661
energy regulatory commission license or exemption that are 662
related to recreational access, accommodation, and facilities 663
or, if the facility is not regulated by that commission, the 664
facility complies with similar requirements as are recommended 665
by resource agencies, to the extent they have jurisdiction over 666
the facility; and the facility provides access to water to the 667
public without fee or charge. 668

(viii) The facility is not recommended for removal by any 669
federal agency or agency of any state, to the extent the 670
particular agency has jurisdiction over the facility. 671

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 672
this section do not apply to a small hydroelectric facility 673
under division (A) (37) (a) (iv) of this section. 674

(38) "Waste energy recovery system" means any of the 675
following: 676

(a) A facility that generates electricity through the 677
conversion of energy from either of the following: 678

(i) Exhaust heat from engines or manufacturing, 679
industrial, commercial, or institutional sites, except for 680
exhaust heat from a facility whose primary purpose is the 681
generation of electricity; 682

(ii) Reduction of pressure in gas pipelines before gas is 683
distributed through the pipeline, provided that the conversion 684
of energy to electricity is achieved without using additional 685
fossil fuels. 686

(b) A facility at a state institution of higher education 687

as defined in section 3345.011 of the Revised Code that recovers 688
waste heat from electricity-producing engines or combustion 689
turbines and that simultaneously uses the recovered heat to 690
produce steam, provided that the facility was placed into 691
service between January 1, 2002, and December 31, 2004; 692

(c) A facility that produces steam from recovered waste 693
heat from a manufacturing process and uses that steam, or 694
transfers that steam to another facility, to provide heat to 695
another manufacturing process or to generate electricity. 696

(39) "Smart grid" means capital improvements to an 697
electric distribution utility's distribution infrastructure that 698
improve reliability, efficiency, resiliency, or reduce energy 699
demand or use, including, but not limited to, advanced metering 700
and automation of system functions. 701

(40) "Combined heat and power system" means the 702
coproduction of electricity and useful thermal energy from the 703
same fuel source designed to achieve thermal-efficiency levels 704
of at least sixty per cent, with at least twenty per cent of the 705
system's total useful energy in the form of thermal energy. 706

(41) (a) "Green energy" means any energy generated by using 707
an energy resource that does one or more of the following: 708

(i) Releases reduced air pollutants, thereby reducing 709
cumulative air emissions; 710

(ii) Is more sustainable and reliable relative to some 711
fossil fuels. 712

(b) "Green energy" includes energy generated using the 713
following: 714

(i) Natural gas as a resource; 715

(ii) Nuclear reaction.	716
(42) "Energy storage" means electrical generation and storage performed by a distributed energy system connected battery.	717 718 719
(43) "Linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria:	720 721 722 723
(a) Converts the linear motion of oscillators directly into electricity without the use of a flame or spark;	724 725
(b) Is dispatchable with the ability to vary power output across all loads;	726 727
(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas.	728 729
<u>(44) "Electric vehicle" means a vehicle that is powered wholly by a system that can be recharged via an external source of electricity, including a vehicle for public or private use that is a passenger car, commercial car or truck, a vehicle used for public transit, a vehicle used in a vehicle fleet, a vehicle used in construction work, and a vehicle used in industrial or warehouse work.</u>	730 731 732 733 734 735 736
<u>(45) "Electric vehicle charging station" means behind the meter electric equipment by which electric current is transferred to the power system of an electric vehicle.</u>	737 738 739
(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	740 741 742 743

order of the public utilities commission authorized under 744
division (A) of section 4928.04 of the Revised Code. Otherwise, 745
the service component shall be deemed a noncompetitive retail 746
electric service. 747

~~Sec. 4928.03. Beginning on the starting date of~~ 748
~~competitive retail electric service, retail electric generation,~~ 749
~~aggregation, power marketing, and power brokerage services (A)~~ 750
The following services supplied to consumers within the 751
certified territory of an electric utility are competitive 752
retail electric services that the consumers may obtain subject 753
to this chapter from any supplier or suppliers: 754

- (1) Retail electric generation; 755
- (2) Aggregation; 756
- (3) Power marketing; 757
- (4) Power brokerage services; 758
- (5) Electric vehicle charging stations. 759

(B) In accordance with a filing under division (F) of 760
section 4933.81 of the Revised Code, ~~retail electric generation,~~ 761
~~aggregation, power marketing, or power brokerage services~~ the 762
following services supplied to consumers within the certified 763
territory of an electric cooperative that has made the filing 764
are competitive retail electric services that the consumers may 765
obtain subject to this chapter from any supplier or suppliers: 766

- (1) Retail electric generation; 767
- (2) Aggregation; 768
- (3) Power marketing; 769
- (4) Power brokerage services; 770

<u>(5) Electric vehicle charging stations.</u>	771
<u>(C)</u> Beginning on the starting date of competitive retail electric service and notwithstanding any other provision of law, each consumer in this state and the suppliers to a consumer shall have comparable and nondiscriminatory access to noncompetitive retail electric services of an electric utility in this state within its certified territory for the purpose of satisfying the consumer's electricity requirements in keeping with the policy specified in section 4928.02 of the Revised Code.	772 773 774 775 776 777 778 779 780
Sec. 4928.041. (A) Except as provided in sections 4928.141 and 4928.142 of the Revised Code, no electric utility shall provide a competitive retail electric service in this state if that service was deemed competitive or otherwise legally classified as competitive prior to <u>or upon</u> the effective date of this section <u>S.B. 106 of the 136th general assembly.</u>	781 782 783 784 785 786
(B) The standard service offer under section 4928.141 of the Revised Code shall continue to be provided to consumers in this state by electric utilities.	787 788 789
Section 2. That existing sections 4909.042, 4909.15, 4909.173, 4909.174, 4928.01, 4928.03, and 4928.041 of the Revised Code are hereby repealed.	790 791 792