

As Pending in the Senate Energy Committee

136th General Assembly

Regular Session

2025-2026

Sub. S. B. No. 2

Senator Reineke

To amend sections 4903.082, 4903.221, 4905.03,	1
4906.01, 4906.03, 4906.06, 4906.07, 4906.10,	2
4909.04, 4909.05, 4909.052, 4909.06, 4909.07,	3
4909.08, 4909.15, 4909.156, 4909.173, 4909.174,	4
4909.18, 4909.19, 4909.191, 4909.42, 4928.01,	5
4928.05, 4928.08, 4928.14, 4928.141, 4928.142,	6
4928.144, 4928.17, 4928.20, 4928.23, 4928.231,	7
4928.232, 4928.34, 4928.542, 4928.64, 4928.645,	8
4929.20, 5727.01, 5727.031, 5727.06, 5727.11,	9
5727.111, and 5727.75; to enact sections	10
122.161, 3706.51, 3706.52, 4903.27, 4905.311,	11
4905.321, 4905.331, 4909.041, 4909.042,	12
4909.181, 4909.192, 4909.193, 4909.47, 4928.041,	13
4928.101, 4928.102, 4928.103, 4928.149,	14
4928.1410, 4928.73, 4929.221, 4929.222, and	15
5727.76; and to repeal sections 3706.40,	16
3706.41, 3706.43, 3706.431, 3706.45, 3706.46,	17
3706.49, 3706.491, 3706.55, 3706.551, 3706.59,	18
3706.63, 3706.65, 4928.143, 4928.148, and	19
4928.642 of the Revised Code regarding public	20
utilities and competitive retail electric and	21
natural gas services, to make changes regarding	22
electric company property taxation, and repeal	23
parts of H.B. 6 of the 133rd General Assembly.	24

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

Section 1. That sections 4903.082, 4903.221, 4905.03, 25
4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 4909.04, 4909.05, 26
4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 27
4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 4909.42, 28
4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 29
4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 30
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 31
5727.031, 5727.06, 5727.11, 5727.111, and 5727.75 be amended and 32
sections 122.161, 3706.51, 3706.52, 4903.27, 4905.311, 4905.321, 33
4905.331, 4909.041, 4909.042, 4909.181, 4909.192, 4909.193, 34
4909.47, 4928.041, 4928.101, 4928.102, 4928.103, 4928.149, 35
4928.1410, 4928.73, 4929.221, 4929.222, and 5727.76 of the 36
Revised Code be enacted to read as follows: 37

Sec. 122.161. (A) As used in this section: 38

(1) "Subdivision" means a municipal corporation, township, 39
or county. 40

(2) "Legislative authority" means the legislative 41
authority of a municipal corporation, a board of the township 42
trustees, or a board of county commissioners. 43

(3) "Subdivision's territory" means, in the case of a 44
municipal corporation, the territory of the municipal 45
corporation; in the case of a township, the unincorporated 46
territory of the township; or, in the case of a county, the 47
unincorporated territory of the county. 48

(4) "Brownfield" has the same meaning as in section 49
122.6511 of the Revised Code. 50

(5) "Former coal mine" means a location that was, but is 51
no longer, used in connection with the extraction of coal from 52
its natural deposit in the earth. 53

(6) "Qualifying property" has the same meaning as in 54
section 5727.76 of the Revised Code. 55

(B) A legislative authority may adopt and certify to the 56
director of development an ordinance or resolution requesting 57
that the director designate the site of a brownfield or former 58
coal mine within the subdivision's territory as a priority 59
investment area. The ordinance or resolution shall describe the 60
boundaries of the proposed area and shall specify that 61
qualifying property in the priority investment area shall be 62
exempt from taxation for five years pursuant to section 5727.76 63
of the Revised Code. 64

The director, upon receipt of that certification, shall 65
designate the proposed area as a priority investment area if the 66
director determines that the area meets the designation 67
standards set forth in rules adopted by the director. Those 68
standards shall specify that the director must prioritize the 69
designation of areas negatively impacted by the decline of the 70
coal industry. 71

The director shall notify the legislative authority of the 72
director's decision within ninety days after receiving the 73
certified ordinance or resolution. If the director does not 74
issue a decision within those ninety days, the request for 75
designation shall be considered approved by operation of law. 76

(C) The director of development shall immediately notify 77
the public utilities commission, the power siting board, and the 78
tax commissioner if the director approves the designation of a 79

priority investment area under division (B) of this section or 80
if the designation is approved by operation of law. 81

Sec. 3706.51. (A) As used in this section, "public school" 82
means a school district or other public school as defined in 83
section 3301.0711 of the Revised Code. 84

(B) The Ohio air quality development authority shall 85
establish a solar for schools program that issues loans to 86
public schools from funds in the solar for schools fund created 87
in section 3706.52 of the Revised Code for purposes of 88
installing solar panels on the school's premises. 89

(C) A public school may apply to the authority to receive 90
a loan under the solar for schools program. 91

(D) Any solar panels funded by a loan under this section 92
shall be sized so as not to cumulatively exceed one hundred 93
twenty per cent of the school's energy requirement. 94

(E) Nothing in this section prohibits a public school that 95
installs solar panels pursuant to this section from utilizing 96
section 4928.67 of the Revised Code. 97

(F) The terms of a loan issued under this section shall be 98
as follows: 99

(1) Two per cent annual interest on the loan; 100

(2) The full loan amount, plus interest, shall be repaid 101
in not more than ten years; 102

(3) Repayment on the loan begins six months after the 103
installment of all solar panels is completed; 104

(4) Any other provision considered appropriate by the 105
authority. 106

(G) All repayment amounts for any loans issued under this 107
section shall be made to the authority. The authority shall 108
deposit all repayment amounts received in the solar for schools 109
fund created in section 3706.52 of the Revised Code. 110

(H) If the authority enters into an agreement with a 111
public school for a loan under this section, the authority shall 112
promptly direct the treasurer of state to remit money from the 113
solar for schools fund to the school as provided in the terms of 114
the agreement. 115

(I) The authority shall adopt rules under Chapter 119. of 116
the Revised Code to implement this section, including an 117
application for the solar for schools program. 118

Sec. 3706.52. (A) The solar for schools fund is created in 119
the custody of the state treasurer, but is not part of the state 120
treasury. The money in the fund shall be used for purposes of 121
the solar for schools program under section 3706.51 of the 122
Revised Code to fund loans under the program and to administer 123
the program. The fund shall consist of the funds transferred 124
from the solar generation fund, repayments of loans from this 125
fund, interest on amounts in the solar for schools fund, and any 126
appropriations, grants, or gifts made to the program or the 127
fund. 128

(B) The fund shall be administered by the Ohio air quality 129
development authority, and the authority shall request the 130
treasurer of state to create the account for the fund. The 131
treasurer of state shall distribute the money in the fund in 132
accordance with directions provided by the authority. 133

Sec. 4903.082. All parties and intervenors shall be 134
granted ample rights of discovery of any nonprivileged matter 135

that is relevant and proportional to the needs of the 136
proceeding. The present rules of the public utilities commission 137
should be reviewed regularly by the commission to aid full and 138
reasonable discovery by all parties. Without limiting the 139
commission's discretion the Rules of Civil Procedure should be 140
used wherever practicable. 141

Sec. 4903.221. Any other person who may be adversely and 142
directly affected by a public utilities commission proceeding 143
may intervene in such proceeding, provided: 144

(A) That such other person files a motion to intervene 145
with the commission no later than: 146

(1) Any specific deadline established by order of the 147
commission for purposes of a particular proceeding; or, if no 148
such deadline is established; 149

(2) Five days prior to the scheduled date of hearing. 150

The public utilities commission may, in its discretion, 151
grant motions to intervene which are filed after the deadlines 152
set forth in divisions (A) (1) and (2) of this section for good 153
cause shown. 154

(B) That the commission, in ruling upon applications to 155
intervene in its proceedings, shall consider the following 156
criteria: 157

(1) The nature and extent of the prospective intervenor's 158
interest, including any interest as a consumer, customer, or 159
competitor; 160

(2) The legal position advanced by the prospective 161
intervenor and its probable relation to the merits of the case; 162

(3) Whether the intervention by the prospective intervenor 163

will unduly prolong or delay the proceedings; 164

(4) Whether the prospective intervenor will significantly 165
contribute to full development and equitable resolution of the 166
factual issues. 167

Sec. 4903.27. For all cases involving an application 168
pursuant to section 4909.18 of the Revised Code, the public 169
utilities commission shall not permit any new discovery 170
beginning not later than two hundred fifteen days after the 171
application is submitted. 172

Sec. 4905.03. As used in this chapter, any person, firm, 173
copartnership, voluntary association, joint-stock association, 174
company, or corporation, wherever organized or incorporated, is: 175

(A) A telephone company, when engaged in the business of 176
transmitting telephonic messages to, from, through, or in this 177
state; 178

(B) A for-hire motor carrier, when engaged in the business 179
of transporting persons or property by motor vehicle for 180
compensation, except when engaged in any of the operations in 181
intrastate commerce described in divisions (B)(1) to (9) of 182
section 4921.01 of the Revised Code, but including the carrier's 183
agents, officers, and representatives, as well as employees 184
responsible for hiring, supervising, training, assigning, or 185
dispatching drivers and employees concerned with the 186
installation, inspection, and maintenance of motor-vehicle 187
equipment and accessories; 188

(C) An electric light company, when engaged in the 189
business of supplying electricity for light, heat, or power 190
purposes to consumers within this state, including supplying 191
electric transmission service for electricity delivered to 192

consumers in this state, but excluding a regional transmission 193
organization approved by the federal energy regulatory 194
commission~~;~~_. 195

An electric light company does not include a self- 196
generator or mercantile customer self-power system. 197

(D) A gas company, when engaged in the business of 198
supplying artificial gas for lighting, power, or heating 199
purposes to consumers within this state or when engaged in the 200
business of supplying artificial gas to gas companies or to 201
natural gas companies within this state, but a producer engaged 202
in supplying to one or more gas or natural gas companies, only 203
such artificial gas as is manufactured by that producer as a by- 204
product of some other process in which the producer is primarily 205
engaged within this state is not thereby a gas company. All 206
rates, rentals, tolls, schedules, charges of any kind, or 207
agreements between any gas company and any other gas company or 208
any natural gas company providing for the supplying of 209
artificial gas and for compensation for the same are subject to 210
the jurisdiction of the public utilities commission. 211

(E) A natural gas company, when engaged in the business of 212
supplying natural gas for lighting, power, or heating purposes 213
to consumers within this state. Notwithstanding the above, 214
neither the delivery nor sale of Ohio-produced natural gas or 215
Ohio-produced raw natural gas liquids by a producer or gatherer 216
under a public utilities commission-ordered exemption, adopted 217
before, as to producers, or after, as to producers or gatherers, 218
January 1, 1996, or the delivery or sale of Ohio-produced 219
natural gas or Ohio-produced raw natural gas liquids by a 220
producer or gatherer of Ohio-produced natural gas or Ohio- 221
produced raw natural gas liquids, either to a lessor under an 222

oil and gas lease of the land on which the producer's drilling 223
unit is located, or the grantor incident to a right-of-way or 224
easement to the producer or gatherer, shall cause the producer 225
or gatherer to be a natural gas company for the purposes of this 226
section. 227

All rates, rentals, tolls, schedules, charges of any kind, 228
or agreements between a natural gas company and other natural 229
gas companies or gas companies providing for the supply of 230
natural gas and for compensation for the same are subject to the 231
jurisdiction of the public utilities commission. The commission, 232
upon application made to it, may relieve any producer or 233
gatherer of natural gas, defined in this section as a gas 234
company or a natural gas company, of compliance with the 235
obligations imposed by this chapter and Chapters 4901., 4903., 236
4907., 4909., 4921., and 4923. of the Revised Code, so long as 237
the producer or gatherer is not affiliated with or under the 238
control of a gas company or a natural gas company engaged in the 239
transportation or distribution of natural gas, or so long as the 240
producer or gatherer does not engage in the distribution of 241
natural gas to consumers. 242

Nothing in division (E) of this section limits the 243
authority of the commission to enforce sections 4905.90 to 244
4905.96 of the Revised Code. 245

(F) A pipe-line company, when engaged in the business of 246
transporting natural gas, oil, or coal or its derivatives 247
through pipes or tubing, either wholly or partly within this 248
state, but not when engaged in the business of the transport 249
associated with gathering lines, raw natural gas liquids, or 250
finished product natural gas liquids; 251

(G) A water-works company, when engaged in the business of 252

supplying water through pipes or tubing, or in a similar manner, 253
to consumers within this state; 254

(H) A heating or cooling company, when engaged in the 255
business of supplying water, steam, or air through pipes or 256
tubing to consumers within this state for heating or cooling 257
purposes; 258

(I) A messenger company, when engaged in the business of 259
supplying messengers for any purpose; 260

(J) A street railway company, when engaged in the business 261
of operating as a common carrier, a railway, wholly or partly 262
within this state, with one or more tracks upon, along, above, 263
or below any public road, street, alleyway, or ground, within 264
any municipal corporation, operated by any motive power other 265
than steam and not a part of an interurban railroad, whether the 266
railway is termed street, inclined-plane, elevated, or 267
underground railway; 268

(K) A suburban railroad company, when engaged in the 269
business of operating as a common carrier, whether wholly or 270
partially within this state, a part of a street railway 271
constructed or extended beyond the limits of a municipal 272
corporation, and not a part of an interurban railroad; 273

(L) An interurban railroad company, when engaged in the 274
business of operating a railroad, wholly or partially within 275
this state, with one or more tracks from one municipal 276
corporation or point in this state to another municipal 277
corporation or point in this state, whether constructed upon the 278
public highways or upon private rights-of-way, outside of 279
municipal corporations, using electricity or other motive power 280
than steam power for the transportation of passengers, packages, 281

express matter, United States mail, baggage, and freight. Such 282
an interurban railroad company is included in the term 283
"railroad" as used in section 4907.02 of the Revised Code. 284

(M) A sewage disposal system company, when engaged in the 285
business of sewage disposal services through pipes or tubing, 286
and treatment works, or in a similar manner, within this state. 287

As used in division (E) of this section, "natural gas" 288
includes natural gas that has been processed to enable 289
consumption or to meet gas quality standards or that has been 290
blended with propane, hydrogen, biologically derived methane 291
gas, or any other artificially produced or processed gas. 292

As used in this section, "gathering lines" has the same 293
meaning as in section 4905.90 of the Revised Code, and "raw 294
natural gas liquids" and "finished product natural gas liquids" 295
have the same meanings as in section 4906.01 of the Revised 296
Code. 297

As used in this section, "self-generator" has the same 298
meaning as in section 4928.01 of the Revised Code, and 299
"mercantile customer self-power system" has the same meaning as 300
in section 4928.73 of the Revised Code. 301

Sec. 4905.311. Notwithstanding any provision of the 302
Revised Code to the contrary, and beginning on and after the 303
effective date of this section, an electric distribution 304
utility, as defined in section 4928.01 of the Revised Code, may 305
enter into a reasonable arrangement with a mercantile customer 306
to provide behind the meter electric generation supply, but the 307
utility shall not recover any costs associated with such 308
arrangement through any rate, charge, or recovery from retail 309
electric service customers not a party to the arrangement. 310

Sec. 4905.321. (A) Notwithstanding section 4905.32 of the 311
Revised Code, all revenues collected from customers by a public 312
utility as part of a rider, rather than through base rates, that 313
are later found to be unreasonable, unlawful, or otherwise 314
improper by the supreme court shall be subject to refund from 315
the date of the issuance of the supreme court's decision until 316
the date when, on remand, the public utilities commission makes 317
changes to the rider to implement new rates to implement the 318
supreme court's decision. 319

(B) The commission shall order the payment of the refunds 320
described in division (A) of this section in a manner designed 321
to allocate the refunds to customer classes in the same 322
proportion as the charges were originally collected. 323

(C) The commission shall determine how to allocate any 324
remaining funds described in division (A) of this section that 325
cannot be refunded for whatever reason. 326

(D) The commission shall order the payment of the funds 327
described in division (A) of this section and shall determine 328
how to allocate any remaining funds that cannot be refunded not 329
more than thirty days after the date of the issuance of the 330
supreme court's decision. 331

Sec. 4905.331. (A) As used in this section: 332

(1) "Electric distribution utility" has the same meaning 333
as in section 4928.01 of the Revised Code. 334

(2) "Electric service" means any service involved in 335
supplying or arranging for the supply of electricity to ultimate 336
consumers in this state. "Electric service" includes "retail 337
electric service" as defined in section 4928.01 of the Revised 338
Code. 339

(3) "Proceeding" includes a proceeding relating to 340
electric service under Chapters 4909. and 4928. of the Revised 341
Code. 342

(B) No electric distribution utility or its affiliate may 343
do either of the following to induce any party to a public 344
utilities commission proceeding to enter into a settlement of a 345
matter pending before the commission: 346

(1) Make a cash payment to that party; 347

(2) Enter into any agreement or any financial or private 348
arrangement with that party that is not made part of the public 349
case record. 350

(C) Notwithstanding division (B) of this section, the 351
commission may do any of the following: 352

(1) Reasonably allocate costs among rate schedules; 353

(2) Reasonably design rates within a rate schedule; 354

(3) Approve reasonable rates designed for particular 355
customers or classes of customers; 356

(4) Approve a resolution of a proceeding under section 357
4905.26 of the Revised Code; 358

(5) Approve payments to any governmental entity, nonprofit 359
organization, or other association for implementing low-income 360
weatherization service programs, subject to the following 361
conditions: 362

(a) The payments are at a rate that is reasonably tailored 363
to the costs of providing the programs. 364

(b) The payments are for programs that are subject to an 365
existing or new audit procedure. 366

(c) The payments are not for low-income weatherization 367
education programs. 368

Sec. 4906.01. As used in Chapter 4906. of the Revised 369
Code: 370

(A) "Person" means an individual, corporation, business 371
trust, association, estate, trust, or partnership or any 372
officer, board, commission, department, division, or bureau of 373
the state or a political subdivision of the state, or any other 374
entity. 375

(B) (1) "Major utility facility" means: 376

(a) Electric generating plant and associated facilities 377
designed for, or capable of, operation at a capacity of fifty 378
megawatts or more; 379

(b) An electric transmission line and associated 380
facilities of a design capacity of one hundred kilovolts or 381
more; 382

(c) A gas pipeline that is greater than five hundred feet 383
in length, and its associated facilities, is more than nine 384
inches in outside diameter and is designed for transporting gas 385
at a maximum allowable operating pressure in excess of one 386
hundred twenty-five pounds per square inch. 387

(2) "Major utility facility" does not include any of the 388
following: 389

(a) Gas transmission lines over which an agency of the 390
United States has exclusive jurisdiction; 391

(b) Any solid waste facilities as defined in section 392
6123.01 of the Revised Code; 393

(c) Electric distributing lines and associated facilities	394
as defined by the power siting board;	395
(d) Any manufacturing facility that creates byproducts	396
that may be used in the generation of electricity as defined by	397
the power siting board;	398
(e) Gathering lines, gas gathering pipelines, and	399
processing plant gas stub pipelines as those terms are defined	400
in section 4905.90 of the Revised Code and associated	401
facilities;	402
(f) Any gas processing plant as defined in section 4905.90	403
of the Revised Code;	404
(g) Natural gas liquids finished product pipelines;	405
(h) Pipelines from a gas processing plant as defined in	406
section 4905.90 of the Revised Code to a natural gas liquids	407
fractionation plant, including a raw natural gas liquids	408
pipeline, or to an interstate or intrastate gas pipeline;	409
(i) Any natural gas liquids fractionation plant;	410
(j) A production operation as defined in section 1509.01	411
of the Revised Code, including all pipelines upstream of any	412
gathering lines;	413
(k) Any compressor stations used by the following:	414
(i) A gathering line, a gas gathering pipeline, a	415
processing plant gas stub pipeline, or a gas processing plant as	416
those terms are defined in section 4905.90 of the Revised Code;	417
(ii) A natural gas liquids finished product pipeline, a	418
natural gas liquids fractionation plant, or any pipeline	419
upstream of a natural gas liquids fractionation plant; or	420

(iii) A production operation as defined in section 1509.01 421
of the Revised Code. 422

(C) "Commence to construct" means any clearing of land, 423
excavation, or other action that would adversely affect the 424
natural environment of the site or route of a major utility 425
facility, but does not include surveying changes needed for 426
temporary use of sites or routes for nonutility purposes, or 427
uses in securing geological data, including necessary borings to 428
ascertain foundation conditions. 429

(D) "Certificate" means a certificate of environmental 430
compatibility and public need issued by the power siting board 431
under section 4906.10 of the Revised Code or a construction 432
certificate issued by the board under rules adopted under 433
~~division divisions~~ (E) ~~or (F)~~ to (H) of section 4906.03 of the 434
Revised Code. 435

(E) "Gas" means natural gas, flammable gas, or gas that is 436
toxic or corrosive. 437

(F) "Natural gas liquids finished product pipeline" means 438
a pipeline that carries finished product natural gas liquids to 439
the inlet of an interstate or intrastate finished product 440
natural gas liquid transmission pipeline, rail loading facility, 441
or other petrochemical or refinery facility. 442

(G) "Large solar facility" means an electric generating 443
plant that consists of solar panels and associated facilities 444
with a single interconnection to the electrical grid that is a 445
major utility facility. 446

(H) "Large wind farm" means an electric generating plant 447
that consists of wind turbines and associated facilities with a 448
single interconnection to the electrical grid that is a major 449

utility facility. 450

(I) "Natural gas liquids fractionation plant" means a 451
facility that takes a feed of raw natural gas liquids and 452
produces finished product natural gas liquids. 453

(J) "Raw natural gas" means hydrocarbons that are produced 454
in a gaseous state from gas wells and that generally include 455
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 456
octanes, nonanes, and decanes, plus other naturally occurring 457
impurities like water, carbon dioxide, hydrogen sulfide, 458
nitrogen, oxygen, and helium. 459

(K) "Raw natural gas liquids" means naturally occurring 460
hydrocarbons contained in raw natural gas that are extracted in 461
a gas processing plant and liquefied and generally include 462
mixtures of ethane, propane, butanes, and natural gasoline. 463

(L) "Finished product natural gas liquids" means an 464
individual finished product produced by a natural gas liquids 465
fractionation plant as a liquid that meets the specifications 466
for commercial products as defined by the gas processors 467
association. Those products include ethane, propane, iso-butane, 468
normal butane, and natural gasoline. 469

Sec. 4906.03. The power siting board shall: 470

(A) Require such information from persons subject to its 471
jurisdiction as it considers necessary to assist in the conduct 472
of hearings and any investigations or studies it may undertake; 473

(B) Conduct any studies or investigations that it 474
considers necessary or appropriate to carry out its 475
responsibilities under this chapter; 476

(C) Adopt rules establishing criteria for evaluating the 477

effects on environmental values of proposed and alternative 478
sites, and projected needs for electric power, and such other 479
rules as are necessary and convenient to implement this chapter, 480
including rules governing application fees, supplemental 481
application fees, and other reasonable fees to be paid by 482
persons subject to the board's jurisdiction. The board shall 483
make an annual accounting of its collection and use of these 484
fees and shall issue an annual report of its accounting, in the 485
form and manner prescribed by its rules, not later than the last 486
day of June of the year following the calendar year to which the 487
report applies. 488

(D) Approve, disapprove, or modify and approve 489
applications for certificates; 490

(E) Notwithstanding sections 4906.06 to 4906.14 of the 491
Revised Code, the board may adopt rules to provide for an 492
accelerated review of an application for a construction 493
certificate for construction of a major utility facility related 494
to a coal research and development project as defined in section 495
1555.01 of the Revised Code, or to a coal development project as 496
defined in section 1551.30 of the Revised Code, submitted to the 497
Ohio coal development office for review under division (B) (7) of 498
section 1551.33 of the Revised Code. Applications for 499
construction certificates for construction of major utility 500
facilities for Ohio coal research and development shall be filed 501
with the board on the same day as the proposed facility or 502
project is submitted to the Ohio coal development office for 503
review. 504

The board shall render a decision on an application for a 505
construction certificate within ninety days after receipt of the 506
application and all of the data and information it may require 507

from the applicant. In rendering a decision on an application 508
for a construction certificate, the board shall only consider 509
the criteria and make the findings and determinations set forth 510
in divisions (A) (2), (3), (5), and (7) and division (B) of 511
section 4906.10 of the Revised Code. 512

(F) Notwithstanding sections 4906.06 to 4906.14 of the 513
Revised Code, the board shall adopt rules to provide for an 514
accelerated review of an application for a construction 515
certificate for any of the following: 516

(1) An electric transmission line that is: 517

(a) Not more than two miles in length; 518

(b) Primarily needed to attract or meet the requirements 519
of a specific customer or specific customers; 520

(c) Necessary to maintain reliable electric service as a 521
result of the retirement or shutdown of an electric generating 522
facility located within the state; or 523

(d) A rebuilding of an existing transmission line. 524

(2) An electric generating facility that uses waste heat 525
or natural gas and is primarily within the current boundary of 526
an existing industrial or electric generating facility; 527

(3) A gas pipeline that is not more than five miles in 528
length or is primarily needed to meet the requirements of a 529
specific customer or specific customers. 530

The board shall adopt rules that provide for the automatic 531
certification to any entity described in this division when an 532
application by any such entity is not suspended by the board, an 533
administrative law judge, or the chairperson or executive 534
director of the board for good cause shown, within ninety days 535

of submission of the application. If an application is 536
suspended, the board shall approve, disapprove, or modify and 537
approve the application not later than ninety days after the 538
date of the suspension. 539

(G) Notwithstanding sections 4906.06 to 4906.14 of the 540
Revised Code, the board shall adopt rules to provide for the 541
accelerated review of an application for a construction 542
certificate for any of the following that are located in a 543
priority investment area designated and approved under section 544
122.161 of the Revised Code: 545

(1) An electric generating plant and associated 546
facilities; 547

(2) An electric transmission line and associated 548
facilities; 549

(3) Gas Pipeline infrastructure. 550

The board shall render a decision on an application 551
submitted under this division not later than forty-five days 552
after receipt of the application. If the board does not render a 553
decision within forty-five days, the application shall be 554
considered approved by operation of law, and the board shall 555
issue a certificate to the applicant. 556

The board shall adopt rules to implement this division, 557
including rules that prioritize applications for construction on 558
areas negatively impacted by the decline of the coal industry. 559

(H) Notwithstanding sections 4906.06 to 4906.14 of the 560
Revised Code, the board shall adopt rules to provide for the 561
accelerated review of an application for a construction 562
certificate for a major utility facility if at the time the 563
application is filed the construction will be located, in whole, 564

on property owned by the applicant; in whole or in part, on an 565
easement or right-of-way; or on any combination of such 566
property, easement, or right-of-way. 567

No accelerated application shall be granted under the 568
rules adopted under division (H) of this section for 569
construction of a major utility facility, in whole or in part, 570
on an easement or right-of-way, if additional consent for 571
construction on the easement or right-of-way is required by any 572
person or entity other than the power siting board. 573

The board shall render a decision on an application 574
submitted under this division not later than forty-five days 575
after receipt of the application. If the board does not render a 576
decision within forty-five days, the application shall be 577
considered approved by operation of law, and the board shall 578
issue a certificate to the applicant. 579

Sec. 4906.06. (A) An applicant for a certificate shall 580
file with the office of the chairperson of the power siting 581
board an application, in such form as the board prescribes, 582
containing the following information: 583

(1) A description of the location and of the major utility 584
facility; 585

(2) A summary of any studies that have been made by or for 586
the applicant of the environmental impact of the facility; 587

(3) A statement explaining the need for the facility; 588

(4) A statement of the reasons why the proposed location 589
is best suited for the facility; 590

(5) A statement of how the facility fits into the 591
applicant's forecast contained in the report submitted under 592

section 4935.04 of the Revised Code; 593

(6) Such other information as the applicant may consider 594
relevant or as the board by rule or order may require. Copies of 595
the studies referred to in division (A)(2) of this section shall 596
be filed with the office of the chairperson, if ordered, and 597
shall be available for public inspection. 598

The application shall be filed not more than five years 599
prior to the planned date of commencement of construction. The 600
five-year period may be waived by the board for good cause 601
shown. 602

(B) Each application shall be accompanied by proof of 603
service of a copy of such application on the chief executive 604
officer of each municipal corporation and county, and the head 605
of each public agency charged with the duty of protecting the 606
environment or of planning land use, in the area in which any 607
portion of such facility is to be located. 608

(C) Each applicant within fifteen days after the date of 609
the filing of the application shall give public notice to 610
persons residing in the municipal corporations and counties 611
entitled to receive notice under division (B) of this section, 612
by the publication of a summary of the application in newspapers 613
of general circulation in such area. Proof of such publication 614
shall be filed with the office of the chairperson. 615

(D) Inadvertent failure of service on, or notice to, any 616
of the persons identified in divisions (B) and (C) of this 617
section may be cured pursuant to orders of the board designed to 618
afford them adequate notice to enable them to participate 619
effectively in the proceeding. In addition, the board, after 620
filing, may require the applicant to serve notice of the 621

application or copies thereof or both upon such other persons, 622
and file proof thereof, as the board considers appropriate. 623

(E) An application for an amendment of a certificate shall 624
be in such form and contain such information as the board 625
prescribes. Notice of such an application shall be given as 626
required in divisions (B) and (C) of this section. 627

(F) Each application for certificate or an amendment shall 628
be accompanied by the application fee prescribed by board rule. 629
All application fees, supplemental application fees, and other 630
fees collected by the board shall be deposited in the state 631
treasury to the credit of the power siting board fund, which is 632
hereby created. The chairperson shall administer and authorize 633
expenditures from the fund for any of the purposes of this 634
chapter. If the chairperson determines that moneys credited to 635
the fund from an applicant's fee are not sufficient to pay the 636
board's expenses associated with its review of the application, 637
the chairperson shall request the approval of the controlling 638
board to assess a supplemental application fee upon an applicant 639
to pay anticipated additional expenses associated with the 640
board's review of the application or an amendment to an 641
application. If the chairperson finds that an application fee 642
exceeds the amount needed to pay the board's expenses for review 643
of the application, the chairperson shall cause a refund of the 644
excess amount to be issued to the applicant from the fund. 645

(G) The chairperson shall determine whether an application 646
is in compliance with this section not more than forty-five days 647
after the application is filed. If the chairperson does not 648
issue a determination within the time period required by this 649
division, the application shall be deemed in compliance by 650
operation of law. 651

Sec. 4906.07. (A) Upon the receipt of an application 652
complying with section 4906.06 of the Revised Code, the power 653
siting board shall promptly fix a date for a public hearing 654
thereon, not less than ~~sixty~~forty-five nor more than ~~ninety~~
sixty days after such receipt, and shall conclude the proceeding 655
as expeditiously as practicable. 656
657

(B) On an application for an amendment of a certificate, 658
the board shall hold a hearing in the same manner as a hearing 659
is held on an application for a certificate if the proposed 660
change in the facility would result in any material increase in 661
any environmental impact of the facility or a substantial change 662
in the location of all or a portion of such facility other than 663
as provided in the alternates set forth in the application. 664

(C) The chairperson of the power siting board shall cause 665
each application filed with the board to be investigated and 666
shall, not less than ~~fifteen~~five days prior to the date any 667
application is set for hearing submit a written report to the 668
board and to the applicant. A copy of such report shall be made 669
available to any person upon request. Such report shall set 670
forth the nature of the investigation, and shall contain 671
recommended findings with regard to division (A) of section 672
4906.10 of the Revised Code and shall become part of the record 673
and served upon all parties to the proceeding. 674

Sec. 4906.10. (A) The power siting board shall render a 675
decision upon the record either granting or denying the 676
application as filed, or granting it upon such terms, 677
conditions, or modifications of the construction, operation, or 678
maintenance of the major utility facility as the board considers 679
appropriate. The certificate shall be subject to sections 680
4906.101, 4906.102, and 4906.103 of the Revised Code and 681

conditioned upon the facility being in compliance with standards 682
and rules adopted under section 4561.32 and Chapters 3704., 683
3734., and 6111. of the Revised Code. An applicant may withdraw 684
an application if the board grants a certificate on terms, 685
conditions, or modifications other than those proposed by the 686
applicant in the application. 687

The board shall not grant a certificate for the 688
construction, operation, and maintenance of a major utility 689
facility, either as proposed or as modified by the board, unless 690
it finds and determines all of the following: 691

(1) The basis of the need for the facility if the facility 692
is an electric transmission line or gas pipeline; 693

(2) The nature of the probable environmental impact; 694

(3) That the facility represents the minimum adverse 695
environmental impact, considering the state of available 696
technology and the nature and economics of the various 697
alternatives, and other pertinent considerations; 698

(4) In the case of an electric transmission line or 699
generating facility, that the facility is consistent with 700
regional plans for expansion of the electric power grid of the 701
electric systems serving this state and interconnected utility 702
systems and that the facility will serve the interests of 703
electric system economy and reliability; 704

(5) That the facility will comply with Chapters 3704., 705
3734., and 6111. of the Revised Code and all rules and standards 706
adopted under those chapters and under section 4561.32 of the 707
Revised Code. In determining whether the facility will comply 708
with all rules and standards adopted under section 4561.32 of 709
the Revised Code, the board shall consult with the office of 710

aviation of the division of multi-modal planning and programs of 711
the department of transportation under section 4561.341 of the 712
Revised Code. 713

(6) That the facility will serve the public interest, 714
convenience, and necessity; 715

(7) In addition to the provisions contained in divisions 716
(A) (1) to (6) of this section and rules adopted under those 717
divisions, what its impact will be on the viability as 718
agricultural land of any land in an existing agricultural 719
district established under Chapter 929. of the Revised Code that 720
is located within the site and alternative site of the proposed 721
major utility facility. Rules adopted to evaluate impact under 722
division (A) (7) of this section shall not require the 723
compilation, creation, submission, or production of any 724
information, document, or other data pertaining to land not 725
located within the site and alternative site. 726

(8) That the facility incorporates maximum feasible water 727
conservation practices as determined by the board, considering 728
available technology and the nature and economics of the various 729
alternatives. 730

(B) If the board determines that the location of all or a 731
part of the proposed facility should be modified, it may 732
condition its certificate upon that modification, provided that 733
the municipal corporations and counties, and persons residing 734
therein, affected by the modification shall have been given 735
reasonable notice thereof. 736

(C) A copy of the decision and any opinion issued 737
therewith shall be served upon each party. 738

(D) The board shall render a decision under this section 739

not later than one hundred twenty days after the date the 740
application is found in compliance with section 4906.06 of the 741
Revised Code. If the board does not render a decision within the 742
time period required by this division, the application shall be 743
deemed approved by operation of law, and the board shall issue a 744
certificate to the applicant subject to the conditions contained 745
within the staff report issued under section 4906.07 of the 746
Revised Code. 747

Sec. 4909.04. (A) The public utilities commission, for the 748
purpose of ascertaining the reasonableness and justice of rates 749
and charges for the service rendered by public utilities or 750
railroads, or for any other purpose authorized by law, may 751
investigate and ascertain the value of the property of any 752
public utility or railroad in this state used or useful for the 753
service and convenience of the public, using the same criteria 754
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 755
the Revised Code. At the request of the legislative authority of 756
any municipal corporation, the commission, after hearing and 757
determining that such a valuation is necessary, may also 758
investigate and ascertain the value of the property of any 759
public utility used and useful for the service and convenience 760
of the public where the whole or major portion of such public 761
utility is situated in such municipal corporation. 762

(B) To assist the commission in preparing such a 763
valuation, every public utility or railroad shall: 764

(1) Furnish to the commission, or to its agents, as the 765
commission requires, maps, profiles, schedules of rates and 766
tariffs, contracts, reports of engineers, and other documents, 767
records, and papers, or copies of any of them, in aid of any 768
investigation and ascertainment of the value of its property; 769

(2) Grant to the commission or its agents free access to 770
all of its premises and property and its accounts, records, and 771
memoranda whenever and wherever requested by any such authorized 772
agent; 773

(3) Cooperate with and aid the commission and its agents 774
in the work of the valuation of its property in such further 775
particulars and to such extent as the commission requires and 776
directs. 777

(C) The commission may make all rules which seem necessary 778
to ascertain the value of the property and plant of each public 779
utility or railroad. 780

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 781
4909.05 of the Revised Code: 782

(A) A "lease purchase agreement" is an agreement pursuant 783
to which a public utility leasing property is required to make 784
rental payments for the term of the agreement and either the 785
utility is granted the right to purchase the property upon the 786
completion of the term of the agreement and upon the payment of 787
an additional fixed sum of money or title to the property vests 788
in the utility upon the making of the final rental payment. 789

(B) A "leaseback" is the sale or transfer of property by a 790
public utility to another person contemporaneously followed by 791
the leasing of the property to the public utility on a long-term 792
basis. 793

Sec. 4909.042. (A) With respect to an electric light 794
company that chooses to file a forecasted test period under 795
section 4909.18 of the Revised Code, the public utilities 796
commission shall prescribe the form and details of the valuation 797
report of the property of the utility. Such report shall include 798

all the kinds and classes of property, with the value of each, 799
owned, held, or projected to be owned or held during the test 800
period, by the utility for the service and convenience of the 801
public. 802

(B) Such report shall contain the following facts in 803
detail: 804

(1) The original cost of each parcel of land owned in fee 805
and projected to be owned in fee and in use during the test 806
period, determined by the commission; and also a statement of 807
the conditions of acquisition, whether by direct purchase, by 808
donation, by exercise of the power of eminent domain, or 809
otherwise; 810

(2) The actual acquisition cost, not including periodic 811
rental fees, of rights-of-way, trailways, or other land rights 812
projected to be held during the test period, by virtue of 813
easements, leases, or other forms of grants of rights as to 814
usage; 815

(3) The original cost of all other kinds and classes of 816
property projected to be used and useful during the test period, 817
in the rendition of service to the public. Such original costs 818
of property, other than land owned in fee, shall be the cost, as 819
determined to be reasonable by the commission, to the person 820
that first dedicated or dedicates the property to the public use 821
and shall be set forth in property accounts and subaccounts as 822
prescribed by the commission; 823

(4) The cost of property constituting all or part of a 824
project projected to be leased to or used by the utility during 825
the test period, under Chapter 165., 3706., 6121., or 6123. of 826
the Revised Code and not included under division (B) (3) of this 827

section exclusive of any interest directly or indirectly paid by 828
the utility with respect thereto whether or not capitalized; 829

(5) In the discretion of the commission, the cost to a 830
utility, in an amount determined to be reasonable by the 831
commission, of property constituting all or part of a project 832
projected to be leased to the utility during the test period, 833
under a lease purchase agreement or a leaseback and not included 834
under division (B) (3) of this section exclusive of any interest 835
directly or indirectly paid by the utility with respect thereto 836
whether or not capitalized; 837

(6) The proper and adequate reserve for depreciation, as 838
determined to be reasonable by the commission; 839

(7) Any sums of money or property that the utility is 840
projected to receive during the test period, as total or partial 841
defrayal of the cost of its property; 842

(8) The valuation of the property of the utility, which 843
shall be the sum of the amounts contained in the report pursuant 844
to divisions (B) (1) to (5) of this section, less the sum of the 845
amounts contained in the report pursuant to divisions (B) (6) and 846
(7) of this section. 847

(C) The report shall show separately the property 848
projected to be used and useful to or held by the utility during 849
the test period, and such other items as the commission 850
considers proper. The commission may require an additional 851
report showing the extent to which the property is projected to 852
be used and useful during the test period. Such reports shall be 853
filed in the office of the commission for the information of the 854
governor and the general assembly. 855

Sec. 4909.05. As used in this section: 856

~~(A) A "lease purchase agreement" is an agreement pursuant to which a public utility leasing property is required to make rental payments for the term of the agreement and either the utility is granted the right to purchase the property upon the completion of the term of the agreement and upon the payment of an additional fixed sum of money or title to the property vests in the utility upon the making of the final rental payment.~~

~~(B) A "leaseback" is the sale or transfer of property by a public utility to another person contemporaneously followed by the leasing of the property to the public utility on a long-term basis.~~

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

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

(1) The original cost of each parcel of land owned in fee and in use, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned in fee and

in use as of the date certain, determined by the commission; and 887
also a statement of the conditions of acquisition, whether by 888
direct purchase, by donation, by exercise of the power of 889
eminent domain, or otherwise; 890

(2) The actual acquisition cost, not including periodic 891
rental fees, of rights-of-way, trailways, or other land rights 892
held, or, with respect to a natural gas, water-works, or sewage 893
disposal system company, projected to be held as of the date 894
certain, by virtue of easements, leases, or other forms of 895
grants of rights as to usage; 896

(3) The original cost of all other kinds and classes of 897
property used and useful, or, with respect to a natural gas, 898
water-works, or sewage disposal system company, projected to be 899
used and useful as of the date certain, in the rendition of 900
service to the public. Subject to section 4909.052 of the 901
Revised Code, such original costs of property, other than land 902
owned in fee, shall be the cost, as determined to be reasonable 903
by the commission, to the person that first dedicated or 904
dedicates the property to the public use and shall be set forth 905
in property accounts and subaccounts as prescribed by the 906
commission. To the extent that the costs of property comprising 907
a coal research and development facility, as defined in section 908
1555.01 of the Revised Code, or a coal development project, as 909
defined in section 1551.30 of the Revised Code, have been 910
allowed for recovery as Ohio coal research and development costs 911
under section 4905.304 of the Revised Code, none of those costs 912
shall be included as a cost of property under this division. 913

(4) The cost of property constituting all or part of a 914
project leased to or used by the utility, or, with respect to a 915
natural gas, water-works, or sewage disposal system company, 916

projected to be leased to or used by the utility as of the date 917
certain, under Chapter 165., 3706., 6121., or 6123. of the 918
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 919
this section exclusive of any interest directly or indirectly 920
paid by the utility with respect thereto whether or not 921
capitalized; 922

(5) In the discretion of the commission, the cost to a 923
utility, in an amount determined to be reasonable by the 924
commission, of property constituting all or part of a project 925
leased to the utility, or, with respect to a natural gas, water- 926
works, or sewage disposal system company, projected to be leased 927
to the utility as of the date certain, under a lease purchase 928
agreement or a leaseback and not included under division ~~(C) (3)~~ 929
(B) (3) of this section exclusive of any interest directly or 930
indirectly paid by the utility with respect thereto whether or 931
not capitalized; 932

(6) The cost of the replacement of water service lines 933
incurred by a water-works company under section 4909.173 of the 934
Revised Code and the water service line replacement 935
reimbursement amounts provided to customers under section 936
4909.174 of the Revised Code; 937

(7) The proper and adequate reserve for depreciation, as 938
determined to be reasonable by the commission; 939

(8) Any sums of money or property that the company may 940
have received, or, with respect to a natural gas, water-works, 941
or sewage disposal system company, is projected to receive as of 942
the date certain, as total or partial defrayal of the cost of 943
its property; 944

(9) The valuation of the property of the company, which 945

shall be the sum of the amounts contained in the report pursuant 946
to divisions ~~(C) (1)~~ (B) (1) to (6) of this section, less the sum 947
of the amounts contained in the report pursuant to divisions ~~(C)~~
~~(7)~~ (B) (7) and (8) of this section. 948
949

(C) The report shall show separately the property used and 950
useful to such public utility or railroad in the furnishing of 951
the service to the public, the property held by such public 952
utility or railroad for other purposes, and the property 953
projected to be used and useful to or held by a natural gas, 954
water-works, or sewage disposal system company as of the date 955
certain, and such other items as the commission considers 956
proper. The commission may require an additional report showing 957
the extent to which the property is used and useful, or, with 958
respect to a natural gas, water-works, or sewage disposal system 959
company, projected to be used and useful as of the date certain. 960
Such reports shall be filed in the office of the commission for 961
the information of the governor and the general assembly. 962

Sec. 4909.052. Subject to a finding that such costs are 963
just and reasonable, the public utilities commission in 964
evaluating a petition submitted under section 4905.481 of the 965
Revised Code shall accept the original cost, reported under 966
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 967
of the acquisition of a municipal water-works or sewage disposal 968
system company that is acquired by a large water-works or sewage 969
disposal system company, provided that the original cost is 970
determined according to all of the following requirements: 971

(A) The acquiring company has three appraisals performed 972
on the property of the company being acquired. 973

(B) The three appraisals are performed by three 974
independent utility-valuation experts mutually selected by the 975

acquiring company and the company being acquired from the list	976
maintained under section 4909.054 of the Revised Code.	977
(C) The average of the three appraisals is used as the	978
fair market value of the company being acquired.	979
(D) Each utility-valuation expert does all of the	980
following:	981
(1) Determines the fair market value of the company to be	982
acquired by establishing the amount for which the company would	983
be sold in a voluntary transaction between a willing buyer and a	984
willing seller under no obligation to buy or sell;	985
(2) Determines the fair market value in compliance with	986
the uniform standards of professional appraisal practice;	987
(3) Employs the cost, market, and income approach to	988
independently quantify the future benefits of the company to be	989
acquired;	990
(4) Incorporates the assessment described in division (D)	991
(5) of this section into the appraisal under the cost, market,	992
and income approach;	993
(5) Engages one engineer who is licensed to prepare an	994
assessment of the tangible assets of the company to be acquired.	995
The original source of funding for any part of the tangible	996
assets shall not be relevant to the determination of the value	997
of those assets.	998
(E) The lesser of the purchase price or the fair market	999
value, described in division (C) of this section, is reported as	1000
the original cost under division (C) (3) <u>(B) (3)</u> of section	1001
4909.05 of the Revised Code of the company to be acquired.	1002
Sec. 4909.06. The investigation and report required by	1003

~~section~~ section 4909.042 or 4909.05 of the Revised Code shall 1004
show, when the public utilities commission deems it necessary, 1005
the amounts, dates, and rates of interest of all bonds 1006
outstanding against each public utility or railroad, the 1007
property upon which such bonds are a lien, the amounts paid for 1008
them, and, the original capital stock and the moneys received by 1009
any such public utility or railroad by reason of any issue of 1010
stock, bonds, or other securities. Such report shall also show 1011
the net and gross receipts of such public utility or railroad 1012
and the method by which moneys were expended or paid out and the 1013
purpose of such payments. The commission may prescribe the 1014
procedure to be followed in making the investigation and 1015
valuation, the form in which the results of the ascertainment of 1016
the value of each public utility or railroad shall be submitted, 1017
and the classifications of the elements that constitute the 1018
ascertained value. Such investigation shall also show the value 1019
of the property of every public utility or railroad as a whole, 1020
and if such property is in more than one county, the value of 1021
its property in each of such counties. 1022

"Valuation" and "value," as used in this section, may 1023
include, ~~with~~ : 1024

(A) With respect to a public utility that is a natural 1025
gas, water-works, or sewage disposal system company, projected 1026
valuation and value as of the date certain, if applicable 1027
because of a future date certain under section 4909.15 of the 1028
Revised Code; 1029

(B) With respect to an electric light company that chooses 1030
to file a forecasted test period under section 4909.18 of the 1031
Revised Code, the valuation and value during the forecasted test 1032
period. 1033

Sec. 4909.07. The public utilities commission, during the 1034
making of the valuation provided for in sections 4909.04 to 1035
4909.13 of the Revised Code, and after its completion, shall in 1036
like manner keep itself informed through its engineers, experts, 1037
and other assistants of all extensions, improvements, or other 1038
changes in the condition and value of the property of all public 1039
utilities or railroads and shall ascertain the value of such 1040
extensions, improvements, and changes. The commission shall, as 1041
is required for the proper regulation of such public utilities 1042
or railroads, revise and correct its valuations of property, 1043
showing such revisions and corrections as a whole and as to each 1044
county. Such revisions and corrections shall be filed in the 1045
same manner as original reports. 1046

"Valuation" and "value," as used in this section, may 1047
include, ~~with~~ : 1048

(A) With respect to a public utility that is a natural 1049
gas, water-works, or sewage disposal system company, projected 1050
valuation and value as of the date certain, if applicable 1051
because of a future date certain under section 4909.15 of the 1052
Revised Code; 1053

(B) With respect to an electric light company that chooses 1054
to file a forecasted test period under section 4909.18 of the 1055
Revised Code, the valuation and value during the forecasted test 1056
period. 1057

Sec. 4909.08. When the public utilities commission has 1058
completed the valuation of the property of any public utility or 1059
railroad and before such valuation becomes final, it shall give 1060
notice by registered letter to such public utility or railroad, 1061
and if a substantial portion of said public utility or railroad 1062
is situated in a municipal corporation, then to the mayor of 1063

such municipal corporation, stating the valuations placed upon 1064
the several kinds and classes of property of such public utility 1065
or railroad and upon the property as a whole and give such 1066
further notice by publication or otherwise as it shall deem 1067
necessary to apprise the public of such valuation. If, within 1068
thirty days after such notification, no protest has been filed 1069
with the commission, such valuation becomes final. If notice of 1070
protest has been filed by any public utility or railroad, the 1071
commission shall fix a time for hearing such protest and shall 1072
consider at such hearing any matter material thereto presented 1073
by such public utility, railroad, or municipal corporation, in 1074
support of its protest or by any representative of the public 1075
against such protest. If, after the hearing of any protest of 1076
any valuation so fixed, the commission is of the opinion that 1077
its inventory is incomplete or inaccurate or that its valuation 1078
is incorrect, it shall make such changes as are necessary and 1079
shall issue an order making such corrected valuations final. A 1080
final valuation by the commission and all classifications made 1081
for the ascertainment of such valuations shall be public and are 1082
prima-facie evidence relative to the value of the property. 1083

"Valuation" and "value," as used in this section, may 1084
include, ~~with~~ : 1085

(A) With respect to a public utility that is a natural 1086
gas, water-works, or sewage disposal system company, projected 1087
valuation and value as of the date certain, if applicable 1088
because of a future date certain under section 4909.15 of the 1089
Revised Code; 1090

(B) With respect to an electric light company that chooses 1091
to file a forecasted test period under section 4909.18 of the 1092
Revised Code, the valuation and value during the forecasted test 1093

period. 1094

Sec. 4909.15. (A) The public utilities commission, when 1095
fixing and determining just and reasonable rates, fares, tolls, 1096
rentals, and charges, shall determine: 1097

~~(1) The~~ (1) (a) With respect to a public utility that is a 1098
natural gas, water-works, or sewage disposal system company, or 1099
that is an electric light company that chooses not to file a 1100
forecasted test period under section 4909.18 of the Revised 1101
Code, the valuation as of the date certain of the property of 1102
the public utility that is used and useful or, with respect to a 1103
natural gas, water-works, or sewage disposal system company, is 1104
projected to be used and useful as of the date certain, in 1105
rendering the public utility service for which rates are to be 1106
fixed and determined.~~The~~ 1107

(b) With respect to an electric light company that chooses 1108
to file a forecasted test period under section 4909.18 of the 1109
Revised Code, the valuation of the property of the utility that 1110
is projected to be used and useful during the forecasted test 1111
period in rendering the public utility service for which rates 1112
are to be fixed and determined. 1113

(c) The valuation so determined under division (A) (1) of 1114
this section for any public utility shall be the total value as 1115
set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the 1116
Revised Code and division (B) (9) of section 4909.05 of the 1117
Revised Code, and a reasonable allowance for materials and 1118
supplies and a reasonable allowance for cash working capital as 1119
determined by the commission. 1120

~~The commission, in its discretion, may include in the~~ 1121
~~valuation a reasonable allowance for construction work in~~ 1122

~~progress but, in no event, may such an allowance be made by the~~ 1123
~~commission until it has determined that the particular~~ 1124
~~construction project is at least seventy-five per cent complete.~~ 1125

~~In determining the percentage completion of a particular~~ 1126
~~construction project, the commission shall consider, among other~~ 1127
~~relevant criteria, the per cent of time elapsed in construction,~~ 1128
~~the per cent of construction funds, excluding allowance for~~ 1129
~~funds used during construction, expended, or obligated to such~~ 1130
~~construction funds budgeted where all such funds are adjusted to~~ 1131
~~reflect current purchasing power; and any physical inspection~~ 1132
~~performed by or on behalf of any party, including the~~ 1133
~~commission's staff.~~ 1134

~~A reasonable allowance for construction work in progress~~ 1135
~~shall not exceed ten per cent of the total valuation as stated~~ 1136
~~in this division, not including such allowance for construction~~ 1137
~~work in progress.~~ 1138

~~Where the commission permits an allowance for construction~~ 1139
~~work in progress, the dollar value of the project or portion~~ 1140
~~thereof included in the valuation as construction work in~~ 1141
~~progress shall not be included in the valuation as plant in~~ 1142
~~service until such time as the total revenue effect of the~~ 1143
~~construction work in progress allowance is offset by the total~~ 1144
~~revenue effect of the plant in service exclusion. Carrying~~ 1145
~~charges calculated in a manner similar to allowance for funds~~ 1146
~~used during construction shall accrue on that portion of the~~ 1147
~~project in service but not reflected in rates as plant in~~ 1148
~~service, and such accrued carrying charges shall be included in~~ 1149
~~the valuation of the property at the conclusion of the offset~~ 1150
~~period for purposes of division (C) (9) of section 4909.05 of the~~ 1151
~~Revised Code.~~ 1152

~~From and after April 10, 1985, no allowance for~~ 1153
~~construction work in progress as it relates to a particular~~ 1154
~~construction project shall be reflected in rates for a period~~ 1155
~~exceeding forty-eight consecutive months commencing on the date~~ 1156
~~the initial rates reflecting such allowance become effective,~~ 1157
~~except as otherwise provided in this division.~~ 1158

~~The applicable maximum period in rates for an allowance~~ 1159
~~for construction work in progress as it relates to a particular~~ 1160
~~construction project shall be tolled if, and to the extent, a~~ 1161
~~delay in the in-service date of the project is caused by the~~ 1162
~~action or inaction of any federal, state, county, or municipal~~ 1163
~~agency having jurisdiction, where such action or inaction~~ 1164
~~relates to a change in a rule, standard, or approval of such~~ 1165
~~agency, and where such action or inaction is not the result of~~ 1166
~~the failure of the utility to reasonably endeavor to comply with~~ 1167
~~any rule, standard, or approval prior to such change.~~ 1168

~~In the event that such period expires before the project~~ 1169
~~goes into service, the commission shall exclude, from the date~~ 1170
~~of expiration, the allowance for the project as construction~~ 1171
~~work in progress from rates, except that the commission may~~ 1172
~~extend the expiration date up to twelve months for good cause~~ 1173
~~shown.~~ 1174

~~In the event that a utility has permanently canceled,~~ 1175
~~abandoned, or terminated construction of a project for which it~~ 1176
~~was previously permitted a construction work in progress~~ 1177
~~allowance, the commission immediately shall exclude the~~ 1178
~~allowance for the project from the valuation.~~ 1179

~~In the event that a construction work in progress project~~ 1180
~~previously included in the valuation is removed from the~~ 1181
~~valuation pursuant to this division, any revenues collected by~~ 1182

~~the utility from its customers after April 10, 1985, that~~ 1183
~~resulted from such prior inclusion shall be offset against~~ 1184
~~future revenues over the same period of time as the project was~~ 1185
~~included in the valuation as construction work in progress. The~~ 1186
~~total revenue effect of such offset shall not exceed the total~~ 1187
~~revenues previously collected.~~ 1188

~~In no event shall the total revenue effect of any offset~~ 1189
~~or offsets provided under division (A) (1) of this section exceed~~ 1190
~~the total revenue effect of any construction work in progress~~ 1191
~~allowance.~~ 1192

(2) A fair and reasonable rate of return to the utility on 1193
the valuation as determined in division (A) (1) of this section; 1194

(3) The dollar annual return to which the utility is 1195
entitled by applying the fair and reasonable rate of return as 1196
determined under division (A) (2) of this section to the 1197
valuation of the utility determined under division (A) (1) of 1198
this section; 1199

(4) The cost to the utility of rendering the public 1200
utility service for the test period used for the determination 1201
under division (C) (1) of this section, less the total of any 1202
interest on cash or credit refunds paid, pursuant to section 1203
4909.42 of the Revised Code, by the utility during the test 1204
period. 1205

~~(a)~~ Federal, state, and local taxes imposed on or measured 1206
by net income may, in the discretion of the commission, be 1207
computed by the normalization method of accounting, provided the 1208
utility maintains accounting reserves that reflect differences 1209
between taxes actually payable and taxes on a normalized basis, 1210
provided that no determination as to the treatment in the rate- 1211

making process of such taxes shall be made that will result in 1212
loss of any tax depreciation or other tax benefit to which the 1213
utility would otherwise be entitled, and further provided that 1214
such tax benefit as redounds to the utility as a result of such 1215
a computation may not be retained by the company, used to fund 1216
any dividend or distribution, or utilized for any purpose other 1217
than the defrayal of the operating expenses of the utility and 1218
the defrayal of the expenses of the utility in connection with 1219
construction work. 1220

~~(b) The amount of any tax credits granted to an electric 1221
light company under section 5727.391 of the Revised Code for 1222
Ohio coal burned prior to January 1, 2000, shall not be retained 1223
by the company, used to fund any dividend or distribution, or 1224
utilized for any purposes other than the defrayal of the 1225
allowable operating expenses of the company and the defrayal of 1226
the allowable expenses of the company in connection with the 1227
installation, acquisition, construction, or use of a compliance 1228
facility. The amount of the tax credits granted to an electric 1229
light company under that section for Ohio coal burned prior to 1230
January 1, 2000, shall be returned to its customers within three 1231
years after initially claiming the credit through an offset to 1232
the company's rates or fuel component, as determined by the 1233
commission, as set forth in schedules filed by the company under 1234
section 4905.30 of the Revised Code. As used in division (A) (4) 1235
(b) of this section, "compliance facility" has the same meaning 1236
as in section 5727.391 of the Revised Code. 1237~~

(B) The commission shall compute the gross annual revenues 1238
to which the utility is entitled by adding the dollar amount of 1239
return under division (A) (3) of this section to the cost, for 1240
the test period used for the determination under division (C) (1) 1241
of this section, of rendering the public utility service under 1242

division (A) (4) of this section. 1243

(C) (1) Except as provided in division (D) of this section, 1244
the revenues and expenses of the utility shall be determined 1245
during a test period. ~~The utility may~~ as follows: 1246

(a) Electric light companies may propose a forecasted test 1247
period. The company may propose changes to base rates for up to 1248
three consecutive twelve-month periods in a single forecasted 1249
test period application. During the first twelve-month period, 1250
the company may propose a reasonably forecasted rate base during 1251
a thirteen-month average, revenues, and expenses for the first 1252
twelve months that new base rates will be in effect. 1253

During the second twelve-month period, the base rate 1254
revenue requirement may be adjusted for the return of, and 1255
return on, incremental rate base additions approved by the 1256
commission in the initial application. During the third twelve- 1257
month period, the base rate revenue requirement may be adjusted 1258
for the return of and return on incremental rate base additions 1259
approved by the commission in the initial application. 1260

After each twelve-month period, the rate base shall be 1261
trueed up using the lower of forecasted plant investment or 1262
actual plant investment via a reconciliation adjustment 1263
mechanism approved by the commission. As part of the true-up 1264
process, the commission shall exclude any rate base components 1265
that have not been found by the commission to be used and useful 1266
in rendering public utility service. 1267

— 1268

(b) All utilities, except for electric light companies 1269
that choose to file under division (C) (1) (a) of this section, 1270
shall propose a test period ~~for this determination~~ that is any 1271

twelve-month period beginning not more than six months prior to 1272
the date the application is filed and ending not more than nine 1273
months subsequent to that date. ~~The test period for determining~~ 1274
~~revenues and expenses of the utility shall be the test period~~ 1275
~~proposed by the utility, unless otherwise ordered by the~~ 1276
~~commission.~~ 1277

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1278
this section, the date certain shall be not later than the date 1279
of filing, except that it shall be, for a natural gas, water- 1280
works, or sewage disposal system company, not later than the end 1281
of the test period. 1282

(D) ~~A natural gas, water-works, or sewage disposal system~~ 1283
~~company~~ Utilities filing under division (C) (1) (b) of this 1284
section may propose adjustments to the revenues and expenses ~~to~~ 1285
~~be determined under division (C) (1) of this section~~ for any 1286
changes that are, during the test period or the twelve-month 1287
period immediately following the test period, reasonably 1288
expected to occur. ~~The natural gas, water-works, or sewage~~ 1289
~~disposal system company utility~~ shall identify and quantify, 1290
individually, any proposed adjustments. The commission shall 1291
incorporate the proposed adjustments into the determination if 1292
the adjustments are just and reasonable. 1293

(E) When the commission is of the opinion, after hearing 1294
and after making the determinations under divisions (A) and (B) 1295
of this section, that any rate, fare, charge, toll, rental, 1296
schedule, classification, or service, or any joint rate, fare, 1297
charge, toll, rental, schedule, classification, or service 1298
rendered, charged, demanded, exacted, or proposed to be 1299
rendered, charged, demanded, or exacted, is, or will be, unjust, 1300
unreasonable, unjustly discriminatory, unjustly preferential, or 1301

in violation of law, that the service is, or will be, 1302
inadequate, or that the maximum rates, charges, tolls, or 1303
rentals chargeable by any such public utility are insufficient 1304
to yield reasonable compensation for the service rendered, and 1305
are unjust and unreasonable, the commission shall: 1306

(1) With due regard among other things to the value of all 1307
property of the public utility ~~actually used and useful for the~~ 1308
~~convenience of the public~~ as determined under division (A) (1) of 1309
this section, excluding from such value the value of any 1310
franchise or right to own, operate, or enjoy the same in excess 1311
of the amount, exclusive of any tax or annual charge, actually 1312
paid to any political subdivision of the state or county, as the 1313
consideration for the grant of such franchise or right, and 1314
excluding any value added to such property by reason of a 1315
monopoly or merger, with due regard in determining the dollar 1316
annual return under division (A) (3) of this section to the 1317
necessity of making reservation out of the income for surplus, 1318
depreciation, and contingencies, and; 1319

(2) With due regard to all such other matters as are 1320
proper, according to the facts in each case, 1321

(a) Including a fair and reasonable rate of return 1322
determined by the commission with reference to a cost of debt 1323
equal to the actual embedded cost of debt of such public 1324
utility, 1325

(b) But not including the portion of any periodic rental 1326
or use payments representing that cost of property that is 1327
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1328
and (5) of section 4909.042 of the Revised Code and divisions 1329
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1330
determine the just and reasonable rate, fare, charge, toll, 1331

rental, or service to be rendered, charged, demanded, exacted, 1332
or collected for the performance or rendition of the service 1333
that will provide the public utility the allowable gross annual 1334
revenues under division (B) of this section, and order such just 1335
and reasonable rate, fare, charge, toll, rental, or service to 1336
be substituted for the existing one. After such determination 1337
and order no change in the rate, fare, toll, charge, rental, 1338
schedule, classification, or service shall be made, rendered, 1339
charged, demanded, exacted, or changed by such public utility 1340
without the order of the commission, and any other rate, fare, 1341
toll, charge, rental, classification, or service is prohibited. 1342

(F) Upon application of any person or any public utility, 1343
and after notice to the parties in interest and opportunity to 1344
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1345
4909., 4921., and 4923. of the Revised Code for other hearings, 1346
has been given, the commission may rescind, alter, or amend an 1347
order fixing any rate, fare, toll, charge, rental, 1348
classification, or service, or any other order made by the 1349
commission. Certified copies of such orders shall be served and 1350
take effect as provided for original orders. 1351

Sec. 4909.156. In fixing the just, reasonable, and 1352
compensatory rates, joint rates, tolls, classifications, 1353
charges, or rentals to be observed and charged for service by 1354
any public utility, the public utilities commission shall, in 1355
action upon an application filed pursuant to section 4909.18 of 1356
the Revised Code, require a public utility to file a report 1357
showing the proportionate amounts of the valuation of the 1358
property of the utility, as determined under section 4909.042 or 1359
4909.05 of the Revised Code, and the proportionate amounts of 1360
the revenues and expenses of the utility that are proposed to be 1361
considered as attributable to the service area involved in the 1362

application. 1363

"Valuation," as used in this section, may include, ~~with~~: 1364

(A) With respect to a public utility that is a natural 1365
gas, water-works, or sewage disposal system company, projected 1366
valuation as of the date certain, if applicable because of a 1367
future date certain under section 4909.15 of the Revised Code; 1368

(B) With respect to an electric light company that chooses 1369
to file a forecasted test period under section 4909.18 of the 1370
Revised Code, the valuation and value during the forecasted test 1371
period. 1372

Sec. 4909.173. (A) As used in this section and section 1373
4909.174 of the Revised Code: 1374

(1) "Customer-owned water service line" means the water 1375
service line connected to the water-works company's water 1376
service line at the curb of a customer's property. 1377

(2) "Water-works company" means an entity defined under 1378
division (G) of section 4905.03 of the Revised Code that is a 1379
public utility under section 4905.02 of the Revised Code. 1380

(B) A water-works company may do any of the following: 1381

(1) Replace lead customer-owned water service lines 1382
concurrently with a scheduled utility main replacement project, 1383
an emergency replacement, or company-initiated lead water 1384
service line replacement program; 1385

(2) Replace lead customer-owned water service lines when 1386
mandated or ordered to replace such lines by law or a state or 1387
federal regulatory agency; 1388

(3) Replace customer-owned water service lines of other 1389

composition when mandated or ordered to replace such lines by 1390
law or a state or federal regulatory agency. 1391

(C) If a water-works company replaces customer-owned water 1392
service lines under this section, then the company shall include 1393
the cost of the replacement of the water service lines, 1394
including the cost of replacement of both company side and 1395
customer-owned water service lines and the cost to evaluate 1396
customer-owned water service lines of unknown composition, in 1397
the valuation report of the property of the company as required 1398
under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the Revised 1399
Code for inclusion in a rate case under this chapter. 1400

(D) The water service customer who is responsible for the 1401
customer-owned water service line that was replaced under this 1402
section shall hold legal title to the replaced water service 1403
line. 1404

Sec. 4909.174. (A) A water-works company shall reimburse a 1405
customer who replaces the customer's customer-owned water 1406
service line, if both of the following occur: 1407

(1) The company confirms that the customer-owned water 1408
service line was composed of lead or other composition that was 1409
mandated or ordered to be replaced by law or a state or federal 1410
regulatory agency; 1411

(2) The customer submits the reimbursement request to the 1412
company not later than twelve months after the completion of the 1413
water line replacement. 1414

(B) A water-works company that provides a reimbursement to 1415
a customer under this section shall include the reimbursement 1416
amount in the valuation report of the property of the company as 1417
required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1418

Revised Code for inclusion in a rate case under this chapter. 1419

Sec. 4909.18. Any public utility desiring to establish any 1420
rate, joint rate, toll, classification, charge, or rental, or to 1421
modify, amend, change, increase, or reduce any existing rate, 1422
joint rate, toll, classification, charge, or rental, or any 1423
regulation or practice affecting the same, shall file a written 1424
application with the public utilities commission. Except for 1425
actions under section 4909.16 of the Revised Code, no public 1426
utility may issue the notice of intent to file an application 1427
pursuant to division (B) of section 4909.43 of the Revised Code 1428
to increase any existing rate, joint rate, toll, classification, 1429
charge, or rental, until a final order under this section has 1430
been issued by the commission on any pending prior application 1431
to increase the same rate, joint rate, toll, classification, 1432
charge, or rental or until two hundred seventy-five days after 1433
filing such application, whichever is sooner. Such application 1434
shall be verified by the president or a vice-president and the 1435
secretary or treasurer of the applicant. Such application shall 1436
contain a schedule of the existing rate, joint rate, toll, 1437
classification, charge, or rental, or regulation or practice 1438
affecting the same, a schedule of the modification amendment, 1439
change, increase, or reduction sought to be established, and a 1440
statement of the facts and grounds upon which such application 1441
is based. If such application proposes a new service or the use 1442
of new equipment, or proposes the establishment or amendment of 1443
a regulation, the application shall fully describe the new 1444
service or equipment, or the regulation proposed to be 1445
established or amended, and shall explain how the proposed 1446
service or equipment differs from services or equipment 1447
presently offered or in use, or how the regulation proposed to 1448
be established or amended differs from regulations presently in 1449

effect. The application shall provide such additional 1450
information as the commission may require in its discretion. If 1451
the commission determines that such application is not for an 1452
increase in any rate, joint rate, toll, classification, charge, 1453
or rental, the commission may permit the filing of the schedule 1454
proposed in the application and fix the time when such schedule 1455
shall take effect. If it appears to the commission that the 1456
proposals in the application may be unjust or unreasonable, the 1457
commission shall set the matter for hearing and shall give 1458
notice of such hearing by sending written notice of the date set 1459
for the hearing to the public utility and publishing notice of 1460
the hearing one time in a newspaper of general circulation in 1461
each county in the service area affected by the application. At 1462
such hearing, the burden of proof to show that the proposals in 1463
the application are just and reasonable shall be upon the public 1464
utility. After such hearing, the commission shall, where 1465
practicable, issue an appropriate order within six months from 1466
the date the application was filed. 1467

If the commission determines that said application is for 1468
an increase in any rate, joint rate, toll, classification, 1469
charge, or rental there shall also, unless otherwise ordered by 1470
the commission, be filed with the application in duplicate the 1471
following exhibits: 1472

(A) A report of its property used and useful, or, with 1473
respect to a natural gas, water-works, or sewage disposal system 1474
company, projected to be used and useful, as of the date 1475
certain, or during the forecasted test period, if the 1476
application is filed under division (C)(1)(a) of section 4909.15 1477
of the Revised Code, in rendering the service referred to in 1478
such application, as provided in ~~section~~ sections 4909.042 and 1479
4909.05 of the Revised Code; 1480

(B) A complete operating statement of its last fiscal 1481
year, showing in detail all its receipts, revenues, and incomes 1482
from all sources, all of its operating costs and other 1483
expenditures, and any analysis such public utility deems 1484
applicable to the matter referred to in said application; 1485

(C) A statement of the income and expense anticipated 1486
under the application filed; 1487

(D) A statement of financial condition summarizing assets, 1488
liabilities, and net worth; 1489

(E) Such other information as the commission may require 1490
in its discretion. 1491

Sec. 4909.181. (A) As used in this section, "electric 1492
distribution utility" has the same meaning as in section 4928.01 1493
of the Revised Code. 1494

(B) Not later than December 31, 2029, and at least every 1495
three years thereafter, each electric distribution utility shall 1496
file a rate case application regarding distribution service 1497
under section 4909.18 of the Revised Code. 1498

Sec. 4909.19. (A) Upon the filing of any application for 1499
increase provided for by section 4909.18 of the Revised Code the 1500
public utility shall forthwith publish notice of such 1501
application, in a form approved by the public utilities 1502
commission, once a week for two consecutive weeks in a newspaper 1503
published and in general circulation throughout the territory in 1504
which such public utility operates and directly affected by the 1505
matters referred to in said application. The notice shall 1506
include instructions for direct electronic access to the 1507
application or other documents on file with the public utilities 1508
commission. The first publication of the notice shall be made in 1509

its entirety and may be made in a preprinted insert in the 1510
newspaper. The second publication may be abbreviated if all of 1511
the following apply: 1512

(1) The abbreviated notice is at least one-fourth of the 1513
size of the notice in the first publication. 1514

(2) At the same time the abbreviated notice is published, 1515
the notice in the first publication is posted in its entirety on 1516
the newspaper's web site, if the newspaper has a web site, and 1517
the commission's web site. 1518

(3) The abbreviated notice contains a statement of the web 1519
site posting or postings, as applicable, and instructions for 1520
accessing the posting or postings. 1521

(B) The commission shall determine a format for the 1522
content of all notices required under this section, and shall 1523
consider costs and technological efficiencies in making that 1524
determination. Defects in the publication of said notice shall 1525
not affect the legality or sufficiency of notices published 1526
under this section provided that the commission has 1527
substantially complied with this section, as described in 1528
section 4905.09 of the Revised Code. 1529

(C) The commission shall at once cause an investigation to 1530
be made of the facts set forth in said application and the 1531
exhibits attached thereto, and of the matters connected 1532
therewith. Within ~~a reasonable time as determined by the~~ 1533
~~commission~~ one hundred eighty days after the ~~filing of such~~ 1534
application is determined to be complete, a written report shall 1535
be made and filed with the commission, a copy of which shall be 1536
sent by certified mail to the applicant, the mayor of any 1537
municipal corporation affected by the application, and to such 1538

other persons as the commission deems interested. If no 1539
objection to such report is made by any party interested within 1540
thirty days after such filing and the mailing of copies thereof, 1541
the commission shall fix a date within ten days for the final 1542
hearing upon said application, giving notice thereof to all 1543
parties interested. At such hearing the commission shall 1544
consider the matters set forth in said application and make such 1545
order respecting the prayer thereof as to it seems just and 1546
reasonable. 1547

If objections are filed with the commission, the 1548
commission shall cause a pre-hearing conference to be held 1549
between all parties, intervenors, and the commission staff in 1550
all cases involving more than one hundred thousand customers. 1551

If objections are filed with the commission within thirty 1552
days after the filing of such report, the application shall be 1553
promptly set down for hearing of testimony before the commission 1554
or be forthwith referred to an attorney examiner designated by 1555
the commission to take all the testimony with respect to the 1556
application and objections which may be offered by any 1557
interested party. The commission shall also fix the time and 1558
place to take testimony giving ten days' written notice of such 1559
time and place to all parties. The taking of testimony shall 1560
commence on the date fixed in said notice and shall continue 1561
from day to day until completed. The attorney examiner may, upon 1562
good cause shown, grant continuances for not more than three 1563
days, excluding Saturdays, Sundays, and holidays. The commission 1564
may grant continuances for a longer period than three days upon 1565
its order for good cause shown. At any hearing involving rates 1566
or charges sought to be increased, the burden of proof to show 1567
that the increased rates or charges are just and reasonable 1568
shall be on the public utility. 1569

When the taking of testimony is completed, a full and
complete record of such testimony noting all objections made and
exceptions taken by any party or counsel, shall be made, signed
by the attorney examiner, and filed with the commission. Prior
to the formal consideration of the application by the commission
and the rendition of any order respecting the prayer of the
application, a quorum of the commission shall consider the
recommended opinion and order of the attorney examiner, in an
open, formal, public proceeding in which an overview and
explanation is presented orally. Thereafter, the commission
shall make such order respecting the prayer of such application
as seems just and reasonable to it.

In all proceedings before the commission in which the
taking of testimony is required, except when heard by the
commission, attorney examiners shall be assigned by the
commission to take such testimony and fix the time and place
therefor, and such testimony shall be taken in the manner
prescribed in this section. All testimony shall be under oath or
affirmation and taken down and transcribed by a reporter and
made a part of the record in the case. The commission may hear
the testimony or any part thereof in any case without having the
same referred to an attorney examiner and may take additional
testimony. Testimony shall be taken and a record made in
accordance with such general rules as the commission prescribes
and subject to such special instructions in any proceedings as
it, by order, directs.

Sec. 4909.191. (A) If the public utilities commission,
under division (D) of section 4909.15 of the Revised Code,
incorporated proposed adjustments to revenues and expenses into
the commission's determination under that section, the ~~natural-~~
~~gas, water works, or sewage disposal system company public~~

utility shall, not later than ninety days after actual data for 1601
all of the incorporated adjustments becomes known, submit to the 1602
commission proposed rate or charge adjustments that provide for 1603
the recalculation of rates or charges, reflective of customer- 1604
class responsibility, corresponding to the differences, if any, 1605
between the incorporated adjustments to revenues and expenses 1606
and the actual revenues and expenses associated with the 1607
incorporated adjustments. 1608

(B) If the commission incorporated projected value or 1609
valuation of property into the commission's determination under 1610
division ~~(A)(1)~~ (A) (1) (a) of section 4909.15 of the Revised Code, 1611
the natural gas, water-works, or sewage disposal system company 1612
shall, not later than ninety days after data for the actual 1613
value or valuation as of the date certain becomes known, submit 1614
to the commission proposed rate or charge adjustments that 1615
provide for the recalculation of rates or charges, reflective of 1616
customer-class responsibility, corresponding to the differences, 1617
if any, between the projected value or valuation incorporated 1618
into the commission's determination and the actual value or 1619
valuation as of the date certain. 1620

(C) The commission shall review the proposed rate or 1621
charge adjustments submitted under divisions (A) and (B) of this 1622
section. The review shall not include a hearing unless the 1623
commission finds that the proposed rate or charge adjustments 1624
may be unreasonable, in which case the commission may, in its 1625
discretion, schedule the matter for a hearing. 1626

(D) The commission shall issue, not later than one hundred 1627
fifty days after the date that any proposed rate or charge 1628
adjustments are submitted under division (A) or (B) of this 1629
section, a final order on the proposed rate or charge 1630

adjustments. Any rate or charge adjustments authorized under 1631
this division shall be limited to amounts that are not greater 1632
than those consistent with the proposed adjustments to revenues 1633
and expenses that were incorporated into the commission's 1634
determination under division (D) of section 4909.15 of the 1635
Revised Code, and not greater than those consistent with the 1636
incorporated projected value or valuation. In no event shall 1637
rate or charge adjustments authorized under this division be 1638
upward. 1639

After the commission has issued such a final order, the 1640
~~natural gas, water works, or sewage disposal system~~ 1641
~~company,~~ public utility, if applicable, shall submit to the 1642
commission proposed reconciliation adjustments that refund to 1643
customers the difference between the actual revenues collected 1644
by the ~~natural gas, water works, or sewage disposal system~~ 1645
~~company,~~ utility under the rates and charges determined by the 1646
commission under section 4909.15 of the Revised Code, and the 1647
rates or charges recalculated under the adjustments authorized 1648
under this division. The reconciliation adjustments shall be 1649
effective for a twelve-month period. 1650

(E) The reconciliation adjustments ordered under division 1651
(D) of this section may be subject to a final reconciliation by 1652
the commission. Any such final reconciliation shall occur after 1653
the twelve-month period described in division (D) of this 1654
section. 1655

Sec. 4909.192. When considering an application to increase 1656
rates under section 4909.18 of the Revised Code, or an 1657
application for a mini rate case under section 4909.47 of the 1658
Revised Code, the public utilities commission may approve the 1659
following: 1660

(A) Nondiscriminatory programs available for all energy- 1661
intensive customers to implement economic development, job 1662
growth, job retention, or interruptible rates that enhance 1663
distribution and transmission grid reliability and promote 1664
economic development. 1665

(B) Nondiscriminatory programs available for all 1666
mercantile customers, as defined in section 4928.01 of the 1667
Revised Code, that align retail rate recovery with how 1668
transmission costs are incurred by or charged to the electric 1669
distribution utility, as defined in section 4928.01 of the 1670
Revised Code, or programs that allow customers to be billed 1671
directly for transmission service by a competitive retail 1672
electric service provider. 1673

Sec. 4909.193. The public utilities commission shall 1674
determine whether an application filed under section 4909.18 of 1675
the Revised Code is complete not more than forty-five days after 1676
the application is filed. If the commission does not issue a 1677
determination within the time period required by this section, 1678
the application shall be deemed complete by operation of law. 1679

Sec. 4909.42. ~~If the proceeding on an application filed~~ 1680
~~with the~~ The public utilities commission under section 4909.18 1681
~~of the Revised Code shall issue an order to approve, deny, or~~ 1682
modify an application filed under section 4909.18 of the Revised 1683
Code by any public utility requesting an increase on any rate, 1684
~~joint rate, toll, classification, charge, or rental or~~ 1685
~~requesting a change in a regulation or practice affecting the~~ 1686
~~same has not been concluded and an order entered pursuant to~~ 1687
~~section 4909.19 of the Revised Code at the expiration of not~~ 1688
later than two hundred seventy-five days from the date of filing 1689
~~the application, an increase not to exceed the proposed increase~~ 1690

~~shall go into effect upon the filing of a bond or a letter of~~ 1691
~~credit by the public utility~~ is determined complete. The bond or 1692
~~letter of credit shall be filed with the commission and shall be~~ 1693
~~payable to the state for the use and benefit of the customers~~ 1694
~~affected by the proposed increase or change~~ If the commission 1695
~~does not issue an order within the time period required by this~~ 1696
~~section, the application shall be deemed approved by operation~~ 1697
~~of law. Prior to issuing an order to approve, deny, or modify an~~ 1698
~~application as described in this section, the commission may~~ 1699
~~request an increase, which shall remain in effect until modified~~ 1700
~~by commission order based on the merit of the application. Rates~~ 1701
~~modified by the commission apply retroactively. A temporary~~ 1702
~~increase under this section shall not exceed the midpoint of the~~ 1703
~~rates recommended in the staff report filed pursuant to section~~ 1704
~~4909.19 of the Revised Code and are subject to refund.~~ 1705

~~An affidavit attached to the bond or letter of credit must~~ 1706
~~be signed by two of the officers of the utility, under oath, and~~ 1707
~~must contain a promise on behalf of the utility to refund any~~ 1708
~~amounts collected by the utility over the rate, joint rate,~~ 1709
~~toll, classification, charge, or rental, as determined in the~~ 1710
~~final order of the commission. All refunds shall include~~ 1711
~~interest at the rate stated in section 1343.03 of the Revised~~ 1712
~~Code. The refund shall be in the form of a temporary reduction~~ 1713
~~in rates following the final order of the commission, and shall~~ 1714
~~be accomplished in such manner as shall be prescribed by the~~ 1715
~~commission in its final order. The commission shall exercise~~ 1716
~~continuing and exclusive jurisdiction over such refunds.~~ 1717

~~If the public utilities commission has not entered a final~~ 1718
~~order within five hundred forty-five days from the date of the~~ 1719
~~filing of an application for an increase in rates under section~~ 1720
~~4909.18 of the Revised Code, a public utility shall have no~~ 1721

~~obligation to make a refund of amounts collected after the five-~~ 1722
~~hundred forty-fifth day which exceed the amounts authorized by-~~ 1723
~~the commission's final order.~~ 1724

Nothing in this section shall be construed to mitigate any 1725
duty of the commission to issue a final order under section 1726
4909.19 of the Revised Code. 1727

Sec. 4909.47. (A) As used in this section, "electric 1728
distribution utility" has the same meaning as in section 4928.01 1729
of the Revised Code. 1730

(B) An electric distribution utility may file an 1731
application with the public utilities commission for a mini rate 1732
case in accordance with this section if, since the utility's 1733
most recent application for an increase in rates regarding 1734
distribution service under section 4909.18 of the Revised Code 1735
was approved by the commission, the utility has not filed a mini 1736
rate case application and not more than twenty-four months have 1737
elapsed. 1738

(C) Except as provided in section 4909.192 of the Revised 1739
Code, a mini rate case proceeding shall be available solely to 1740
collect capital expenditures over the useful life of the project 1741
of the electric distribution utility for a single project where 1742
the expenditures exceed fifty million dollars if all of the 1743
following are satisfied: 1744

(1) The utility has completed the project. 1745

(2) The capital expenditures were not included in an 1746
approved application for an increase in rates submitted under 1747
section 4909.18 of the Revised Code. 1748

(3) The capital expenditures are any of the following: 1749

(a) Determined necessary by the commission for maintaining 1750
or improving safety, reliability, system efficiency, security, 1751
or resiliency purposes; 1752

(b) Related to external conditions or circumstances that 1753
were not reasonably foreseeable at the time the utility filed 1754
its most recent notice of intent to file an application for an 1755
increase in rates under section 4909.18 of the Revised Code, 1756
including the following: 1757

(i) Capital expenditures for the installation of 1758
replacement plant that, as determined by the commission, are 1759
necessitated by weather or other factors outside of the 1760
utility's control that cause damage to existing infrastructure; 1761

(ii) Unreimbursed capital expenditures made by the utility 1762
for facility relocation required by a governmental entity due to 1763
a street or highway project; 1764

(iii) Capital expenditures made by the utility to comply 1765
with any consent decree, final order, or final rule of any 1766
local, state, or federal agency or legislative body. 1767

(D) The public utilities commission shall adopt rules 1768
consistent with this section to create a mini rate case 1769
proceeding, including prescribing filing requirements. 1770

Sec. 4928.01. (A) As used in this chapter: 1771

(1) "Ancillary service" means any function necessary to 1772
the provision of electric transmission or distribution service 1773
to a retail customer and includes, but is not limited to, 1774
scheduling, system control, and dispatch services; reactive 1775
supply from generation resources and voltage control service; 1776
reactive supply from transmission resources service; regulation 1777
service; frequency response service; energy imbalance service; 1778

operating reserve-spinning reserve service; operating reserve- 1779
supplemental reserve service; load following; back-up supply 1780
service; real-power loss replacement service; dynamic 1781
scheduling; system black start capability; and network stability 1782
service. 1783

(2) "Billing and collection agent" means a fully 1784
independent agent, not affiliated with or otherwise controlled 1785
by an electric utility, electric services company, electric 1786
cooperative, or governmental aggregator subject to certification 1787
under section 4928.08 of the Revised Code, to the extent that 1788
the agent is under contract with such utility, company, 1789
cooperative, or aggregator solely to provide billing and 1790
collection for retail electric service on behalf of the utility 1791
company, cooperative, or aggregator. 1792

(3) "Certified territory" means the certified territory 1793
established for an electric supplier under sections 4933.81 to 1794
4933.90 of the Revised Code. 1795

(4) "Competitive retail electric service" means a 1796
component of retail electric service that is competitive as 1797
provided under division (B) of this section. 1798

(5) "Electric cooperative" means a not-for-profit electric 1799
light company that both is or has been financed in whole or in 1800
part under the "Rural Electrification Act of 1936," 49 Stat. 1801
1363, 7 U.S.C. 901, and owns or operates facilities in this 1802
state to generate, transmit, or distribute electricity, or a 1803
not-for-profit successor of such company. 1804

(6) "Electric distribution utility" means an electric 1805
utility that supplies at least retail electric distribution 1806
service and does not own or operate an electric generating 1807

facility. 1808

(7) "Electric light company" has the same meaning as in 1809
section 4905.03 of the Revised Code and includes an electric 1810
services company, ~~but excludes any self-generator to the extent~~ 1811
~~that it consumes electricity it so produces, sells that~~ 1812
~~electricity for resale, or obtains electricity from a generating~~ 1813
~~facility it hosts on its premises.~~ 1814

(8) "Electric load center" has the same meaning as in 1815
section 4933.81 of the Revised Code. 1816

(9) "Electric services company" means an electric light 1817
company that is engaged on a for-profit or not-for-profit basis 1818
in the business of supplying or arranging for the supply of only 1819
a competitive retail electric service in this state. "Electric 1820
services company" includes a power marketer, power broker, 1821
aggregator, or independent power producer but excludes an 1822
electric cooperative, municipal electric utility, governmental 1823
aggregator, or billing and collection agent. 1824

(10) "Electric supplier" has the same meaning as in 1825
section 4933.81 of the Revised Code. 1826

(11) "Electric utility" means an electric light company 1827
that has a certified territory and is engaged on a for-profit 1828
basis ~~either~~ in the business of supplying at least a 1829
noncompetitive retail electric service in this state ~~or in the~~ 1830
~~businesses of supplying both a noncompetitive and a competitive~~ 1831
~~retail electric service in this state.~~ "Electric utility" 1832
excludes a municipal electric utility or a billing and 1833
collection agent. 1834

(12) "Firm electric service" means electric service other 1835
than nonfirm electric service. 1836

(13) "Governmental aggregator" means a legislative 1837
authority of a municipal corporation, a board of township 1838
trustees, or a board of county commissioners acting as an 1839
aggregator for the provision of a competitive retail electric 1840
service under authority conferred under section 4928.20 of the 1841
Revised Code. 1842

(14) A person acts "knowingly," regardless of the person's 1843
purpose, when the person is aware that the person's conduct will 1844
probably cause a certain result or will probably be of a certain 1845
nature. A person has knowledge of circumstances when the person 1846
is aware that such circumstances probably exist. 1847

(15) "Level of funding for low-income customer energy 1848
efficiency programs provided through electric utility rates" 1849
means the level of funds specifically included in an electric 1850
utility's rates on October 5, 1999, pursuant to an order of the 1851
public utilities commission issued under Chapter 4905. or 4909. 1852
of the Revised Code and in effect on October 4, 1999, for the 1853
purpose of improving the energy efficiency of housing for the 1854
utility's low-income customers. The term excludes the level of 1855
any such funds committed to a specific nonprofit organization or 1856
organizations pursuant to a stipulation or contract. 1857

(16) "Low-income customer assistance programs" means the 1858
percentage of income payment plan program, the home energy 1859
assistance program, the home weatherization assistance program, 1860
and the targeted energy efficiency and weatherization program. 1861

(17) "Market development period" for an electric utility 1862
means the period of time beginning on the starting date of 1863
competitive retail electric service and ending on the applicable 1864
date for that utility as specified in section 4928.40 of the 1865
Revised Code, irrespective of whether the utility applies to 1866

receive transition revenues under this chapter. 1867

(18) "Market power" means the ability to impose on 1868
customers a sustained price for a product or service above the 1869
price that would prevail in a competitive market. 1870

(19) "Mercantile customer" means a commercial or 1871
industrial customer if the electricity consumed is for 1872
nonresidential use and the customer consumes more than seven 1873
hundred thousand kilowatt hours per year or is part of a 1874
national account involving multiple facilities in one or more 1875
states. 1876

(20) "Municipal electric utility" means a municipal 1877
corporation that owns or operates facilities to generate, 1878
transmit, or distribute electricity. 1879

(21) "Noncompetitive retail electric service" means a 1880
component of retail electric service that is noncompetitive as 1881
provided under division (B) of this section. 1882

(22) "Nonfirm electric service" means electric service 1883
provided pursuant to a schedule filed under section 4905.30 of 1884
the Revised Code or pursuant to an arrangement under section 1885
4905.31 of the Revised Code, which schedule or arrangement 1886
includes conditions that may require the customer to curtail or 1887
interrupt electric usage during nonemergency circumstances upon 1888
notification by an electric utility. 1889

(23) "Percentage of income payment plan arrears" means 1890
funds eligible for collection through the percentage of income 1891
payment plan rider, but uncollected as of July 1, 2000. 1892

(24) "Person" has the same meaning as in section 1.59 of 1893
the Revised Code. 1894

(25) "Advanced energy project" means any technologies, 1895
products, activities, or management practices or strategies that 1896
facilitate the generation or use of electricity or energy and 1897
that reduce or support the reduction of energy consumption or 1898
support the production of clean, renewable energy for 1899
industrial, distribution, commercial, institutional, 1900
governmental, research, not-for-profit, or residential energy 1901
users, including, but not limited to, advanced energy resources 1902
and renewable energy resources. "Advanced energy project" also 1903
includes any project described in division (A), (B), or (C) of 1904
section 4928.621 of the Revised Code. 1905

(26) "Regulatory assets" means the unamortized net 1906
regulatory assets that are capitalized or deferred on the 1907
regulatory books of the electric utility, pursuant to an order 1908
or practice of the public utilities commission or pursuant to 1909
generally accepted accounting principles as a result of a prior 1910
commission rate-making decision, and that would otherwise have 1911
been charged to expense as incurred or would not have been 1912
capitalized or otherwise deferred for future regulatory 1913
consideration absent commission action. "Regulatory assets" 1914
includes, but is not limited to, all deferred demand-side 1915
management costs; all deferred percentage of income payment plan 1916
arrears; post-in-service capitalized charges and assets 1917
recognized in connection with statement of financial accounting 1918
standards no. 109 (receivables from customers for income taxes); 1919
future nuclear decommissioning costs and fuel disposal costs as 1920
those costs have been determined by the commission in the 1921
electric utility's most recent rate or accounting application 1922
proceeding addressing such costs; the undepreciated costs of 1923
safety and radiation control equipment on nuclear generating 1924
plants owned or leased by an electric utility; and fuel costs 1925

currently deferred pursuant to the terms of one or more 1926
settlement agreements approved by the commission. 1927

(27) "Retail electric service" means any service involved 1928
in supplying or arranging for the supply of electricity to 1929
ultimate consumers in this state, from the point of generation 1930
to the point of consumption. For the purposes of this chapter, 1931
retail electric service includes one or more of the following 1932
"service components": generation service, aggregation service, 1933
power marketing service, power brokerage service, transmission 1934
service, distribution service, ancillary service, metering 1935
service, and billing and collection service. 1936

(28) "Starting date of competitive retail electric 1937
service" means January 1, 2001. 1938

(29) "Customer-generator" means a user of a net metering 1939
system. 1940

(30) "Net metering" means measuring the difference in an 1941
applicable billing period between the electricity supplied by an 1942
electric service provider and the electricity generated by a 1943
customer-generator that is fed back to the electric service 1944
provider. 1945

(31) "Net metering system" means a facility for the 1946
production of electrical energy that does all of the following: 1947

(a) Uses as its fuel either solar, wind, biomass, landfill 1948
gas, or hydropower, or uses a microturbine or a fuel cell; 1949

(b) Is located on a customer-generator's premises; 1950

(c) Operates in parallel with the electric utility's 1951
transmission and distribution facilities; 1952

(d) Is intended primarily to offset part or all of the 1953

customer-generator's requirements for electricity. For an 1954
industrial customer-generator with a net metering system that 1955
has a capacity of less than twenty megawatts and uses wind as 1956
energy, this means the net metering system was sized so as to 1957
not exceed one hundred per cent of the customer-generator's 1958
annual requirements for electric energy at the time of 1959
interconnection. 1960

(32) "Self-generator" means an entity in this state that 1961
owns or hosts on ~~its premises~~ property the entity controls an 1962
electric generation facility that produces electricity primarily 1963
for the owner's consumption and that may provide any such excess 1964
electricity to another entity, whether the facility is installed 1965
or operated by the owner or by ~~an agent~~ a third party under a 1966
contract, including a lease, purchase power agreement, or other 1967
service contract. 1968

(33) "Rate plan" means the standard service offer in 1969
effect on the effective date of the amendment of this section by 1970
S.B. 221 of the 127th general assembly, July 31, 2008. 1971

(34) "Advanced energy resource" means any of the 1972
following: 1973

(a) Any method or any modification or replacement of any 1974
property, process, device, structure, or equipment that 1975
increases the generation output of an electric generating 1976
facility to the extent such efficiency is achieved without 1977
additional carbon dioxide emissions by that facility; 1978

(b) Any distributed generation system consisting of 1979
customer cogeneration technology; 1980

(c) Clean coal technology that includes a carbon-based 1981
product that is chemically altered before combustion to 1982

demonstrate a reduction, as expressed as ash, in emissions of 1983
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1984
sulfur trioxide in accordance with the American society of 1985
testing and materials standard D1757A or a reduction of metal 1986
oxide emissions in accordance with standard D5142 of that 1987
society, or clean coal technology that includes the design 1988
capability to control or prevent the emission of carbon dioxide, 1989
which design capability the commission shall adopt by rule and 1990
shall be based on economically feasible best available 1991
technology or, in the absence of a determined best available 1992
technology, shall be of the highest level of economically 1993
feasible design capability for which there exists generally 1994
accepted scientific opinion; 1995

(d) Advanced nuclear energy technology consisting of 1996
generation III technology as defined by the nuclear regulatory 1997
commission; other, later technology; or significant improvements 1998
to existing facilities; 1999

(e) Any fuel cell used in the generation of electricity, 2000
including, but not limited to, a proton exchange membrane fuel 2001
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2002
solid oxide fuel cell; 2003

(f) Advanced solid waste or construction and demolition 2004
debris conversion technology, including, but not limited to, 2005
advanced stoker technology, and advanced fluidized bed 2006
gasification technology, that results in measurable greenhouse 2007
gas emissions reductions as calculated pursuant to the United 2008
States environmental protection agency's waste reduction model 2009
(WARM); 2010

(g) Demand-side management and any energy efficiency 2011
improvement; 2012

(h) Any new, retrofitted, refueled, or repowered 2013
generating facility located in Ohio, including a simple or 2014
combined-cycle natural gas generating facility or a generating 2015
facility that uses biomass, coal, modular nuclear, or any other 2016
fuel as its input; 2017

(i) Any uprated capacity of an existing electric 2018
generating facility if the uprated capacity results from the 2019
deployment of advanced technology. 2020

"Advanced energy resource" does not include a waste energy 2021
recovery system that is, or has been, included in an energy 2022
efficiency program of an electric distribution utility pursuant 2023
to requirements under section 4928.66 of the Revised Code. 2024

(35) "Air contaminant source" has the same meaning as in 2025
section 3704.01 of the Revised Code. 2026

(36) "Cogeneration technology" means technology that 2027
produces electricity and useful thermal output simultaneously. 2028

(37) (a) "Renewable energy resource" means any of the 2029
following: 2030

(i) Solar photovoltaic or solar thermal energy; 2031

(ii) Wind energy; 2032

(iii) Power produced by a hydroelectric facility; 2033

(iv) Power produced by a small hydroelectric facility, 2034
which is a facility that operates, or is rated to operate, at an 2035
aggregate capacity of less than six megawatts; 2036

(v) Power produced by a run-of-the-river hydroelectric 2037
facility placed in service on or after January 1, 1980, that is 2038
located within this state, relies upon the Ohio river, and 2039

operates, or is rated to operate, at an aggregate capacity of 2040
forty or more megawatts; 2041

(vi) Geothermal energy; 2042

(vii) Fuel derived from solid wastes, as defined in 2043
section 3734.01 of the Revised Code, through fractionation, 2044
biological decomposition, or other process that does not 2045
principally involve combustion; 2046

(viii) Biomass energy; 2047

(ix) Energy produced by cogeneration technology that is 2048
placed into service on or before December 31, 2015, and for 2049
which more than ninety per cent of the total annual energy input 2050
is from combustion of a waste or byproduct gas from an air 2051
contaminant source in this state, which source has been in 2052
operation since on or before January 1, 1985, provided that the 2053
cogeneration technology is a part of a facility located in a 2054
county having a population of more than three hundred sixty-five 2055
thousand but less than three hundred seventy thousand according 2056
to the most recent federal decennial census; 2057

(x) Biologically derived methane gas; 2058

(xi) Heat captured from a generator of electricity, 2059
boiler, or heat exchanger fueled by biologically derived methane 2060
gas; 2061

(xii) Energy derived from nontreated by-products of the 2062
pulping process or wood manufacturing process, including bark, 2063
wood chips, sawdust, and lignin in spent pulping liquors. 2064

"Renewable energy resource" includes, but is not limited 2065
to, any fuel cell used in the generation of electricity, 2066
including, but not limited to, a proton exchange membrane fuel 2067

cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2068
solid oxide fuel cell; a linear generator; wind turbine located 2069
in the state's territorial waters of Lake Erie; methane gas 2070
emitted from an abandoned coal mine; waste energy recovery 2071
system placed into service or retrofitted on or after the 2072
effective date of the amendment of this section by S.B. 315 of 2073
the 129th general assembly, September 10, 2012, except that a 2074
waste energy recovery system described in division (A) (38) (b) of 2075
this section may be included only if it was placed into service 2076
between January 1, 2002, and December 31, 2004; storage facility 2077
that will promote the better utilization of a renewable energy 2078
resource; or distributed generation system used by a customer to 2079
generate electricity from any such energy. 2080

"Renewable energy resource" does not include a waste 2081
energy recovery system that is, or was, on or after January 1, 2082
2012, included in an energy efficiency program of an electric 2083
distribution utility pursuant to requirements under section 2084
4928.66 of the Revised Code. 2085

(b) As used in division (A) (37) of this section, 2086
"hydroelectric facility" means a hydroelectric generating 2087
facility that is located at a dam on a river, or on any water 2088
discharged to a river, that is within or bordering this state or 2089
within or bordering an adjoining state and meets all of the 2090
following standards: 2091

(i) The facility provides for river flows that are not 2092
detrimental for fish, wildlife, and water quality, including 2093
seasonal flow fluctuations as defined by the applicable 2094
licensing agency for the facility. 2095

(ii) The facility demonstrates that it complies with the 2096
water quality standards of this state, which compliance may 2097

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

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

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

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

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

(vii) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended

by resource agencies, to the extent they have jurisdiction over 2127
the facility; and the facility provides access to water to the 2128
public without fee or charge. 2129

(viii) The facility is not recommended for removal by any 2130
federal agency or agency of any state, to the extent the 2131
particular agency has jurisdiction over the facility. 2132

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2133
this section do not apply to a small hydroelectric facility 2134
under division (A) (37) (a) (iv) of this section. 2135

(38) "Waste energy recovery system" means any of the 2136
following: 2137

(a) A facility that generates electricity through the 2138
conversion of energy from either of the following: 2139

(i) Exhaust heat from engines or manufacturing, 2140
industrial, commercial, or institutional sites, except for 2141
exhaust heat from a facility whose primary purpose is the 2142
generation of electricity; 2143

(ii) Reduction of pressure in gas pipelines before gas is 2144
distributed through the pipeline, provided that the conversion 2145
of energy to electricity is achieved without using additional 2146
fossil fuels. 2147

(b) A facility at a state institution of higher education 2148
as defined in section 3345.011 of the Revised Code that recovers 2149
waste heat from electricity-producing engines or combustion 2150
turbines and that simultaneously uses the recovered heat to 2151
produce steam, provided that the facility was placed into 2152
service between January 1, 2002, and December 31, 2004; 2153

(c) A facility that produces steam from recovered waste 2154

heat from a manufacturing process and uses that steam, or 2155
transfers that steam to another facility, to provide heat to 2156
another manufacturing process or to generate electricity. 2157

(39) "Smart grid" means capital improvements to an 2158
electric distribution utility's distribution infrastructure that 2159
improve reliability, efficiency, resiliency, or reduce energy 2160
demand or use, including, but not limited to, advanced metering 2161
and automation of system functions. 2162

(40) "Combined heat and power system" means the 2163
coproduction of electricity and useful thermal energy from the 2164
same fuel source designed to achieve thermal-efficiency levels 2165
of at least sixty per cent, with at least twenty per cent of the 2166
system's total useful energy in the form of thermal energy. 2167

~~(41) "Legacy generation resource" means all generating 2168
facilities owned directly or indirectly by a corporation that 2169
was formed prior to 1960 by investor-owned utilities for the 2170
original purpose of providing power to the federal government 2171
for use in the nation's defense or in furtherance of national 2172
interests, including the Ohio valley electric corporation. 2173~~

~~(42) "Prudently incurred costs related to a legacy 2174
generation resource" means costs, including deferred costs, 2175
allocated pursuant to a power agreement approved by the federal 2176
energy regulatory commission that relates to a legacy generation 2177
resource, less any revenues realized from offering the 2178
contractual commitment for the power agreement into the 2179
wholesale markets, provided that where the net revenues exceed 2180
net costs, those excess revenues shall be credited to customers. 2181
Such costs shall exclude any return on investment in common 2182
equity and, in the event of a premature retirement of a legacy 2183
generation resource, shall exclude any recovery of remaining 2184~~

~~debt. Such costs shall include any incremental costs resulting~~ 2185
~~from the bankruptcy of a current or former sponsor under such~~ 2186
~~power agreement or co-owner of the legacy generation resource if~~ 2187
~~not otherwise recovered through a utility rate cost recovery~~ 2188
~~mechanism.~~ 2189

~~(43) (a)~~ (41) (a) "Green energy" means any energy generated 2190
by using an energy resource that does one or more of the 2191
following: 2192

(i) Releases reduced air pollutants, thereby reducing 2193
cumulative air emissions; 2194

(ii) Is more sustainable and reliable relative to some 2195
fossil fuels. 2196

(b) "Green energy" includes energy generated using the 2197
following: 2198

(i) Natural gas as a resource; 2199

(ii) Nuclear reaction. 2200

(42) "Linear generator" means an integrated system 2201
consisting of oscillators, cylinders, electricity conversion 2202
equipment, and associated balance of plant components that meet 2203
the following criteria: 2204

(a) Converts the linear motion of oscillators directly 2205
into electricity without the use of a flame or spark; 2206

(b) Is dispatchable with the ability to vary power output 2207
across all loads; 2208

(c) Can operate on multiple fuel types including renewable 2209
fuels such as hydrogen, ammonia, and biogas. 2210

(B) For the purposes of this chapter, a retail electric 2211

service component shall be deemed a competitive retail electric 2212
service if the service component is competitive pursuant to a 2213
declaration by a provision of the Revised Code or pursuant to an 2214
order of the public utilities commission authorized under 2215
division (A) of section 4928.04 of the Revised Code. Otherwise, 2216
the service component shall be deemed a noncompetitive retail 2217
electric service. 2218

Sec. 4928.041. (A) Except as provided in sections 4928.141 2219
and 4928.142 of the Revised Code, no electric utility shall 2220
provide a competitive retail electric service in this state if 2221
that service was deemed competitive or otherwise legally 2222
classified as competitive prior to the effective date of this 2223
section. 2224

(B) The standard service offer under section 4928.141 of 2225
the Revised Code shall continue to be provided to consumers in 2226
this state by electric utilities. 2227

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2228
~~competitive retail electric service, a~~ A competitive retail 2229
electric service supplied by an ~~electric utility or electric~~ 2230
services company, or by an electric utility consistent with 2231
section 4928.141 of the Revised Code, shall not be subject to 2232
supervision and regulation by a municipal corporation under 2233
Chapter 743. of the Revised Code or by the public utilities 2234
commission under Chapters 4901. to 4909., 4933., 4935., and 2235
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2236
division (B) of section 4905.33, and sections 4905.35 and 2237
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2238
and 4963.41 of the Revised Code only to the extent related to 2239
service reliability and public safety; and except as otherwise 2240
provided in this chapter. The commission's authority to enforce 2241

those excepted provisions with respect to a competitive retail 2242
electric service shall be such authority as is provided for 2243
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2244
and 4963. of the Revised Code and this chapter. Nothing in this 2245
division shall be construed to limit the commission's authority 2246
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2247
Revised Code. 2248

~~On and after the starting date of competitive retail~~ 2249
~~electric service, a~~ (2) A competitive retail electric service 2250
supplied by an electric cooperative shall not be subject to 2251
supervision and regulation by the commission under Chapters 2252
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2253
except as otherwise expressly provided in sections 4928.01 to 2254
4928.10 and 4928.16 of the Revised Code. 2255

~~(2) On and after the starting date of competitive retail~~ 2256
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2257
service supplied by an electric utility shall be subject to 2258
supervision and regulation by the commission under Chapters 2259
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2260
this chapter, to the extent that authority is not preempted by 2261
federal law. The commission's authority to enforce those 2262
provisions with respect to a noncompetitive retail electric 2263
service shall be the authority provided under those chapters and 2264
this chapter, to the extent the authority is not preempted by 2265
federal law. Notwithstanding Chapters 4905. and 4909. of the 2266
Revised Code, commission authority under this chapter shall 2267
include the authority to provide for the recovery, through a 2268
reconcilable rider on an electric distribution utility's 2269
distribution rates, of all transmission and transmission-related 2270
costs, including ancillary and congestion costs, imposed on or 2271
charged to the utility by the federal energy regulatory 2272

commission or a regional transmission organization, independent 2273
transmission operator, or similar organization approved by the 2274
federal energy regulatory commission. 2275

(2) The commission shall exercise its jurisdiction with 2276
respect to the delivery of electricity by an electric utility in 2277
this state ~~on or after the starting date of competitive retail~~ 2278
~~electric service~~ so as to ensure that no aspect of the delivery 2279
of electricity by the utility to consumers in this state that 2280
consists of a noncompetitive retail electric service is 2281
unregulated. 2282

~~On and after that starting date, a~~ (3) A noncompetitive 2283
retail electric service supplied by an electric cooperative 2284
shall not be subject to supervision and regulation by the 2285
commission under Chapters 4901. to 4909., 4933., 4935., and 2286
4963. of the Revised Code, except sections 4933.81 to 4933.90 2287
and 4935.03 of the Revised Code. The commission's authority to 2288
enforce those excepted sections with respect to a noncompetitive 2289
retail electric service of an electric cooperative shall be such 2290
authority as is provided for their enforcement under Chapters 2291
4933. and 4935. of the Revised Code. 2292

~~(B) Nothing in this chapter affects the authority of the~~ 2293
~~commission under Title XLIX of the Revised Code to regulate an~~ 2294
~~electric light company in this state or an electric service~~ 2295
~~supplied in this state prior to the starting date of competitive~~ 2296
~~retail electric service.~~ 2297

Sec. 4928.08. (A) This section applies to an electric 2298
cooperative, or to a governmental aggregator that is a municipal 2299
electric utility, only to the extent of a competitive retail 2300
electric service it provides to a customer to whom it does not 2301
provide a noncompetitive retail electric service through 2302

transmission or distribution facilities it singly or jointly 2303
owns or operates. 2304

~~(B)~~ (B) (1) No electric utility, electric services company, 2305
electric cooperative, or governmental aggregator shall provide a 2306
competitive retail electric service to a consumer in this state 2307
on and after the starting date of competitive retail electric 2308
service without first being certified by the public utilities 2309
commission regarding its managerial, technical, and financial 2310
capability to provide that service and providing a financial 2311
guarantee sufficient to protect customers and electric 2312
distribution utilities from default. Certification shall be 2313
granted pursuant to procedures and standards the commission 2314
shall prescribe in accordance with division (C) of this section, 2315
except that certification or certification renewal shall be 2316
deemed approved thirty days after the filing of an application 2317
with the commission unless the commission suspends that approval 2318
for good cause shown. In the case of such a suspension, the 2319
commission shall act to approve or deny certification or 2320
certification renewal to the applicant not later than ninety 2321
days after the date of the suspension. 2322

(2) The public utilities commission shall establish rules 2323
to require an electric services company to maintain financial 2324
assurances sufficient to protect customers and electric 2325
distribution utilities from default. Such rules also shall 2326
specifically allow an electric distribution utility to set 2327
reasonable standards for its security and the security of its 2328
customers through financial requirements set in its tariffs. 2329

(3) As used in division (B) (2) of this section, an 2330
"electric services company" has the same meaning as in section 2331
4928.01 of the Revised Code, but excludes a power broker or 2332

aggregator. 2333

(C) Capability standards adopted in rules under division 2334
(B) of this section shall be sufficient to ensure compliance 2335
with the minimum service requirements established under section 2336
4928.10 of the Revised Code and with section 4928.09 of the 2337
Revised Code. The standards shall allow flexibility for 2338
voluntary aggregation, to encourage market creativity in 2339
responding to consumer needs and demands, and shall allow 2340
flexibility for electric services companies that exclusively 2341
provide installation of small electric generation facilities, to 2342
provide ease of market access. The rules shall include 2343
procedures for biennially renewing certification. 2344

(D) The commission may suspend, rescind, or conditionally 2345
rescind the certification of any electric utility, electric 2346
services company, electric cooperative, or governmental 2347
aggregator issued under this section if the commission 2348
determines, after reasonable notice and opportunity for hearing, 2349
that the utility, company, cooperative, or aggregator has failed 2350
to comply with any applicable certification standards or has 2351
engaged in anticompetitive or unfair, deceptive, or 2352
unconscionable acts or practices in this state. 2353

(E) No electric distribution utility on and after the 2354
starting date of competitive retail electric service shall 2355
knowingly distribute electricity, to a retail consumer in this 2356
state, for any supplier of electricity that has not been 2357
certified by the commission pursuant to this section. 2358

(F) Notwithstanding any provision of section 121.95 of the 2359
Revised Code to the contrary, a regulatory restriction contained 2360
in a rule adopted under section 4928.08 of the Revised Code is 2361
not subject to sections 121.95 to 121.953 of the Revised Code. 2362

Sec. 4928.101. (A) As used in this section and section 2363
4928.102 of the Revised Code: 2364

(1) "Small commercial customer" means any customer that 2365
receives electric service pursuant to a nonresidential tariff if 2366
the customer's demand for electricity does not exceed twenty- 2367
five kilowatts within the last twelve months. 2368

(2) "Small commercial customer" excludes any customer that 2369
does one or both of the following: 2370

(a) Manages multiple electric meters and, within the last 2371
twelve months, the electricity demand for at least one of the 2372
meters is twenty-five kilowatts or more; 2373

(b) Has, at the customer's discretion, aggregated the 2374
demand for the customer-managed meters. 2375

(B) The consumer protections described in section 4928.10 2376
of the Revised Code and the rules adopted pursuant to that 2377
section apply to small commercial customers and to all other 2378
customers as set forth in the rules. 2379

Sec. 4928.102. (A) If a competitive retail electric 2380
service supplier offers a residential or small commercial 2381
customer a contract for a fixed introductory rate that converts 2382
to a variable rate upon the expiration of the fixed rate, the 2383
supplier shall send two notices to each residential and small 2384
commercial customer that enters into such a contract. Each 2385
notice shall provide all of the following information to the 2386
customer: 2387

(1) The fixed rate that is expiring under the contract; 2388

(2) The expiration date of the contract's fixed rate; 2389

(3) The rate to be charged upon the contract's conversion 2390

to a variable rate; 2391

(4) The public utilities commission web site that, as a 2392
comparison tool, lists rates offered by competitive retail 2393
electric service suppliers; 2394

(5) A statement explaining that appearing on each 2395
customer's bill is a price-to-compare notice that lists the 2396
utility's standard service offer price. 2397

(B) The notices shall be sent by standard United States 2398
mail as follows: 2399

(1) The supplier shall send the first notice not earlier 2400
than ninety days, and not later than sixty days, prior to the 2401
expiration of the fixed rate. 2402

(2) The supplier shall send the second notice not earlier 2403
than forty-five days, and not later than thirty days, prior to 2404
the expiration of the fixed rate. 2405

(C) A competitive retail electric service supplier shall 2406
provide an annual notice, by standard United States mail, to 2407
each residential and small commercial customer that has entered 2408
into a contract with the supplier that has converted to a 2409
variable rate upon the expiration of the contract's fixed 2410
introductory rate. The notice shall inform the customer that the 2411
customer is currently subject to a variable rate and that other 2412
fixed rate contracts are available. 2413

(D) Not later than one hundred fifty days after the 2414
effective date of this section, the commission shall adopt rules 2415
in order to implement divisions (A) to (C) of this section. The 2416
rules, at a minimum, shall include the following requirements 2417
regarding the notices required under divisions (A) to (C) of 2418
this section: 2419

(1) To use clear and unambiguous language in order to 2420
enable the customer to make an informed decision; 2421

(2) To design the notices in a way to ensure that they 2422
cannot be confused with marketing materials. 2423

(E) Notwithstanding any provision of section 121.95 of the 2424
Revised Code to the contrary, a regulatory restriction contained 2425
in a rule adopted under section 4928.102 of the Revised Code is 2426
not subject to sections 121.95 to 121.953 of the Revised Code. 2427

Sec. 4928.103. (A) As used in this section, "customer 2428
account information" means a unique electric distribution 2429
utility number or other customer identification number used by 2430
the utility to identify a customer and the customer's account 2431
record. 2432

(B) The public utilities commission shall adopt rules to 2433
ensure that an electric distribution utility processes a 2434
customer's change in competitive retail electric supplier by 2435
using customer account information. A customer who consents to a 2436
change of supplier shall not be required to provide customer 2437
account information to the supplier if the customer provides a 2438
valid form of government-issued identification issued to the 2439
customer or a sufficient alternative form of identification that 2440
allows the supplier to establish the customer's identity 2441
accurately. 2442

(C) Notwithstanding any provision of section 121.95 of the 2443
Revised Code to the contrary, a regulatory restriction contained 2444
in a rule adopted under this section is not subject to sections 2445
121.95 to 121.953 of the Revised Code. 2446

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2447
of this section, the failure of a supplier to provide retail 2448

electric generation service to customers within the certified 2449
territory of an electric distribution utility shall result in 2450
the supplier's customers, after reasonable notice, defaulting to 2451
the utility's standard service offer under sections 4928.141, 7 2452
and 4928.142, ~~and 4928.143~~ of the Revised Code until the 2453
customer chooses an alternative supplier. ~~A~~ 2454

(B) A supplier is deemed under this section to have failed 2455
to provide ~~such~~ retail electric generation service if the 2456
commission finds, after reasonable notice and opportunity for 2457
hearing, that any of the following conditions are met: 2458

~~(A)~~ (1) The supplier has defaulted on its contracts with 2459
customers, is in receivership, or has filed for bankruptcy. 2460

~~(B)~~ (2) The supplier is no longer capable of providing the 2461
service. 2462

~~(C)~~ (3) The supplier is unable to provide delivery to 2463
transmission or distribution facilities for such period of time 2464
as may be reasonably specified by commission rule adopted under 2465
division (A) of section 4928.06 of the Revised Code. 2466

~~(D)~~ (4) The supplier's certification has been suspended, 2467
conditionally rescinded, or rescinded under division (D) of 2468
section 4928.08 of the Revised Code. 2469

(C) If an electric distribution utility has an electric 2470
security plan that was approved under section 4928.143 of the 2471
Revised Code as that section existed prior to the amendments to 2472
this section by this act, the failure of a supplier to provide 2473
retail electric generation service to customers within the 2474
certified territory of that utility shall result in the 2475
supplier's customers, after reasonable notice, defaulting to the 2476
utility's standard service offer under that electric security 2477

plan until the customer chooses an alternative supplier or until 2478
the utility's standard service offer is authorized under section 2479
4928.142 of the Revised Code. 2480

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2481
electric distribution utility shall provide consumers, on a 2482
comparable and nondiscriminatory basis within its certified 2483
territory, a standard service offer of all competitive retail 2484
electric services necessary to maintain essential electric 2485
service to consumers, including a firm supply of electric 2486
generation service. To that end, the electric distribution 2487
utility shall apply to the public utilities commission to 2488
establish the standard service offer in accordance with section 2489
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2490
~~may apply simultaneously under both sections, except that the~~ 2491
~~utility's first standard service offer application at minimum~~ 2492
~~shall include a filing under section 4928.143 of the Revised~~ 2493
~~Code. Only~~ Except as provided in division (A) (2) of this 2494
section, a standard service offer authorized in accordance with 2495
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2496
the utility's standard service offer for the purpose of 2497
compliance with this section~~+~~, and that standard service offer 2498
shall serve as the utility's default standard service offer for 2499
the purpose of section 4928.14 of the Revised Code. 2500
~~Notwithstanding the foregoing provision, the rate~~ 2501

(2) An electric distribution utility's electric security 2502
plan of an electric distribution utility that was approved under 2503
section 4928.143 of the Revised Code as that section existed 2504
prior to the amendments to this section by this act shall 2505
continue for the purpose of the utility's compliance with ~~this~~ 2506
division (A) (1) of this section until a standard service offer 2507
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2508

~~4928.143 of the Revised Code, and, as applicable, pursuant to~~ 2509
~~division (D) of section 4928.143 of the Revised Code, any rate.~~ 2510
Each security plan that extends approved before the effective 2511
date of the amendments to this section by this act shall extend 2512
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2513
~~subject electric distribution utility for the duration of the~~ 2514
~~plan's term~~through the final standard service offer auction 2515
delivery period approved by the public utilities commission 2516
under the plan as of the effective date of the amendments to 2517
this section by this act and thereafter shall terminate. 2518

(3) A standard service offer under section 4928.142 or 2519
~~4928.143 of the Revised Code shall exclude any previously~~ 2520
authorized allowances for transition costs, with such exclusion 2521
being effective on and after the date that the allowance is 2522
scheduled to end under the utility's ~~rate~~electric security 2523
plan. 2524

(B) The commission shall set the time for hearing of a 2525
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2526
send written notice of the hearing to the electric distribution 2527
utility, and publish notice in a newspaper of general 2528
circulation in each county in the utility's certified territory. 2529
The commission shall adopt rules regarding filings under ~~those~~ 2530
~~sections~~ the section. 2531

Sec. 4928.142. (A) For the purpose of complying with 2532
section 4928.141 of the Revised Code and subject to division (D) 2533
of this section and, as applicable, subject to the ~~rate plan~~ 2534
~~requirement~~requirements of division (A) of section 4928.141 of 2535
the Revised Code, an electric distribution utility ~~may~~shall 2536
establish a standard service offer price for retail electric 2537
generation service that is delivered to the utility under a 2538

market-rate offer. 2539

(1) The market-rate offer shall be determined through a 2540
competitive bidding process that provides for all of the 2541
following: 2542

(a) Open, fair, and transparent competitive solicitation; 2543

(b) Clear product definition; 2544

(c) Standardized bid evaluation criteria; 2545

(d) Oversight by an independent third party that shall 2546
design the solicitation, administer the bidding, and ensure that 2547
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2548
this section are met; 2549

(e) Evaluation of the submitted bids prior to the 2550
selection of the least-cost bid winner or winners. 2551

No generation supplier shall be prohibited from 2552
participating in the bidding process. 2553

(2) The public utilities commission shall modify rules, or 2554
adopt new rules as necessary, concerning the conduct of the 2555
competitive bidding process and the qualifications of bidders, 2556
which rules shall foster supplier participation in the bidding 2557
process and shall be consistent with the requirements of 2558
division (A) (1) of this section. 2559

(B) Prior to initiating a competitive bidding process for 2560
a market-rate offer under division (A) of this section, the 2561
electric distribution utility shall file an application with the 2562
commission. An electric distribution utility may file its 2563
application with the commission prior to the effective date of 2564
the commission rules required under division (A) (2) of this 2565
section, and, as the commission determines necessary, the 2566

utility shall immediately conform its filing to the rules upon 2567
their taking effect. 2568

An application under this division shall detail the 2569
electric distribution utility's proposed compliance with the 2570
requirements of division (A) (1) of this section and with 2571
commission rules under division (A) (2) of this section and 2572
demonstrate that all of the following requirements are met: 2573

(1) The electric distribution utility or its transmission 2574
service affiliate belongs to at least one regional transmission 2575
organization that has been approved by the federal energy 2576
regulatory commission; or there otherwise is comparable and 2577
nondiscriminatory access to the electric transmission grid. 2578

(2) Any such regional transmission organization has a 2579
market-monitor function and the ability to take actions to 2580
identify and mitigate market power or the electric distribution 2581
utility's market conduct; or a similar market monitoring 2582
function exists with commensurate ability to identify and 2583
monitor market conditions and mitigate conduct associated with 2584
the exercise of market power. 2585

(3) A published source of information is available 2586
publicly or through subscription that identifies pricing 2587
information for traded electricity on- and off-peak energy 2588
products that are contracts for delivery beginning at least two 2589
years from the date of the publication and is updated on a 2590
regular basis. 2591

The commission shall initiate a proceeding and, within 2592
ninety days after the application's filing date, shall determine 2593
by order whether the electric distribution utility and its 2594
market-rate offer meet all of the foregoing requirements. If the 2595

finding is positive, the electric distribution utility ~~may~~ shall 2596
initiate its competitive bidding process. If the finding is 2597
negative as to one or more requirements, the commission in the 2598
order shall direct the electric distribution utility regarding 2599
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2600
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2601
~~distribution utility shall withdraw the application. However, if~~ 2602
~~such remedy is made and the subsequent finding is positive and~~ 2603
~~also if the electric distribution utility made a simultaneous~~ 2604
~~filing under this section and section 4928.143 of the Revised~~ 2605
~~Code, the utility shall not initiate its competitive bid until~~ 2606
~~at least one hundred fifty days after the filing date of those~~ 2607
~~applications.~~ 2608

(C) Upon the completion of the competitive bidding process 2609
authorized by divisions (A) and (B) of this section, ~~including~~ 2610
~~for the purpose of division (D) of this section,~~ the commission 2611
shall select the least-cost bid winner or winners of that 2612
process, and such selected bid or bids, as prescribed as retail 2613
rates by the commission, shall be the electric distribution 2614
utility's standard service offer unless the commission, by order 2615
issued before the third calendar day following the conclusion of 2616
the competitive bidding process for the market rate offer, 2617
determines that one or more of the following criteria were not 2618
met: 2619

(1) Each portion of the bidding process was 2620
oversubscribed, such that the amount of supply bid upon was 2621
greater than the amount of the load bid out. 2622

(2) There were four or more bidders. 2623

(3) At least twenty-five per cent of the load is bid upon 2624
by one or more persons other than the electric distribution 2625

utility. 2626

All costs incurred by the electric distribution utility as 2627
a result of or related to the competitive bidding process or to 2628
procuring generation service to provide the standard service 2629
offer, including the costs of energy and capacity and the costs 2630
of all other products and services procured as a result of the 2631
competitive bidding process, shall be timely recovered through 2632
the standard service offer price, and, for that purpose, the 2633
commission shall approve a reconciliation mechanism, other 2634
recovery mechanism, or a combination of such mechanisms for the 2635
utility. 2636

(D) The ~~first~~ application filed under this section by an 2637
electric distribution utility ~~that, as of July 31, 2008,~~ 2638
~~directly owns, in whole or in part, operating electric~~ 2639
~~generating facilities that had been used and useful in this~~ 2640
~~state shall require that a portion of that~~ the utility's 2641
standard service offer load ~~for the first five years of the~~ 2642
~~market rate offer be competitively bid under division (A) of~~ 2643
~~this section as follows: ten per cent of the load in year one,~~ 2644
~~not more than twenty per cent in year two, thirty per cent in~~ 2645
~~year three, forty per cent in year four, and fifty per cent in~~ 2646
~~year five. Consistent with those percentages, the commission~~ 2647
~~shall determine the actual percentages for each year of years~~ 2648
~~one through five. The standard service offer price for retail~~ 2649
~~electric generation service under this first application shall~~ 2650
~~be a proportionate blend of the bid price and the generation~~ 2651
~~service price for the remaining standard service offer load,~~ 2652
~~which latter price shall be equal to the electric distribution~~ 2653
~~utility's most recent standard service offer price, adjusted~~ 2654
~~upward or downward as the commission determines reasonable,~~ 2655
~~relative to the jurisdictional portion of any known and~~ 2656

~~measurable changes from the level of any one or more of the~~ 2657
~~following costs as reflected in that most recent standard~~ 2658
~~service offer price;~~ 2659

~~(1) The electric distribution utility's prudently incurred~~ 2660
~~cost of fuel used to produce electricity;~~ 2661

~~(2) Its prudently incurred purchased power costs;~~ 2662

~~(3) Its prudently incurred costs of satisfying the supply~~ 2663
~~and demand portfolio requirements of this state, including, but~~ 2664
~~not limited to, renewable energy resource and energy efficiency~~ 2665
~~requirements;~~ 2666

~~(4) Its costs prudently incurred to comply with~~ 2667
~~environmental laws and regulations, with consideration of the~~ 2668
~~derating of any facility associated with those costs.~~ 2669

~~In making any adjustment to the most recent standard~~ 2670
~~service offer price on the basis of costs described in division~~ 2671
~~(D) of this section, the commission shall include the benefits~~ 2672
~~that may become available to the electric distribution utility~~ 2673
~~as a result of or in connection with the costs included in the~~ 2674
~~adjustment, including, but not limited to, the utility's receipt~~ 2675
~~of emissions credits or its receipt of tax benefits or of other~~ 2676
~~benefits, and, accordingly, the commission may impose such~~ 2677
~~conditions on the adjustment to ensure that any such benefits~~ 2678
~~are properly aligned with the associated cost responsibility.~~ 2679
~~The commission shall also determine how such adjustments will~~ 2680
~~affect the electric distribution utility's return on common~~ 2681
~~equity that may be achieved by those adjustments. The commission~~ 2682
~~shall not apply its consideration of the return on common equity~~ 2683
~~to reduce any adjustments authorized under this division unless~~ 2684
~~the adjustments will cause the electric distribution utility to~~ 2685

~~earn a return on common equity that is significantly in excess— 2686~~
~~of the return on common equity that is earned by publicly traded 2687~~
~~companies, including utilities, that face comparable business— 2688~~
~~and financial risk, with such adjustments for capital structure— 2689~~
~~as may be appropriate. The burden of proof for demonstrating— 2690~~
~~that significantly excessive earnings will not occur shall be on 2691~~
~~the electric distribution utility. 2692~~

~~Additionally, the commission may adjust the electric— 2693~~
~~distribution utility's most recent standard service offer price— 2694~~
~~by such just and reasonable amount that the commission— 2695~~
~~determines necessary to address any emergency that threatens the 2696~~
~~utility's financial integrity or to ensure that the resulting— 2697~~
~~revenue available to the utility for providing the standard— 2698~~
~~service offer is not so inadequate as to result, directly or— 2699~~
~~indirectly, in a taking of property without compensation— 2700~~
~~pursuant to Section 19 of Article I, Ohio Constitution. The— 2701~~
~~electric distribution utility has the burden of demonstrating— 2702~~
~~that any adjustment to its most recent standard service offer— 2703~~
~~price is proper in accordance with this division. 2704~~

~~(E) Beginning in the second year of a blended price under— 2705~~
~~division (D) of this section and notwithstanding any other— 2706~~
~~requirement of this section, the commission may alter— 2707~~
~~prospectively the proportions specified in that division to— 2708~~
~~mitigate any effect of an abrupt or significant change in the— 2709~~
~~electric distribution utility's standard service offer price— 2710~~
~~that would otherwise result in general or with respect to any— 2711~~
~~rate group or rate schedule but for such alteration. Any such— 2712~~
~~alteration shall be made not more often than annually, and the— 2713~~
~~commission shall not, by altering those proportions and in any— 2714~~
~~event, including because of the length of time, as authorized— 2715~~
~~under division (C) of this section, taken to approve the market— 2716~~

~~rate offer, cause the duration of the blending period to exceed~~ 2717
~~ten years as counted from the effective date of the approved~~ 2718
~~market rate offer. Additionally, any such alteration shall be~~ 2719
~~limited to an alteration affecting the prospective proportions~~ 2720
~~used during the blending period and shall not affect any~~ 2721
~~blending proportion previously approved and applied by the~~ 2722
~~commission under this division.~~ 2723

~~(F) An electric distribution utility that has received~~ 2724
~~commission approval of its first application under division (C)~~ 2725
~~of this section shall not, nor ever shall be authorized or~~ 2726
~~required by the commission to, file an application under section~~ 2727
~~4928.143 of the Revised Code.~~ 2728

Sec. 4928.144. The public utilities commission by order 2729
may authorize any just and reasonable phase-in of any electric 2730
distribution utility ~~rate or price~~ established under sections 2731
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2732
inclusive of carrying charges, as the commission considers 2733
necessary to ensure ~~rate or price~~ stability for consumers. If 2734
the commission's order includes such a phase-in, the order also 2735
shall provide for the creation of regulatory assets pursuant to 2736
generally accepted accounting principles, by authorizing the 2737
deferral of incurred costs equal to the amount not collected, 2738
plus carrying charges on that amount. Further, the order shall 2739
authorize the collection of those deferrals through a 2740
nonbypassable surcharge on any such rate or price so established 2741
for the electric distribution utility by the commission. 2742

Sec. 4928.149. No electric distribution utility may use 2743
any electric energy storage system to participate in the 2744
wholesale market, if the utility purchased or acquired that 2745
system for distribution service. 2746

Sec. 4928.1410. If an electric distribution utility has an 2747
existing electric security plan under which the commission had 2748
authorized the creation or continuation of riders, then, to the 2749
extent those riders will cease to exist after termination of the 2750
electric security plan, the electric distribution utility is 2751
authorized to create necessary regulatory assets or liabilities, 2752
along with carrying costs at the utility's weighted average cost 2753
of debt, for the resolution of any outstanding under-collection 2754
or over-collection of funds under such riders. The resolution of 2755
such regulatory assets or liabilities shall be addressed in the 2756
first distribution rate case under section 4909.18 of the 2757
Revised Code that occurs after the plan's expiration. 2758

Sec. 4928.17. (A) Except as otherwise provided in sections 2759
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2760
Revised Code ~~and beginning on the starting date of competitive~~ 2761
~~retail electric service,~~ no electric utility shall engage in 2762
this state, either directly or through an affiliate, ~~in the~~ 2763
~~businesses of supplying a noncompetitive retail electric service~~ 2764
~~and supplying a competitive retail electric service, or in the~~ 2765
businesses of supplying a noncompetitive retail electric service 2766
and supplying a product or service other than retail electric 2767
service, unless the utility implements and operates under a 2768
corporate separation plan that is approved by the public 2769
utilities commission under this section, is consistent with the 2770
policy specified in section 4928.02 of the Revised Code, and 2771
achieves all of the following: 2772

(1) The plan provides, at minimum, for the provision of 2773
~~the competitive retail electric service or the nonelectric~~ 2774
product or service through a fully separated affiliate of the 2775
utility, and the plan includes separate accounting requirements, 2776
the code of conduct as ordered by the commission pursuant to a 2777

rule it shall adopt under division (A) of section 4928.06 of the 2778
Revised Code, and such other measures as are necessary to 2779
effectuate the policy specified in section 4928.02 of the 2780
Revised Code. 2781

(2) The plan satisfies the public interest in ~~preventing~~ 2782
~~unfair competitive advantage and~~ preventing the abuse of market 2783
power. 2784

(3) The plan is sufficient to ensure that the utility will 2785
not extend any undue preference or advantage to any affiliate, 2786
division, or part of its own business engaged in the business of 2787
supplying the ~~competitive retail electric service or nonelectric~~ 2788
product or service, including, but not limited to, utility 2789
resources such as trucks, tools, office equipment, office space, 2790
supplies, customer and marketing information, advertising, 2791
billing and mailing systems, personnel, and training, without 2792
compensation based upon fully loaded embedded costs charged to 2793
the affiliate; and to ensure that any such affiliate, division, 2794
or part will not receive undue preference or advantage from any 2795
affiliate, division, or part of the business engaged in business 2796
of supplying the noncompetitive retail electric service. No such 2797
utility, affiliate, division, or part shall extend such undue 2798
preference. ~~Notwithstanding any other division of this section,~~ 2799
~~a utility's obligation under division (A) (3) of this section~~ 2800
~~shall be effective January 1, 2000.~~ 2801

(B) The commission may approve, modify and approve, or 2802
disapprove a corporate separation plan filed with the commission 2803
under division (A) of this section. As part of the code of 2804
conduct required under division (A) (1) of this section, the 2805
commission shall adopt rules pursuant to division (A) of section 2806
4928.06 of the Revised Code regarding corporate separation and 2807

procedures for plan filing and approval. The rules shall include 2808
limitations on affiliate practices solely for the purpose of 2809
maintaining a separation of the affiliate's business from the 2810
business of the utility to prevent ~~unfair competitive advantage~~ 2811
abuse of market power by virtue of that relationship. The rules 2812
also shall include an opportunity for any person having a real 2813
and substantial interest in the corporate separation plan to 2814
file specific objections to the plan and propose specific 2815
responses to issues raised in the objections, which objections 2816
and responses the commission shall address in its final order. 2817
Prior to commission approval of the plan, the commission shall 2818
afford a hearing upon those aspects of the plan that the 2819
commission determines reasonably require a hearing. The 2820
commission may reject and require refiling of a substantially 2821
inadequate plan under this section. 2822

(C) The commission shall issue an order approving or 2823
modifying and approving a corporate separation plan under this 2824
section, to be effective on the date specified in the order, 2825
only upon findings that the plan reasonably complies with the 2826
requirements of division (A) of this section and will provide 2827
for ongoing compliance with the policy specified in section 2828
4928.02 of the Revised Code. However, for good cause shown, the 2829
commission may issue an order approving or modifying and 2830
approving a corporate separation plan under this section that 2831
does not comply with division (A) (1) of this section but 2832
complies with such functional separation requirements as the 2833
commission authorizes to apply for an interim period prescribed 2834
in the order, upon a finding that such alternative plan will 2835
provide for ongoing compliance with the policy specified in 2836
section 4928.02 of the Revised Code. 2837

(D) Any party may seek an amendment to a corporate 2838

separation plan approved under this section, and the commission, 2839
pursuant to a request from any party or on its own initiative, 2840
may order as it considers necessary the filing of an amended 2841
corporate separation plan to reflect changed circumstances. 2842

~~(E) No electric distribution utility shall sell or 2843~~
~~transfer any generating asset it wholly or partly owns at any 2844~~
~~time without obtaining prior commission approval. 2845~~

Sec. 4928.20. (A) The legislative authority of a municipal 2846
corporation may adopt an ordinance, or the board of township 2847
trustees of a township or the board of county commissioners of a 2848
county may adopt a resolution, under which, ~~on or after the~~ 2849
~~starting date of competitive retail electric service,~~ it may 2850
aggregate in accordance with this section the retail electrical 2851
loads located, respectively, within the municipal corporation, 2852
township, or unincorporated area of the county and, for that 2853
purpose, may enter into service agreements to facilitate for 2854
those loads the sale and purchase of electricity. The 2855
legislative authority or board also may exercise such authority 2856
jointly with any other such legislative authority or board. For 2857
customers that are not mercantile customers, an ordinance or 2858
resolution under this division shall specify whether the 2859
aggregation will occur only with the prior, affirmative consent 2860
of each person owning, occupying, controlling, or using an 2861
electric load center proposed to be aggregated or will occur 2862
automatically for all such persons pursuant to the opt-out 2863
requirements of division (D) of this section. The aggregation of 2864
mercantile customers shall occur only with the prior, 2865
affirmative consent of each such person owning, occupying, 2866
controlling, or using an electric load center proposed to be 2867
aggregated. Nothing in this division, however, authorizes the 2868
aggregation of the retail electric loads of an electric load 2869

center, as defined in section 4933.81 of the Revised Code, that 2870
is located in the certified territory of a nonprofit electric 2871
supplier under sections 4933.81 to 4933.90 of the Revised Code 2872
or an electric load center served by transmission or 2873
distribution facilities of a municipal electric utility. 2874

(B) If an ordinance or resolution adopted under division 2875
(A) of this section specifies that aggregation of customers that 2876
are not mercantile customers will occur automatically as 2877
described in that division, the ordinance or resolution shall 2878
direct the board of elections to submit the question of the 2879
authority to aggregate to the electors of the respective 2880
municipal corporation, township, or unincorporated area of a 2881
county at a special election on the day of the next primary or 2882
general election in the municipal corporation, township, or 2883
county. The legislative authority or board shall certify a copy 2884
of the ordinance or resolution to the board of elections not 2885
less than ninety days before the day of the special election. No 2886
ordinance or resolution adopted under division (A) of this 2887
section that provides for an election under this division shall 2888
take effect unless approved by a majority of the electors voting 2889
upon the ordinance or resolution at the election held pursuant 2890
to this division. 2891

(C) Upon the applicable requisite authority under 2892
divisions (A) and (B) of this section, the legislative authority 2893
or board shall develop a plan of operation and governance for 2894
the aggregation program so authorized. Before adopting a plan 2895
under this division, the legislative authority or board shall 2896
hold at least two public hearings on the plan. Before the first 2897
hearing, the legislative authority or board shall publish notice 2898
of the hearings once a week for two consecutive weeks in a 2899
newspaper of general circulation in the jurisdiction or as 2900

provided in section 7.16 of the Revised Code. The notice shall 2901
summarize the plan and state the date, time, and location of 2902
each hearing. 2903

(D) No legislative authority or board, pursuant to an 2904
ordinance or resolution under divisions (A) and (B) of this 2905
section that provides for automatic aggregation of customers 2906
that are not mercantile customers as described in division (A) 2907
of this section, shall aggregate the electrical load of any 2908
electric load center located within its jurisdiction unless it 2909
in advance clearly discloses to the person owning, occupying, 2910
controlling, or using the load center that the person will be 2911
enrolled automatically in the aggregation program and will 2912
remain so enrolled unless the person affirmatively elects by a 2913
stated procedure not to be so enrolled. The disclosure shall 2914
state prominently the rates, charges, and other terms and 2915
conditions of enrollment. The stated procedure shall allow any 2916
person enrolled in the aggregation program the opportunity to 2917
opt out of the program every three years, without paying a 2918
switching fee. Any such person that opts out before the 2919
commencement of the aggregation program pursuant to the stated 2920
procedure shall default to the standard service offer provided 2921
under section 4928.14 or division (D) of section 4928.35 of the 2922
Revised Code until the person chooses an alternative supplier. 2923

(E) (1) With respect to a governmental aggregation for a 2924
municipal corporation that is authorized pursuant to divisions 2925
(A) to (D) of this section, resolutions may be proposed by 2926
initiative or referendum petitions in accordance with sections 2927
731.28 to 731.41 of the Revised Code. 2928

(2) With respect to a governmental aggregation for a 2929
township or the unincorporated area of a county, which 2930

aggregation is authorized pursuant to divisions (A) to (D) of 2931
this section, resolutions may be proposed by initiative or 2932
referendum petitions in accordance with sections 731.28 to 2933
731.40 of the Revised Code, except that: 2934

(a) The petitions shall be filed, respectively, with the 2935
township fiscal officer or the board of county commissioners, 2936
who shall perform those duties imposed under those sections upon 2937
the city auditor or village clerk. 2938

(b) The petitions shall contain the signatures of not less 2939
than ten per cent of the total number of electors in, 2940
respectively, the township or the unincorporated area of the 2941
county who voted for the office of governor at the preceding 2942
general election for that office in that area. 2943

(F) A governmental aggregator under division (A) of this 2944
section is not a public utility engaging in the wholesale 2945
purchase and resale of electricity, and provision of the 2946
aggregated service is not a wholesale utility transaction. A 2947
governmental aggregator shall be subject to supervision and 2948
regulation by the public utilities commission only to the extent 2949
of any competitive retail electric service it provides and 2950
commission authority under this chapter. 2951

(G) This section does not apply in the case of a municipal 2952
corporation that supplies such aggregated service to electric 2953
load centers to which its municipal electric utility also 2954
supplies a noncompetitive retail electric service through 2955
transmission or distribution facilities the utility singly or 2956
jointly owns or operates. 2957

(H) A governmental aggregator shall not include in its 2958
aggregation the accounts of any of the following: 2959

- (1) A customer that has opted out of the aggregation; 2960
- (2) A customer in contract with a certified electric 2961
services company; 2962
- (3) A customer that has a special contract with an 2963
electric distribution utility; 2964
- (4) A customer that is not located within the governmental 2965
aggregator's governmental boundaries; 2966
- (5) Subject to division (C) of section 4928.21 of the 2967
Revised Code, a customer who appears on the "do not aggregate" 2968
list maintained under that section. 2969
- (I) Customers that are part of a governmental aggregation 2970
under this section shall be responsible only for such portion of 2971
a surcharge under section 4928.144 of the Revised Code that is 2972
proportionate to the benefits, as determined by the commission, 2973
that electric load centers within the jurisdiction of the 2974
governmental aggregation as a group receive. The proportionate 2975
surcharge so established shall apply to each customer of the 2976
governmental aggregation while the customer is part of that 2977
aggregation. If a customer ceases being such a customer, the 2978
otherwise applicable surcharge shall apply. Nothing in this 2979
section shall result in less than full recovery by an electric 2980
distribution utility of any surcharge authorized under section 2981
4928.144 of the Revised Code. Nothing in this section shall 2982
result in less than the full and timely imposition, charging, 2983
collection, and adjustment by an electric distribution utility, 2984
its assignee, or any collection agent, of the phase-in-recovery 2985
charges authorized pursuant to a final financing order issued 2986
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 2987
- (J) ~~On behalf of the customers that are part of a~~ 2988

~~governmental aggregation under this section and by filing~~ 2989
~~written notice with the public utilities commission, the~~ 2990
~~legislative authority that formed or is forming that~~ 2991
~~governmental aggregation may elect not to receive standby~~ 2992
~~service within the meaning of division (B) (2) (d) of section~~ 2993
~~4928.143 of the Revised Code from an electric distribution~~ 2994
~~utility in whose certified territory the governmental~~ 2995
~~aggregation is located and that operates under an approved~~ 2996
~~electric security plan under that section. Upon the filing of~~ 2997
~~that notice, the electric distribution utility shall not charge~~ 2998
~~any such customer to whom competitive retail electric generation~~ 2999
~~service is provided by another supplier under the governmental~~ 3000
~~aggregation for the standby service. Any such consumer that~~ 3001
~~returns to the utility for competitive retail electric service~~ 3002
~~shall pay the market price of power incurred by the utility to~~ 3003
~~serve that consumer plus any amount attributable to the~~ 3004
~~utility's cost of compliance with the renewable energy resource~~ 3005
~~provisions of section 4928.64 of the Revised Code to serve the~~ 3006
~~consumer. Such market price shall include, but not be limited~~ 3007
~~to, capacity and energy charges; all charges associated with the~~ 3008
~~provision of that power supply through the regional transmission~~ 3009
~~organization, including, but not limited to, transmission,~~ 3010
~~ancillary services, congestion, and settlement and~~ 3011
~~administrative charges; and all other costs incurred by the~~ 3012
~~utility that are associated with the procurement, provision, and~~ 3013
~~administration of that power supply, as such costs may be~~ 3014
~~approved by the commission. The period of time during which the~~ 3015
~~market price and renewable energy resource amount shall be so~~ 3016
~~assessed on the consumer shall be from the time the consumer so~~ 3017
~~returns to the electric distribution utility until the~~ 3018
~~expiration of the electric security plan. However, if that~~ 3019
~~period of time is expected to be more than two years, the~~ 3020

~~commission may reduce the time period to a period of not less than two years.~~

~~(K)~~ The commission shall adopt rules and issue orders in proceedings under sections 4928.141 and 4928.142 of the Revised Code to encourage and promote large-scale governmental aggregation in this state. For that purpose, the commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, as that section existed prior to its repeal by this act, or a market rate offer under section 4928.142 of the Revised Code, as amended by this act, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, under that plan, or that would be established under that plan offer, except any nonbypassable generation charges that relate to any cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of the Revised Code:

(A) "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other similar agreement or arrangement entered into in connection with the issuance of phase-in-recovery bonds that is designed to promote the credit quality and marketability

of the bonds or to mitigate the risk of an increase in interest 3051
rates. 3052

(B) "Assignee" means any person or entity to which an 3053
interest in phase-in-recovery property is sold, assigned, 3054
transferred, or conveyed, other than as security, and any 3055
successor to or subsequent assignee of such a person or entity. 3056

(C) "Bond" includes debentures, notes, certificates of 3057
participation, certificates of beneficial interest, certificates 3058
of ownership or other evidences of indebtedness or ownership 3059
that are issued by an electric distribution utility or an 3060
assignee under a final financing order, the proceeds of which 3061
are used directly or indirectly to recover, finance, or 3062
refinance phase-in costs and financing costs, and that are 3063
secured by or payable from revenues from phase-in-recovery 3064
charges. 3065

(D) "Bondholder" means any holder or owner of a phase-in- 3066
recovery bond. 3067

(E) "Financing costs" means any of the following: 3068

(1) Principal, interest, and redemption premiums that are 3069
payable on phase-in-recovery bonds; 3070

(2) Any payment required under an ancillary agreement; 3071

(3) Any amount required to fund or replenish a reserve 3072
account or another account established under any indenture, 3073
ancillary agreement, or other financing document relating to 3074
phase-in-recovery bonds; 3075

(4) Any costs of retiring or refunding any existing debt 3076
and equity securities of an electric distribution utility in 3077
connection with either the issuance of, or the use of proceeds 3078

from, phase-in-recovery bonds; 3079

(5) Any costs incurred by an electric distribution utility 3080
to obtain modifications of or amendments to any indenture, 3081
financing agreement, security agreement, or similar agreement or 3082
instrument relating to any existing secured or unsecured 3083
obligation of the electric distribution utility in connection 3084
with the issuance of phase-in-recovery bonds; 3085

(6) Any costs incurred by an electric distribution utility 3086
to obtain any consent, release, waiver, or approval from any 3087
holder of an obligation described in division (E) (5) of this 3088
section that are necessary to be incurred for the electric 3089
distribution utility to issue or cause the issuance of phase-in- 3090
recovery bonds; 3091

(7) Any taxes, franchise fees, or license fees imposed on 3092
phase-in-recovery revenues; 3093

(8) Any costs related to issuing or servicing phase-in- 3094
recovery bonds or related to obtaining a financing order, 3095
including servicing fees and expenses, trustee fees and 3096
expenses, legal, accounting, or other professional fees and 3097
expenses, administrative fees, placement fees, underwriting 3098
fees, capitalized interest and equity, and rating-agency fees; 3099

(9) Any other similar costs that the public utilities 3100
commission finds appropriate. 3101

(F) "Financing order" means an order issued by the public 3102
utilities commission under section 4928.232 of the Revised Code 3103
that authorizes an electric distribution utility or an assignee 3104
to issue phase-in-recovery bonds and recover phase-in-recovery 3105
charges. 3106

(G) "Final financing order" means a financing order that 3107

has become final and has taken effect as provided in section 3108
4928.233 of the Revised Code. 3109

(H) "Financing party" means either of the following: 3110

(1) Any trustee, collateral agent, or other person acting 3111
for the benefit of any bondholder; 3112

(2) Any party to an ancillary agreement, the rights and 3113
obligations of which relate to or depend upon the existence of 3114
phase-in-recovery property, the enforcement and priority of a 3115
security interest in phase-in-recovery property, the timely 3116
collection and payment of phase-in-recovery revenues, or a 3117
combination of these factors. 3118

(I) "Financing statement" has the same meaning as in 3119
section 1309.102 of the Revised Code. 3120

(J) "Phase-in costs" means costs, inclusive of carrying 3121
charges incurred before, on, or after ~~the effective date of this~~ 3122
~~section~~ March 22, 2012, authorized by the commission before, on, 3123
or after ~~the effective date of this section~~ March 22, 2012, to 3124
be securitized or deferred as regulatory assets in proceedings 3125
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3126
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3127
4928.14 of the Revised Code as it existed prior to July 31, 3128
2008, or section 4928.143 of the Revised Code as it existed 3129
prior to the effective date of the amendments to this section by 3130
this act pursuant to a final order for which appeals have been 3131
exhausted. "Phase-in costs" excludes the following: 3132

(1) With respect to any electric generating facility that, 3133
on and after ~~the effective date of this section~~ March 22, 2012, 3134
is owned, in whole or in part, by an electric distribution 3135
utility applying for a financing order under section 4928.231 of 3136

the Revised Code, costs that are authorized under division (B) 3137
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3138
section existed prior to the effective date of the amendments to 3139
this section by this act; 3140

(2) Costs incurred after ~~the effective date of this~~ 3141
~~section~~ March 22, 2012, related to the ongoing operation of an 3142
electric generating facility, but not environmental clean-up or 3143
remediation costs incurred by an electric distribution utility 3144
because of its ownership or operation of an electric generating 3145
facility prior to ~~the effective date of this section~~ March 22, 3146
2012, which such clean-up or remediation costs are imposed or 3147
incurred pursuant to federal or state law, rules, or regulations 3148
and for which the commission approves or approved recovery in 3149
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3150
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3151
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3152
July 31, 2008, or section 4928.143 of the Revised Code as it 3153
existed prior to the effective date of the amendments to this 3154
section by this act. 3155

(K) "Phase-in-recovery property" means the property, 3156
rights, and interests of an electric distribution utility or an 3157
assignee under a final financing order, including the right to 3158
impose, charge, and collect the phase-in-recovery charges that 3159
shall be used to pay and secure the payment of phase-in-recovery 3160
bonds and financing costs, and including the right to obtain 3161
adjustments to those charges, and any revenues, receipts, 3162
collections, rights to payment, payments, moneys, claims, or 3163
other proceeds arising from the rights and interests created 3164
under the final financing order. 3165

(L) "Phase-in-recovery revenues" means all revenues, 3166

receipts, collections, payments, moneys, claims, or other 3167
proceeds arising from phase-in-recovery property. 3168

(M) "Successor" means, with respect to any entity, another 3169
entity that succeeds by operation of law to the rights and 3170
obligations of the first legal entity pursuant to any 3171
bankruptcy, reorganization, restructuring, or other insolvency 3172
proceeding, any merger, acquisition, or consolidation, or any 3173
sale or transfer of assets, regardless of whether any of these 3174
occur as a result of a restructuring of the electric power 3175
industry or otherwise. 3176

Sec. 4928.231. (A) An electric distribution utility may 3177
apply to the public utilities commission for a financing order 3178
that authorizes the following: 3179

(1) The issuance of phase-in-recovery bonds, in one or 3180
more series, to recover uncollected phase-in costs; 3181

(2) The imposition, charging, and collection of phase-in- 3182
recovery charges, in accordance with the adjustment mechanism 3183
approved by the commission under section 4928.232 of the Revised 3184
Code, and consistent with the commission's authority regarding 3185
governmental aggregation as provided in division (I) of section 3186
4928.20 of the Revised Code, to recover both of the following: 3187

(a) Uncollected phase-in costs; 3188

(b) Financing costs. 3189

(3) The creation of phase-in-recovery property under the 3190
financing order. 3191

(B) The application shall include all of the following: 3192

(1) A description of the uncollected phase-in costs that 3193
the electric distribution utility seeks to recover through the 3194

issuance of phase-in-recovery bonds; 3195

(2) An estimate of the date each series of phase-in- 3196
recovery bonds are expected to be issued; 3197

(3) The expected term during which the phase-in costs 3198
associated with the issuance of each series of phase-in-recovery 3199
bonds are expected to be recovered; 3200

(4) An estimate of the financing costs, as described in 3201
section 4928.23 of the Revised Code, associated with the 3202
issuance of each series of phase-in-recovery bonds; 3203

(5) An estimate of the amount of phase-in-recovery charges 3204
necessary to recover the phase-in costs and financing costs set 3205
forth in the application and the calculation for that estimate, 3206
which calculation shall take into account the estimated date or 3207
dates of issuance and the estimated principal amount of each 3208
series of phase-in-recovery bonds; 3209

(6) For phase-in-recovery charges not subject to 3210
allocation according to an existing order, a proposed 3211
methodology for allocating phase-in-recovery charges among 3212
customer classes, including a proposed methodology for 3213
allocating such charges to governmental aggregation customers 3214
based upon the proportionate benefit determination made under 3215
division (I) of section 4928.20 of the Revised Code; 3216

(7) A description of a proposed adjustment mechanism for 3217
use as described in division (A) (2) of this section; 3218

(8) A description and valuation of how the issuance of the 3219
phase-in-recovery bonds, including financing costs, will both 3220
result in cost savings to customers and mitigate rate impacts to 3221
customers when compared to the use of other financing mechanisms 3222
or cost-recovery methods available to the electric distribution 3223

utility; 3224

(9) Any other information required by the commission. 3225

(C) The electric distribution utility may restate or 3226
incorporate by reference in the application any information 3227
required under division (B) (9) of this section that the electric 3228
distribution utility filed with the commission under section 3229
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3230
, section 4928.14 of the Revised Code as it existed prior to 3231
July 31, 2008, or section 4928.143 of the Revised Code as it 3232
existed prior to the amendments to this section by this act. 3233

Sec. 4928.232. (A) Proceedings before the public utilities 3234
commission on an application submitted by an electric 3235
distribution utility under section 4928.231 of the Revised Code 3236
shall be governed by Chapter 4903. of the Revised Code, but only 3237
to the extent that chapter is not inconsistent with this section 3238
or section 4928.233 of the Revised Code. Any party that 3239
participated in the proceeding in which phase-in costs were 3240
approved under section 4909.18 or sections 4928.141 to 4928.144 3241
of the Revised Code ~~or~~, section 4928.14 of the Revised Code as 3242
it existed prior to July 31, 2008, or section 4928.143 of the 3243
Revised Code as it existed prior to the amendments to this 3244
section by this act shall have standing to participate in 3245
proceedings under sections 4928.23 to 4928.2318 of the Revised 3246
Code. 3247

(B) When reviewing an application for a financing order 3248
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3249
the commission may hold such hearings, make such inquiries or 3250
investigations, and examine such witnesses, books, papers, 3251
documents, and contracts as the commission considers proper to 3252
carry out these sections. Within thirty days after the filing of 3253

an application under section 4928.231 of the Revised Code, the 3254
commission shall publish a schedule of the proceeding. 3255

(C) (1) Not later than one hundred thirty-five days after 3256
the date the application is filed, the commission shall issue 3257
either a financing order, granting the application in whole or 3258
with modifications, or an order suspending or rejecting the 3259
application. 3260

(2) If the commission suspends an application for a 3261
financing order, the commission shall notify the electric 3262
distribution utility of the suspension and may direct the 3263
electric distribution utility to provide additional information 3264
as the commission considers necessary to evaluate the 3265
application. Not later than ninety days after the suspension, 3266
the commission shall issue either a financing order, granting 3267
the application in whole or with modifications, or an order 3268
rejecting the application. 3269

(D) (1) The commission shall not issue a financing order 3270
under division (C) of this section unless the commission 3271
determines that the financing order is consistent with section 3272
4928.02 of the Revised Code. 3273

(2) Except as provided in division (D) (1) of this section, 3274
the commission shall issue a financing order under division (C) 3275
of this section if, at the time the financing order is issued, 3276
the commission finds that the issuance of the phase-in-recovery 3277
bonds and the phase-in-recovery charges authorized by the order 3278
results in, consistent with market conditions, both measurably 3279
enhancing cost savings to customers and mitigating rate impacts 3280
to customers as compared with traditional financing mechanisms 3281
or traditional cost-recovery methods available to the electric 3282
distribution utility or, if the commission previously approved a 3283

recovery method, as compared with that recovery method. 3284

(E) The commission shall include all of the following in a 3285
financing order issued under division (C) of this section: 3286

(1) A determination of the maximum amount and a 3287
description of the phase-in costs that may be recovered through 3288
phase-in-recovery bonds issued under the financing order; 3289

(2) A description of phase-in-recovery property, the 3290
creation of which is authorized by the financing order; 3291

(3) A description of the financing costs that may be 3292
recovered through phase-in-recovery charges and the period over 3293
which those costs may be recovered; 3294

(4) For phase-in-recovery charges not subject to 3295
allocation according to an existing order, a description of the 3296
methodology and calculation for allocating phase-in-recovery 3297
charges among customer classes, including the allocation of such 3298
charges, if any, to governmental aggregation customers based 3299
upon the proportionate benefit determination made under division 3300
(I) of section 4928.20 of the Revised Code; 3301

(5) A description of the adjustment mechanism for use in 3302
the imposition, charging, and collection of the phase-in- 3303
recovery charges; 3304

(6) The maximum term of the phase-in-recovery bonds; 3305

(7) Any other provision the commission considers 3306
appropriate to ensure the full and timely imposition, charging, 3307
collection, and adjustment, pursuant to an approved adjustment 3308
mechanism, of the phase-in-recovery charges described in 3309
divisions (E) (3) to (5) of this section. 3310

(F) The commission may, in a financing order, afford the 3311

electric distribution utility flexibility in establishing the 3312
terms and conditions for the phase-in-recovery bonds to 3313
accommodate changes in market conditions, including repayment 3314
schedules, interest rates, financing costs, collateral 3315
requirements, required debt service and other reserves, and the 3316
ability of the electric distribution utility, at its option, to 3317
effect a series of issuances of phase-in-recovery bonds and 3318
correlated assignments, sales, pledges, or other transfers of 3319
phase-in-recovery property. Any changes made under this section 3320
to terms and conditions for the phase-in-recovery bonds shall be 3321
in conformance with the financing order. 3322

(G) A financing order may provide that the creation of 3323
phase-in-recovery property shall be simultaneous with the sale 3324
of that property to an assignee as provided in the application 3325
and the pledge of the property to secure phase-in-recovery 3326
bonds. 3327

(H) The commission shall, in a financing order, require 3328
that after the final terms of each issuance of phase-in-recovery 3329
bonds have been established, and prior to the issuance of those 3330
bonds, the electric distribution utility shall determine the 3331
resulting phase-in-recovery charges in accordance with the 3332
adjustment mechanism described in the financing order. These 3333
phase-in-recovery charges shall be final and effective upon the 3334
issuance of the phase-in-recovery bonds, without further 3335
commission action. 3336

Sec. 4928.34. (A) The public utilities commission shall 3337
not approve or prescribe a transition plan under division (A) or 3338
(B) of section 4928.33 of the Revised Code unless the commission 3339
first makes all of the following determinations: 3340

(1) The unbundled components for the electric transmission 3341

component of retail electric service, as specified in the 3342
utility's rate unbundling plan required by division (A) (1) of 3343
section 4928.31 of the Revised Code, equal the tariff rates 3344
determined by the federal energy regulatory commission that are 3345
in effect on the date of the approval of the transition plan 3346
under sections 4928.31 to 4928.40 of the Revised Code, as each 3347
such rate is determined applicable to each particular customer 3348
class and rate schedule by the commission. The unbundled 3349
transmission component shall include a sliding scale of charges 3350
under division (B) of section 4905.31 of the Revised Code to 3351
ensure that refunds determined or approved by the federal energy 3352
regulatory commission are flowed through to retail electric 3353
customers. 3354

(2) The unbundled components for retail electric 3355
distribution service in the rate unbundling plan equal the 3356
difference between the costs attributable to the utility's 3357
transmission and distribution rates and charges under its 3358
schedule of rates and charges in effect on the effective date of 3359
this section, based upon the record in the most recent rate 3360
proceeding of the utility for which the utility's schedule was 3361
established, and the tariff rates for electric transmission 3362
service determined by the federal energy regulatory commission 3363
as described in division (A) (1) of this section. 3364

(3) All other unbundled components required by the 3365
commission in the rate unbundling plan equal the costs 3366
attributable to the particular service as reflected in the 3367
utility's schedule of rates and charges in effect on the 3368
effective date of this section. 3369

(4) The unbundled components for retail electric 3370
generation service in the rate unbundling plan equal the 3371

residual amount remaining after the determination of the 3372
transmission, distribution, and other unbundled components, and 3373
after any adjustments necessary to reflect the effects of the 3374
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3375
No. 3 of the 123rd general assembly. 3376

(5) All unbundled components in the rate unbundling plan 3377
have been adjusted to reflect any base rate reductions on file 3378
with the commission and as scheduled to be in effect by December 3379
31, 2005, under rate settlements in effect on the effective date 3380
of this section. However, all earnings obligations, 3381
restrictions, or caps imposed on an electric utility in a 3382
commission order prior to the effective date of this section are 3383
void. 3384

(6) Subject to division (A) (5) of this section, the total 3385
of all unbundled components in the rate unbundling plan are 3386
capped and shall equal during the market development period, 3387
except as specifically provided in this chapter, the total of 3388
all rates and charges in effect under the applicable bundled 3389
schedule of the electric utility pursuant to section 4905.30 of 3390
the Revised Code in effect on the day before the effective date 3391
of this section, including the transition charge determined 3392
under section 4928.40 of the Revised Code, adjusted for any 3393
changes in the taxation of electric utilities and retail 3394
electric service under Sub. S.B. No. 3 of the 123rd General 3395
Assembly, the universal service rider authorized by section 3396
4928.51 of the Revised Code, and the temporary rider authorized 3397
by section 4928.61 of the Revised Code. For the purpose of this 3398
division, the rate cap applicable to a customer receiving 3399
electric service pursuant to an arrangement approved by the 3400
commission under section 4905.31 of the Revised Code is, for the 3401
term of the arrangement, the total of all rates and charges in 3402

effect under the arrangement. For any rate schedule filed 3403
pursuant to section 4905.30 of the Revised Code or any 3404
arrangement subject to approval pursuant to section 4905.31 of 3405
the Revised Code, the initial tax-related adjustment to the rate 3406
cap required by this division shall be equal to the rate of 3407
taxation specified in section 5727.81 of the Revised Code and 3408
applicable to the schedule or arrangement. To the extent such 3409
total annual amount of the tax-related adjustment is greater 3410
than or less than the comparable amount of the total annual tax 3411
reduction experienced by the electric utility as a result of the 3412
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3413
such difference shall be addressed by the commission through 3414
accounting procedures, refunds, or an annual surcharge or credit 3415
to customers, or through other appropriate means, to avoid 3416
placing the financial responsibility for the difference upon the 3417
electric utility or its shareholders. Any adjustments in the 3418
rate of taxation specified in section 5727.81 of the Revised 3419
Code ~~section~~ shall not occur without a corresponding adjustment 3420
to the rate cap for each such rate schedule or arrangement. The 3421
department of taxation shall advise the commission and self- 3422
assessors under section 5727.81 of the Revised Code prior to the 3423
effective date of any change in the rate of taxation specified 3424
under that section, and the commission shall modify the rate cap 3425
to reflect that adjustment so that the rate cap adjustment is 3426
effective as of the effective date of the change in the rate of 3427
taxation. This division shall be applied, to the extent 3428
possible, to eliminate any increase in the price of electricity 3429
for customers that otherwise may occur as a result of 3430
establishing the taxes contemplated in section 5727.81 of the 3431
Revised Code. 3432

(7) The rate unbundling plan complies with any rules 3433

adopted by the commission under division (A) of section 4928.06 3434
of the Revised Code. 3435

(8) The corporate separation plan required by division (A) 3436
(2) of section 4928.31 of the Revised Code complies with section 3437
4928.17 of the Revised Code and any rules adopted by the 3438
commission under division (A) of section 4928.06 of the Revised 3439
Code. 3440

(9) Any plan or plans the commission requires to address 3441
operational support systems and any other technical 3442
implementation issues pertaining to competitive retail electric 3443
service comply with any rules adopted by the commission under 3444
division (A) of section 4928.06 of the Revised Code. 3445

(10) The employee assistance plan required by division (A) 3446
(4) of section 4928.31 of the Revised Code sufficiently provides 3447
severance, retraining, early retirement, retention, 3448
outplacement, and other assistance for the utility's employees 3449
whose employment is affected by electric industry restructuring 3450
under this chapter. 3451

(11) The consumer education plan required under division 3452
(A) (5) of section 4928.31 of the Revised Code complies with 3453
former section 4928.42 of the Revised Code and any rules adopted 3454
by the commission under division (A) of section 4928.06 of the 3455
Revised Code. 3456

(12) The transition revenues for which an electric utility 3457
is authorized a revenue opportunity under sections 4928.31 to 3458
4928.40 of the Revised Code are the allowable transition costs 3459
of the utility as such costs are determined by the commission 3460
pursuant to section 4928.39 of the Revised Code, and the 3461
transition charges for the customer classes and rate schedules 3462

of the utility are the charges determined pursuant to section 3463
4928.40 of the Revised Code. 3464

(13) Any independent transmission plan included in the 3465
transition plan filed under section 4928.31 of the Revised Code 3466
reasonably complies with section 4928.12 of the Revised Code and 3467
any rules adopted by the commission under division (A) of 3468
section 4928.06 of the Revised Code, unless the commission, for 3469
good cause shown, authorizes the utility to defer compliance 3470
until an order is issued under division (G) of section 4928.35 3471
of the Revised Code. 3472

(14) The utility is in compliance with sections 4928.01 to 3473
4928.11 of the Revised Code and any rules or orders of the 3474
commission adopted or issued under those sections. 3475

(15) All unbundled components in the rate unbundling plan 3476
have been adjusted to reflect the elimination of the tax on 3477
gross receipts imposed by section 5727.30 of the Revised Code. 3478

In addition, a transition plan approved by the commission 3479
under section 4928.33 of the Revised Code but not containing an 3480
approved independent transmission plan shall contain the express 3481
conditions that the utility will comply with an order issued 3482
under division (G) of section 4928.35 of the Revised Code. 3483

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3484
~~Revised Code, if~~ If the commission finds that any part of the 3485
transition plan would constitute an abandonment under sections 3486
4905.20 and 4905.21 of the Revised Code, the commission shall 3487
not approve that part of the transition plan unless it makes the 3488
finding required for approval of an abandonment application 3489
under section 4905.21 of the Revised Code. Sections 4905.20 and 3490
4905.21 of the Revised Code otherwise shall not apply to a 3491

transition plan under sections 4928.31 to 4928.40 of the Revised Code. 3492
3493

Sec. 4928.542. The winning bid or bids selected through 3494
the competitive procurement process established under section 3495
4928.54 of the Revised Code shall meet all of the following 3496
requirements: 3497

(A) Be designed to provide reliable competitive retail 3498
electric service to percentage of income payment plan program 3499
customers; 3500

(B) Reduce the cost of the percentage of income payment 3501
plan program relative to the otherwise applicable standard 3502
service offer established under sections 4928.141, and 4928.142, ~~and~~ 3503
~~and 4928.143~~ of the Revised Code; 3504

(C) Result in the best value for persons paying the 3505
universal service rider under section 4928.52 of the Revised 3506
Code. 3507

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3508
renewable energy resource" means a renewable energy resource, as 3509
defined in section 4928.01 of the Revised Code that: 3510

(a) Has a placed-in-service date on or after January 1, 3511
1998; 3512

(b) Is any run-of-the-river hydroelectric facility that 3513
has an in-service date on or after January 1, 1980; 3514

(c) Is a small hydroelectric facility; 3515

(d) Is created on or after January 1, 1998, by the 3516
modification or retrofit of any facility placed in service prior 3517
to January 1, 1998; or 3518

(e) Is a mercantile customer-sited renewable energy 3519
resource, whether new or existing, that the mercantile customer 3520
commits for integration into the electric distribution utility's 3521
demand-response, energy efficiency, or peak demand reduction 3522
programs as provided under division (A) (2) (c) of section 4928.66 3523
of the Revised Code, including, but not limited to, any of the 3524
following: 3525

(i) A resource that has the effect of improving the 3526
relationship between real and reactive power; 3527

(ii) A resource that makes efficient use of waste heat or 3528
other thermal capabilities owned or controlled by a mercantile 3529
customer; 3530

(iii) Storage technology that allows a mercantile customer 3531
more flexibility to modify its demand or load and usage 3532
characteristics; 3533

(iv) Electric generation equipment owned or controlled by 3534
a mercantile customer that uses a renewable energy resource. 3535

(2) For the purpose of this section and as it considers 3536
appropriate, the public utilities commission may classify any 3537
new technology as such a qualifying renewable energy resource. 3538

(B) (1) By the end of 2026, an electric distribution 3539
utility shall have provided from qualifying renewable energy 3540
resources, including, at its discretion, qualifying renewable 3541
energy resources obtained pursuant to an electricity supply 3542
contract, a portion of the electricity supply required for its 3543
standard service offer under ~~section~~ sections 4928.141 and 3544
4928.142 of the Revised Code, and an electric services company 3545
shall have provided a portion of its electricity supply for 3546
retail consumers in this state from qualifying renewable energy 3547

resources, including, at its discretion, qualifying renewable 3548
energy resources obtained pursuant to an electricity supply 3549
contract. That portion shall equal eight and one-half per cent 3550
of the total number of kilowatt hours of electricity sold by the 3551
subject utility or company to any and all retail electric 3552
consumers whose electric load centers are served by that utility 3553
and are located within the utility's certified territory or, in 3554
the case of an electric services company, are served by the 3555
company and are located within this state. However, nothing in 3556
this section precludes a utility or company from providing a 3557
greater percentage. 3558

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3559
The portion required under division (B)(1) of this section shall 3560
be generated from renewable energy resources in accordance with 3561
the following benchmarks: 3562

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%

I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5%	0%
N	2021	6%	0%
O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%
R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented 3564
by the utility or company shall be met either: 3565

(a) Through facilities located in this state; or 3566

(b) With resources that can be shown to be deliverable 3567
into this state. 3568

(C) (1) The commission annually shall review an electric 3569
distribution utility's or electric services company's compliance 3570
with the most recent applicable benchmark under division (B) (2) 3571
of this section and, in the course of that review, shall 3572
identify any undercompliance or noncompliance of the utility or 3573
company that it determines is weather-related, related to 3574

equipment or resource shortages for qualifying renewable energy 3575
resources as applicable, or is otherwise outside the utility's 3576
or company's control. 3577

(2) Subject to the cost cap provisions of division (C) (3) 3578
of this section, if the commission determines, after notice and 3579
opportunity for hearing, and based upon its findings in that 3580
review regarding avoidable undercompliance or noncompliance, but 3581
subject to division (C) (4) of this section, that the utility or 3582
company has failed to comply with any such benchmark, the 3583
commission shall impose a renewable energy compliance payment on 3584
the utility or company. 3585

(a) The compliance payment pertaining to the solar energy 3586
resource benchmarks under division (B) (2) of this section shall 3587
be an amount per megawatt hour of undercompliance or 3588
noncompliance in the period under review, as follows: 3589

(i) Three hundred dollars for 2014, 2015, and 2016; 3590

(ii) Two hundred fifty dollars for 2017 and 2018; 3591

(iii) Two hundred dollars for 2019. 3592

(b) The compliance payment pertaining to the renewable 3593
energy resource benchmarks under division (B) (2) of this section 3594
shall equal the number of additional renewable energy credits 3595
that the electric distribution utility or electric services 3596
company would have needed to comply with the applicable 3597
benchmark in the period under review times an amount that shall 3598
begin at forty-five dollars and shall be adjusted annually by 3599
the commission to reflect any change in the consumer price index 3600
~~as defined in section 101.27 of the Revised Code~~, but shall not 3601
be less than forty-five dollars. As used in this division, 3602
"consumer price index" means the consumer price index prepared 3603

by the United States bureau of labor statistics (U.S. city 3604
average for urban wage earners and clerical workers: all items, 3605
1982-1984=100), or, if that index is no longer published, a 3606
generally available comparable index. 3607

(c) The compliance payment shall not be passed through by 3608
the electric distribution utility or electric services company 3609
to consumers. The compliance payment shall be remitted to the 3610
commission, for deposit to the credit of the advanced energy 3611
fund created under section 4928.61 of the Revised Code. Payment 3612
of the compliance payment shall be subject to such collection 3613
and enforcement procedures as apply to the collection of a 3614
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3615
Revised Code. 3616

(3) An electric distribution utility or an electric 3617
services company need not comply with a benchmark under division 3618
(B) (2) of this section to the extent that its reasonably 3619
expected cost of that compliance exceeds its reasonably expected 3620
cost of otherwise producing or acquiring the requisite 3621
electricity by three per cent or more. The cost of compliance 3622
shall be calculated as though any exemption from taxes and 3623
assessments had not been granted under section 5727.75 of the 3624
Revised Code. 3625

(4) (a) An electric distribution utility or electric 3626
services company may request the commission to make a force 3627
majeure determination pursuant to this division regarding all or 3628
part of the utility's or company's compliance with any minimum 3629
benchmark under division (B) (2) of this section during the 3630
period of review occurring pursuant to division (C) (2) of this 3631
section. The commission may require the electric distribution 3632
utility or electric services company to make solicitations for 3633

renewable energy resource credits as part of its default service 3634
before the utility's or company's request of force majeure under 3635
this division can be made. 3636

(b) Within ninety days after the filing of a request by an 3637
electric distribution utility or electric services company under 3638
division (C) (4) (a) of this section, the commission shall 3639
determine if qualifying renewable energy resources are 3640
reasonably available in the marketplace in sufficient quantities 3641
for the utility or company to comply with the subject minimum 3642
benchmark during the review period. In making this 3643
determination, the commission shall consider whether the 3644
electric distribution utility or electric services company has 3645
made a good faith effort to acquire sufficient qualifying 3646
renewable energy or, as applicable, solar energy resources to so 3647
comply, including, but not limited to, by banking or seeking 3648
renewable energy resource credits or by seeking the resources 3649
through long-term contracts. Additionally, the commission shall 3650
consider the availability of qualifying renewable energy or 3651
solar energy resources in this state and other jurisdictions in 3652
the PJM interconnection regional transmission organization, 3653
L.L.C., or its successor and the midcontinent independent system 3654
operator or its successor. 3655

(c) If, pursuant to division (C) (4) (b) of this section, 3656
the commission determines that qualifying renewable energy or 3657
solar energy resources are not reasonably available to permit 3658
the electric distribution utility or electric services company 3659
to comply, during the period of review, with the subject minimum 3660
benchmark prescribed under division (B) (2) of this section, the 3661
commission shall modify that compliance obligation of the 3662
utility or company as it determines appropriate to accommodate 3663
the finding. Commission modification shall not automatically 3664

reduce the obligation for the electric distribution utility's or 3665
electric services company's compliance in subsequent years. If 3666
it modifies the electric distribution utility or electric 3667
services company obligation under division (C) (4) (c) of this 3668
section, the commission may require the utility or company, if 3669
sufficient renewable energy resource credits exist in the 3670
marketplace, to acquire additional renewable energy resource 3671
credits in subsequent years equivalent to the utility's or 3672
company's modified obligation under division (C) (4) (c) of this 3673
section. 3674

(5) The commission shall establish a process to provide 3675
for at least an annual review of the renewable energy resource 3676
market in this state and in the service territories of the 3677
regional transmission organizations that manage transmission 3678
systems located in this state. The commission shall use the 3679
results of this study to identify any needed changes to the 3680
amount of the renewable energy compliance payment specified 3681
under divisions (C) (2) (a) and (b) of this section. Specifically, 3682
the commission may increase the amount to ensure that payment of 3683
compliance payments is not used to achieve compliance with this 3684
section in lieu of actually acquiring or realizing energy 3685
derived from qualifying renewable energy resources. However, if 3686
the commission finds that the amount of the compliance payment 3687
should be otherwise changed, the commission shall present this 3688
finding to the general assembly for legislative enactment. 3689

(D) The commission annually shall submit to the general 3690
assembly in accordance with section 101.68 of the Revised Code a 3691
report describing all of the following: 3692

(1) The compliance of electric distribution utilities and 3693
electric services companies with division (B) of this section; 3694

(2) The average annual cost of renewable energy credits 3695
purchased by utilities and companies for the year covered in the 3696
report; 3697

(3) Any strategy for utility and company compliance or for 3698
encouraging the use of qualifying renewable energy resources in 3699
supplying this state's electricity needs in a manner that 3700
considers available technology, costs, job creation, and 3701
economic impacts. 3702

The commission shall begin providing the information 3703
described in division (D)(2) of this section in each report 3704
submitted after September 10, 2012. The commission shall allow 3705
and consider public comments on the report prior to its 3706
submission to the general assembly. Nothing in the report shall 3707
be binding on any person, including any utility or company for 3708
the purpose of its compliance with any benchmark under division 3709
(B) of this section, or the enforcement of that provision under 3710
division (C) of this section. 3711

(E) All costs incurred by an electric distribution utility 3712
in complying with the requirements of this section shall be 3713
bypassable by any consumer that has exercised choice of supplier 3714
under section 4928.03 of the Revised Code. 3715

Sec. 4928.645. (A) An electric distribution utility or 3716
electric services company may use, for the purpose of complying 3717
with the requirements under divisions (B)(1) and (2) of section 3718
4928.64 of the Revised Code, renewable energy credits any time 3719
in the five calendar years following the date of their purchase 3720
or acquisition from any entity, including, but not limited to, 3721
the following: 3722

(1) A mercantile customer; 3723

(2) An owner or operator of a hydroelectric generating 3724
facility that is located at a dam on a river, or on any water 3725
discharged to a river, that is within or bordering this state or 3726
within or bordering an adjoining state, or that produces power 3727
that can be shown to be deliverable into this state; 3728

(3) A seller of compressed natural gas that has been 3729
produced from biologically derived methane gas, provided that 3730
the seller may only provide renewable energy credits for metered 3731
amounts of gas. 3732

(B) (1) The public utilities commission shall adopt rules 3733
specifying that one unit of credit shall equal one megawatt hour 3734
of electricity derived from renewable energy resources, except 3735
that, for a generating facility of seventy-five megawatts or 3736
greater that is situated within this state and has committed by 3737
December 31, 2009, to modify or retrofit its generating unit or 3738
units to enable the facility to generate principally from 3739
biomass energy by June 30, 2013, each megawatt hour of 3740
electricity generated principally from that biomass energy shall 3741
equal, in units of credit, the product obtained by multiplying 3742
the actual percentage of biomass feedstock heat input used to 3743
generate such megawatt hour by the quotient obtained by dividing 3744
the then existing unit dollar amount used to determine a 3745
renewable energy compliance payment as provided under division 3746

(C) (2) (b) of section 4928.64 of the Revised Code by the then 3747
existing market value of one renewable energy credit, but such 3748
megawatt hour shall not equal less than one unit of credit. 3749
Renewable energy resources do not have to be converted to 3750
electricity in order to be eligible to receive renewable energy 3751
credits. The rules shall specify that, for purposes of 3752
converting the quantity of energy derived from biologically 3753
derived methane gas to an electricity equivalent, one megawatt 3754

hour equals 3,412,142 British thermal units. 3755

(2) The rules also shall provide for this state a system 3756
of registering renewable energy credits by specifying which of 3757
any generally available registries shall be used for that 3758
purpose and not by creating a registry. That selected system of 3759
registering renewable energy credits shall allow a hydroelectric 3760
generating facility to be eligible for obtaining renewable 3761
energy credits and shall allow customer-sited projects or 3762
actions the broadest opportunities to be eligible for obtaining 3763
renewable energy credits. 3764

~~(C) Beginning January 1, 2020, a qualifying solar resource 3765
as defined in section 3706.40 of the Revised Code is not 3766
eligible to obtain a renewable energy credit under this section 3767
for any megawatt hour for which the resource has been issued a 3768
solar energy credit under section 3706.45 of the Revised Code. 3769~~

~~(D) Except for compressed natural gas that has been 3770
produced from biologically derived methane gas, energy generated 3771
by using natural gas as a resource is not eligible to obtain a 3772
renewable energy credit under this section. 3773~~

Sec. 4928.73. (A) As used in this section: 3774

(1) "Mercantile customer member" means a mercantile 3775
customer connected to a mercantile customer self-power system. 3776

(2) "Mercantile customer self-power system" means one or 3777
more electric generation facilities, electric storage 3778
facilities, or both, along with any associated facilities, that 3779
meet all of the following: 3780

(a) Produce electricity primarily for the consumption of a 3781
mercantile customer member or a group of mercantile customer 3782
members; 3783

(b) Connect directly to the mercantile customer member's 3784
side of the electric meter; 3785

(c) Deliver electricity to the mercantile customer 3786
member's side of the electric meter without the use of an 3787
electric distribution utility's distribution system or 3788
transmission system; 3789

(d) Is located on either of the following: 3790

(i) A property owned or controlled by a mercantile 3791
customer member or the entity that owns or operates the 3792
mercantile customer self-power system; 3793

(ii) Land adjacent to a mercantile customer member if the 3794
facilities connect directly with the customer. 3795

(B) The mercantile customer self-power system may be owned 3796
or operated by a mercantile customer member, group of mercantile 3797
customer members, or an entity that is not a mercantile customer 3798
member. 3799

(C) A mercantile customer self-power system may provide 3800
electric generation service to one or more mercantile customers. 3801

(D) The public utilities commission shall adopt rules to 3802
implement this section. 3803

(E) Nothing in this section prohibits an electric 3804
distribution utility from charging a mercantile customer for 3805
distribution or transmission service used by a mercantile 3806
customer. 3807

Sec. 4929.20. ~~(A)~~(A) (1) No governmental aggregator as 3808
defined in division (K) (1) of section 4929.01 of the Revised 3809
Code or no retail natural gas supplier shall provide a 3810
competitive retail natural gas service on or after thirteen 3811

months following ~~the effective date of this section~~ June 26, 3812
2001, to a consumer in this state without first being certified 3813
by the public utilities commission regarding its managerial, 3814
technical, and financial capability to provide that service and 3815
providing reasonable financial assurances sufficient to protect 3816
customers and natural gas companies from default. ~~In addition, a~~ 3817
~~retail natural gas supplier may be required to provide a~~ 3818
~~performance bond sufficient to protect customers and natural gas~~ 3819
~~companies from default.~~ Certification shall be granted pursuant 3820
to procedures and standards the commission shall prescribe in 3821
accordance with rules adopted under section 4929.10 of the 3822
Revised Code. However, certification or certification renewal 3823
shall be deemed approved thirty days after the filing of an 3824
application with the commission unless the commission suspends 3825
that approval for good cause shown. In the case of such a 3826
suspension, the commission shall act to approve or deny 3827
certification or certification renewal to the applicant not 3828
later than ninety days after the date of the suspension. 3829

(2) The commission shall establish rules to require a 3830
competitive retail natural gas supplier to maintain financial 3831
assurances sufficient to protect customers and natural gas 3832
companies from default. Such rules also shall specifically allow 3833
a natural gas company to set reasonable standards for its 3834
security and the security of its customers through financial 3835
requirements set in its tariffs. 3836

(3) As used in division (A) (2) of this section, "retail 3837
natural gas supplier" has the same meaning as in section 4929.01 3838
of the Revised Code, but excludes a broker or aggregator. 3839

(B) Capability standards adopted in rules pursuant to 3840
division (A) of this section shall be sufficient to ensure 3841

compliance with section 4929.22 of the Revised Code and with the 3842
minimum service requirements established under section 4929.23 3843
of the Revised Code. The standards shall allow flexibility for 3844
voluntary aggregation, to encourage market creativity in 3845
responding to consumer needs and demands. The rules shall 3846
include procedures for biennially renewing certification. 3847

(C) (1) The commission may suspend, rescind, or 3848
conditionally rescind the certification of any retail natural 3849
gas supplier or governmental aggregator issued under this 3850
section if the commission determines, after reasonable notice 3851
and opportunity for hearing, that the retail natural gas 3852
supplier or governmental aggregator has failed to comply with 3853
any applicable certification standards prescribed in rules 3854
adopted pursuant to this section or section 4929.22 of the 3855
Revised Code. 3856

(2) An affected natural gas company may file an 3857
application with the commission for approval of authority to 3858
recover in accordance with division (C) (2) of this section 3859
incremental costs reasonably and prudently incurred by the 3860
company in connection with the commission's continuation, 3861
suspension, rescission, or conditional rescission of a 3862
particular retail natural gas supplier's certification under 3863
division (C) (1) of this section. Upon the filing of such an 3864
application, the commission shall conduct an audit of such 3865
incremental costs as are specified in the application. Cost 3866
recovery shall be through a rider on the base rates of customers 3867
of the company for which there is a choice of supplier of 3868
commodity sales service as a result of revised schedules 3869
approved under division (C) of section 4929.29 of the Revised 3870
Code, a rule or order adopted or issued by the commission under 3871
Chapter 4905. of the Revised Code, or an exemption granted by 3872

the commission under sections 4929.04 to 4929.08 of the Revised 3873
Code. The rider shall take effect ninety days after the date of 3874
the application's filing unless the commission, based on the 3875
audit results and for good cause shown, sets the matter for 3876
hearing. After the hearing, the commission shall approve the 3877
application, and authorize such cost recovery rider effective on 3878
the date specified in the order, only for such incremental costs 3879
as the commission determines were reasonably and prudently 3880
incurred by the company in connection with the continuation, 3881
suspension, rescission, or conditional rescission of a retail 3882
natural gas supplier's certification under division (C) (1) of 3883
this section. Any proceeding under division (C) (2) of this 3884
section shall be governed by Chapter 4903. of the Revised Code. 3885

(D) No natural gas company, on and after thirteen months 3886
~~following the effective date of this section~~ June 26, 2001, 3887
shall knowingly distribute natural gas, to a retail consumer in 3888
this state, for any governmental aggregator, as defined in 3889
division (K) (1) of section 4929.01 of the Revised Code, or 3890
retail natural gas supplier, that has not been certified by the 3891
commission pursuant to this section. 3892

(E) Notwithstanding any provision of section 121.95 of the 3893
Revised Code to the contrary, a regulatory restriction contained 3894
in a rule adopted under section 4929.20 of the Revised Code is 3895
not subject to sections 121.95 to 121.953 of the Revised Code. 3896

Sec. 4929.221. (A) If a competitive retail natural gas 3897
service supplier offers a residential customer or non-mercantile 3898
commercial customer a contract for a fixed introductory rate 3899
that converts to a variable rate upon the expiration of the 3900
fixed rate, the supplier shall send two notices to each 3901
residential customer and non-mercantile commercial customer that 3902

enters into such a contract. Each notice shall provide all of 3903
the following information to the customer: 3904

(1) The fixed rate that is expiring under the contract; 3905

(2) The expiration date of the contract's fixed rate; 3906

(3) The rate to be charged upon the contract's conversion 3907
to a variable rate; 3908

(4) The public utilities commission web site that, as a 3909
comparison tool, lists rates offered by competitive retail 3910
natural gas service suppliers; 3911

(5) A statement explaining that appearing on each 3912
customer's bill is a price-to-compare notice that lists the 3913
natural gas company's default rate for natural gas charged to 3914
customers who decide not to shop for a competitive supplier. 3915

(B) The notices shall be sent by standard United States 3916
mail as follows: 3917

(1) The supplier shall send the first notice not earlier 3918
than ninety days and not later than sixty days prior to the 3919
expiration of the fixed rate. 3920

(2) The supplier shall send the second notice not earlier 3921
than forty-five days and not later than thirty days prior to the 3922
expiration of the fixed rate. 3923

(C) A competitive retail natural gas service supplier 3924
shall provide an annual notice, by standard United States mail, 3925
to each residential customer and non-mercantile commercial 3926
customer that has entered into a contract with the supplier that 3927
has converted to a variable rate upon the expiration of the 3928
contract's fixed introductory rate. The notice shall inform the 3929
customer that the customer is currently subject to a variable 3930

rate and that other fixed rate contracts are available. 3931

(D) Not later than one hundred fifty days after the 3932
effective date of this section, the commission shall adopt rules 3933
in order to implement divisions (A) to (C) of this section. The 3934
rules, at a minimum, shall include the following requirements 3935
regarding the notices required under divisions (A) to (C) of 3936
this section: 3937

(1) To use clear and unambiguous language in order to 3938
enable the customer to make an informed decision; 3939

(2) To design the notices in a way to ensure that they 3940
cannot be confused with marketing materials. 3941

(E) Notwithstanding any provision of section 121.95 of the 3942
Revised Code to the contrary, a regulatory restriction contained 3943
in a rule adopted under section 4929.221 of the Revised Code is 3944
not subject to sections 121.95 to 121.953 of the Revised Code. 3945

Sec. 4929.222. (A) As used in this section, "customer 3946
account information" means a unique natural gas company number 3947
or other customer identification number used by the company to 3948
identify a customer and the customer's account record. 3949

(B) The public utilities commission shall adopt rules to 3950
ensure that a natural gas company processes a customer's change 3951
in competitive retail natural gas supplier by using customer 3952
account information. A customer who consents to a change of 3953
supplier shall not be required to provide customer account 3954
information to the supplier if the customer provides a valid 3955
form of government-issued identification issued to the customer 3956
or a sufficient alternative form of identification that allows 3957
the supplier to establish the customer's identity accurately. 3958

(C) Notwithstanding any provision of section 121.95 of the 3959

Revised Code to the contrary, a regulatory restriction contained 3960
in a rule adopted under this section is not subject to sections 3961
121.95 to 121.953 of the Revised Code. 3962

Sec. 5727.01. As used in this chapter: 3963

(A) "Public utility" means each person referred to as a 3964
telephone company, telegraph company, electric company, natural 3965
gas company, pipe-line company, water-works company, water 3966
transportation company, heating company, rural electric company, 3967
railroad company, combined company, or energy company. 3968

(B) "Gross receipts" means the entire receipts for 3969
business done by any person from operations as a public utility, 3970
or incidental thereto, or in connection therewith, including any 3971
receipts received under Chapter 4928. of the Revised Code. The 3972
gross receipts for business done by an incorporated company 3973
engaged in operation as a public utility includes the entire 3974
receipts for business done by such company under the exercise of 3975
its corporate powers, whether from the operation as a public 3976
utility or from any other business. 3977

(C) "Rural electric company" means any nonprofit 3978
corporation, organization, association, or cooperative engaged 3979
in the business of supplying electricity to its members or 3980
persons owning an interest therein in an area the major portion 3981
of which is rural. "Rural electric company" excludes an energy 3982
company. 3983

(D) Any person: 3984

(1) Is a telegraph company when engaged in the business of 3985
transmitting telegraphic messages to, from, through, or in this 3986
state; 3987

(2) Is a telephone company when primarily engaged in the 3988

business of providing local exchange telephone service, 3989
excluding cellular radio service, in this state; 3990

(3) Is an electric company when engaged in the business of 3991
generating, transmitting, or distributing electricity within 3992
this state for use by others, but excludes a rural electric 3993
company or an energy company; 3994

(4) Is a natural gas company when engaged in the business 3995
of supplying or distributing natural gas for lighting, power, or 3996
heating purposes to consumers within this state, excluding a 3997
person that is a governmental aggregator or retail natural gas 3998
supplier as defined in section 4929.01 of the Revised Code; 3999

(5) Is a pipe-line company when engaged in the business of 4000
transporting natural gas, oil, or coal or its derivatives 4001
through pipes or tubing, either wholly or partially within this 4002
state; 4003

(6) Is a water-works company when engaged in the business 4004
of supplying water through pipes or tubing, or in a similar 4005
manner, to consumers within this state; 4006

(7) Is a water transportation company when engaged in the 4007
transportation of passengers or property, by boat or other 4008
watercraft, over any waterway, whether natural or artificial, 4009
from one point within this state to another point within this 4010
state, or between points within this state and points without 4011
this state; 4012

(8) Is a heating company when engaged in the business of 4013
supplying water, steam, or air through pipes or tubing to 4014
consumers within this state for heating purposes; 4015

(9) Is a railroad company when engaged in the business of 4016
owning or operating a railroad either wholly or partially within 4017

this state on rights-of-way acquired and held exclusively by 4018
such company, or otherwise, and includes a passenger, street, 4019
suburban, or interurban railroad company; 4020

(10) Is an energy company when engaged in the business of 4021
generating, transmitting, storing and releasing, or distributing 4022
electricity within this state for use by others solely from an 4023
energy facility with an aggregate nameplate capacity in excess 4024
of two hundred fifty kilowatts. 4025

As used in division (D) (2) of this section, "local 4026
exchange telephone service" means making available or furnishing 4027
access and a dial tone to all persons within a local calling 4028
area for use in originating and receiving voice grade 4029
communications over a switched network operated by the provider 4030
of the service within the area and for gaining access to other 4031
telecommunication services. 4032

(E) "Taxable property" means the property required by 4033
section 5727.06 of the Revised Code to be assessed by the tax 4034
commissioner, but does not include either of the following: 4035

(1) An item of tangible personal property that for the 4036
period subsequent to the effective date of an air, water, or 4037
noise pollution control certificate and continuing so long as 4038
the certificate is in force, has been certified as part of the 4039
pollution control facility with respect to which the certificate 4040
has been issued; 4041

(2) An item of tangible personal property that during the 4042
construction of a plant or facility and until the item is first 4043
capable of operation, whether actually used in operation or not, 4044
is incorporated in or being held exclusively for incorporation 4045
in that plant or facility. 4046

Notwithstanding section 5701.03 of the Revised Code, for 4047
tax year 2006 and thereafter, "taxable property" includes 4048
patterns, jigs, dies, and drawings of an electric company or a 4049
combined company for use in the activity of an electric company. 4050

(F) "Taxing district" means a municipal corporation or 4051
township, or part thereof, in which the aggregate rate of 4052
taxation is uniform. 4053

(G) "Telecommunications service" has the same meaning as 4054
in division (AA) of section 5739.01 of the Revised Code. 4055

(H) "Interexchange telecommunications company" means a 4056
person that is engaged in the business of transmitting 4057
telephonic messages to, from, through, or in this state, but 4058
that is not a telephone company. 4059

(I) "Sale and leaseback transaction" means a transaction 4060
in which a public utility or interexchange telecommunications 4061
company sells any tangible personal property to a person other 4062
than a public utility or interexchange telecommunications 4063
company and leases that property back from the buyer. 4064

(J) "Production equipment" means all taxable steam, 4065
nuclear, hydraulic, renewable resource, clean coal technology, 4066
and other production plant equipment used to generate or store 4067
and release electricity. For tax years prior to 2001, 4068
"production equipment" includes taxable station equipment that 4069
is located at a production plant. 4070

(K) "Tax year" means the year for which property or gross 4071
receipts are subject to assessment under this chapter. This 4072
division does not limit the tax commissioner's ability to assess 4073
and value property or gross receipts outside the tax year. 4074

(L) "Combined company" means any person engaged in the 4075

activity of an electric company or rural electric company that 4076
is also engaged in the activity of a heating company or a 4077
natural gas company, or any combination thereof. 4078

(M) "Public utility property lessor" means any person, 4079
other than a public utility or an interexchange 4080
telecommunications company, that leases personal property, other 4081
than in a sale and leaseback transaction, to a public utility, 4082
other than a railroad, water transportation, telephone, or 4083
telegraph company if the property would be taxable property if 4084
owned by the public utility. A public utility property lessor is 4085
subject to this chapter only for the purposes of reporting and 4086
paying tax on taxable property it leases to a public utility 4087
other than a telephone or telegraph company. A public utility 4088
property lessor that leases property to a public utility other 4089
than a telephone or telegraph company is not a public utility, 4090
but it shall report its property and be assessed in the same 4091
manner as the utility to which it leases the property. 4092

(N) "Energy resource" means any of the following: 4093

(1) "Renewable energy resource" as defined in section 4094
4928.01 of the Revised Code; 4095

(2) "Clean coal technology" as described in division (A) 4096
(34) (c) of section 4928.01 of the Revised Code; 4097

(3) "Advanced nuclear technology" as described in division 4098
(A) (34) (d) of section 4928.01 of the Revised Code; 4099

(4) "Cogeneration technology" as described in division (A) 4100
(34) (b) of section 4928.01 of the Revised Code; 4101

(5) Energy storage system. 4102

(O) "Energy conversion equipment" means tangible personal 4103

property connected to a wind turbine tower, connected to and 4104
behind solar radiation collector areas and designed to convert 4105
the radiant energy of the sun into electricity or heat, or 4106
connected to any other property used to generate or store and 4107
release electricity from an energy resource, through which 4108
electricity is transferred to controls, transformers, or power 4109
electronics and to the transmission interconnection point. 4110

"Energy conversion equipment" includes, but is not limited 4111
to, inverters, batteries, switch gears, wiring, collection 4112
lines, substations, ancillary tangible personal property, or any 4113
lines and associated tangible personal property located between 4114
substations and the transmission interconnection point. 4115

(P) "Energy facility" means one or more interconnected 4116
wind turbines, solar panels, energy storage systems, or other 4117
tangible personal property used to generate or store and release 4118
electricity from an energy resource owned by the same person, 4119
including: 4120

(1) All interconnection equipment, devices, and related 4121
apparatus connected to such tangible personal property; 4122

(2) All cables, equipment, devices, and related apparatus 4123
that connect the generators to an electricity grid or to a 4124
building or facility that directly consumes the electricity 4125
produced, that facilitate the transmission of electrical energy 4126
from the generators to the grid, building, or facility, and, 4127
where applicable, that transform voltage before ultimate 4128
delivery of electricity to the grid, building, or facility. 4129

"Energy facility" includes buildings, structures, 4130
improvements, or fixtures exclusively used to house, support, or 4131
stabilize tangible personal property constituting the facility 4132

or that are otherwise necessary for the operation of that 4133
property; and so much of the land on which such tangible 4134
personal property is situated as is required for operation of 4135
the facility and is not devoted to some other use, not to 4136
exceed, in the case of wind turbines, one-half acre for each 4137
wind turbine, and regardless of whether the land is owned by the 4138
owner or lessee of the tangible personal property or by another 4139
person. 4140

(Q) "Nameplate capacity" means the original interconnected 4141
maximum rated alternating current output of a generator or other 4142
electric production equipment under specific conditions 4143
designated by the manufacturer, expressed in the number of 4144
kilowatts or megawatts. 4145

(R) "Qualifying production equipment" means production 4146
equipment and energy conversion equipment that is placed into 4147
service on or after the last day of the year that includes the 4148
effective date of this amendment. 4149

(S) "Energy storage system" means tangible personal 4150
property that is capable of storing and releasing energy. 4151

Sec. 5727.031. (A) A person that is engaged in some other 4152
primary business to which the supplying of electricity to others 4153
is incidental shall file a report under section 5727.08 of the 4154
Revised Code as an electric company but shall only report 4155
therein as taxable property the amounts required in divisions 4156
(B) and (C) of this section. All time limits and other 4157
procedural requirements of this chapter for the reporting and 4158
assessment of property of electric companies apply to persons 4159
required to file a report under this section. For the purposes 4160
of this section, "the supplying of electricity to others" shall 4161
not include donating all of the electricity a person generates 4162

to a political subdivision of the state. 4163

(B) A person subject to this section shall report the true 4164
value of the boilers, machinery, equipment, and any personal 4165
property used to supply electricity to others, which shall be 4166
the sum of the following: 4167

(1) The true value of the property that is taxable 4168
production equipment, as such true value ~~it~~ would be determined 4169
for an electric company under section 5727.11 of the Revised 4170
Code, multiplied by the per cent of the electricity generated in 4171
the preceding calendar year that was not used by the person who 4172
generated it; plus 4173

(2) The true value of the property that is not production 4174
equipment, as ~~it~~ such true value would be determined for an 4175
electric company under section 5727.11 of the Revised Code, 4176
multiplied by the per cent of the electricity generated in the 4177
preceding calendar year that was not used by the person who 4178
generated it. 4179

(C) The property reported under division (B) of this 4180
section shall be listed and assessed at an amount equal to the 4181
sum of the products determined under divisions (C) (1) and (2) of 4182
this section. 4183

(1) Multiply the portion of the true value determined 4184
under division (B) (1) of this section by the assessment rate in 4185
section 5727.111 of the Revised Code that is applicable to the 4186
taxable production equipment of an electric company; 4187

(2) Multiply the portion of the true value determined 4188
under division (B) (2) of this section by the assessment rate in 4189
section 5727.111 of the Revised Code that is applicable to the 4190
taxable property of an electric company that is not production 4191

equipment. 4192

Sec. 5727.06. (A) Except as otherwise provided by law, the 4193
following constitutes the taxable property of a public utility, 4194
interexchange telecommunications company, or public utility 4195
property lessor that shall be assessed by the tax commissioner: 4196

(1) For tax years before tax year 2006: 4197

(a) In the case of a railroad company, all real property 4198
and tangible personal property owned or operated by the railroad 4199
company in this state on the thirty-first day of December of the 4200
preceding year; 4201

(b) In the case of a water transportation company, all 4202
tangible personal property, except watercraft, owned or operated 4203
by the water transportation company in this state on the thirty- 4204
first day of December of the preceding year and all watercraft 4205
owned or operated by the water transportation company in this 4206
state during the preceding calendar year; 4207

(c) In the case of all other public utilities and 4208
interexchange telecommunications companies, all tangible 4209
personal property that on the thirty-first day of December of 4210
the preceding year was both located in this state and: 4211

(i) Owned by the public utility or interexchange 4212
telecommunications company; or 4213

(ii) Leased by the public utility or interexchange 4214
telecommunications company under a sale and leaseback 4215
transaction. 4216

(2) For tax years 2006, 2007, and 2008: 4217

(a) In the case of a railroad company, all real property 4218
used in railroad operations and tangible personal property owned 4219

or operated by the railroad company in this state on the thirty- 4220
first day of December of the preceding year; 4221

(b) In the case of a water transportation company, all 4222
tangible personal property, except watercraft, owned or operated 4223
by the water transportation company in this state on the thirty- 4224
first day of December of the preceding year and all watercraft 4225
owned or operated by the water transportation company in this 4226
state during the preceding calendar year; 4227

(c) In the case of all other public utilities except 4228
telephone and telegraph companies, all tangible personal 4229
property that on the thirty-first day of December of the 4230
preceding year was both located in this state and either owned 4231
by the public utility or leased by the public utility under a 4232
sale and leaseback transaction. 4233

(3) For tax year 2009 and each tax year thereafter: 4234

(a) In the case of a railroad company, all real property 4235
used in railroad operations and tangible personal property owned 4236
or operated by the railroad company in this state on the thirty- 4237
first day of December of the preceding year; 4238

(b) In the case of a water transportation company, all 4239
tangible personal property, except watercraft, owned or operated 4240
by the water transportation company in this state on the thirty- 4241
first day of December of the preceding year and all watercraft 4242
owned or operated by the water transportation company in this 4243
state during the preceding calendar year; 4244

(c) In the case of all other public utilities except 4245
telephone and telegraph companies, all tangible personal 4246
property except qualifying production equipment that on the 4247
thirty-first day of December of the preceding year was both 4248

located in this state and either owned by the public utility or 4249
leased by the public utility under a sale and leaseback 4250
transaction, and that is not exempted from taxation under 4251
section 5727.75 of the Revised Code; 4252

(d) In the case of a public utility property lessor, all 4253
personal property except qualifying production equipment that on 4254
the thirty-first day of December of the preceding year was both 4255
located in this state and leased, in other than a sale and 4256
leaseback transaction, to a public utility other than a 4257
railroad, telephone, telegraph, or water transportation company. 4258
The assessment rate used under section 5727.111 of the Revised 4259
Code shall be based on the assessment rate that would apply if 4260
the public utility owned the property, and that is not exempted 4261
from taxation under section 5727.75 of the Revised Code. 4262

(4) For tax years 2005 and 2006, in the case of telephone, 4263
telegraph, or interexchange telecommunications companies, all 4264
tangible personal property that on the thirty-first day of 4265
December of the preceding year was both located in this state 4266
and either owned by the telephone, telegraph, or interexchange 4267
telecommunications company or leased by the telephone, 4268
telegraph, or interexchange telecommunications company under a 4269
sale and leaseback transaction. 4270

(5) (a) For tax year 2007 and thereafter, in the case of 4271
telephone, telegraph, or interexchange telecommunications 4272
companies, all tangible personal property shall be listed and 4273
assessed for taxation under Chapter 5711. of the Revised Code, 4274
but the tangible personal property shall be valued in accordance 4275
with this chapter using the composite annual allowances and 4276
other valuation procedures prescribed under section 5727.11 of 4277
the Revised Code by the tax commissioner for such property for 4278

tax year 2006, notwithstanding any section of Chapter 5711. of 4279
the Revised Code to the contrary. 4280

(b) A telephone, telegraph, or interexchange 4281
telecommunications company subject to division (A)(5)(a) of this 4282
section shall file a combined return with the tax commissioner 4283
in accordance with section 5711.13 of the Revised Code even if 4284
the company has tangible personal property in only one county. 4285
Such a company also is subject to the issuance of a preliminary 4286
assessment certificate by the tax commissioner under section 4287
5711.25 of the Revised Code. Such a company is not required to 4288
file a county supplemental return under section 5711.131 of the 4289
Revised Code. 4290

(6) In the case of an energy company, for tax year 2011 4291
and each tax year thereafter, all tangible personal property 4292
except qualifying production equipment that on the thirty-first 4293
day of December of the preceding year was both located in this 4294
state and either owned by the company or leased by the company 4295
under a sale and leaseback transaction, and that is not exempted 4296
from taxation under section 5727.75 of the Revised Code. 4297

(B) This division applies to tax years before tax year 4298
2007. 4299

In the case of an interexchange telecommunications 4300
company, all taxable property shall be subject to the provisions 4301
of this chapter and shall be valued by the commissioner in 4302
accordance with division (A) of section 5727.11 of the Revised 4303
Code. A person described by this division shall file the report 4304
required by section 5727.08 of the Revised Code. Persons 4305
described in this division shall not be considered taxpayers, as 4306
defined in division (B) of section 5711.01 of the Revised Code, 4307
and shall not be required to file a return and list their 4308

taxable property under any provision of Chapter 5711. of the 4309
Revised Code. 4310

(C) The lien of the state for taxes levied each year on 4311
the real and personal property of public utilities and 4312
interexchange telecommunications companies and on the personal 4313
property of public utility property lessors shall attach thereto 4314
on the thirty-first day of December of the preceding year. 4315

(D) Property that is required by division (A) (3) (b) of 4316
this section to be assessed by the tax commissioner under this 4317
chapter shall not be listed by the owner of the property under 4318
Chapter 5711. of the Revised Code. 4319

(E) The ten-thousand-dollar exemption provided for in 4320
division (C) (3) of section 5709.01 of the Revised Code does not 4321
apply to any personal property that is valued under this 4322
chapter. 4323

(F) The tax commissioner may adopt rules governing the 4324
listing of the taxable property of public utilities and 4325
interexchange telecommunications companies and the determination 4326
of true value. 4327

Sec. 5727.11. (A) Except as otherwise provided in this 4328
section, the true value of all taxable property, except property 4329
of a railroad company, required by section 5727.06 of the 4330
Revised Code to be assessed by the tax commissioner shall be 4331
determined by a method of valuation using cost as capitalized on 4332
the public utility's books and records less composite annual 4333
allowances as prescribed by the commissioner. If the 4334
commissioner finds that application of this method will not 4335
result in the determination of true value of the public 4336
utility's taxable property, the commissioner may use another 4337

method of valuation. 4338

(B) (1) Except as provided in division (B) (2) of this 4339
section, the true value of current gas stored underground is the 4340
cost of that gas shown on the books and records of the public 4341
utility on the thirty-first day of December of the preceding 4342
year. 4343

(2) For tax year 2001 and thereafter, the true value of 4344
current gas stored underground is the quotient obtained by 4345
dividing (a) the average value of the current gas stored 4346
underground, which shall be determined by adding the value of 4347
the gas on hand at the end of each calendar month in the 4348
calendar year preceding the tax year, or, if applicable, the 4349
last day of business of each month for a partial month, divided 4350
by (b) the total number of months the natural gas company was in 4351
business during the calendar year prior to the beginning of the 4352
tax year. With the approval of the tax commissioner, a natural 4353
gas company may use a date other than the end of a calendar 4354
month to value its current gas stored underground. 4355

(C) The true value of noncurrent gas stored underground is 4356
thirty-five per cent of the cost of that gas shown on the books 4357
and records of the public utility on the thirty-first day of 4358
December of the preceding year. 4359

(D) (1) Except as provided in division (D) (2) of this 4360
section, the true value of the taxable production equipment of 4361
an electric company and the true value of all taxable property 4362
of a rural electric company is the equipment's or property's 4363
cost as capitalized on the company's books and records less 4364
fifty per cent of that cost as an allowance for depreciation and 4365
obsolescence. 4366

(2) The true value of the taxable production equipment or 4367
energy conversion equipment of an electric company, rural 4368
electric company, or energy company purchased, transferred, or 4369
placed into service after October 5, 1999, is the purchase price 4370
of the equipment as capitalized on the company's books and 4371
records less composite annual allowances as prescribed by the 4372
tax commissioner. 4373

(E) The true value of taxable property, except property of 4374
a railroad company, required by section 5727.06 of the Revised 4375
Code to be assessed by the tax commissioner shall not include 4376
the allowance for funds used during construction or interest 4377
during construction that has been capitalized on the public 4378
utility's books and records as part of the total cost of the 4379
taxable property. This division shall not apply to the taxable 4380
property of an electric company or a rural electric company, 4381
excluding transmission and distribution property, first placed 4382
into service after December 31, 2000, or to the taxable property 4383
a person purchases, which includes transfers, if that property 4384
was used in business by the seller prior to the purchase. 4385

(F) The true value of watercraft owned or operated by a 4386
water transportation company shall be determined by multiplying 4387
the true value of the watercraft as determined under division 4388
(A) of this section by a fraction, the numerator of which is the 4389
number of revenue-earning miles traveled by the watercraft in 4390
the waters of this state and the denominator of which is the 4391
number of revenue-earning miles traveled by the watercraft in 4392
all waters. 4393

(G) The cost of property subject to a sale and leaseback 4394
transaction is the cost of the property as capitalized on the 4395
books and records of the public utility owning the property 4396

immediately prior to the sale and leaseback transaction. 4397

(H) The cost as capitalized on the books and records of a 4398
public utility includes amounts capitalized that represent 4399
regulatory assets, if such amounts previously were included on 4400
the company's books and records as capitalized costs of taxable 4401
personal property. 4402

(I) Any change in the composite annual allowances as 4403
prescribed by the commissioner on a prospective basis shall not 4404
be admissible in any judicial or administrative action or 4405
proceeding as evidence of value with regard to prior years' 4406
taxes. Information about the business, property, or transactions 4407
of any taxpayer obtained by the commissioner for the purpose of 4408
adopting or modifying the composite annual allowances shall not 4409
be subject to discovery or disclosure. 4410

Sec. 5727.111. The taxable property of each public 4411
utility, except a railroad company, and of each interexchange 4412
telecommunications company shall be assessed at the following 4413
percentages of true value: 4414

(A) In the case of a rural electric company, fifty per 4415
cent in the case of its taxable transmission and distribution 4416
property placed into service before the last day of the year 4417
that includes the effective date of this amendment and its 4418
energy conversion equipment, and twenty-five per cent for all 4419
its other taxable property; 4420

(B) In the case of a telephone or telegraph company, 4421
twenty-five per cent for taxable property first subject to 4422
taxation in this state for tax year 1995 or thereafter for tax 4423
years before tax year 2007, and pursuant to division (H) of 4424
section 5711.22 of the Revised Code for tax year 2007 and 4425

thereafter, and the following for all other taxable property: 4426

(1) For tax years prior to 2005, eighty-eight per cent; 4427

(2) For tax year 2005, sixty-seven per cent; 4428

(3) For tax year 2006, forty-six per cent; 4429

(4) For tax year 2007 and thereafter, pursuant to division 4430
(H) of section 5711.22 of the Revised Code. 4431

(C) Twenty-five per cent in the case of (1) a natural gas 4432
company or (2) a water-works company for taxable property first 4433
subject to taxation in this state for tax year 2017 and 4434
thereafter; 4435

(D) Eighty-eight per cent in the case of taxable property 4436
of a pipe-line company placed into service before the last day 4437
of the year that includes the effective date of this amendment, 4438
a water-works company for taxable property first subject to 4439
taxation in this state before tax year 2017, or a heating 4440
company; 4441

(E) (1) For tax year 2005, eighty-eight per cent in the 4442
case of the taxable transmission and distribution property of an 4443
electric company, and twenty-five per cent for all its other 4444
taxable property; 4445

(2) For tax year 2006 and each tax year thereafter, in the 4446
case of an electric company, eighty-five per cent in the case of 4447
its taxable transmission and distribution property placed into 4448
service before the last day of the year that includes the 4449
effective date of this amendment and its energy conversion 4450
equipment, twenty-five per cent in the case of its other taxable 4451
transmission and distribution property, and twenty-four per cent 4452
for all its other taxable property. 4453

(F) (1) Twenty-five per cent in the case of an 4454
interexchange telecommunications company for tax years before 4455
tax year 2007; 4456

(2) Pursuant to division (H) of section 5711.22 of the 4457
Revised Code for tax year 2007 and thereafter. 4458

(G) Twenty-five per cent in the case of a water 4459
transportation company; 4460

(H) ~~For tax year 2011 and each tax year thereafter in~~ In 4461
the case of an energy company, twenty-four per cent in the case 4462
of its taxable production equipment, twenty-five per cent for 4463
its taxable transmission and distribution property placed into 4464
service on or after the last day of the year that includes the 4465
effective date of this amendment, and eighty-five per cent for 4466
all its other taxable property. 4467

(I) Twenty-five per cent in the case of taxable property 4468
of a pipe-line company placed into service on or after the last 4469
day of the year that includes the effective date of this 4470
amendment. 4471

Sec. 5727.75. (A) For purposes of this section: 4472

(1) "Qualified energy project" means an energy project 4473
certified by the director of development pursuant to this 4474
section. 4475

(2) "Energy project" means a project to provide electric 4476
power through the construction, installation, and use of an 4477
energy facility. 4478

(3) "Alternative energy zone" means a county declared as 4479
such by the board of county commissioners under division (E) (1) 4480
(b) or (c) of this section. 4481

(4) "Full-time equivalent employee" means the total number 4482
of employee-hours for which compensation was paid to individuals 4483
employed at a qualified energy project for services performed at 4484
the project during the calendar year divided by two thousand 4485
eighty hours. For the purpose of this calculation, "performed at 4486
the project" includes only hours worked at the qualified energy 4487
project and devoted to site preparation or protection, 4488
construction and installation, and the unloading and 4489
distribution of materials at the project site, but does not 4490
include hours worked by superintendents, owners, manufacturers' 4491
representatives, persons employed in a bona fide executive, 4492
management, supervisory, or administrative capacity, or persons 4493
whose sole employment on the project is transporting materials 4494
or persons to the project site. 4495

(5) "Solar energy project" means an energy project 4496
composed of an energy facility using solar panels to generate 4497
electricity. 4498

(6) "Internet identifier of record" has the same meaning 4499
as in section 9.312 of the Revised Code. 4500

(7) "Applicable year" means the later of the following: 4501

(a) The tax year in which the secretary of the treasury of 4502
the United States, or the secretary's delegate, determines, in 4503
accordance with section 45Y of the Internal Revenue Code, that 4504
the annual greenhouse gas emissions from the production of 4505
electricity in the United States are equal to or less than 4506
twenty-five per cent of the annual greenhouse gas emissions from 4507
the production of electricity in the United States for calendar 4508
year 2022; 4509

(b) Tax year 2029. 4510

(8) "Internal Revenue Code" means the Internal Revenue Code as of ~~the effective date of this amendment~~ October 3, 2023.

(B) (1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through the applicable year if all of the following conditions are satisfied:

(a) On or before the last day of the tax year preceding the applicable year, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before the first day of the applicable year. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B) (1) (a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E) (1) (b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution

rejecting an application or its failure to adopt a resolution 4541
approving the application does not affect the tax-exempt status 4542
of the qualified energy project's property that is located in 4543
another county. 4544

(2) If tangible personal property of a qualified energy 4545
project using renewable energy resources was exempt from 4546
taxation under this section beginning in any of tax years 2011 4547
through the applicable year, and the certification under 4548
division (E) (2) of this section has not been revoked, the 4549
tangible personal property of the qualified energy project is 4550
exempt from taxation for the tax year following the applicable 4551
year and all ensuing tax years if the property was placed into 4552
service before the first day of the tax year following the 4553
applicable year, as certified in the construction progress 4554
report required under division (F) (2) of this section. Tangible 4555
personal property that has not been placed into service before 4556
that date is taxable property subject to taxation. An energy 4557
project for which certification has been revoked is ineligible 4558
for further exemption under this section. Revocation does not 4559
affect the tax-exempt status of the project's tangible personal 4560
property for the tax year in which revocation occurs or any 4561
prior tax year. 4562

(C) Tangible personal property of a qualified energy 4563
project using clean coal technology, advanced nuclear 4564
technology, or cogeneration technology is exempt from taxation 4565
for the first tax year that the property would be listed for 4566
taxation and all subsequent years if all of the following 4567
circumstances are met: 4568

(1) The property was placed into service before January 1, 4569
2021. Tangible personal property that has not been placed into 4570

service before that date is taxable property subject to 4571
taxation. 4572

(2) For such a qualified energy project with a nameplate 4573
capacity of twenty megawatts or greater, a board of county 4574
commissioners of a county in which property of the qualified 4575
energy project is located has adopted a resolution under 4576
division (E) (1) (b) or (c) of this section to approve the 4577
application submitted under division (E) of this section to 4578
exempt the property located in that county from taxation. A 4579
board's adoption of a resolution rejecting the application or 4580
its failure to adopt a resolution approving the application does 4581
not affect the tax-exempt status of the qualified energy 4582
project's property that is located in another county. 4583

(3) The certification for the qualified energy project 4584
issued under division (E) (2) of this section has not been 4585
revoked. An energy project for which certification has been 4586
revoked is ineligible for exemption under this section. 4587
Revocation does not affect the tax-exempt status of the 4588
project's tangible personal property for the tax year in which 4589
revocation occurs or any prior tax year. 4590

(D) Except as otherwise provided in this section, real 4591
property of a qualified energy project is exempt from taxation 4592
for any tax year for which the tangible personal property of the 4593
qualified energy project is exempted under this section. 4594

(E) (1) (a) A person may apply to the director of 4595
development for certification of an energy project as a 4596
qualified energy project on or before the following dates: 4597

(i) The last day of the tax year preceding the applicable 4598
year, for an energy project using renewable energy resources; 4599

(ii) December 31, 2017, for an energy project using clean 4600
coal technology, advanced nuclear technology, or cogeneration 4601
technology. 4602

(b) The director shall forward a copy of each application 4603
for certification of an energy project with a nameplate capacity 4604
of twenty megawatts or greater to the board of county 4605
commissioners of each county in which the project is located and 4606
to each taxing unit with territory located in each of the 4607
affected counties. Any board that receives from the director a 4608
copy of an application submitted under this division shall adopt 4609
a resolution approving or rejecting the application unless it 4610
has adopted a resolution under division (E) (1) (c) of this 4611
section. A resolution adopted under division (E) (1) (b) or (c) of 4612
this section may require an annual service payment to be made in 4613
addition to the service payment required under division (G) of 4614
this section. The sum of the service payment required in the 4615
resolution and the service payment required under division (G) 4616
of this section shall not exceed nine thousand dollars per 4617
megawatt of nameplate capacity located in the county. The 4618
resolution shall specify the time and manner in which the 4619
payments required by the resolution shall be paid to the county 4620
treasurer. The county treasurer shall deposit the payment to the 4621
credit of the county's general fund to be used for any purpose 4622
for which money credited to that fund may be used. 4623

The board shall send copies of the resolution to the owner 4624
of the facility and the director by certified mail or, if the 4625
board has record of an internet identifier of record associated 4626
with the owner or director, by ordinary mail and by that 4627
internet identifier of record. The board shall send such notice 4628
within thirty days after receipt of the application, or a longer 4629
period of time if authorized by the director. 4630

(c) A board of county commissioners may adopt a resolution 4631
declaring the county to be an alternative energy zone and 4632
declaring all applications submitted to the director of 4633
development under this division after the adoption of the 4634
resolution, and prior to its repeal, to be approved by the 4635
board. 4636

All tangible personal property and real property of an 4637
energy project with a nameplate capacity of twenty megawatts or 4638
greater is taxable if it is located in a county in which the 4639
board of county commissioners adopted a resolution rejecting the 4640
application submitted under this division or failed to adopt a 4641
resolution approving the application under division (E) (1) (b) or 4642
(c) of this section. 4643

(2) The director shall certify an energy project if all of 4644
the following circumstances exist: 4645

(a) The application was timely submitted. 4646

(b) For an energy project with a nameplate capacity of 4647
twenty megawatts or greater, a board of county commissioners of 4648
at least one county in which the project is located has adopted 4649
a resolution approving the application under division (E) (1) (b) 4650
or (c) of this section. 4651

(c) No portion of the project's facility was used to 4652
supply electricity before December 31, 2009. 4653

(d) For construction or installation of a qualified energy 4654
project described in division (B) (1) (b) of this section, that 4655
the project is subject to wage requirements described in section 4656
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 4657
requirements described in section 45(b) (8) (A) (i) of the Internal 4658
Revenue Code, provided both of the following apply: 4659

(i) The person applies for such certificate after ~~the~~ 4660
~~effective date of this amendment~~ October 3, 2023. 4661

(ii) A board of commissioners of at least one county in 4662
which the project is located is required to adopt a resolution 4663
approving the application under division (E) (1) (b) or (c) of 4664
this section. 4665

(3) The director shall deny a certification application if 4666
the director determines the person has failed to comply with any 4667
requirement under this section. The director may revoke a 4668
certification if the director determines the person, or 4669
subsequent owner or lessee pursuant to a sale and leaseback 4670
transaction of the qualified energy project, has failed to 4671
comply with any requirement under this section. Upon 4672
certification or revocation, the director shall notify the 4673
person, owner, or lessee, the tax commissioner, and the county 4674
auditor of a county in which the project is located of the 4675
certification or revocation. Notice shall be provided in a 4676
manner convenient to the director. 4677

(F) The owner or a lessee pursuant to a sale and leaseback 4678
transaction of a qualified energy project shall do each of the 4679
following: 4680

(1) Comply with all applicable regulations; 4681

(2) File with the director of development a certified 4682
construction progress report before the first day of March of 4683
each year during the energy facility's construction or 4684
installation indicating the percentage of the project completed, 4685
and the project's nameplate capacity, as of the preceding 4686
thirty-first day of December. Unless otherwise instructed by the 4687
director of development, the owner or lessee of an energy 4688

project shall file a report with the director on or before the 4689
first day of March each year after completion of the energy 4690
facility's construction or installation indicating the project's 4691
nameplate capacity as of the preceding thirty-first day of 4692
December. Not later than sixty days after June 17, 2010, the 4693
owner or lessee of an energy project, the construction of which 4694
was completed before June 17, 2010, shall file a certificate 4695
indicating the project's nameplate capacity. 4696

(3) File with the director of development, in a manner 4697
prescribed by the director, a report of the total number of 4698
full-time equivalent employees, and the total number of full- 4699
time equivalent employees domiciled in Ohio, who are employed in 4700
the construction or installation of the energy facility; 4701

(4) For energy projects with a nameplate capacity of 4702
twenty megawatts or greater, repair all roads, bridges, and 4703
culverts affected by construction as reasonably required to 4704
restore them to their preconstruction condition, as determined 4705
by the county engineer in consultation with the local 4706
jurisdiction responsible for the roads, bridges, and culverts. 4707
In the event that the county engineer deems any road, bridge, or 4708
culvert to be inadequate to support the construction or 4709
decommissioning of the energy facility, the road, bridge, or 4710
culvert shall be rebuilt or reinforced to the specifications 4711
established by the county engineer prior to the construction or 4712
decommissioning of the facility. The owner or lessee of the 4713
facility shall post a bond in an amount established by the 4714
county engineer and to be held by the board of county 4715
commissioners to ensure funding for repairs of roads, bridges, 4716
and culverts affected during the construction. The bond shall be 4717
released by the board not later than one year after the date the 4718
repairs are completed. The energy facility owner or lessee 4719

pursuant to a sale and leaseback transaction shall post a bond, 4720
as may be required by the Ohio power siting board in the 4721
certificate authorizing commencement of construction issued 4722
pursuant to section 4906.10 of the Revised Code, to ensure 4723
funding for repairs to roads, bridges, and culverts resulting 4724
from decommissioning of the facility. The energy facility owner 4725
or lessee and the county engineer may enter into an agreement 4726
regarding specific transportation plans, reinforcements, 4727
modifications, use and repair of roads, financial security to be 4728
provided, and any other relevant issue. 4729

(5) Provide or facilitate training for fire and emergency 4730
responders for response to emergency situations related to the 4731
energy project and, for energy projects with a nameplate 4732
capacity of twenty megawatts or greater, at the person's 4733
expense, equip the fire and emergency responders with proper 4734
equipment as reasonably required to enable them to respond to 4735
such emergency situations; 4736

(6) (a) Except as otherwise provided in this division, for 4737
projects for which certification as a qualified energy project 4738
was applied for, under division (E) of this section, ~~before the~~ 4739
~~effective date of this amendment~~ October 3, 2023, maintain a 4740
ratio of Ohio-domiciled full-time equivalent employees employed 4741
in the construction or installation of the energy project to 4742
total full-time equivalent employees employed in the 4743
construction or installation of the energy project of not less 4744
than eighty per cent in the case of a solar energy project, and 4745
not less than fifty per cent in the case of any other energy 4746
project. A person applying for such a qualified energy project 4747
may certify to the director of development that the project will 4748
be voluntarily subject to the wage requirements described in 4749
section 45(b) (7) (A) of the Internal Revenue Code and 4750

apprenticeship requirements described in section 45(b)(8)(A)(i) 4751
of the Internal Revenue Code as authorized in division (F)(6)(b) 4752
of this section. Upon receipt of that certification, the project 4753
shall comply with division (F)(6)(b) of this section rather than 4754
division (F)(6)(a) of this section. 4755

(b) For projects for which certification as a qualified 4756
energy project was applied for, under division (E) of this 4757
section, on or after ~~the effective date of this amendment~~ 4758
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 4759
equivalent employees employed in the construction or 4760
installation of the energy project to total full-time equivalent 4761
employees employed in the construction or installation of the 4762
energy project of not less than seventy per cent in the case of 4763
a solar energy project, and not less than fifty per cent in the 4764
case of any other energy project. 4765

(c) For purposes of divisions (F)(6)(a) and (b) of this 4766
section, in the case of an energy project for which 4767
certification from the power siting board is required under 4768
section 4906.20 of the Revised Code, the number of full-time 4769
equivalent employees employed in the construction or 4770
installation of the energy project equals the number actually 4771
employed or the number projected to be employed in the 4772
certificate application, if such projection is required under 4773
regulations adopted pursuant to section 4906.03 of the Revised 4774
Code, whichever is greater. For all other energy projects, the 4775
number of full-time equivalent employees employed in the 4776
construction or installation of the energy project equals the 4777
number actually employed or the number projected to be employed 4778
by the director of development, whichever is greater. To 4779
estimate the number of employees to be employed in the 4780
construction or installation of an energy project, the director 4781

shall use a generally accepted job-estimating model in use for 4782
renewable energy projects, including but not limited to the job 4783
and economic development impact model. The director may adjust 4784
an estimate produced by a model to account for variables not 4785
accounted for by the model. 4786

(7) For energy projects with a nameplate capacity in 4787
excess of twenty megawatts, establish a relationship with any of 4788
the following to educate and train individuals for careers in 4789
the wind or solar energy industry: 4790

(a) A member of the university system of Ohio as defined 4791
in section 3345.011 of the Revised Code; 4792

(b) A person offering an apprenticeship program registered 4793
with the employment and training administration within the 4794
United States department of labor or with the apprenticeship 4795
council created by section 4139.02 of the Revised Code; 4796

(c) A career-technical center, joint vocational school 4797
district, comprehensive career-technical center, or compact 4798
career-technical center; 4799

(d) A training center operated by a labor organization, or 4800
with a training center operated by a for-profit or nonprofit 4801
organization. 4802

The relationship may include endowments, cooperative 4803
programs, internships, apprenticeships, research and development 4804
projects, and curriculum development. 4805

(8) Offer to sell power or renewable energy credits from 4806
the energy project to electric distribution utilities or 4807
electric service companies subject to renewable energy resource 4808
requirements under section 4928.64 of the Revised Code that have 4809
issued requests for proposal for such power or renewable energy 4810

credits. If no electric distribution utility or electric service 4811
company issues a request for proposal on or before December 31, 4812
2010, or accepts an offer for power or renewable energy credits 4813
within forty-five days after the offer is submitted, power or 4814
renewable energy credits from the energy project may be sold to 4815
other persons. Division (F)(8) of this section does not apply 4816
if: 4817

(a) The owner or lessee is a rural electric company or a 4818
municipal power agency as defined in section 3734.058 of the 4819
Revised Code. 4820

(b) The owner or lessee is a person that, before 4821
completion of the energy project, contracted for the sale of 4822
power or renewable energy credits with a rural electric company 4823
or a municipal power agency. 4824

(c) The owner or lessee contracts for the sale of power or 4825
renewable energy credits from the energy project before June 17, 4826
2010. 4827

(9) Make annual service payments as required by division 4828
(G) of this section and as may be required in a resolution 4829
adopted by a board of county commissioners under division (E) of 4830
this section. 4831

(G) The owner or a lessee pursuant to a sale and leaseback 4832
transaction of a qualified energy project shall make annual 4833
service payments in lieu of taxes to the county treasurer on or 4834
before the final dates for payments of taxes on public utility 4835
personal property on the real and public utility personal 4836
property tax list for each tax year for which property of the 4837
energy project is exempt from taxation under this section. The 4838
county treasurer shall allocate the payment on the basis of the 4839

project's physical location. Upon receipt of a payment, or if 4840
timely payment has not been received, the county treasurer shall 4841
certify such receipt or non-receipt to the director of 4842
development and tax commissioner in a form determined by the 4843
director and commissioner, respectively. Each payment shall be 4844
in the following amount: 4845

(1) In the case of a solar energy project, seven thousand 4846
dollars per megawatt of nameplate capacity located in the county 4847
as of the thirty-first-day of December of the preceding tax 4848
year; 4849

(2) In the case of any other energy project using 4850
renewable energy resources, the following: 4851

(a) If the project maintains during the construction or 4852
installation of the energy facility a ratio of Ohio-domiciled 4853
full-time equivalent employees to total full-time equivalent 4854
employees of not less than seventy-five per cent, six thousand 4855
dollars per megawatt of nameplate capacity located in the county 4856
as of the thirty-first day of December of the preceding tax 4857
year; 4858

(b) If the project maintains during the construction or 4859
installation of the energy facility a ratio of Ohio-domiciled 4860
full-time equivalent employees to total full-time equivalent 4861
employees of less than seventy-five per cent but not less than 4862
sixty per cent, seven thousand dollars per megawatt of nameplate 4863
capacity located in the county as of the thirty-first day of 4864
December of the preceding tax year; 4865

(c) If the project maintains during the construction or 4866
installation of the energy facility a ratio of Ohio-domiciled 4867
full-time equivalent employees to total full-time equivalent 4868

employees of less than sixty per cent but not less than fifty 4869
per cent, eight thousand dollars per megawatt of nameplate 4870
capacity located in the county as of the thirty-first day of 4871
December of the preceding tax year. 4872

(3) In the case of an energy project using clean coal 4873
technology, advanced nuclear technology, or cogeneration 4874
technology, the following: 4875

(a) If the project maintains during the construction or 4876
installation of the energy facility a ratio of Ohio-domiciled 4877
full-time equivalent employees to total full-time equivalent 4878
employees of not less than seventy-five per cent, six thousand 4879
dollars per megawatt of nameplate capacity located in the county 4880
as of the thirty-first day of December of the preceding tax 4881
year; 4882

(b) If the project maintains during the construction or 4883
installation of the energy facility a ratio of Ohio-domiciled 4884
full-time equivalent employees to total full-time equivalent 4885
employees of less than seventy-five per cent but not less than 4886
sixty per cent, seven thousand dollars per megawatt of nameplate 4887
capacity located in the county as of the thirty-first day of 4888
December of the preceding tax year; 4889

(c) If the project maintains during the construction or 4890
installation of the energy facility a ratio of Ohio-domiciled 4891
full-time equivalent employees to total full-time equivalent 4892
employees of less than sixty per cent but not less than fifty 4893
per cent, eight thousand dollars per megawatt of nameplate 4894
capacity located in the county as of the thirty-first day of 4895
December of the preceding tax year. 4896

(H) The director of development in consultation with the 4897

tax commissioner shall adopt rules pursuant to Chapter 119. of 4898
the Revised Code to implement and enforce this section. 4899

(I) This section and any payments in lieu of taxes made as 4900
required under this section continue to apply and be required 4901
notwithstanding the enactment of S.B. 2 of the 136th general 4902
assembly. 4903

Sec. 5727.76. (A) As used in this section, "qualifying 4904
property" means property that is dedicated to transporting or 4905
transmitting electricity or natural gas and that is placed into 4906
service in a priority investment area designated under section 4907
122.161 of the Revised Code during a time when that designation 4908
is in effect. 4909

(B) Qualifying property shall be exempt from taxation for 4910
the tax year following the year in which the property is placed 4911
into service and for the ensuing four tax years. 4912

Section 2. That existing sections 4903.082, 4903.221, 4913
4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 4909.04, 4914
4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4915
4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 4909.42, 4916
4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 4917
4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 4918
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 4919
5727.031, 5727.06, 5727.11, 5727.111, and 5727.75 of the Revised 4920
Code are hereby repealed. 4921

Section 3. That sections 3706.40, 3706.41, 3706.43, 4922
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 4923
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 4924
4928.642 of the Revised Code are hereby repealed. 4925

Section 4. (A) Beginning on the effective date of this 4926

section, no electric distribution utility shall collect from its 4927
retail customers in this state any charge that was authorized 4928
under section 4928.148 of the Revised Code prior to the repeal 4929
of that section by this act for retail recovery of prudently 4930
incurred costs related to a legacy generation resource. 4931
Beginning on the effective date of this section, the electric 4932
distribution utility shall not apply for, and the public 4933
utilities commission shall not authorize, any rider or cost 4934
recovery mechanism for a legacy generation resource. 4935

The public utilities commission shall continue any 4936
investigation commenced pursuant to section 4928.148 of the 4937
Revised Code prior to the repeal of that section by this act for 4938
purposes of determining the prudence and reasonableness of the 4939
actions of electric distribution utilities with ownership 4940
interests in the legacy generation resource, including their 4941
decisions related to offering the contractual commitment into 4942
the wholesale markets, and excluding from recovery those costs 4943
that the commission determines imprudent and unreasonable. 4944

(B) Beginning on the effective date of this section, no 4945
electric distribution utility shall collect from its retail 4946
customers in the state any charge that was authorized under 4947
section 3706.46 of the Revised Code to meet the revenue 4948
requirement for disbursements from the Solar Generation Fund to 4949
owners or operators of qualifying solar resources that was 4950
required under section 3706.55 of the Revised Code before the 4951
repeal of these sections by this act. 4952

Section 5. Section 4909.193 as enacted by this act and the 4953
amendments to section 4909.42 of the Revised Code by this act 4954
apply to applications filed under section 4909.18 of the Revised 4955
Code on or after the effective date of this section. 4956

Section 6. On the effective date of this section, or as 4957
soon as possible thereafter, the treasurer of state shall 4958
transfer the cash balance of amounts remaining in the solar 4959
generation fund to the solar for schools fund created in section 4960
3706.52 of the Revised Code. 4961

Section 7. Section 4928.01 of the Revised Code is 4962
presented in this act as a composite of the section as amended 4963
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 4964
General Assembly, applying the principle stated in division (B) 4965
of section 1.52 of the Revised Code that amendments are to be 4966
harmonized if reasonably capable of simultaneous operation, 4967
finds that the composite is the resulting version of the section 4968
in effect prior to the effective date of the section as 4969
presented in this act. 4970