

As Pending in the Senate Energy Committee

136th General Assembly

Regular Session

2025-2026

Sub. S. B. No. 2

Senator Reineke

To amend sections 303.213, 519.213, 713.081, 1
4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 2
4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 3
4909.07, 4909.08, 4909.15, 4909.156, 4909.173, 4
4909.174, 4909.18, 4909.19, 4909.191, 4909.42, 5
4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 6
4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 7
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 8
4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 9
5727.11, 5727.111, and 5727.75; to enact 10
sections 122.161, 3706.51, 3706.52, 4903.27, 11
4905.23, 4905.311, 4905.321, 4905.331, 4909.041, 12
4909.042, 4909.181, 4909.192, 4909.193, 13
4928.041, 4928.101, 4928.102, 4928.103, 14
4928.104, 4928.105, 4928.106, 4928.149, 15
4928.1410, 4928.73, 4929.221, 4929.222, and 16
5727.76; and to repeal sections 3706.40, 17
3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 18
3706.49, 3706.491, 3706.55, 3706.551, 3706.59, 19
3706.63, 3706.65, 4928.143, 4928.148, and 20
4928.642 of the Revised Code regarding public 21
utilities law, to make changes regarding utility 22
tangible personal property taxation, and to 23
repeal parts of H.B. 6 of the 133rd General 24
Assembly. 25

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

Section 1. That sections 303.213, 519.213, 713.081, 26
4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 4909.04, 27
4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 28
4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 4909.42, 29
4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 30
4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 31
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 32
5727.031, 5727.06, 5727.11, 5727.111, and 5727.75 be amended and 33
sections 122.161, 3706.51, 3706.52, 4903.27, 4905.23, 4905.311, 34
4905.321, 4905.331, 4909.041, 4909.042, 4909.181, 4909.192, 35
4909.193, 4928.041, 4928.101, 4928.102, 4928.103, 4928.104, 36
4928.105, 4928.106, 4928.149, 4928.1410, 4928.73, 4929.221, 37
4929.222, and 5727.76 of the Revised Code be enacted to read as 38
follows: 39

Sec. 122.161. (A) As used in this section: 40

(1) "Subdivision" means a municipal corporation, township, 41
or county. 42

(2) "Legislative authority" means the legislative 43
authority of a municipal corporation, a board of the township 44
trustees, or a board of county commissioners. 45

(3) "Subdivision's territory" means, in the case of a 46
municipal corporation, the territory of the municipal 47
corporation; in the case of a township, the unincorporated 48
territory of the township; or, in the case of a county, the 49
unincorporated territory of the county. 50

(4) "Brownfield" has the same meaning as in section 51

122.6511 of the Revised Code. 52

(5) "Former coal mine" means a location that was, but is 53
no longer, used in connection with the extraction of coal from 54
its natural deposit in the earth. 55

(6) "Qualifying property" has the same meaning as in 56
section 5727.76 of the Revised Code. 57

(B) A legislative authority may adopt and certify to the 58
director of development an ordinance or resolution requesting 59
that the director designate the site of a brownfield or former 60
coal mine within the subdivision's territory as a priority 61
investment area. The ordinance or resolution shall describe the 62
boundaries of the proposed area and shall specify that 63
qualifying property in the priority investment area shall be 64
exempt from taxation for five years pursuant to section 5727.76 65
of the Revised Code. 66

The director, upon receipt of that certification, shall 67
designate the proposed area as a priority investment area if the 68
director determines that the area meets the designation 69
standards set forth in rules adopted by the director. Those 70
standards shall specify that the director must prioritize the 71
designation of areas negatively impacted by the decline of the 72
coal industry. 73

The director shall notify the legislative authority of the 74
director's decision within ninety days after receiving the 75
certified ordinance or resolution. If the director does not 76
issue a decision within those ninety days, the request for 77
designation shall be considered approved by operation of law. 78

(C) The director of development shall immediately notify 79
the public utilities commission, the power siting board, and the 80

tax commissioner if the director approves the designation of a 81
priority investment area under division (B) of this section or 82
if the designation is approved by operation of law. 83

Sec. 303.213. (A) As used in this section: 84

(1) "Small wind farm" means wind turbines and associated 85
facilities that are not subject to the jurisdiction of the power 86
siting board under sections 4906.20 and 4906.201 of the Revised 87
Code. 88

(2) "Small solar facility" means solar panels and 89
associated facilities with a single interconnection to the 90
electrical grid and designed for, or capable of, operation at an 91
aggregate capacity of less than fifty megawatts. 92

(3) "Anaerobic digester" means a facility used to treat 93
organic materials, such as food waste, manure, and sewage 94
sludge, to produce biogas and digestate. 95

(4) "Other small electric generating facility" means an 96
electric generating plant and associated facilities designed 97
for, or capable of, operation at a capacity of less than fifty 98
megawatts that is not a small wind farm, small solar facility, 99
or anaerobic digester. 100

(B) Notwithstanding division (A) of section 303.211 of the 101
Revised Code, sections 303.01 to 303.25 of the Revised Code 102
confer power on a board of county commissioners or board of 103
zoning appeals to adopt zoning regulations governing the 104
location, erection, construction, reconstruction, change, 105
alteration, maintenance, removal, use, or enlargement of any 106
small wind farm ~~or~~, small solar facility, anaerobic digester, 107
or other small electric generating facility, whether publicly or 108
privately owned, or the use of land for that purpose. With 109

regard to a small wind farm, the regulations may be more strict 110
than the regulations prescribed in rules adopted under division 111
(B) (2) of section 4906.20 of the Revised Code. 112

(C) The designation under this section of a small wind 113
~~farm or a~~, small solar facility, anaerobic digester, or other 114
small electric generating facility as a public utility for 115
purposes of sections 303.01 to 303.25 of the Revised Code shall 116
not affect the classification of a small wind farm ~~or a~~, small 117
solar facility, anaerobic digester, or other small electric 118
generating facility for purposes of state or local taxation. 119

(D) Nothing in division (C) of this section shall be 120
construed as affecting the classification of a 121
telecommunications tower as defined in division (B) or (E) of 122
section 303.211 of the Revised Code or any other public utility 123
for purposes of state and local taxation. 124

Sec. 519.213. (A) As used in this section: 125

(1) "Small wind farm" means wind turbines and associated 126
facilities that are not subject to the jurisdiction of the power 127
siting board under sections 4906.20 and 4906.201 of the Revised 128
Code. 129

(2) "Small solar facility" means solar panels and 130
associated facilities with a single interconnection to the 131
electrical grid and designed for, or capable of, operation at an 132
aggregate capacity of less than fifty megawatts. 133

(3) "Anaerobic digester" means a facility used to treat 134
organic materials, such as food waste, manure, and sewage 135
sludge, to produce biogas and digestate. 136

(4) "Other small electric generating facility" means an 137
electric generating plant and associated facilities designed 138

for, or capable of, operation at a capacity of less than fifty 139
megawatts that is not a small wind farm, small solar facility, 140
or anaerobic digester. 141

(B) Notwithstanding division (A) of section 519.211 of the 142
Revised Code, sections 519.02 to 519.25 of the Revised Code 143
confer power on a board of township trustees or board of zoning 144
appeals with respect to the location, erection, construction, 145
reconstruction, change, alteration, maintenance, removal, use, 146
or enlargement of any small wind farm ~~or~~, small solar facility, 147
anaerobic digester, or other small electric generating facility, 148
whether publicly or privately owned, or the use of land for that 149
purpose. With regard to a small wind farm, the regulations may 150
be more strict than the regulations prescribed in rules adopted 151
under division (B) (2) of section 4906.20 of the Revised Code. 152

(C) The designation under this section of a small wind 153
farm ~~or a~~, small solar facility, anaerobic digester, or other 154
small electric generating facility as a public utility for 155
purposes of sections 519.02 to 519.25 of the Revised Code shall 156
not affect the classification of a small wind farm, a small 157
solar facility, an anaerobic digester, other small electric 158
generating facility, or any other public utility for purposes of 159
state or local taxation. 160

(D) Nothing in division (C) of this section shall be 161
construed as affecting the classification of a 162
telecommunications tower as defined in division (B) or (E) of 163
section 519.211 of the Revised Code or any other public utility 164
for purposes of state and local taxation. 165

Sec. 713.081. (A) As used in this section: 166

(1) "Small wind farm" means wind turbines and associated 167

facilities that are not subject to the jurisdiction of the power 168
siting board under sections 4906.20 and 4906.201 of the Revised 169
Code. 170

(2) "Small solar facility" means solar panels and 171
associated facilities with a single interconnection to the 172
electrical grid and designed for, or capable of, operation at an 173
aggregate capacity of less than fifty megawatts. 174

(3) "Anaerobic digester" means a facility used to treat 175
organic materials, such as food waste, manure, and sewage 176
sludge, to produce biogas and digestate. 177

(4) "Other small electric generating facility" means an 178
electric generating plant and associated facilities designed 179
for, or capable of, operation at a capacity of less than fifty 180
megawatts that is not a small wind farm, small solar facility, 181
or anaerobic digester. 182

(B) Sections 713.06 to 713.15 of the Revised Code confer 183
power on the legislative authority of a municipal corporation 184
with respect to the location, erection, construction, 185
reconstruction, change, alteration, maintenance, removal, use, 186
or enlargement of any small wind farm ~~or~~, small solar facility, 187
anaerobic digester, or other small electric generating facility 188
as a public utility, whether publicly or privately owned, or the 189
use of land for that purpose. With regard to a small wind farm, 190
the regulations may be more strict than the regulations 191
prescribed in rules adopted under division (B) (2) of section 192
4906.20 of the Revised Code. 193

(C) The designation under this section of a small wind 194
farm ~~or a~~, small solar facility, anaerobic digester, or other 195
small electric generating facility as a public utility for 196

purposes of sections 713.06 to 713.15 of the Revised Code shall 197
not affect the classification of a small wind farm, a small 198
solar facility, an anaerobic digester, other small electric 199
generating facility, or any other public utility for purposes of 200
state or local taxation. 201

Sec. 3706.51. (A) As used in this section, "public school" 202
means a school district or other public school as defined in 203
section 3301.0711 of the Revised Code. 204

(B) The Ohio air quality development authority, in 205
consultation with the Ohio facilities construction commission, 206
shall establish a school energy efficiency loan program that 207
issues loans to public schools from funds in the school energy 208
efficiency loan fund created in section 3706.52 of the Revised 209
Code for purposes of improving energy efficiency in schools. 210

(C) A public school may apply to the authority to receive 211
a loan under the school energy efficiency loan program. 212

(D) Nothing in this section prohibits a public school that 213
receives a loan under this section from utilizing any other 214
energy efficiency program. 215

(E) The terms of a loan issued under this section shall be 216
as follows: 217

(1) Two per cent annual interest on the loan; 218

(2) The full loan amount, plus interest, shall be repaid 219
in not more than ten years; 220

(3) Repayment on the loan begins six months after the 221
implementation of all energy efficiency improvements is 222
completed; 223

(4) Any other provision considered appropriate by the 224

<u>authority.</u>	225
<u>(F) All repayment amounts for any loans issued under this</u>	226
<u>section shall be made to the authority. The authority shall</u>	227
<u>deposit all repayment amounts received in the school energy</u>	228
<u>efficiency loan fund created in section 3706.52 of the Revised</u>	229
<u>Code.</u>	230
<u>(G) If the authority enters into an agreement with a</u>	231
<u>public school for a loan under this section, the authority shall</u>	232
<u>promptly direct the treasurer of state to remit money from the</u>	233
<u>school energy efficiency loan fund to the school as provided in</u>	234
<u>the terms of the agreement.</u>	235
<u>(H) The authority shall adopt rules under Chapter 119. of</u>	236
<u>the Revised Code to implement this section, including an</u>	237
<u>application for the school energy efficiency loan program.</u>	238
<u>Sec. 3706.52.</u> (A) <u>The school energy efficiency loan fund</u>	239
<u>is created in the custody of the state treasurer, but is not</u>	240
<u>part of the state treasury. The money in the fund shall be used</u>	241
<u>for purposes of the school energy efficiency loan program under</u>	242
<u>section 3706.51 of the Revised Code to fund loans under the</u>	243
<u>program and to administer the program. The fund shall consist of</u>	244
<u>the funds transferred from the solar generation fund, repayments</u>	245
<u>of loans from this fund, interest on amounts in the school</u>	246
<u>energy efficiency loan fund, and any appropriations, grants, or</u>	247
<u>gifts made to the program or the fund.</u>	248
<u>(B) The fund shall be administered by the Ohio air quality</u>	249
<u>development authority, and the authority shall request the</u>	250
<u>treasurer of state to create the account for the fund. The</u>	251
<u>treasurer of state shall distribute the money in the fund in</u>	252
<u>accordance with directions provided by the authority.</u>	253

Sec. 4903.27. For all cases involving an application 254
pursuant to section 4909.18 of the Revised Code, the public 255
utilities commission shall not permit any new discovery 256
beginning not later than two hundred fifteen days after the 257
application is submitted. 258

Sec. 4905.03. As used in this chapter, any person, firm, 259
copartnership, voluntary association, joint-stock association, 260
company, or corporation, wherever organized or incorporated, is: 261

(A) A telephone company, when engaged in the business of 262
transmitting telephonic messages to, from, through, or in this 263
state; 264

(B) A for-hire motor carrier, when engaged in the business 265
of transporting persons or property by motor vehicle for 266
compensation, except when engaged in any of the operations in 267
intrastate commerce described in divisions (B)(1) to (9) of 268
section 4921.01 of the Revised Code, but including the carrier's 269
agents, officers, and representatives, as well as employees 270
responsible for hiring, supervising, training, assigning, or 271
dispatching drivers and employees concerned with the 272
installation, inspection, and maintenance of motor-vehicle 273
equipment and accessories; 274

(C) An electric light company, when engaged in the 275
business of supplying electricity for light, heat, or power 276
purposes to consumers within this state, including supplying 277
electric transmission service for electricity delivered to 278
consumers in this state, but excluding a regional transmission 279
organization approved by the federal energy regulatory 280
commission; ~~—~~. 281

An electric light company does not include a self- 282

generator or mercantile customer self-power system. 283

(D) A gas company, when engaged in the business of 284
supplying artificial gas for lighting, power, or heating 285
purposes to consumers within this state or when engaged in the 286
business of supplying artificial gas to gas companies or to 287
natural gas companies within this state, but a producer engaged 288
in supplying to one or more gas or natural gas companies, only 289
such artificial gas as is manufactured by that producer as a by- 290
product of some other process in which the producer is primarily 291
engaged within this state is not thereby a gas company. All 292
rates, rentals, tolls, schedules, charges of any kind, or 293
agreements between any gas company and any other gas company or 294
any natural gas company providing for the supplying of 295
artificial gas and for compensation for the same are subject to 296
the jurisdiction of the public utilities commission. 297

(E) A natural gas company, when engaged in the business of 298
supplying natural gas for lighting, power, or heating purposes 299
to consumers within this state. Notwithstanding the above, 300
neither the delivery nor sale of Ohio-produced natural gas or 301
Ohio-produced raw natural gas liquids by a producer or gatherer 302
under a public utilities commission-ordered exemption, adopted 303
before, as to producers, or after, as to producers or gatherers, 304
January 1, 1996, or the delivery or sale of Ohio-produced 305
natural gas or Ohio-produced raw natural gas liquids by a 306
producer or gatherer of Ohio-produced natural gas or Ohio- 307
produced raw natural gas liquids, either to a lessor under an 308
oil and gas lease of the land on which the producer's drilling 309
unit is located, or the grantor incident to a right-of-way or 310
easement to the producer or gatherer, shall cause the producer 311
or gatherer to be a natural gas company for the purposes of this 312
section. 313

All rates, rentals, tolls, schedules, charges of any kind, 314
or agreements between a natural gas company and other natural 315
gas companies or gas companies providing for the supply of 316
natural gas and for compensation for the same are subject to the 317
jurisdiction of the public utilities commission. The commission, 318
upon application made to it, may relieve any producer or 319
gatherer of natural gas, defined in this section as a gas 320
company or a natural gas company, of compliance with the 321
obligations imposed by this chapter and Chapters 4901., 4903., 322
4907., 4909., 4921., and 4923. of the Revised Code, so long as 323
the producer or gatherer is not affiliated with or under the 324
control of a gas company or a natural gas company engaged in the 325
transportation or distribution of natural gas, or so long as the 326
producer or gatherer does not engage in the distribution of 327
natural gas to consumers. 328

Nothing in division (E) of this section limits the 329
authority of the commission to enforce sections 4905.90 to 330
4905.96 of the Revised Code. 331

(F) A pipe-line company, when engaged in the business of 332
transporting natural gas, oil, or coal or its derivatives 333
through pipes or tubing, either wholly or partly within this 334
state, but not when engaged in the business of the transport 335
associated with gathering lines, raw natural gas liquids, or 336
finished product natural gas liquids; 337

(G) A water-works company, when engaged in the business of 338
supplying water through pipes or tubing, or in a similar manner, 339
to consumers within this state; 340

(H) A heating or cooling company, when engaged in the 341
business of supplying water, steam, or air through pipes or 342
tubing to consumers within this state for heating or cooling 343

purposes;	344
(I) A messenger company, when engaged in the business of	345
supplying messengers for any purpose;	346
(J) A street railway company, when engaged in the business	347
of operating as a common carrier, a railway, wholly or partly	348
within this state, with one or more tracks upon, along, above,	349
or below any public road, street, alleyway, or ground, within	350
any municipal corporation, operated by any motive power other	351
than steam and not a part of an interurban railroad, whether the	352
railway is termed street, inclined-plane, elevated, or	353
underground railway;	354
(K) A suburban railroad company, when engaged in the	355
business of operating as a common carrier, whether wholly or	356
partially within this state, a part of a street railway	357
constructed or extended beyond the limits of a municipal	358
corporation, and not a part of an interurban railroad;	359
(L) An interurban railroad company, when engaged in the	360
business of operating a railroad, wholly or partially within	361
this state, with one or more tracks from one municipal	362
corporation or point in this state to another municipal	363
corporation or point in this state, whether constructed upon the	364
public highways or upon private rights-of-way, outside of	365
municipal corporations, using electricity or other motive power	366
than steam power for the transportation of passengers, packages,	367
express matter, United States mail, baggage, and freight. Such	368
an interurban railroad company is included in the term	369
"railroad" as used in section 4907.02 of the Revised Code.	370
(M) A sewage disposal system company, when engaged in the	371
business of sewage disposal services through pipes or tubing,	372

and treatment works, or in a similar manner, within this state. 373

As used in division (E) of this section, "natural gas" 374
includes natural gas that has been processed to enable 375
consumption or to meet gas quality standards or that has been 376
blended with propane, hydrogen, biologically derived methane 377
gas, or any other artificially produced or processed gas. 378

As used in this section, "gathering lines" has the same 379
meaning as in section 4905.90 of the Revised Code, and "raw 380
natural gas liquids" and "finished product natural gas liquids" 381
have the same meanings as in section 4906.01 of the Revised 382
Code. 383

As used in this section, "self-generator" has the same 384
meaning as in section 4928.01 of the Revised Code, and 385
"mercantile customer self-power system" has the same meaning as 386
in section 4928.73 of the Revised Code. 387

Sec. 4905.23. (A) As used in this section, "base load 388
electric generating facility" means an electric generating plant 389
and associated facilities located in this state that primarily 390
uses a nonrenewable fuel source to generate electricity, 391
including natural gas and nuclear, and that is not owned or 392
operated by a public utility, municipal corporation, or electric 393
cooperative. 394

(B) No person shall enter into a settlement to abandon, 395
close, or shut down a base load electric generating facility or 396
a generating plant owned or operated by a public utility. 397

Sec. 4905.311. (A) As used in this section, "electric 398
distribution utility" has the same meaning as in section 4928.01 399
of the Revised Code. 400

(B) Notwithstanding any provision of the Revised Code to 401

the contrary, an electric distribution utility may supply behind 402
the meter electric generation service, provided that, for any 403
behind the meter electric generation facilities that the utility 404
intends to use to supply such service, the utility has entered 405
into any necessary agreements with the customer and filed for 406
any necessary permits prior to the effective date of this 407
section. 408

(C) No electric distribution utility shall recover any of 409
the following costs through any rate, charge, or recovery from 410
retail electric service customers that are not receiving behind 411
the meter electric generation service from the utility: 412

(1) Costs associated with supplying behind the meter 413
electric generation service; 414

(2) Costs associated with any behind the meter electric 415
generation service facility; 416

(3) Stranded costs associated with the closing of any 417
behind the meter electric generation service facility or an end- 418
use customer of the behind the meter electric generation service 419
ceasing operations. 420

(D) No electric distribution utility shall offer direct, 421
associated inducements for contracting with the utility for any 422
behind the meter electric generation service. 423

(E) The public utilities commission shall periodically 424
audit all electric distribution utilities that provide any 425
behind the meter electric generation service to ensure 426
compliance with this section. 427

Sec. 4905.321. (A) Notwithstanding section 4905.32 of the 428
Revised Code, all revenues collected from customers by a public 429
utility as part of a rider or rates that are later found to be 430

unreasonable, unlawful, or otherwise improper by the supreme 431
court shall be subject to refund from the date of the issuance 432
of the supreme court's decision until the date when, on remand, 433
the public utilities commission makes changes to the rider or 434
rates to implement the supreme court's decision. 435

(B) The commission shall order the payment of the refunds 436
described in division (A) of this section in a manner designed 437
to allocate the refunds to customer classes in the same 438
proportion as the charges were originally collected. 439

(C) The commission shall determine how to allocate any 440
remaining funds described in division (A) of this section that 441
cannot be refunded for whatever reason. 442

(D) The commission shall order the payment of the funds 443
described in division (A) of this section and shall determine 444
how to allocate any remaining funds that cannot be refunded not 445
more than thirty days after the date of the issuance of the 446
supreme court's decision. 447

Sec. 4905.331. (A) As used in this section: 448

(1) "Electric distribution utility" has the same meaning 449
as in section 4928.01 of the Revised Code. 450

(2) "Electric service" means any service involved in 451
supplying or arranging for the supply of electricity to ultimate 452
consumers in this state. "Electric service" includes "retail 453
electric service" as defined in section 4928.01 of the Revised 454
Code. 455

(3) "Proceeding" includes a proceeding relating to 456
electric service under Chapters 4909. and 4928. of the Revised 457
Code. 458

(B) No electric distribution utility or its affiliate may 459
do either of the following to induce any party to a public 460
utilities commission proceeding to enter into a settlement of a 461
matter pending before the commission: 462

(1) Make a cash payment to that party; 463

(2) Enter into any agreement or any financial or private 464
arrangement with that party that is not made part of the public 465
case record. 466

(C) Notwithstanding division (B) of this section, the 467
commission may do any of the following: 468

(1) Reasonably allocate costs among rate schedules; 469

(2) Reasonably design rates within a rate schedule; 470

(3) Approve reasonable rates designed for particular 471
customers or classes of customers; 472

(4) Approve a resolution of a proceeding under section 473
4905.26 of the Revised Code; 474

(5) Approve payments to any governmental entity, nonprofit 475
organization, or other association for implementing low-income 476
weatherization service programs, subject to the following 477
conditions: 478

(a) The payments are at a rate that is reasonably tailored 479
to the costs of providing the programs. 480

(b) The payments are for programs that are subject to an 481
existing or new audit procedure. 482

(c) The payments are not for low-income weatherization 483
education programs. 484

Sec. 4906.01. As used in Chapter 4906. of the Revised 485

Code:	486
(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	487 488 489 490 491
(B) (1) "Major utility facility" means:	492
(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	493 494 495
(b) An electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more;	496 497 498
(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.	499 500 501 502 503
(2) "Major utility facility" does not include any of the following:	504 505
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	506 507
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	508 509
(c) Electric distributing lines and associated facilities as defined by the power siting board;	510 511
(d) Any manufacturing facility that creates byproducts	512

that may be used in the generation of electricity as defined by	513
the power siting board;	514
(e) Gathering lines, gas gathering pipelines, and	515
processing plant gas stub pipelines as those terms are defined	516
in section 4905.90 of the Revised Code and associated	517
facilities;	518
(f) Any gas processing plant as defined in section 4905.90	519
of the Revised Code;	520
(g) Natural gas liquids finished product pipelines;	521
(h) Pipelines from a gas processing plant as defined in	522
section 4905.90 of the Revised Code to a natural gas liquids	523
fractionation plant, including a raw natural gas liquids	524
pipeline, or to an interstate or intrastate gas pipeline;	525
(i) Any natural gas liquids fractionation plant;	526
(j) A production operation as defined in section 1509.01	527
of the Revised Code, including all pipelines upstream of any	528
gathering lines;	529
(k) Any compressor stations used by the following:	530
(i) A gathering line, a gas gathering pipeline, a	531
processing plant gas stub pipeline, or a gas processing plant as	532
those terms are defined in section 4905.90 of the Revised Code;	533
(ii) A natural gas liquids finished product pipeline, a	534
natural gas liquids fractionation plant, or any pipeline	535
upstream of a natural gas liquids fractionation plant; or	536
(iii) A production operation as defined in section 1509.01	537
of the Revised Code.	538
(C) "Commence to construct" means any clearing of land,	539

excavation, or other action that would adversely affect the 540
natural environment of the site or route of a major utility 541
facility, but does not include surveying changes needed for 542
temporary use of sites or routes for nonutility purposes, or 543
uses in securing geological data, including necessary borings to 544
ascertain foundation conditions. 545

(D) "Certificate" means a certificate of environmental 546
compatibility and public need issued by the power siting board 547
under section 4906.10 of the Revised Code or a construction 548
certificate issued by the board under rules adopted under 549
~~division~~ divisions (E) ~~or (F)~~ to (H) of section 4906.03 of the 550
Revised Code. 551

(E) "Gas" means natural gas, flammable gas, or gas that is 552
toxic or corrosive. 553

(F) "Natural gas liquids finished product pipeline" means 554
a pipeline that carries finished product natural gas liquids to 555
the inlet of an interstate or intrastate finished product 556
natural gas liquid transmission pipeline, rail loading facility, 557
or other petrochemical or refinery facility. 558

(G) "Large solar facility" means an electric generating 559
plant that consists of solar panels and associated facilities 560
with a single interconnection to the electrical grid that is a 561
major utility facility. 562

(H) "Large wind farm" means an electric generating plant 563
that consists of wind turbines and associated facilities with a 564
single interconnection to the electrical grid that is a major 565
utility facility. 566

(I) "Natural gas liquids fractionation plant" means a 567
facility that takes a feed of raw natural gas liquids and 568

produces finished product natural gas liquids. 569

(J) "Raw natural gas" means hydrocarbons that are produced 570
in a gaseous state from gas wells and that generally include 571
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 572
octanes, nonanes, and decanes, plus other naturally occurring 573
impurities like water, carbon dioxide, hydrogen sulfide, 574
nitrogen, oxygen, and helium. 575

(K) "Raw natural gas liquids" means naturally occurring 576
hydrocarbons contained in raw natural gas that are extracted in 577
a gas processing plant and liquefied and generally include 578
mixtures of ethane, propane, butanes, and natural gasoline. 579

(L) "Finished product natural gas liquids" means an 580
individual finished product produced by a natural gas liquids 581
fractionation plant as a liquid that meets the specifications 582
for commercial products as defined by the gas processors 583
association. Those products include ethane, propane, iso-butane, 584
normal butane, and natural gasoline. 585

Sec. 4906.03. The power siting board shall: 586

(A) Require such information from persons subject to its 587
jurisdiction as it considers necessary to assist in the conduct 588
of hearings and any investigations or studies it may undertake; 589

(B) Conduct any studies or investigations that it 590
considers necessary or appropriate to carry out its 591
responsibilities under this chapter; 592

(C) Adopt rules establishing criteria for evaluating the 593
effects on environmental values of proposed and alternative 594
sites, and projected needs for electric power, and such other 595
rules as are necessary and convenient to implement this chapter, 596
including rules governing application fees, supplemental 597

application fees, and other reasonable fees to be paid by 598
persons subject to the board's jurisdiction. The board shall 599
make an annual accounting of its collection and use of these 600
fees and shall issue an annual report of its accounting, in the 601
form and manner prescribed by its rules, not later than the last 602
day of June of the year following the calendar year to which the 603
report applies. 604

(D) Approve, disapprove, or modify and approve 605
applications for certificates; 606

(E) Notwithstanding sections 4906.06 to 4906.14 of the 607
Revised Code, the board may adopt rules to provide for an 608
accelerated review of an application for a construction 609
certificate for construction of a major utility facility related 610
to a coal research and development project as defined in section 611
1555.01 of the Revised Code, or to a coal development project as 612
defined in section 1551.30 of the Revised Code, submitted to the 613
Ohio coal development office for review under division (B) (7) of 614
section 1551.33 of the Revised Code. Applications for 615
construction certificates for construction of major utility 616
facilities for Ohio coal research and development shall be filed 617
with the board on the same day as the proposed facility or 618
project is submitted to the Ohio coal development office for 619
review. 620

The board shall render a decision on an application for a 621
construction certificate within ninety days after receipt of the 622
application and all of the data and information it may require 623
from the applicant. In rendering a decision on an application 624
for a construction certificate, the board shall only consider 625
the criteria and make the findings and determinations set forth 626
in divisions (A) (2), (3), (5), and (7) and division (B) of 627

section 4906.10 of the Revised Code. 628

(F) Notwithstanding sections 4906.06 to 4906.14 of the 629
Revised Code, the board shall adopt rules to provide for an 630
accelerated review of an application for a construction 631
certificate for any of the following: 632

(1) An electric transmission line that is: 633

(a) Not more than two miles in length; 634

(b) Primarily needed to attract or meet the requirements 635
of a specific customer or specific customers; 636

(c) Necessary to maintain reliable electric service as a 637
result of the retirement or shutdown of an electric generating 638
facility located within the state; or 639

(d) A rebuilding of an existing transmission line. 640

(2) An electric generating facility that uses waste heat 641
or natural gas and is primarily within the current boundary of 642
an existing industrial or electric generating facility; 643

(3) A gas pipeline that is not more than five miles in 644
length or is primarily needed to meet the requirements of a 645
specific customer or specific customers. 646

The board shall adopt rules that provide for the automatic 647
certification to any entity described in this division when an 648
application by any such entity is not suspended by the board, an 649
administrative law judge, or the chairperson or executive 650
director of the board for good cause shown, within ninety days 651
of submission of the application. If an application is 652
suspended, the board shall approve, disapprove, or modify and 653
approve the application not later than ninety days after the 654
date of the suspension. 655

(G) Notwithstanding sections 4906.06 to 4906.14 of the 656
Revised Code, the board shall adopt rules to provide for the 657
accelerated review of an application for a construction 658
certificate for any of the following that are located in a 659
priority investment area designated and approved under section 660
122.161 of the Revised Code: 661

(1) An electric generating plant and associated 662
facilities; 663

(2) An electric transmission line and associated 664
facilities; 665

(3) Gas Pipeline infrastructure. 666

The chairperson of the board, not later than forty-five 667
days after receipt of an application submitted under division 668
(G) of this section, shall determine if it complies with all 669
application requirements set by the public utilities commission 670
by rule. If the chairperson does not issue a determination 671
within the time period required by this division, the 672
application shall be deemed in compliance by operation of law. 673

The board shall render a decision on an application 674
submitted under this division not later than forty-five days 675
after the application is determined in compliance with all 676
requirements set by the commission. If the board does not render 677
a decision within forty-five days, the application shall be 678
considered approved by operation of law, and the board shall 679
issue a certificate to the applicant. 680

The board shall adopt rules to implement this division, 681
including rules that prioritize applications for construction on 682
areas negatively impacted by the decline of the coal industry. 683

(H) Notwithstanding sections 4906.06 to 4906.14 of the 684

Revised Code, the board shall adopt rules to provide for the 685
accelerated review of an application for a construction 686
certificate for a major utility facility if at the time the 687
application is filed the construction will be located, in whole, 688
on property owned by, or under a lease with a term of twenty- 689
five years or more with, the applicant; in whole or in part, on 690
an easement or right-of-way; or on any combination of such 691
property, easement, or right-of-way. 692

No accelerated application shall be granted under the 693
rules adopted under division (H) of this section for 694
construction of a major utility facility, in whole or in part, 695
on property under a lease with or an easement or right-of-way, 696
if additional consent for construction on the property, 697
easement, or right-of-way is required by any person or entity 698
other than the power siting board. 699

The board shall render a decision on an application 700
submitted under this division not later than forty-five days 701
after receipt of the application. If the board does not render a 702
decision within forty-five days, the application shall be 703
considered approved by operation of law, and the board shall 704
issue a certificate to the applicant. 705

Sec. 4906.06. (A) An applicant for a certificate shall 706
file with the office of the chairperson of the power siting 707
board an application, in such form as the board prescribes, 708
containing the following information: 709

(1) A description of the location and of the major utility 710
facility; 711

(2) A summary of any studies that have been made by or for 712
the applicant of the environmental impact of the facility; 713

(3) A statement explaining the need for the facility;	714
(4) A statement of the reasons why the proposed location is best suited for the facility;	715 716
(5) A statement of how the facility fits into the applicant's forecast contained in the report submitted under section 4935.04 of the Revised Code;	717 718 719
(6) Such other information as the applicant may consider relevant or as the board by rule or order may require. Copies of the studies referred to in division (A) (2) of this section shall be filed with the office of the chairperson, if ordered, and shall be available for public inspection.	720 721 722 723 724
The application shall be filed not more than five years prior to the planned date of commencement of construction. The five-year period may be waived by the board for good cause shown.	725 726 727 728
(B) Each application shall be accompanied by proof of service of a copy of such application on the chief executive officer of each municipal corporation and county, and the head of each public agency charged with the duty of protecting the environment or of planning land use, in the area in which any portion of such facility is to be located.	729 730 731 732 733 734
(C) Each applicant within fifteen days after the date of the filing of the application shall give public notice to persons residing in the municipal corporations and counties entitled to receive notice under division (B) of this section, by the publication of a summary of the application in newspapers of general circulation in such area. Proof of such publication shall be filed with the office of the chairperson.	735 736 737 738 739 740 741
(D) Inadvertent failure of service on, or notice to, any	742

of the persons identified in divisions (B) and (C) of this 743
section may be cured pursuant to orders of the board designed to 744
afford them adequate notice to enable them to participate 745
effectively in the proceeding. In addition, the board, after 746
filing, may require the applicant to serve notice of the 747
application or copies thereof or both upon such other persons, 748
and file proof thereof, as the board considers appropriate. 749

(E) An application for an amendment of a certificate shall 750
be in such form and contain such information as the board 751
prescribes. Notice of such an application shall be given as 752
required in divisions (B) and (C) of this section. 753

(F) Each application for certificate or an amendment shall 754
be accompanied by the application fee prescribed by board rule. 755
All application fees, supplemental application fees, and other 756
fees collected by the board shall be deposited in the state 757
treasury to the credit of the power siting board fund, which is 758
hereby created. The chairperson shall administer and authorize 759
expenditures from the fund for any of the purposes of this 760
chapter. If the chairperson determines that moneys credited to 761
the fund from an applicant's fee are not sufficient to pay the 762
board's expenses associated with its review of the application, 763
the chairperson shall request the approval of the controlling 764
board to assess a supplemental application fee upon an applicant 765
to pay anticipated additional expenses associated with the 766
board's review of the application or an amendment to an 767
application. If the chairperson finds that an application fee 768
exceeds the amount needed to pay the board's expenses for review 769
of the application, the chairperson shall cause a refund of the 770
excess amount to be issued to the applicant from the fund. 771

(G) The chairperson shall determine whether an application 772

is in compliance with this section not more than forty-five days 773
after the application is filed. If the chairperson does not 774
issue a determination within the time period required by this 775
division, the application shall be deemed in compliance by 776
operation of law. 777

Sec. 4906.07. (A) Upon the receipt of an application 778
complying with section 4906.06 of the Revised Code, the power 779
siting board shall promptly fix a date for a public hearing 780
thereon, not less than ~~sixty~~ forty-five nor more than ~~ninety~~ 781
sixty days after such receipt, and shall conclude the proceeding 782
as expeditiously as practicable. 783

(B) On an application for an amendment of a certificate, 784
the board shall hold a hearing in the same manner as a hearing 785
is held on an application for a certificate if the proposed 786
change in the facility would result in any material increase in 787
any environmental impact of the facility or a substantial change 788
in the location of all or a portion of such facility other than 789
as provided in the alternates set forth in the application. 790

(C) The chairperson of the power siting board shall cause 791
each application filed with the board to be investigated and 792
shall, not less than ~~fifteen~~ five days prior to the date any 793
application is set for hearing submit a written report to the 794
board and to the applicant. A copy of such report shall be made 795
available to any person upon request. Such report shall set 796
forth the nature of the investigation, and shall contain 797
recommended findings with regard to division (A) of section 798
4906.10 of the Revised Code and shall become part of the record 799
and served upon all parties to the proceeding. 800

Sec. 4906.10. (A) The power siting board shall render a 801
decision upon the record either granting or denying the 802

application as filed, or granting it upon such terms, 803
conditions, or modifications of the construction, operation, or 804
maintenance of the major utility facility as the board considers 805
appropriate. The certificate shall be subject to sections 806
4906.101, 4906.102, and 4906.103 of the Revised Code and 807
conditioned upon the facility being in compliance with standards 808
and rules adopted under section 4561.32 and Chapters 3704., 809
3734., and 6111. of the Revised Code. An applicant may withdraw 810
an application if the board grants a certificate on terms, 811
conditions, or modifications other than those proposed by the 812
applicant in the application. 813

The board shall not grant a certificate for the 814
construction, operation, and maintenance of a major utility 815
facility, either as proposed or as modified by the board, unless 816
it finds and determines all of the following: 817

(1) The basis of the need for the facility if the facility 818
is an electric transmission line or gas pipeline; 819

(2) The nature of the probable environmental impact; 820

(3) That the facility represents the minimum adverse 821
environmental impact, considering the state of available 822
technology and the nature and economics of the various 823
alternatives, and other pertinent considerations; 824

(4) In the case of an electric transmission line or 825
generating facility, that the facility is consistent with 826
regional plans for expansion of the electric power grid of the 827
electric systems serving this state and interconnected utility 828
systems and that the facility will serve the interests of 829
electric system economy and reliability; 830

(5) That the facility will comply with Chapters 3704., 831

3734., and 6111. of the Revised Code and all rules and standards 832
adopted under those chapters and under section 4561.32 of the 833
Revised Code. In determining whether the facility will comply 834
with all rules and standards adopted under section 4561.32 of 835
the Revised Code, the board shall consult with the office of 836
aviation of the division of multi-modal planning and programs of 837
the department of transportation under section 4561.341 of the 838
Revised Code. 839

(6) That the facility will serve the public interest, 840
convenience, and necessity; 841

(7) In addition to the provisions contained in divisions 842
(A) (1) to (6) of this section and rules adopted under those 843
divisions, what its impact will be on the viability as 844
agricultural land of any land in an existing agricultural 845
district established under Chapter 929. of the Revised Code that 846
is located within the site and alternative site of the proposed 847
major utility facility. Rules adopted to evaluate impact under 848
division (A) (7) of this section shall not require the 849
compilation, creation, submission, or production of any 850
information, document, or other data pertaining to land not 851
located within the site and alternative site. 852

(8) That the facility incorporates maximum feasible water 853
conservation practices as determined by the board, considering 854
available technology and the nature and economics of the various 855
alternatives. 856

(B) If the board determines that the location of all or a 857
part of the proposed facility should be modified, it may 858
condition its certificate upon that modification, provided that 859
the municipal corporations and counties, and persons residing 860
therein, affected by the modification shall have been given 861

reasonable notice thereof. 862

(C) A copy of the decision and any opinion issued 863
therewith shall be served upon each party. 864

(D) The board shall render a decision under this section 865
not later than one hundred twenty days after the date the 866
application is found in compliance with section 4906.06 of the 867
Revised Code. If the board does not render a decision within the 868
time period required by this division, the application shall be 869
deemed approved by operation of law, and the board shall issue a 870
certificate to the applicant subject to the conditions contained 871
within the staff report issued under section 4906.07 of the 872
Revised Code. 873

Sec. 4909.04. (A) The public utilities commission, for the 874
purpose of ascertaining the reasonableness and justice of rates 875
and charges for the service rendered by public utilities or 876
railroads, or for any other purpose authorized by law, may 877
investigate and ascertain the value of the property of any 878
public utility or railroad in this state used or useful for the 879
service and convenience of the public, using the same criteria 880
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 881
the Revised Code. At the request of the legislative authority of 882
any municipal corporation, the commission, after hearing and 883
determining that such a valuation is necessary, may also 884
investigate and ascertain the value of the property of any 885
public utility used and useful for the service and convenience 886
of the public where the whole or major portion of such public 887
utility is situated in such municipal corporation. 888

(B) To assist the commission in preparing such a 889
valuation, every public utility or railroad shall: 890

(1) Furnish to the commission, or to its agents, as the 891
commission requires, maps, profiles, schedules of rates and 892
tariffs, contracts, reports of engineers, and other documents, 893
records, and papers, or copies of any of them, in aid of any 894
investigation and ascertainment of the value of its property; 895

(2) Grant to the commission or its agents free access to 896
all of its premises and property and its accounts, records, and 897
memoranda whenever and wherever requested by any such authorized 898
agent; 899

(3) Cooperate with and aid the commission and its agents 900
in the work of the valuation of its property in such further 901
particulars and to such extent as the commission requires and 902
directs. 903

(C) The commission may make all rules which seem necessary 904
to ascertain the value of the property and plant of each public 905
utility or railroad. 906

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 907
4909.05 of the Revised Code: 908

(A) A "lease purchase agreement" is an agreement pursuant 909
to which a public utility leasing property is required to make 910
rental payments for the term of the agreement and either the 911
utility is granted the right to purchase the property upon the 912
completion of the term of the agreement and upon the payment of 913
an additional fixed sum of money or title to the property vests 914
in the utility upon the making of the final rental payment. 915

(B) A "leaseback" is the sale or transfer of property by a 916
public utility to another person contemporaneously followed by 917
the leasing of the property to the public utility on a long-term 918
basis. 919

Sec. 4909.042. (A) With respect to an electric light 920
company that chooses to file a forecasted test period under 921
section 4909.18 of the Revised Code, the public utilities 922
commission shall prescribe the form and details of the valuation 923
report of the property of the utility. Such report shall include 924
all the kinds and classes of property, with the value of each, 925
owned, held, or projected to be owned or held during the test 926
period, by the utility for the service and convenience of the 927
public. 928

(B) Such report shall contain the following facts in 929
detail: 930

(1) The original cost of each parcel of land owned in fee 931
and projected to be owned in fee and in use during the test 932
period, determined by the commission; and also a statement of 933
the conditions of acquisition, whether by direct purchase, by 934
donation, by exercise of the power of eminent domain, or 935
otherwise; 936

(2) The actual acquisition cost, not including periodic 937
rental fees, of rights-of-way, trailways, or other land rights 938
projected to be held during the test period, by virtue of 939
easements, leases, or other forms of grants of rights as to 940
usage; 941

(3) The original cost of all other kinds and classes of 942
property projected to be used and useful during the test period, 943
in the rendition of service to the public. Such original costs 944
of property, other than land owned in fee, shall be the cost, as 945
determined to be reasonable by the commission, to the person 946
that first dedicated or dedicates the property to the public use 947
and shall be set forth in property accounts and subaccounts as 948
prescribed by the commission; 949

(4) The cost of property constituting all or part of a 950
project projected to be leased to or used by the utility during 951
the test period, under Chapter 165., 3706., 6121., or 6123. of 952
the Revised Code and not included under division (B) (3) of this 953
section exclusive of any interest directly or indirectly paid by 954
the utility with respect thereto whether or not capitalized; 955

(5) In the discretion of the commission, the cost to a 956
utility, in an amount determined to be reasonable by the 957
commission, of property constituting all or part of a project 958
projected to be leased to the utility during the test period, 959
under a lease purchase agreement or a leaseback and not included 960
under division (B) (3) of this section exclusive of any interest 961
directly or indirectly paid by the utility with respect thereto 962
whether or not capitalized; 963

(6) The proper and adequate reserve for depreciation, as 964
determined to be reasonable by the commission; 965

(7) Any sums of money or property that the utility is 966
projected to receive during the test period, as total or partial 967
defrayal of the cost of its property; 968

(8) The valuation of the property of the utility, which 969
shall be the sum of the amounts contained in the report pursuant 970
to divisions (B) (1) to (5) of this section, less the sum of the 971
amounts contained in the report pursuant to divisions (B) (6) and 972
(7) of this section. 973

(C) The report shall show separately the property 974
projected to be used and useful to or held by the utility during 975
the test period, and such other items as the commission 976
considers proper. The commission may require an additional 977
report showing the extent to which the property is projected to 978

be used and useful during the test period. Such reports shall be 979
filed in the office of the commission for the information of the 980
governor and the general assembly. 981

Sec. 4909.05. As used in this section: 982

~~(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.~~ 983
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~~(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.~~ 990
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~~(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~~ 994
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(B) Such report shall contain the following facts in 1008
detail: 1009

(1) The original cost of each parcel of land owned in fee 1010
and in use, or, with respect to a natural gas, water-works, or 1011
sewage disposal system company, projected to be owned in fee and 1012
in use as of the date certain, determined by the commission; and 1013
also a statement of the conditions of acquisition, whether by 1014
direct purchase, by donation, by exercise of the power of 1015
eminent domain, or otherwise; 1016

(2) The actual acquisition cost, not including periodic 1017
rental fees, of rights-of-way, trailways, or other land rights 1018
held, or, with respect to a natural gas, water-works, or sewage 1019
disposal system company, projected to be held as of the date 1020
certain, by virtue of easements, leases, or other forms of 1021
grants of rights as to usage; 1022

(3) The original cost of all other kinds and classes of 1023
property used and useful, or, with respect to a natural gas, 1024
water-works, or sewage disposal system company, projected to be 1025
used and useful as of the date certain, in the rendition of 1026
service to the public. Subject to section 4909.052 of the 1027
Revised Code, such original costs of property, other than land 1028
owned in fee, shall be the cost, as determined to be reasonable 1029
by the commission, to the person that first dedicated or 1030
dedicates the property to the public use and shall be set forth 1031
in property accounts and subaccounts as prescribed by the 1032
commission. To the extent that the costs of property comprising 1033
a coal research and development facility, as defined in section 1034
1555.01 of the Revised Code, or a coal development project, as 1035
defined in section 1551.30 of the Revised Code, have been 1036
allowed for recovery as Ohio coal research and development costs 1037

under section 4905.304 of the Revised Code, none of those costs 1038
shall be included as a cost of property under this division. 1039

(4) The cost of property constituting all or part of a 1040
project leased to or used by the utility, or, with respect to a 1041
natural gas, water-works, or sewage disposal system company, 1042
projected to be leased to or used by the utility as of the date 1043
certain, under Chapter 165., 3706., 6121., or 6123. of the 1044
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 1045
this section exclusive of any interest directly or indirectly 1046
paid by the utility with respect thereto whether or not 1047
capitalized; 1048

(5) In the discretion of the commission, the cost to a 1049
utility, in an amount determined to be reasonable by the 1050
commission, of property constituting all or part of a project 1051
leased to the utility, or, with respect to a natural gas, water- 1052
works, or sewage disposal system company, projected to be leased 1053
to the utility as of the date certain, under a lease purchase 1054
agreement or a leaseback and not included under division ~~(C) (3)~~ 1055
(B) (3) of this section exclusive of any interest directly or 1056
indirectly paid by the utility with respect thereto whether or 1057
not capitalized; 1058

(6) The cost of the replacement of water service lines 1059
incurred by a water-works company under section 4909.173 of the 1060
Revised Code and the water service line replacement 1061
reimbursement amounts provided to customers under section 1062
4909.174 of the Revised Code; 1063

(7) The proper and adequate reserve for depreciation, as 1064
determined to be reasonable by the commission; 1065

(8) Any sums of money or property that the company may 1066

have received, or, with respect to a natural gas, water-works, 1067
or sewage disposal system company, is projected to receive as of 1068
the date certain, as total or partial defrayal of the cost of 1069
its property; 1070

(9) The valuation of the property of the company, which 1071
shall be the sum of the amounts contained in the report pursuant 1072
to divisions ~~(C) (1)~~ (B) (1) to (6) of this section, less the sum 1073
of the amounts contained in the report pursuant to divisions ~~(C)~~ 1074
~~(7)~~ (B) (7) and (8) of this section. 1075

(C) The report shall show separately the property used and 1076
useful to such public utility or railroad in the furnishing of 1077
the service to the public, the property held by such public 1078
utility or railroad for other purposes, and the property 1079
projected to be used and useful to or held by a natural gas, 1080
water-works, or sewage disposal system company as of the date 1081
certain, and such other items as the commission considers 1082
proper. The commission may require an additional report showing 1083
the extent to which the property is used and useful, or, with 1084
respect to a natural gas, water-works, or sewage disposal system 1085
company, projected to be used and useful as of the date certain. 1086
Such reports shall be filed in the office of the commission for 1087
the information of the governor and the general assembly. 1088

Sec. 4909.052. Subject to a finding that such costs are 1089
just and reasonable, the public utilities commission in 1090
evaluating a petition submitted under section 4905.481 of the 1091
Revised Code shall accept the original cost, reported under 1092
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 1093
of the acquisition of a municipal water-works or sewage disposal 1094
system company that is acquired by a large water-works or sewage 1095
disposal system company, provided that the original cost is 1096

determined according to all of the following requirements: 1097

(A) The acquiring company has three appraisals performed 1098
on the property of the company being acquired. 1099

(B) The three appraisals are performed by three 1100
independent utility-valuation experts mutually selected by the 1101
acquiring company and the company being acquired from the list 1102
maintained under section 4909.054 of the Revised Code. 1103

(C) The average of the three appraisals is used as the 1104
fair market value of the company being acquired. 1105

(D) Each utility-valuation expert does all of the 1106
following: 1107

(1) Determines the fair market value of the company to be 1108
acquired by establishing the amount for which the company would 1109
be sold in a voluntary transaction between a willing buyer and a 1110
willing seller under no obligation to buy or sell; 1111

(2) Determines the fair market value in compliance with 1112
the uniform standards of professional appraisal practice; 1113

(3) Employs the cost, market, and income approach to 1114
independently quantify the future benefits of the company to be 1115
acquired; 1116

(4) Incorporates the assessment described in division (D) 1117
(5) of this section into the appraisal under the cost, market, 1118
and income approach; 1119

(5) Engages one engineer who is licensed to prepare an 1120
assessment of the tangible assets of the company to be acquired. 1121
The original source of funding for any part of the tangible 1122
assets shall not be relevant to the determination of the value 1123
of those assets. 1124

(E) The lesser of the purchase price or the fair market value, described in division (C) of this section, is reported as the original cost under division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code of the company to be acquired.

Sec. 4909.06. The investigation and report required by ~~section~~ section 4909.042 or 4909.05 of the Revised Code shall show, when the public utilities commission deems it necessary, the amounts, dates, and rates of interest of all bonds outstanding against each public utility or railroad, the property upon which such bonds are a lien, the amounts paid for them, and, the original capital stock and the moneys received by any such public utility or railroad by reason of any issue of stock, bonds, or other securities. Such report shall also show the net and gross receipts of such public utility or railroad and the method by which moneys were expended or paid out and the purpose of such payments. The commission may prescribe the procedure to be followed in making the investigation and valuation, the form in which the results of the ascertainment of the value of each public utility or railroad shall be submitted, and the classifications of the elements that constitute the ascertained value. Such investigation shall also show the value of the property of every public utility or railroad as a whole, and if such property is in more than one county, the value of its property in each of such counties.

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

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

Revised Code; 1155

(B) With respect to an electric light company that chooses 1156
to file a forecasted test period under section 4909.18 of the 1157
Revised Code, the valuation and value during the forecasted test 1158
period. 1159

Sec. 4909.07. The public utilities commission, during the 1160
making of the valuation provided for in sections 4909.04 to 1161
4909.13 of the Revised Code, and after its completion, shall in 1162
like manner keep itself informed through its engineers, experts, 1163
and other assistants of all extensions, improvements, or other 1164
changes in the condition and value of the property of all public 1165
utilities or railroads and shall ascertain the value of such 1166
extensions, improvements, and changes. The commission shall, as 1167
is required for the proper regulation of such public utilities 1168
or railroads, revise and correct its valuations of property, 1169
showing such revisions and corrections as a whole and as to each 1170
county. Such revisions and corrections shall be filed in the 1171
same manner as original reports. 1172

"Valuation" and "value," as used in this section, may 1173
include, ~~with~~: 1174

(A) With respect to a public utility that is a natural 1175
gas, water-works, or sewage disposal system company, projected 1176
valuation and value as of the date certain, if applicable 1177
because of a future date certain under section 4909.15 of the 1178
Revised Code; 1179

(B) With respect to an electric light company that chooses 1180
to file a forecasted test period under section 4909.18 of the 1181
Revised Code, the valuation and value during the forecasted test 1182
period. 1183

Sec. 4909.08. When the public utilities commission has 1184
completed the valuation of the property of any public utility or 1185
railroad and before such valuation becomes final, it shall give 1186
notice by registered letter to such public utility or railroad, 1187
and if a substantial portion of said public utility or railroad 1188
is situated in a municipal corporation, then to the mayor of 1189
such municipal corporation, stating the valuations placed upon 1190
the several kinds and classes of property of such public utility 1191
or railroad and upon the property as a whole and give such 1192
further notice by publication or otherwise as it shall deem 1193
necessary to apprise the public of such valuation. If, within 1194
thirty days after such notification, no protest has been filed 1195
with the commission, such valuation becomes final. If notice of 1196
protest has been filed by any public utility or railroad, the 1197
commission shall fix a time for hearing such protest and shall 1198
consider at such hearing any matter material thereto presented 1199
by such public utility, railroad, or municipal corporation, in 1200
support of its protest or by any representative of the public 1201
against such protest. If, after the hearing of any protest of 1202
any valuation so fixed, the commission is of the opinion that 1203
its inventory is incomplete or inaccurate or that its valuation 1204
is incorrect, it shall make such changes as are necessary and 1205
shall issue an order making such corrected valuations final. A 1206
final valuation by the commission and all classifications made 1207
for the ascertainment of such valuations shall be public and are 1208
prima-facie evidence relative to the value of the property. 1209

"Valuation" and "value," as used in this section, may 1210
include, ~~with~~ with: 1211

(A) With respect to a public utility that is a natural 1212
gas, water-works, or sewage disposal system company, projected 1213
valuation and value as of the date certain, if applicable 1214

because of a future date certain under section 4909.15 of the Revised Code;

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

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

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

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

(c) The valuation so determined under division (A) (1) of this section for any public utility shall be the total value as set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the Revised Code and division (B) (9) of section 4909.05 of the

Revised Code, and a reasonable allowance for materials and 1244
supplies and a reasonable allowance for cash working capital as 1245
determined by the commission. 1246

~~The commission, in its discretion, may include in the 1247
valuation a reasonable allowance for construction work in- 1248
progress but, in no event, may such an allowance be made by the- 1249
commission until it has determined that the particular- 1250
construction project is at least seventy-five per cent complete. 1251~~

~~In determining the percentage completion of a particular 1252
construction project, the commission shall consider, among other 1253
relevant criteria, the per cent of time elapsed in construction; 1254
the per cent of construction funds, excluding allowance for 1255
funds used during construction, expended, or obligated to such- 1256
construction funds budgeted where all such funds are adjusted to 1257
reflect current purchasing power; and any physical inspection- 1258
performed by or on behalf of any party, including the 1259
commission's staff. 1260~~

~~A reasonable allowance for construction work in progress- 1261
shall not exceed ten per cent of the total valuation as stated- 1262
in this division, not including such allowance for construction- 1263
work in progress. 1264~~

~~Where the commission permits an allowance for construction 1265
work in progress, the dollar value of the project or portion- 1266
thereof included in the valuation as construction work in- 1267
progress shall not be included in the valuation as plant in- 1268
service until such time as the total revenue effect of the- 1269
construction work in progress allowance is offset by the total- 1270
revenue effect of the plant in service exclusion. Carrying- 1271
charges calculated in a manner similar to allowance for funds- 1272
used during construction shall accrue on that portion of the- 1273~~

~~project in service but not reflected in rates as plant in- 1274~~
~~service, and such accrued carrying charges shall be included in- 1275~~
~~the valuation of the property at the conclusion of the offset- 1276~~
~~period for purposes of division (C) (9) of section 4909.05 of the 1277~~
~~Revised Code. 1278~~

~~From and after April 10, 1985, no allowance for- 1279~~
~~construction work in progress as it relates to a particular- 1280~~
~~construction project shall be reflected in rates for a period- 1281~~
~~exceeding forty-eight consecutive months commencing on the date- 1282~~
~~the initial rates reflecting such allowance become effective,- 1283~~
~~except as otherwise provided in this division. 1284~~

~~The applicable maximum period in rates for an allowance- 1285~~
~~for construction work in progress as it relates to a particular- 1286~~
~~construction project shall be tolled if, and to the extent, a- 1287~~
~~delay in the in-service date of the project is caused by the- 1288~~
~~action or inaction of any federal, state, county, or municipal- 1289~~
~~agency having jurisdiction, where such action or inaction- 1290~~
~~relates to a change in a rule, standard, or approval of such- 1291~~
~~agency, and where such action or inaction is not the result of- 1292~~
~~the failure of the utility to reasonably endeavor to comply with 1293~~
~~any rule, standard, or approval prior to such change. 1294~~

~~In the event that such period expires before the project- 1295~~
~~goes into service, the commission shall exclude, from the date- 1296~~
~~of expiration, the allowance for the project as construction- 1297~~
~~work in progress from rates, except that the commission may- 1298~~
~~extend the expiration date up to twelve months for good cause- 1299~~
~~shown. 1300~~

~~In the event that a utility has permanently canceled,- 1301~~
~~abandoned, or terminated construction of a project for which it- 1302~~
~~was previously permitted a construction work in progress- 1303~~

~~allowance, the commission immediately shall exclude the~~ 1304
~~allowance for the project from the valuation.~~ 1305

~~In the event that a construction work in progress project~~ 1306
~~previously included in the valuation is removed from the~~ 1307
~~valuation pursuant to this division, any revenues collected by~~ 1308
~~the utility from its customers after April 10, 1985, that~~ 1309
~~resulted from such prior inclusion shall be offset against~~ 1310
~~future revenues over the same period of time as the project was~~ 1311
~~included in the valuation as construction work in progress. The~~ 1312
~~total revenue effect of such offset shall not exceed the total~~ 1313
~~revenues previously collected.~~ 1314

~~In no event shall the total revenue effect of any offset~~ 1315
~~or offsets provided under division (A) (1) of this section exceed~~ 1316
~~the total revenue effect of any construction work in progress~~ 1317
~~allowance.~~ 1318

(2) A fair and reasonable rate of return to the utility on 1319
the valuation as determined in division (A) (1) of this section; 1320

(3) The dollar annual return to which the utility is 1321
entitled by applying the fair and reasonable rate of return as 1322
determined under division (A) (2) of this section to the 1323
valuation of the utility determined under division (A) (1) of 1324
this section; 1325

(4) The cost to the utility of rendering the public 1326
utility service for the test period used for the determination 1327
under division (C) (1) of this section, less the total of any 1328
interest on cash or credit refunds paid, pursuant to section 1329
4909.42 of the Revised Code, by the utility during the test 1330
period. 1331

~~(a) Federal, state, and local taxes imposed on or measured~~ 1332

by net income may, in the discretion of the commission, be 1333
computed by the normalization method of accounting, provided the 1334
utility maintains accounting reserves that reflect differences 1335
between taxes actually payable and taxes on a normalized basis, 1336
provided that no determination as to the treatment in the rate- 1337
making process of such taxes shall be made that will result in 1338
loss of any tax depreciation or other tax benefit to which the 1339
utility would otherwise be entitled, and further provided that 1340
such tax benefit as redounds to the utility as a result of such 1341
a computation may not be retained by the company, used to fund 1342
any dividend or distribution, or utilized for any purpose other 1343
than the defrayal of the operating expenses of the utility and 1344
the defrayal of the expenses of the utility in connection with 1345
construction work. 1346

~~(b) The amount of any tax credits granted to an electric 1347
light company under section 5727.391 of the Revised Code for 1348
Ohio coal burned prior to January 1, 2000, shall not be retained 1349
by the company, used to fund any dividend or distribution, or 1350
utilized for any purposes other than the defrayal of the 1351
allowable operating expenses of the company and the defrayal of 1352
the allowable expenses of the company in connection with the 1353
installation, acquisition, construction, or use of a compliance 1354
facility. The amount of the tax credits granted to an electric 1355
light company under that section for Ohio coal burned prior to 1356
January 1, 2000, shall be returned to its customers within three 1357
years after initially claiming the credit through an offset to 1358
the company's rates or fuel component, as determined by the 1359
commission, as set forth in schedules filed by the company under 1360
section 4905.30 of the Revised Code. As used in division (A)(4) 1361
(b) of this section, "compliance facility" has the same meaning 1362
as in section 5727.391 of the Revised Code. 1363~~

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

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

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

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

For the first twelve-month period, forecasted plant investment, forecasted revenue, and forecasted expenses versus actual investment, actual revenue, and actual expenses shall be trued up via a cost recovery mechanism approved by the commission. For the second and third twelve-month periods, forecasted plant investment versus actual plant investment shall be trued up via a cost recovery mechanism approved by the

commission. 1394

Each true-up process shall take into account the rate of 1395
return that the utility projects to earn on the investments. The 1396
utility shall provide the commission with actual financial 1397
information during the true-up process to ensure accuracy. As 1398
part of the true-up process, the commission shall include only 1399
rate base components that have been found by the commission to 1400
be used and useful in rendering public utility service. 1401

(b) All utilities, except for electric light companies 1402
that choose to file under division (C) (1) (a) of this section, 1403
shall propose a test period for this determination that is any 1404
twelve-month period beginning not more than six months prior to 1405
the date the application is filed and ending not more than nine 1406
months subsequent to that date. The test period for determining 1407
revenues and expenses of the utility shall be the test period 1408
proposed by the utility, unless otherwise ordered by the 1409
commission. 1410

(2) The For utilities filing under division (C) (1) (b) of 1411
this section, the date certain shall be not later than the date 1412
of filing, except that it shall be, for a natural gas, water- 1413
works, or sewage disposal system company, not later than the end 1414
of the test period. 1415

(D) A natural gas, water-works, or sewage disposal system- 1416
company Utilities filing under division (C) (1) (b) of this 1417
section may propose adjustments to the revenues and expenses to 1418
be determined under division (C) (1) of this section for any 1419
changes that are, during the test period or the twelve-month 1420
period immediately following the test period, reasonably 1421
expected to occur. The natural gas, water-works, or sewage 1422
disposal system company utility shall identify and quantify, 1423

individually, any proposed adjustments. The commission shall 1424
incorporate the proposed adjustments into the determination if 1425
the adjustments are just and reasonable. 1426

(E) When the commission is of the opinion, after hearing 1427
and after making the determinations under divisions (A) and (B) 1428
of this section, that any rate, fare, charge, toll, rental, 1429
schedule, classification, or service, or any joint rate, fare, 1430
charge, toll, rental, schedule, classification, or service 1431
rendered, charged, demanded, exacted, or proposed to be 1432
rendered, charged, demanded, or exacted, is, or will be, unjust, 1433
unreasonable, unjustly discriminatory, unjustly preferential, or 1434
in violation of law, that the service is, or will be, 1435
inadequate, or that the maximum rates, charges, tolls, or 1436
rentals chargeable by any such public utility are insufficient 1437
to yield reasonable compensation for the service rendered, and 1438
are unjust and unreasonable, the commission shall: 1439

(1) With due regard among other things to the value of all 1440
property of the public utility ~~actually used and useful for the~~ 1441
~~convenience of the public~~ as determined under division (A)(1) of 1442
this section, excluding from such value the value of any 1443
franchise or right to own, operate, or enjoy the same in excess 1444
of the amount, exclusive of any tax or annual charge, actually 1445
paid to any political subdivision of the state or county, as the 1446
consideration for the grant of such franchise or right, and 1447
excluding any value added to such property by reason of a 1448
monopoly or merger, with due regard in determining the dollar 1449
annual return under division (A)(3) of this section to the 1450
necessity of making reservation out of the income for surplus, 1451
depreciation, and contingencies, and; 1452

(2) With due regard to all such other matters as are 1453

proper, according to the facts in each case, 1454

(a) Including a fair and reasonable rate of return 1455
determined by the commission with reference to a cost of debt 1456
equal to the actual embedded cost of debt of such public 1457
utility, 1458

(b) But not including the portion of any periodic rental 1459
or use payments representing that cost of property that is 1460
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1461
and (5) of section 4909.042 of the Revised Code and divisions 1462
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1463
determine the just and reasonable rate, fare, charge, toll, 1464
rental, or service to be rendered, charged, demanded, exacted, 1465
or collected for the performance or rendition of the service 1466
that will provide the public utility the allowable gross annual 1467
revenues under division (B) of this section, and order such just 1468
and reasonable rate, fare, charge, toll, rental, or service to 1469
be substituted for the existing one. After such determination 1470
and order no change in the rate, fare, toll, charge, rental, 1471
schedule, classification, or service shall be made, rendered, 1472
charged, demanded, exacted, or changed by such public utility 1473
without the order of the commission, and any other rate, fare, 1474
toll, charge, rental, classification, or service is prohibited. 1475

(F) Upon application of any person or any public utility, 1476
and after notice to the parties in interest and opportunity to 1477
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1478
4909., 4921., and 4923. of the Revised Code for other hearings, 1479
has been given, the commission may rescind, alter, or amend an 1480
order fixing any rate, fare, toll, charge, rental, 1481
classification, or service, or any other order made by the 1482
commission. Certified copies of such orders shall be served and 1483

take effect as provided for original orders. 1484

Sec. 4909.156. In fixing the just, reasonable, and 1485
compensatory rates, joint rates, tolls, classifications, 1486
charges, or rentals to be observed and charged for service by 1487
any public utility, the public utilities commission shall, in 1488
action upon an application filed pursuant to section 4909.18 of 1489
the Revised Code, require a public utility to file a report 1490
showing the proportionate amounts of the valuation of the 1491
property of the utility, as determined under section 4909.042 or 1492
4909.05 of the Revised Code, and the proportionate amounts of 1493
the revenues and expenses of the utility that are proposed to be 1494
considered as attributable to the service area involved in the 1495
application. 1496

"Valuation," as used in this section, may include, ~~with~~: 1497

(A) With respect to a public utility that is a natural 1498
gas, water-works, or sewage disposal system company, projected 1499
valuation as of the date certain, if applicable because of a 1500
future date certain under section 4909.15 of the Revised Code; 1501

(B) With respect to an electric light company that chooses 1502
to file a forecasted test period under section 4909.18 of the 1503
Revised Code, the valuation and value during the forecasted test 1504
period. 1505

Sec. 4909.173. (A) As used in this section and section 1506
4909.174 of the Revised Code: 1507

(1) "Customer-owned water service line" means the water 1508
service line connected to the water-works company's water 1509
service line at the curb of a customer's property. 1510

(2) "Water-works company" means an entity defined under 1511
division (G) of section 4905.03 of the Revised Code that is a 1512

public utility under section 4905.02 of the Revised Code.	1513
(B) A water-works company may do any of the following:	1514
(1) Replace lead customer-owned water service lines	1515
concurrently with a scheduled utility main replacement project,	1516
an emergency replacement, or company-initiated lead water	1517
service line replacement program;	1518
(2) Replace lead customer-owned water service lines when	1519
mandated or ordered to replace such lines by law or a state or	1520
federal regulatory agency;	1521
(3) Replace customer-owned water service lines of other	1522
composition when mandated or ordered to replace such lines by	1523
law or a state or federal regulatory agency.	1524
(C) If a water-works company replaces customer-owned water	1525
service lines under this section, then the company shall include	1526
the cost of the replacement of the water service lines,	1527
including the cost of replacement of both company side and	1528
customer-owned water service lines and the cost to evaluate	1529
customer-owned water service lines of unknown composition, in	1530
the valuation report of the property of the company as required	1531
under division (C)-(6) <u>(B) (6)</u> of section 4909.05 of the Revised	1532
Code for inclusion in a rate case under this chapter.	1533
(D) The water service customer who is responsible for the	1534
customer-owned water service line that was replaced under this	1535
section shall hold legal title to the replaced water service	1536
line.	1537
Sec. 4909.174. (A) A water-works company shall reimburse a	1538
customer who replaces the customer's customer-owned water	1539
service line, if both of the following occur:	1540

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

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

(B) A water-works company that provides a reimbursement to a customer under this section shall include the reimbursement amount in the valuation report of the property of the company as required under division ~~(C)~~ ~~(6)~~ (B) (6) of section 4909.05 of the Revised Code for inclusion in a rate case under this chapter.

Sec. 4909.18. Any public utility desiring to establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, shall file a written application with the public utilities commission. Except for actions under section 4909.16 of the Revised Code, no public utility may issue the notice of intent to file an application pursuant to division (B) of section 4909.43 of the Revised Code to increase any existing rate, joint rate, toll, classification, charge, or rental, until a final order under this section has been issued by the commission on any pending prior application to increase the same rate, joint rate, toll, classification, charge, or rental or until two hundred seventy-five days after filing such application, whichever is sooner. Such application shall be verified by the president or a vice-president and the secretary or treasurer of the applicant. Such application shall contain a schedule of the existing rate, joint rate, toll,

classification, charge, or rental, or regulation or practice 1571
affecting the same, a schedule of the modification amendment, 1572
change, increase, or reduction sought to be established, and a 1573
statement of the facts and grounds upon which such application 1574
is based. If such application proposes a new service or the use 1575
of new equipment, or proposes the establishment or amendment of 1576
a regulation, the application shall fully describe the new 1577
service or equipment, or the regulation proposed to be 1578
established or amended, and shall explain how the proposed 1579
service or equipment differs from services or equipment 1580
presently offered or in use, or how the regulation proposed to 1581
be established or amended differs from regulations presently in 1582
effect. The application shall provide such additional 1583
information as the commission may require in its discretion. If 1584
the commission determines that such application is not for an 1585
increase in any rate, joint rate, toll, classification, charge, 1586
or rental, the commission may permit the filing of the schedule 1587
proposed in the application and fix the time when such schedule 1588
shall take effect. If it appears to the commission that the 1589
proposals in the application may be unjust or unreasonable, the 1590
commission shall set the matter for hearing and shall give 1591
notice of such hearing by sending written notice of the date set 1592
for the hearing to the public utility and publishing notice of 1593
the hearing one time in a newspaper of general circulation in 1594
each county in the service area affected by the application. At 1595
such hearing, the burden of proof to show that the proposals in 1596
the application are just and reasonable shall be upon the public 1597
utility. After such hearing, the commission shall, where 1598
practicable, issue an appropriate order within six months from 1599
the date the application was filed. 1600

If the commission determines that said application is for 1601

an increase in any rate, joint rate, toll, classification, 1602
charge, or rental there shall also, unless otherwise ordered by 1603
the commission, be filed with the application in duplicate the 1604
following exhibits: 1605

(A) A report of its property used and useful, or, with 1606
respect to a natural gas, water-works, or sewage disposal system 1607
company, projected to be used and useful, as of the date 1608
certain, or during the forecasted test period, if the 1609
application is filed under division (C) (1) (a) of section 4909.15 1610
of the Revised Code, in rendering the service referred to in 1611
such application, as provided in ~~section~~ sections 4909.042 and 1612
4909.05 of the Revised Code; 1613

(B) A complete operating statement of its last fiscal 1614
year, showing in detail all its receipts, revenues, and incomes 1615
from all sources, all of its operating costs and other 1616
expenditures, and any analysis such public utility deems 1617
applicable to the matter referred to in said application; 1618

(C) A statement of the income and expense anticipated 1619
under the application filed; 1620

(D) A statement of financial condition summarizing assets, 1621
liabilities, and net worth; 1622

(E) Such other information as the commission may require 1623
in its discretion. 1624

Sec. 4909.181. (A) As used in this section, "electric 1625
distribution utility" has the same meaning as in section 4928.01 1626
of the Revised Code. 1627

(B) Not later than December 31, 2029, and at least every 1628
three years thereafter, each electric distribution utility shall 1629
file a rate case application regarding distribution service 1630

under section 4909.18 of the Revised Code. 1631

Sec. 4909.19. (A) Upon the filing of any application for 1632
increase provided for by section 4909.18 of the Revised Code the 1633
public utility shall forthwith publish notice of such 1634
application, in a form approved by the public utilities 1635
commission, once a week for two consecutive weeks in a newspaper 1636
published and in general circulation throughout the territory in 1637
which such public utility operates and directly affected by the 1638
matters referred to in said application. The notice shall 1639
include instructions for direct electronic access to the 1640
application or other documents on file with the public utilities 1641
commission. The first publication of the notice shall be made in 1642
its entirety and may be made in a preprinted insert in the 1643
newspaper. The second publication may be abbreviated if all of 1644
the following apply: 1645

(1) The abbreviated notice is at least one-fourth of the 1646
size of the notice in the first publication. 1647

(2) At the same time the abbreviated notice is published, 1648
the notice in the first publication is posted in its entirety on 1649
the newspaper's web site, if the newspaper has a web site, and 1650
the commission's web site. 1651

(3) The abbreviated notice contains a statement of the web 1652
site posting or postings, as applicable, and instructions for 1653
accessing the posting or postings. 1654

(B) The commission shall determine a format for the 1655
content of all notices required under this section, and shall 1656
consider costs and technological efficiencies in making that 1657
determination. Defects in the publication of said notice shall 1658
not affect the legality or sufficiency of notices published 1659

under this section provided that the commission has 1660
substantially complied with this section, as described in 1661
section 4905.09 of the Revised Code. 1662

(C) The commission shall at once cause an investigation to 1663
be made of the facts set forth in said application and the 1664
exhibits attached thereto, and of the matters connected 1665
therewith. Within ~~a reasonable time as determined by the~~ 1666
~~commission~~ one hundred eighty days after the ~~filing of such~~ 1667
application is determined to be complete, a written report shall 1668
be made and filed with the commission, a copy of which shall be 1669
sent by certified mail to the applicant, the mayor of any 1670
municipal corporation affected by the application, and to such 1671
other persons as the commission deems interested. If no 1672
objection to such report is made by any party interested within 1673
thirty days after such filing and the mailing of copies thereof, 1674
the commission shall fix a date within ten days for the final 1675
hearing upon said application, giving notice thereof to all 1676
parties interested. At such hearing the commission shall 1677
consider the matters set forth in said application and make such 1678
order respecting the prayer thereof as to it seems just and 1679
reasonable. 1680

If objections are filed with the commission, the 1681
commission shall cause a pre-hearing conference to be held 1682
between all parties, intervenors, and the commission staff in 1683
all cases involving more than one hundred thousand customers. 1684

If objections are filed with the commission within thirty 1685
days after the filing of such report, the application shall be 1686
promptly set down for hearing of testimony before the commission 1687
or be forthwith referred to an attorney examiner designated by 1688
the commission to take all the testimony with respect to the 1689

application and objections which may be offered by any 1690
interested party. The commission shall also fix the time and 1691
place to take testimony giving ten days' written notice of such 1692
time and place to all parties. The taking of testimony shall 1693
commence on the date fixed in said notice and shall continue 1694
from day to day until completed. The attorney examiner may, upon 1695
good cause shown, grant continuances for not more than three 1696
days, excluding Saturdays, Sundays, and holidays. The commission 1697
may grant continuances for a longer period than three days upon 1698
its order for good cause shown. At any hearing involving rates 1699
or charges sought to be increased, the burden of proof to show 1700
that the increased rates or charges are just and reasonable 1701
shall be on the public utility. 1702

When the taking of testimony is completed, a full and 1703
complete record of such testimony noting all objections made and 1704
exceptions taken by any party or counsel, shall be made, signed 1705
by the attorney examiner, and filed with the commission. Prior 1706
to the formal consideration of the application by the commission 1707
and the rendition of any order respecting the prayer of the 1708
application, a quorum of the commission shall consider the 1709
recommended opinion and order of the attorney examiner, in an 1710
open, formal, public proceeding in which an overview and 1711
explanation is presented orally. Thereafter, the commission 1712
shall make such order respecting the prayer of such application 1713
as seems just and reasonable to it. 1714

In all proceedings before the commission in which the 1715
taking of testimony is required, except when heard by the 1716
commission, attorney examiners shall be assigned by the 1717
commission to take such testimony and fix the time and place 1718
therefor, and such testimony shall be taken in the manner 1719
prescribed in this section. All testimony shall be under oath or 1720

affirmation and taken down and transcribed by a reporter and 1721
made a part of the record in the case. The commission may hear 1722
the testimony or any part thereof in any case without having the 1723
same referred to an attorney examiner and may take additional 1724
testimony. Testimony shall be taken and a record made in 1725
accordance with such general rules as the commission prescribes 1726
and subject to such special instructions in any proceedings as 1727
it, by order, directs. 1728

Sec. 4909.191. (A) If the public utilities commission, 1729
under division (D) of section 4909.15 of the Revised Code, 1730
incorporated proposed adjustments to revenues and expenses into 1731
the commission's determination under that section, the ~~natural-~~ 1732
~~gas, water-works, or sewage disposal system company~~ public 1733
utility shall, not later than ninety days after actual data for 1734
all of the incorporated adjustments becomes known, submit to the 1735
commission proposed rate or charge adjustments that provide for 1736
the recalculation of rates or charges, reflective of customer- 1737
class responsibility, corresponding to the differences, if any, 1738
between the incorporated adjustments to revenues and expenses 1739
and the actual revenues and expenses associated with the 1740
incorporated adjustments. 1741

(B) If the commission incorporated projected value or 1742
valuation of property into the commission's determination under 1743
division ~~(A) (1)~~ (A) (1) (a) of section 4909.15 of the Revised Code, 1744
the natural gas, water-works, or sewage disposal system company 1745
shall, not later than ninety days after data for the actual 1746
value or valuation as of the date certain becomes known, submit 1747
to the commission proposed rate or charge adjustments that 1748
provide for the recalculation of rates or charges, reflective of 1749
customer-class responsibility, corresponding to the differences, 1750
if any, between the projected value or valuation incorporated 1751

into the commission's determination and the actual value or 1752
valuation as of the date certain. 1753

(C) The commission shall review the proposed rate or 1754
charge adjustments submitted under divisions (A) and (B) of this 1755
section. The review shall not include a hearing unless the 1756
commission finds that the proposed rate or charge adjustments 1757
may be unreasonable, in which case the commission may, in its 1758
discretion, schedule the matter for a hearing. 1759

(D) The commission shall issue, not later than one hundred 1760
fifty days after the date that any proposed rate or charge 1761
adjustments are submitted under division (A) or (B) of this 1762
section, a final order on the proposed rate or charge 1763
adjustments. Any rate or charge adjustments authorized under 1764
this division shall be limited to amounts that are not greater 1765
than those consistent with the proposed adjustments to revenues 1766
and expenses that were incorporated into the commission's 1767
determination under division (D) of section 4909.15 of the 1768
Revised Code, and not greater than those consistent with the 1769
incorporated projected value or valuation. In no event shall 1770
rate or charge adjustments authorized under this division be 1771
upward. 1772

After the commission has issued such a final order, the 1773
~~natural gas, water works, or sewage disposal system~~ 1774
~~company~~ public utility, if applicable, shall submit to the 1775
commission proposed reconciliation adjustments that refund to 1776
customers the difference between the actual revenues collected 1777
by the ~~natural gas, water works, or sewage disposal system~~ 1778
~~company~~ utility under the rates and charges determined by the 1779
commission under section 4909.15 of the Revised Code, and the 1780
rates or charges recalculated under the adjustments authorized 1781

under this division. The reconciliation adjustments shall be 1782
effective for a twelve-month period. 1783

(E) The reconciliation adjustments ordered under division 1784
(D) of this section may be subject to a final reconciliation by 1785
the commission. Any such final reconciliation shall occur after 1786
the twelve-month period described in division (D) of this 1787
section. 1788

Sec. 4909.192. When considering an application to increase 1789
rates under section 4909.18 of the Revised Code, the public 1790
utilities commission may approve the following: 1791

(A) Nondiscriminatory programs available for all energy- 1792
intensive customers to implement economic development, job 1793
growth, job retention, or interruptible rates that enhance 1794
distribution and transmission grid reliability and promote 1795
economic development. 1796

(B) Nondiscriminatory programs available for all 1797
mercantile customers, as defined in section 4928.01 of the 1798
Revised Code, that align retail rate recovery with how 1799
transmission costs are incurred by or charged to the electric 1800
distribution utility, as defined in section 4928.01 of the 1801
Revised Code, or programs that allow customers to be billed 1802
directly for transmission service by a competitive retail 1803
electric service provider. 1804

Sec. 4909.193. The public utilities commission shall 1805
determine whether an application filed under section 4909.18 of 1806
the Revised Code is complete not more than forty-five days after 1807
the application is filed. If the commission does not issue a 1808
determination within the time period required by this section, 1809
the application shall be deemed complete by operation of law. 1810

Sec. 4909.42. If the proceeding on an application filed 1811
with the public utilities commission under section 4909.18 of 1812
the Revised Code by any public utility requesting an increase on 1813
any rate, rate mechanism, joint rate, toll, classification, 1814
charge, or rental or requesting a change in a regulation or 1815
practice affecting the same has not been concluded and an order 1816
entered pursuant to section 4909.19 of the Revised Code at the 1817
expiration of ~~two hundred seventy five~~ two hundred ninety days 1818
from the date ~~of filing~~ the application is determined complete, 1819
~~an~~ the public utility may request a temporary increase not to 1820
~~exceed the proposed increase, which~~ shall go into effect ~~upon~~ 1821
~~the filing of a bond or a letter of credit by the public~~ 1822
~~utility~~ and remain in effect until modified in accordance with 1823
the commission's determination on the merits of the application. 1824
~~The bond or letter of credit shall be filed with the commission~~ 1825
~~and shall be payable to the state for the use and benefit of the~~ 1826
~~customers affected by the proposed increase or change~~ If the 1827
commission does not issue an order within three hundred twenty 1828
days after the application is deemed complete, the application 1829
shall be deemed approved by operation of law. A temporary 1830
increase under this section shall not exceed the midpoint of the 1831
rates recommended in the staff report filed pursuant to section 1832
4909.19 of the Revised Code and is subject to refund. 1833

~~An affidavit attached to the bond or letter of credit must~~ 1834
~~be signed by two of the officers of the utility, under oath, and~~ 1835
~~must contain a promise on behalf of the utility to refund any~~ 1836
~~amounts collected by the utility over the rate, joint rate,~~ 1837
~~toll, classification, charge, or rental, as determined in the~~ 1838
~~final order of the commission. All refunds shall include~~ 1839
~~interest at the rate stated in section 1343.03 of the Revised~~ 1840
~~Code. The refund shall be in the form of a temporary reduction~~ 1841

~~in rates following the final order of the commission, and shall~~ 1842
~~be accomplished in such manner as shall be prescribed by the~~ 1843
~~commission in its final order. The commission shall exercise~~ 1844
~~continuing and exclusive jurisdiction over such refunds.~~ 1845

~~If the public utilities commission has not entered a final~~ 1846
~~order within five hundred forty-five days from the date of the~~ 1847
~~filing of an application for an increase in rates under section~~ 1848
~~4909.18 of the Revised Code, a public utility shall have no~~ 1849
~~obligation to make a refund of amounts collected after the five~~ 1850
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1851
~~the commission's final order.~~ 1852

Nothing in this section shall be construed to mitigate any 1853
duty of the commission to issue a final order under section 1854
4909.19 of the Revised Code. 1855

Sec. 4928.01. (A) As used in this chapter: 1856

(1) "Ancillary service" means any function necessary to 1857
the provision of electric transmission or distribution service 1858
to a retail customer and includes, but is not limited to, 1859
scheduling, system control, and dispatch services; reactive 1860
supply from generation resources and voltage control service; 1861
reactive supply from transmission resources service; regulation 1862
service; frequency response service; energy imbalance service; 1863
operating reserve-spinning reserve service; operating reserve- 1864
supplemental reserve service; load following; back-up supply 1865
service; real-power loss replacement service; dynamic 1866
scheduling; system black start capability; and network stability 1867
service. 1868

(2) "Billing and collection agent" means a fully 1869
independent agent, not affiliated with or otherwise controlled 1870

by an electric utility, electric services company, electric 1871
cooperative, or governmental aggregator subject to certification 1872
under section 4928.08 of the Revised Code, to the extent that 1873
the agent is under contract with such utility, company, 1874
cooperative, or aggregator solely to provide billing and 1875
collection for retail electric service on behalf of the utility 1876
company, cooperative, or aggregator. 1877

(3) "Certified territory" means the certified territory 1878
established for an electric supplier under sections 4933.81 to 1879
4933.90 of the Revised Code. 1880

(4) "Competitive retail electric service" means a 1881
component of retail electric service that is competitive as 1882
provided under division (B) of this section. 1883

(5) "Electric cooperative" means a not-for-profit electric 1884
light company that both is or has been financed in whole or in 1885
part under the "Rural Electrification Act of 1936," 49 Stat. 1886
1363, 7 U.S.C. 901, and owns or operates facilities in this 1887
state to generate, transmit, or distribute electricity, or a 1888
not-for-profit successor of such company. 1889

(6) "Electric distribution utility" means an electric 1890
utility that supplies at least retail electric distribution 1891
service and does not own or operate an electric generating 1892
facility. 1893

(7) "Electric light company" has the same meaning as in 1894
section 4905.03 of the Revised Code and includes an electric 1895
services company, ~~but excludes any self-generator to the extent~~ 1896
~~that it consumes electricity it so produces, sells that~~ 1897
~~electricity for resale, or obtains electricity from a generating~~ 1898
~~facility it hosts on its premises.~~ 1899

(8) "Electric load center" has the same meaning as in 1900
section 4933.81 of the Revised Code. 1901

(9) "Electric services company" means an electric light 1902
company that is engaged on a for-profit or not-for-profit basis 1903
in the business of supplying or arranging for the supply of only 1904
a competitive retail electric service in this state. "Electric 1905
services company" includes a power marketer, power broker, 1906
aggregator, or independent power producer but excludes an 1907
electric cooperative, municipal electric utility, governmental 1908
aggregator, or billing and collection agent. 1909

(10) "Electric supplier" has the same meaning as in 1910
section 4933.81 of the Revised Code. 1911

(11) "Electric utility" means an electric light company 1912
that has a certified territory and is engaged on a for-profit 1913
basis ~~either~~ in the business of supplying at least a 1914
noncompetitive retail electric service in this state ~~or in the~~ 1915
~~businesses of supplying both a noncompetitive and a competitive~~ 1916
~~retail electric service in this state.~~ "Electric utility" 1917
excludes a municipal electric utility or a billing and 1918
collection agent. 1919

(12) "Firm electric service" means electric service other 1920
than nonfirm electric service. 1921

(13) "Governmental aggregator" means a legislative 1922
authority of a municipal corporation, a board of township 1923
trustees, or a board of county commissioners acting as an 1924
aggregator for the provision of a competitive retail electric 1925
service under authority conferred under section 4928.20 of the 1926
Revised Code. 1927

(14) A person acts "knowingly," regardless of the person's 1928

purpose, when the person is aware that the person's conduct will 1929
probably cause a certain result or will probably be of a certain 1930
nature. A person has knowledge of circumstances when the person 1931
is aware that such circumstances probably exist. 1932

(15) "Level of funding for low-income customer energy 1933
efficiency programs provided through electric utility rates" 1934
means the level of funds specifically included in an electric 1935
utility's rates on October 5, 1999, pursuant to an order of the 1936
public utilities commission issued under Chapter 4905. or 4909. 1937
of the Revised Code and in effect on October 4, 1999, for the 1938
purpose of improving the energy efficiency of housing for the 1939
utility's low-income customers. The term excludes the level of 1940
any such funds committed to a specific nonprofit organization or 1941
organizations pursuant to a stipulation or contract. 1942

(16) "Low-income customer assistance programs" means the 1943
percentage of income payment plan program, the home energy 1944
assistance program, the home weatherization assistance program, 1945
and the targeted energy efficiency and weatherization program. 1946

(17) "Market development period" for an electric utility 1947
means the period of time beginning on the starting date of 1948
competitive retail electric service and ending on the applicable 1949
date for that utility as specified in section 4928.40 of the 1950
Revised Code, irrespective of whether the utility applies to 1951
receive transition revenues under this chapter. 1952

(18) "Market power" means the ability to impose on 1953
customers a sustained price for a product or service above the 1954
price that would prevail in a competitive market. 1955

(19) "Mercantile customer" means a commercial or 1956
industrial customer if the electricity consumed is for 1957

nonresidential use and the customer consumes more than seven 1958
hundred thousand kilowatt hours per year or is part of a 1959
national account involving multiple facilities in one or more 1960
states. 1961

(20) "Municipal electric utility" means a municipal 1962
corporation that owns or operates facilities to generate, 1963
transmit, or distribute electricity. 1964

(21) "Noncompetitive retail electric service" means a 1965
component of retail electric service that is noncompetitive as 1966
provided under division (B) of this section. 1967

(22) "Nonfirm electric service" means electric service 1968
provided pursuant to a schedule filed under section 4905.30 of 1969
the Revised Code or pursuant to an arrangement under section 1970
4905.31 of the Revised Code, which schedule or arrangement 1971
includes conditions that may require the customer to curtail or 1972
interrupt electric usage during nonemergency circumstances upon 1973
notification by an electric utility. 1974

(23) "Percentage of income payment plan arrears" means 1975
funds eligible for collection through the percentage of income 1976
payment plan rider, but uncollected as of July 1, 2000. 1977

(24) "Person" has the same meaning as in section 1.59 of 1978
the Revised Code. 1979

(25) "Advanced energy project" means any technologies, 1980
products, activities, or management practices or strategies that 1981
facilitate the generation or use of electricity or energy and 1982
that reduce or support the reduction of energy consumption or 1983
support the production of clean, renewable energy for 1984
industrial, distribution, commercial, institutional, 1985
governmental, research, not-for-profit, or residential energy 1986

users, including, but not limited to, advanced energy resources 1987
and renewable energy resources. "Advanced energy project" also 1988
includes any project described in division (A), (B), or (C) of 1989
section 4928.621 of the Revised Code. 1990

(26) "Regulatory assets" means the unamortized net 1991
regulatory assets that are capitalized or deferred on the 1992
regulatory books of the electric utility, pursuant to an order 1993
or practice of the public utilities commission or pursuant to 1994
generally accepted accounting principles as a result of a prior 1995
commission rate-making decision, and that would otherwise have 1996
been charged to expense as incurred or would not have been 1997
capitalized or otherwise deferred for future regulatory 1998
consideration absent commission action. "Regulatory assets" 1999
includes, but is not limited to, all deferred demand-side 2000
management costs; all deferred percentage of income payment plan 2001
arrears; post-in-service capitalized charges and assets 2002
recognized in connection with statement of financial accounting 2003
standards no. 109 (receivables from customers for income taxes); 2004
future nuclear decommissioning costs and fuel disposal costs as 2005
those costs have been determined by the commission in the 2006
electric utility's most recent rate or accounting application 2007
proceeding addressing such costs; the undepreciated costs of 2008
safety and radiation control equipment on nuclear generating 2009
plants owned or leased by an electric utility; and fuel costs 2010
currently deferred pursuant to the terms of one or more 2011
settlement agreements approved by the commission. 2012

(27) "Retail electric service" means any service involved 2013
in supplying or arranging for the supply of electricity to 2014
ultimate consumers in this state, from the point of generation 2015
to the point of consumption. For the purposes of this chapter, 2016
retail electric service includes one or more of the following 2017

"service components": generation service, aggregation service, 2018
power marketing service, power brokerage service, transmission 2019
service, distribution service, ancillary service, metering 2020
service, and billing and collection service. 2021

(28) "Starting date of competitive retail electric 2022
service" means January 1, 2001. 2023

(29) "Customer-generator" means a user of a net metering 2024
system. 2025

(30) "Net metering" means measuring the difference in an 2026
applicable billing period between the electricity supplied by an 2027
electric service provider and the electricity generated by a 2028
customer-generator that is fed back to the electric service 2029
provider. 2030

(31) "Net metering system" means a facility for the 2031
production of electrical energy that does all of the following: 2032

(a) Uses as its fuel either solar, wind, biomass, landfill 2033
gas, or hydropower, or uses a microturbine or a fuel cell; 2034

(b) Is located on a customer-generator's premises; 2035

(c) Operates in parallel with the electric utility's 2036
transmission and distribution facilities; 2037

(d) Is intended primarily to offset part or all of the 2038
customer-generator's requirements for electricity. For an 2039
industrial customer-generator with a net metering system that 2040
has a capacity of less than twenty megawatts and uses wind as 2041
energy, this means the net metering system was sized so as to 2042
not exceed one hundred per cent of the customer-generator's 2043
annual requirements for electric energy at the time of 2044
interconnection. 2045

(32) "Self-generator" means an entity in this state that 2046
owns or hosts on ~~its premises~~ property the entity controls an 2047
electric generation facility that produces electricity primarily 2048
for the owner's consumption and that may provide any such excess 2049
electricity to ~~another entity~~ one or more other entities, whether 2050
the facility is installed or operated by the owner or by ~~an~~ 2051
~~agent~~ a third party under a contract, including a lease, 2052
purchase power agreement, or other service contract. 2053

(33) "Rate plan" means the standard service offer in 2054
effect on the effective date of the amendment of this section by 2055
S.B. 221 of the 127th general assembly, July 31, 2008. 2056

(34) "Advanced energy resource" means any of the 2057
following: 2058

(a) Any method or any modification or replacement of any 2059
property, process, device, structure, or equipment that 2060
increases the generation output of an electric generating 2061
facility to the extent such efficiency is achieved without 2062
additional carbon dioxide emissions by that facility; 2063

(b) Any distributed generation system consisting of 2064
customer cogeneration technology; 2065

(c) Clean coal technology that includes a carbon-based 2066
product that is chemically altered before combustion to 2067
demonstrate a reduction, as expressed as ash, in emissions of 2068
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2069
sulfur trioxide in accordance with the American society of 2070
testing and materials standard D1757A or a reduction of metal 2071
oxide emissions in accordance with standard D5142 of that 2072
society, or clean coal technology that includes the design 2073
capability to control or prevent the emission of carbon dioxide, 2074

which design capability the commission shall adopt by rule and 2075
shall be based on economically feasible best available 2076
technology or, in the absence of a determined best available 2077
technology, shall be of the highest level of economically 2078
feasible design capability for which there exists generally 2079
accepted scientific opinion; 2080

(d) Advanced nuclear energy technology consisting of 2081
generation III technology as defined by the nuclear regulatory 2082
commission; other, later technology; or significant improvements 2083
to existing facilities; 2084

(e) Any fuel cell used in the generation of electricity, 2085
including, but not limited to, a proton exchange membrane fuel 2086
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2087
solid oxide fuel cell; 2088

(f) Advanced solid waste or construction and demolition 2089
debris conversion technology, including, but not limited to, 2090
advanced stoker technology, and advanced fluidized bed 2091
gasification technology, that results in measurable greenhouse 2092
gas emissions reductions as calculated pursuant to the United 2093
States environmental protection agency's waste reduction model 2094
(WARM); 2095

(g) Demand-side management and any energy efficiency 2096
improvement; 2097

(h) Any new, retrofitted, refueled, or repowered 2098
generating facility located in Ohio, including a simple or 2099
combined-cycle natural gas generating facility or a generating 2100
facility that uses biomass, coal, modular nuclear, or any other 2101
fuel as its input; 2102

(i) Any uprated capacity of an existing electric 2103

generating facility if the uprated capacity results from the 2104
deployment of advanced technology. 2105

"Advanced energy resource" does not include a waste energy 2106
recovery system that is, or has been, included in an energy 2107
efficiency program of an electric distribution utility pursuant 2108
to requirements under section 4928.66 of the Revised Code. 2109

(35) "Air contaminant source" has the same meaning as in 2110
section 3704.01 of the Revised Code. 2111

(36) "Cogeneration technology" means technology that 2112
produces electricity and useful thermal output simultaneously. 2113

(37) (a) "Renewable energy resource" means any of the 2114
following: 2115

(i) Solar photovoltaic or solar thermal energy; 2116

(ii) Wind energy; 2117

(iii) Power produced by a hydroelectric facility; 2118

(iv) Power produced by a small hydroelectric facility, 2119
which is a facility that operates, or is rated to operate, at an 2120
aggregate capacity of less than six megawatts; 2121

(v) Power produced by a run-of-the-river hydroelectric 2122
facility placed in service on or after January 1, 1980, that is 2123
located within this state, relies upon the Ohio river, and 2124
operates, or is rated to operate, at an aggregate capacity of 2125
forty or more megawatts; 2126

(vi) Geothermal energy; 2127

(vii) Fuel derived from solid wastes, as defined in 2128
section 3734.01 of the Revised Code, through fractionation, 2129
biological decomposition, or other process that does not 2130

principally involve combustion;	2131
(viii) Biomass energy;	2132
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	2133 2134 2135 2136 2137 2138 2139 2140 2141 2142
(x) Biologically derived methane gas;	2143
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	2144 2145 2146
(xii) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors.	2147 2148 2149
"Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; <u>a linear generator</u> ; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; waste energy recovery system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, except that a	2150 2151 2152 2153 2154 2155 2156 2157 2158 2159

waste energy recovery system described in division (A) (38) (b) of 2160
this section may be included only if it was placed into service 2161
between January 1, 2002, and December 31, 2004; storage facility 2162
that will promote the better utilization of a renewable energy 2163
resource; or distributed generation system used by a customer to 2164
generate electricity from any such energy. 2165

"Renewable energy resource" does not include a waste 2166
energy recovery system that is, or was, on or after January 1, 2167
2012, included in an energy efficiency program of an electric 2168
distribution utility pursuant to requirements under section 2169
4928.66 of the Revised Code. 2170

(b) As used in division (A) (37) of this section, 2171
"hydroelectric facility" means a hydroelectric generating 2172
facility that is located at a dam on a river, or on any water 2173
discharged to a river, that is within or bordering this state or 2174
within or bordering an adjoining state and meets all of the 2175
following standards: 2176

(i) The facility provides for river flows that are not 2177
detrimental for fish, wildlife, and water quality, including 2178
seasonal flow fluctuations as defined by the applicable 2179
licensing agency for the facility. 2180

(ii) The facility demonstrates that it complies with the 2181
water quality standards of this state, which compliance may 2182
consist of certification under Section 401 of the "Clean Water 2183
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2184
demonstrates that it has not contributed to a finding by this 2185
state that the river has impaired water quality under Section 2186
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2187
U.S.C. 1313. 2188

(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.	2189 2190 2191 2192
(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.	2193 2194 2195 2196 2197
(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.	2198 2199 2200
(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.	2201 2202 2203 2204 2205 2206
(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 the facility; and the facility provides access to water to the public without fee or charge.	2207 2208 2209 2210 2211 2212 2213 2214
(viii) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.	2215 2216 2217

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2218
this section do not apply to a small hydroelectric facility 2219
under division (A) (37) (a) (iv) of this section. 2220

(38) "Waste energy recovery system" means any of the 2221
following: 2222

(a) A facility that generates electricity through the 2223
conversion of energy from either of the following: 2224

(i) Exhaust heat from engines or manufacturing, 2225
industrial, commercial, or institutional sites, except for 2226
exhaust heat from a facility whose primary purpose is the 2227
generation of electricity; 2228

(ii) Reduction of pressure in gas pipelines before gas is 2229
distributed through the pipeline, provided that the conversion 2230
of energy to electricity is achieved without using additional 2231
fossil fuels. 2232

(b) A facility at a state institution of higher education 2233
as defined in section 3345.011 of the Revised Code that recovers 2234
waste heat from electricity-producing engines or combustion 2235
turbines and that simultaneously uses the recovered heat to 2236
produce steam, provided that the facility was placed into 2237
service between January 1, 2002, and December 31, 2004; 2238

(c) A facility that produces steam from recovered waste 2239
heat from a manufacturing process and uses that steam, or 2240
transfers that steam to another facility, to provide heat to 2241
another manufacturing process or to generate electricity. 2242

(39) "Smart grid" means capital improvements to an 2243
electric distribution utility's distribution infrastructure that 2244
improve reliability, efficiency, resiliency, or reduce energy 2245
demand or use, including, but not limited to, advanced metering 2246

and automation of system functions. 2247

(40) "Combined heat and power system" means the 2248
coproduction of electricity and useful thermal energy from the 2249
same fuel source designed to achieve thermal-efficiency levels 2250
of at least sixty per cent, with at least twenty per cent of the 2251
system's total useful energy in the form of thermal energy. 2252

~~(41) "Legacy generation resource" means all generating 2253
facilities owned directly or indirectly by a corporation that 2254
was formed prior to 1960 by investor-owned utilities for the 2255
original purpose of providing power to the federal government 2256
for use in the nation's defense or in furtherance of national 2257
interests, including the Ohio valley electric corporation. 2258~~

~~(42) "Prudently incurred costs related to a legacy 2259
generation resource" means costs, including deferred costs, 2260
allocated pursuant to a power agreement approved by the federal 2261
energy regulatory commission that relates to a legacy generation 2262
resource, less any revenues realized from offering the 2263
contractual commitment for the power agreement into the 2264
wholesale markets, provided that where the net revenues exceed 2265
net costs, those excess revenues shall be credited to customers. 2266
Such costs shall exclude any return on investment in common 2267
equity and, in the event of a premature retirement of a legacy 2268
generation resource, shall exclude any recovery of remaining 2269
debt. Such costs shall include any incremental costs resulting 2270
from the bankruptcy of a current or former sponsor under such 2271
power agreement or co-owner of the legacy generation resource if 2272
not otherwise recovered through a utility rate cost recovery 2273
mechanism. 2274~~

~~(43) (a) (41) (a) "Green energy" means any energy generated 2275
by using an energy resource that does one or more of the 2276~~

following:	2277
(i) Releases reduced air pollutants, thereby reducing cumulative air emissions;	2278 2279
(ii) Is more sustainable and reliable relative to some fossil fuels.	2280 2281
(b) "Green energy" includes energy generated using the following:	2282 2283
(i) Natural gas as a resource;	2284
(ii) Nuclear reaction.	2285
<u>(42) "Linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria:</u>	2286 2287 2288 2289
<u>(a) Converts the linear motion of oscillators directly into electricity without the use of a flame or spark;</u>	2290 2291
<u>(b) Is dispatchable with the ability to vary power output across all loads;</u>	2292 2293
<u>(c) Can operate on multiple fuel types including renewable fuels such as hydrogen, ammonia, and biogas.</u>	2294 2295
(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service.	2296 2297 2298 2299 2300 2301 2302 2303

Sec. 4928.041. (A) Except as provided in sections 4928.141 2304
and 4928.142 of the Revised Code, no electric utility shall 2305
provide a competitive retail electric service in this state if 2306
that service was deemed competitive or otherwise legally 2307
classified as competitive prior to the effective date of this 2308
section. 2309

(B) The standard service offer under section 4928.141 of 2310
the Revised Code shall continue to be provided to consumers in 2311
this state by electric utilities. 2312

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2313
~~competitive retail electric service, a~~ competitive retail 2314
electric service supplied by an ~~electric utility or electric~~ 2315
services company, or by an electric utility consistent with 2316
section 4928.141 of the Revised Code, shall not be subject to 2317
supervision and regulation by a municipal corporation under 2318
Chapter 743. of the Revised Code or by the public utilities 2319
commission under Chapters 4901. to 4909., 4933., 4935., and 2320
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2321
division (B) of section 4905.33, and sections 4905.35 and 2322
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2323
and 4963.41 of the Revised Code only to the extent related to 2324
service reliability and public safety; and except as otherwise 2325
provided in this chapter. The commission's authority to enforce 2326
those excepted provisions with respect to a competitive retail 2327
electric service shall be such authority as is provided for 2328
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2329
and 4963. of the Revised Code and this chapter. Nothing in this 2330
division shall be construed to limit the commission's authority 2331
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2332
Revised Code. 2333

~~On and after the starting date of competitive retail~~ 2334
~~electric service, a~~ (2) A competitive retail electric service 2335
supplied by an electric cooperative shall not be subject to 2336
supervision and regulation by the commission under Chapters 2337
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2338
except as otherwise expressly provided in sections 4928.01 to 2339
4928.10 and 4928.16 of the Revised Code. 2340

~~(2) On and after the starting date of competitive retail~~ 2341
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2342
service supplied by an electric utility shall be subject to 2343
supervision and regulation by the commission under Chapters 2344
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2345
this chapter, to the extent that authority is not preempted by 2346
federal law. The commission's authority to enforce those 2347
provisions with respect to a noncompetitive retail electric 2348
service shall be the authority provided under those chapters and 2349
this chapter, to the extent the authority is not preempted by 2350
federal law. Notwithstanding Chapters 4905. and 4909. of the 2351
Revised Code, commission authority under this chapter shall 2352
include the authority to provide for the recovery, through a 2353
reconcilable rider on an electric distribution utility's 2354
distribution rates, of all transmission and transmission-related 2355
costs, including ancillary and congestion costs, imposed on or 2356
charged to the utility by the federal energy regulatory 2357
commission or a regional transmission organization, independent 2358
transmission operator, or similar organization approved by the 2359
federal energy regulatory commission. 2360

(2) The commission shall exercise its jurisdiction with 2361
respect to the delivery of electricity by an electric utility in 2362
this state ~~on or after the starting date of competitive retail~~ 2363
~~electric service~~ so as to ensure that no aspect of the delivery 2364

of electricity by the utility to consumers in this state that 2365
consists of a noncompetitive retail electric service is 2366
unregulated. 2367

~~On and after that starting date, a~~ (3) A noncompetitive 2368
retail electric service supplied by an electric cooperative 2369
shall not be subject to supervision and regulation by the 2370
commission under Chapters 4901. to 4909., 4933., 4935., and 2371
4963. of the Revised Code, except sections 4933.81 to 4933.90 2372
and 4935.03 of the Revised Code. The commission's authority to 2373
enforce those excepted sections with respect to a noncompetitive 2374
retail electric service of an electric cooperative shall be such 2375
authority as is provided for their enforcement under Chapters 2376
4933. and 4935. of the Revised Code. 2377

~~(B) Nothing in this chapter affects the authority of the~~ 2378
~~commission under Title XLIX of the Revised Code to regulate an~~ 2379
~~electric light company in this state or an electric service~~ 2380
~~supplied in this state prior to the starting date of competitive~~ 2381
~~retail electric service.~~ 2382

Sec. 4928.08. (A) This section applies to an electric 2383
cooperative, or to a governmental aggregator that is a municipal 2384
electric utility, only to the extent of a competitive retail 2385
electric service it provides to a customer to whom it does not 2386
provide a noncompetitive retail electric service through 2387
transmission or distribution facilities it singly or jointly 2388
owns or operates. 2389

~~(B)~~ (B) (1) No electric utility, electric services company, 2390
electric cooperative, or governmental aggregator shall provide a 2391
competitive retail electric service to a consumer in this state 2392
on and after the starting date of competitive retail electric 2393
service without first being certified by the public utilities 2394

commission regarding its managerial, technical, and financial 2395
capability to provide that service and providing a financial 2396
guarantee sufficient to protect customers and electric 2397
distribution utilities from default. Certification shall be 2398
granted pursuant to procedures and standards the commission 2399
shall prescribe in accordance with division (C) of this section, 2400
except that certification or certification renewal shall be 2401
deemed approved thirty days after the filing of an application 2402
with the commission unless the commission suspends that approval 2403
for good cause shown. In the case of such a suspension, the 2404
commission shall act to approve or deny certification or 2405
certification renewal to the applicant not later than ninety 2406
days after the date of the suspension. 2407

(2) The public utilities commission shall establish rules 2408
to require an electric services company to maintain financial 2409
assurances sufficient to protect customers and electric 2410
distribution utilities from default. Such rules also shall 2411
specifically allow an electric distribution utility to set 2412
reasonable standards for its security and the security of its 2413
customers through financial requirements set in its tariffs. 2414

(3) As used in division (B) (2) of this section, an 2415
"electric services company" has the same meaning as in section 2416
4928.01 of the Revised Code, but excludes a power broker or 2417
aggregator. 2418

(C) Capability standards adopted in rules under division 2419
(B) of this section shall be sufficient to ensure compliance 2420
with the minimum service requirements established under section 2421
4928.10 of the Revised Code and with section 4928.09 of the 2422
Revised Code. The standards shall allow flexibility for 2423
voluntary aggregation, to encourage market creativity in 2424

responding to consumer needs and demands, and shall allow 2425
flexibility for electric services companies that exclusively 2426
provide installation of small electric generation facilities, to 2427
provide ease of market access. The rules shall include 2428
procedures for biennially renewing certification. 2429

(D) The commission may suspend, rescind, or conditionally 2430
rescind the certification of any electric utility, electric 2431
services company, electric cooperative, or governmental 2432
aggregator issued under this section if the commission 2433
determines, after reasonable notice and opportunity for hearing, 2434
that the utility, company, cooperative, or aggregator has failed 2435
to comply with any applicable certification standards or has 2436
engaged in anticompetitive or unfair, deceptive, or 2437
unconscionable acts or practices in this state. 2438

(E) No electric distribution utility on and after the 2439
starting date of competitive retail electric service shall 2440
knowingly distribute electricity, to a retail consumer in this 2441
state, for any supplier of electricity that has not been 2442
certified by the commission pursuant to this section. 2443

(F) Notwithstanding any provision of section 121.95 of the 2444
Revised Code to the contrary, a regulatory restriction contained 2445
in a rule adopted under section 4928.08 of the Revised Code is 2446
not subject to sections 121.95 to 121.953 of the Revised Code. 2447

Sec. 4928.101. (A) As used in this section and section 2448
4928.102 of the Revised Code: 2449

(1) "Small commercial customer" means any customer that 2450
receives electric service pursuant to a nonresidential tariff if 2451
the customer's demand for electricity does not exceed twenty- 2452
five kilowatts within the last twelve months. 2453

(2) "Small commercial customer" excludes any customer that 2454
does one or both of the following: 2455

(a) Manages multiple electric meters and, within the last 2456
twelve months, the electricity demand for at least one of the 2457
meters is twenty-five kilowatts or more; 2458

(b) Has, at the customer's discretion, aggregated the 2459
demand for the customer-managed meters. 2460

(B) The consumer protections described in section 4928.10 2461
of the Revised Code and the rules adopted pursuant to that 2462
section apply to small commercial customers and to all other 2463
customers as set forth in the rules. 2464

Sec. 4928.102. (A) If a competitive retail electric 2465
service supplier offers a residential or small commercial 2466
customer a contract for a fixed introductory rate that converts 2467
to a variable rate upon the expiration of the fixed rate, the 2468
supplier shall send two notices to each residential and small 2469
commercial customer that enters into such a contract. Each 2470
notice shall provide all of the following information to the 2471
customer: 2472

(1) The fixed rate that is expiring under the contract; 2473

(2) The expiration date of the contract's fixed rate; 2474

(3) The rate to be charged upon the contract's conversion 2475
to a variable rate; 2476

(4) The public utilities commission web site that, as a 2477
comparison tool, lists rates offered by competitive retail 2478
electric service suppliers; 2479

(5) A statement explaining that appearing on each 2480
customer's bill is a price-to-compare notice that lists the 2481

<u>utility's standard service offer price.</u>	2482
<u>(B) The notices shall be sent by standard United States</u>	2483
<u>mail as follows:</u>	2484
<u>(1) The supplier shall send the first notice not earlier</u>	2485
<u>than ninety days, and not later than sixty days, prior to the</u>	2486
<u>expiration of the fixed rate.</u>	2487
<u>(2) The supplier shall send the second notice not earlier</u>	2488
<u>than forty-five days, and not later than thirty days, prior to</u>	2489
<u>the expiration of the fixed rate.</u>	2490
<u>(C) A competitive retail electric service supplier shall</u>	2491
<u>provide an annual notice, by standard United States mail, to</u>	2492
<u>each residential and small commercial customer that has entered</u>	2493
<u>into a contract with the supplier that has converted to a</u>	2494
<u>variable rate upon the expiration of the contract's fixed</u>	2495
<u>introductory rate. The notice shall inform the customer that the</u>	2496
<u>customer is currently subject to a variable rate and that other</u>	2497
<u>fixed rate contracts are available.</u>	2498
<u>(D) Not later than one hundred fifty days after the</u>	2499
<u>effective date of this section, the commission shall adopt rules</u>	2500
<u>in order to implement divisions (A) to (C) of this section. The</u>	2501
<u>rules, at a minimum, shall include the following requirements</u>	2502
<u>regarding the notices required under divisions (A) to (C) of</u>	2503
<u>this section:</u>	2504
<u>(1) To use clear and unambiguous language in order to</u>	2505
<u>enable the customer to make an informed decision;</u>	2506
<u>(2) To design the notices in a way to ensure that they</u>	2507
<u>cannot be confused with marketing materials.</u>	2508
<u>(E) Notwithstanding any provision of section 121.95 of the</u>	2509

Revised Code to the contrary, a regulatory restriction contained 2510
in a rule adopted under section 4928.102 of the Revised Code is 2511
not subject to sections 121.95 to 121.953 of the Revised Code. 2512

Sec. 4928.103. (A) As used in this section, "customer 2513
account information" means a unique electric distribution 2514
utility number or other customer identification number used by 2515
the utility to identify a customer and the customer's account 2516
record. 2517

(B) The public utilities commission shall adopt rules to 2518
ensure that an electric distribution utility processes a 2519
customer's change in competitive retail electric supplier by 2520
using customer account information. A customer who consents to a 2521
change of supplier shall not be required to provide customer 2522
account information to the supplier if the customer provides a 2523
valid form of government-issued identification issued to the 2524
customer or a sufficient alternative form of identification that 2525
allows the supplier to establish the customer's identity 2526
accurately. 2527

(C) Notwithstanding any provision of section 121.95 of the 2528
Revised Code to the contrary, a regulatory restriction contained 2529
in a rule adopted under this section is not subject to sections 2530
121.95 to 121.953 of the Revised Code. 2531

Sec. 4928.104. (A) A competitive retail electric service 2532
supplier may offer alternative billing and payment structures as 2533
agreed upon in a service contract with a mercantile customer, 2534
without restriction to specific models, provided the supplier 2535
complies with applicable laws and regulations. The alternative 2536
billing and payment structure may include any of the following: 2537

(1) Daily, weekly, or milestone-based payments; 2538

<u>(2) Online-only billing and payment requirements;</u>	2539
<u>(3) Prepayment-based service structures.</u>	2540
<u>(B) The public utilities commission shall not prohibit a</u>	2541
<u>competitive retail electric service provider from requiring</u>	2542
<u>electronic payment methods as a condition of service under a</u>	2543
<u>non-traditional billing agreement.</u>	2544
Sec. 4928.105. <u>(A) Upon receiving a certified</u>	2545
<u>disconnection request from a competitive retail electric service</u>	2546
<u>supplier under a service agreement that explicitly authorizes</u>	2547
<u>expedited disconnection, voluntarily entered into by a</u>	2548
<u>mercantile customer, an electric distribution utility shall</u>	2549
<u>process the request within three business days.</u>	2550
<u>(B) The electric distribution utility shall not be held</u>	2551
<u>liable for any disputes arising from the supplier-initiated</u>	2552
<u>shutoff, provided the utility acts in accordance with the</u>	2553
<u>certification process.</u>	2554
<u>(C) The commission shall establish rules permitting</u>	2555
<u>electric distribution utilities to recover the administrative</u>	2556
<u>costs of processing expedited shutoff requests under this</u>	2557
<u>section through fees assessed to competitive retail electric</u>	2558
<u>service suppliers.</u>	2559
Sec. 4928.106. <u>(A) An electric distribution utility shall</u>	2560
<u>make real-time usage data available to a competitive retail</u>	2561
<u>electric service supplier, or an authorized third party, serving</u>	2562
<u>a mercantile customer upon request.</u>	2563
<u>(B) Data shall be provided at intervals of not longer than</u>	2564
<u>five minutes and in a format consistent with public utilities</u>	2565
<u>commission standards.</u>	2566

(C) The electric distribution utility may assess a cost- 2567
based fee to the competitive retail electric service supplier 2568
for access to real-time usage data. 2569

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2570
of this section, the failure of a supplier to provide retail 2571
electric generation service to customers within the certified 2572
territory of an electric distribution utility shall result in 2573
the supplier's customers, after reasonable notice, defaulting to 2574
the utility's standard service offer under sections 4928.141, 7, 2575
and 4928.142, and 4928.143 of the Revised Code until the 2576
customer chooses an alternative supplier. A- 2577

(B) A supplier is deemed under this section to have failed 2578
to provide such retail electric generation service if the 2579
commission finds, after reasonable notice and opportunity for 2580
hearing, that any of the following conditions are met: 2581

~~(A)~~ (1) The supplier has defaulted on its contracts with 2582
customers, is in receivership, or has filed for bankruptcy. 2583

~~(B)~~ (2) The supplier is no longer capable of providing the 2584
service. 2585

~~(C)~~ (3) The supplier is unable to provide delivery to 2586
transmission or distribution facilities for such period of time 2587
as may be reasonably specified by commission rule adopted under 2588
division (A) of section 4928.06 of the Revised Code. 2589

~~(D)~~ (4) The supplier's certification has been suspended, 2590
conditionally rescinded, or rescinded under division (D) of 2591
section 4928.08 of the Revised Code. 2592

(C) If an electric distribution utility has an electric 2593
security plan that was approved under section 4928.143 of the 2594
Revised Code as that section existed prior to the amendments to 2595

this section by this act, the failure of a supplier to provide 2596
retail electric generation service to customers within the 2597
certified territory of that utility shall result in the 2598
supplier's customers, after reasonable notice, defaulting to the 2599
utility's standard service offer under that electric security 2600
plan until the customer chooses an alternative supplier or until 2601
the utility's standard service offer is authorized under section 2602
4928.142 of the Revised Code. 2603

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2604
electric distribution utility shall provide consumers, on a 2605
comparable and nondiscriminatory basis within its certified 2606
territory, a standard service offer of all competitive retail 2607
electric services necessary to maintain essential electric 2608
service to consumers, including a firm supply of electric 2609
generation service. To that end, the electric distribution 2610
utility shall apply to the public utilities commission to 2611
establish the standard service offer in accordance with section 2612
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2613
~~may apply simultaneously under both sections, except that the~~ 2614
~~utility's first standard service offer application at minimum~~ 2615
~~shall include a filing under section 4928.143 of the Revised~~ 2616
~~Code. Only~~ Except as provided in division (A) (2) of this 2617
section, a standard service offer authorized in accordance with 2618
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2619
the utility's standard service offer for the purpose of 2620
compliance with this section~~+~~, and that standard service offer 2621
shall serve as the utility's default standard service offer for 2622
the purpose of section 4928.14 of the Revised Code. 2623
~~Notwithstanding the foregoing provision, the rate~~ 2624

(2) An electric distribution utility's electric security 2625
plan of an electric distribution utility that was approved under 2626

section 4928.143 of the Revised Code as that section existed 2627
prior to the amendments to this section by this act shall 2628
continue for the purpose of the utility's compliance with ~~this~~ 2629
division (A) (1) of this section until a standard service offer 2630
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2631
~~4928.143~~ of the Revised Code, ~~and, as applicable, pursuant to~~ 2632
~~division (D) of section 4928.143 of the Revised Code, any rate .~~ 2633
Each security plan that extends approved before the effective 2634
date of the amendments to this section by this act shall extend 2635
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2636
~~subject electric distribution utility for the duration of the~~ 2637
~~plan's term~~ through the final standard service offer auction 2638
delivery period approved by the public utilities commission 2639
under the plan as of the effective date of the amendments to 2640
this section by this act and thereafter shall terminate. 2641

(3) A standard service offer under section 4928.142 ~~or~~ 2642
~~4928.143~~ of the Revised Code shall exclude any previously 2643
authorized allowances for transition costs, with such exclusion 2644
being effective on and after the date that the allowance is 2645
scheduled to end under the utility's ~~rate~~ electric security 2646
plan. 2647

(B) The commission shall set the time for hearing of a 2648
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2649
send written notice of the hearing to the electric distribution 2650
utility, and publish notice in a newspaper of general 2651
circulation in each county in the utility's certified territory. 2652
The commission shall adopt rules regarding filings under ~~those~~ 2653
sections the section. 2654

Sec. 4928.142. (A) For the purpose of complying with 2655
section 4928.141 of the Revised Code and subject to division (D) 2656

of this section and, as applicable, subject to the ~~rate plan~~ 2657
~~requirement~~ requirements of division (A) of section 4928.141 of 2658
the Revised Code, an electric distribution utility ~~may~~ shall 2659
establish a standard service offer price for retail electric 2660
generation service that is delivered to the utility under a 2661
market-rate offer. 2662

(1) The market-rate offer shall be determined through a 2663
competitive bidding process that provides for all of the 2664
following: 2665

(a) Open, fair, and transparent competitive solicitation; 2666

(b) Clear product definition; 2667

(c) Standardized bid evaluation criteria; 2668

(d) Oversight by an independent third party that shall 2669
design the solicitation, administer the bidding, and ensure that 2670
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2671
this section are met; 2672

(e) Evaluation of the submitted bids prior to the 2673
selection of the least-cost bid winner or winners. 2674

No generation supplier shall be prohibited from 2675
participating in the bidding process. 2676

(2) The public utilities commission shall modify rules, or 2677
adopt new rules as necessary, concerning the conduct of the 2678
competitive bidding process and the qualifications of bidders, 2679
which rules shall foster supplier participation in the bidding 2680
process and shall be consistent with the requirements of 2681
division (A) (1) of this section. 2682

(B) Prior to initiating a competitive bidding process for 2683
a market-rate offer under division (A) of this section, the 2684

electric distribution utility shall file an application with the 2685
commission. An electric distribution utility may file its 2686
application with the commission prior to the effective date of 2687
the commission rules required under division (A)(2) of this 2688
section, and, as the commission determines necessary, the 2689
utility shall immediately conform its filing to the rules upon 2690
their taking effect. 2691

An application under this division shall detail the 2692
electric distribution utility's proposed compliance with the 2693
requirements of division (A)(1) of this section and with 2694
commission rules under division (A)(2) of this section and 2695
demonstrate that all of the following requirements are met: 2696

(1) The electric distribution utility or its transmission 2697
service affiliate belongs to at least one regional transmission 2698
organization that has been approved by the federal energy 2699
regulatory commission; or there otherwise is comparable and 2700
nondiscriminatory access to the electric transmission grid. 2701

(2) Any such regional transmission organization has a 2702
market-monitor function and the ability to take actions to 2703
identify and mitigate market power or the electric distribution 2704
utility's market conduct; or a similar market monitoring 2705
function exists with commensurate ability to identify and 2706
monitor market conditions and mitigate conduct associated with 2707
the exercise of market power. 2708

(3) A published source of information is available 2709
publicly or through subscription that identifies pricing 2710
information for traded electricity on- and off-peak energy 2711
products that are contracts for delivery beginning at least two 2712
years from the date of the publication and is updated on a 2713
regular basis. 2714

The commission shall initiate a proceeding and, within 2715
ninety days after the application's filing date, shall determine 2716
by order whether the electric distribution utility and its 2717
market-rate offer meet all of the foregoing requirements. If the 2718
finding is positive, the electric distribution utility ~~may~~ shall 2719
initiate its competitive bidding process. If the finding is 2720
negative as to one or more requirements, the commission in the 2721
order shall direct the electric distribution utility regarding 2722
how any deficiency ~~may~~ shall be timely remedied in a timely 2723
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2724
~~distribution utility shall withdraw the application. However, if~~ 2725
~~such remedy is made and the subsequent finding is positive and~~ 2726
~~also if the electric distribution utility made a simultaneous~~ 2727
~~filing under this section and section 4928.143 of the Revised~~ 2728
~~Code, the utility shall not initiate its competitive bid until~~ 2729
~~at least one hundred fifty days after the filing date of those~~ 2730
~~applications.~~ 2731

(C) Upon the completion of the competitive bidding process 2732
authorized by divisions (A) and (B) of this section, ~~including~~ 2733
~~for the purpose of division (D) of this section,~~ the commission 2734
shall select the least-cost bid winner or winners of that 2735
process, and such selected bid or bids, as prescribed as retail 2736
rates by the commission, shall be the electric distribution 2737
utility's standard service offer unless the commission, by order 2738
issued before the third calendar day following the conclusion of 2739
the competitive bidding process for the market rate offer, 2740
determines that one or more of the following criteria were not 2741
met: 2742

(1) Each portion of the bidding process was 2743
oversubscribed, such that the amount of supply bid upon was 2744
greater than the amount of the load bid out. 2745

(2) There were four or more bidders. 2746

(3) At least twenty-five per cent of the load is bid upon 2747
by one or more persons other than the electric distribution 2748
utility. 2749

All costs incurred by the electric distribution utility as 2750
a result of or related to the competitive bidding process or to 2751
procuring generation service to provide the standard service 2752
offer, including the costs of energy and capacity and the costs 2753
of all other products and services procured as a result of the 2754
competitive bidding process, shall be timely recovered through 2755
the standard service offer price, and, for that purpose, the 2756
commission shall approve a reconciliation mechanism, other 2757
recovery mechanism, or a combination of such mechanisms for the 2758
utility. 2759

(D) ~~The first application filed under this section by an 2760
electric distribution utility that, as of July 31, 2008, 2761
directly owns, in whole or in part, operating electric 2762
generating facilities that had been used and useful in this 2763
state shall require that a portion of that the utility's 2764
standard service offer load for the first five years of the 2765
market rate offer be competitively bid under division (A) of 2766
this section as follows: ten per cent of the load in year one, 2767
not more than twenty per cent in year two, thirty per cent in 2768
year three, forty per cent in year four, and fifty per cent in 2769
year five. Consistent with those percentages, the commission 2770
shall determine the actual percentages for each year of years 2771
one through five. The standard service offer price for retail 2772
electric generation service under this first application shall 2773
be a proportionate blend of the bid price and the generation 2774
service price for the remaining standard service offer load, 2775~~

~~which latter price shall be equal to the electric distribution- 2776~~
~~utility's most recent standard service offer price, adjusted- 2777~~
~~upward or downward as the commission determines reasonable, 2778~~
~~relative to the jurisdictional portion of any known and- 2779~~
~~measurable changes from the level of any one or more of the 2780~~
~~following costs as reflected in that most recent standard- 2781~~
~~service offer price: 2782~~

~~(1) The electric distribution utility's prudently incurred 2783~~
~~cost of fuel used to produce electricity; 2784~~

~~(2) Its prudently incurred purchased power costs; 2785~~

~~(3) Its prudently incurred costs of satisfying the supply 2786~~
~~and demand portfolio requirements of this state, including, but 2787~~
~~not limited to, renewable energy resource and energy efficiency 2788~~
~~requirements; 2789~~

~~(4) Its costs prudently incurred to comply with- 2790~~
~~environmental laws and regulations, with consideration of the- 2791~~
~~derating of any facility associated with those costs. 2792~~

~~In making any adjustment to the most recent standard- 2793~~
~~service offer price on the basis of costs described in division- 2794~~
~~(D) of this section, the commission shall include the benefits- 2795~~
~~that may become available to the electric distribution utility- 2796~~
~~as a result of or in connection with the costs included in the- 2797~~
~~adjustment, including, but not limited to, the utility's receipt 2798~~
~~of emissions credits or its receipt of tax benefits or of other- 2799~~
~~benefits, and, accordingly, the commission may impose such- 2800~~
~~conditions on the adjustment to ensure that any such benefits- 2801~~
~~are properly aligned with the associated cost responsibility.- 2802~~
~~The commission shall also determine how such adjustments will- 2803~~
~~affect the electric distribution utility's return on common- 2804~~

~~equity that may be achieved by those adjustments. The commission 2805
shall not apply its consideration of the return on common equity 2806
to reduce any adjustments authorized under this division unless 2807
the adjustments will cause the electric distribution utility to 2808
earn a return on common equity that is significantly in excess 2809
of the return on common equity that is earned by publicly traded 2810
companies, including utilities, that face comparable business 2811
and financial risk, with such adjustments for capital structure 2812
as may be appropriate. The burden of proof for demonstrating 2813
that significantly excessive earnings will not occur shall be on 2814
the electric distribution utility. 2815~~

~~Additionally, the commission may adjust the electric 2816
distribution utility's most recent standard service offer price 2817
by such just and reasonable amount that the commission 2818
determines necessary to address any emergency that threatens the 2819
utility's financial integrity or to ensure that the resulting 2820
revenue available to the utility for providing the standard 2821
service offer is not so inadequate as to result, directly or 2822
indirectly, in a taking of property without compensation 2823
pursuant to Section 19 of Article I, Ohio Constitution. The 2824
electric distribution utility has the burden of demonstrating 2825
that any adjustment to its most recent standard service offer 2826
price is proper in accordance with this division. 2827~~

~~(E) Beginning in the second year of a blended price under 2828
division (D) of this section and notwithstanding any other 2829
requirement of this section, the commission may alter 2830
prospectively the proportions specified in that division to 2831
mitigate any effect of an abrupt or significant change in the 2832
electric distribution utility's standard service offer price 2833
that would otherwise result in general or with respect to any 2834
rate group or rate schedule but for such alteration. Any such 2835~~

~~alteration shall be made not more often than annually, and the 2836
commission shall not, by altering those proportions and in any 2837
event, including because of the length of time, as authorized 2838
under division (C) of this section, taken to approve the market 2839
rate offer, cause the duration of the blending period to exceed 2840
ten years as counted from the effective date of the approved 2841
market rate offer. Additionally, any such alteration shall be 2842
limited to an alteration affecting the prospective proportions 2843
used during the blending period and shall not affect any 2844
blending proportion previously approved and applied by the 2845
commission under this division. 2846~~

~~(F) An electric distribution utility that has received 2847
commission approval of its first application under division (C) 2848
of this section shall not, nor ever shall be authorized or 2849
required by the commission to, file an application under section 2850
4928.143 of the Revised Code. 2851~~

Sec. 4928.144. The public utilities commission by order 2852
may authorize any just and reasonable phase-in of any electric 2853
distribution utility ~~rate or price~~ established under sections 2854
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2855
inclusive of carrying charges, as the commission considers 2856
necessary to ensure ~~rate or price~~ stability for consumers. If 2857
the commission's order includes such a phase-in, the order also 2858
shall provide for the creation of regulatory assets pursuant to 2859
generally accepted accounting principles, by authorizing the 2860
deferral of incurred costs equal to the amount not collected, 2861
plus carrying charges on that amount. Further, the order shall 2862
authorize the collection of those deferrals through a 2863
nonbypassable surcharge on any such rate or price so established 2864
for the electric distribution utility by the commission. 2865

Sec. 4928.149. No electric distribution utility may use 2866
any electric energy storage system to participate in the 2867
wholesale market, if the utility purchased or acquired that 2868
system for distribution service. 2869

Sec. 4928.1410. If an electric distribution utility has an 2870
existing electric security plan under which the commission had 2871
authorized the creation or continuation of riders, then, to the 2872
extent those riders will cease to exist after termination of the 2873
electric security plan, the electric distribution utility is 2874
authorized to create necessary regulatory assets or liabilities, 2875
along with carrying costs at the utility's weighted average cost 2876
of debt, for the resolution of any outstanding under-collection 2877
or over-collection of funds under such riders. The resolution of 2878
such regulatory assets or liabilities shall be addressed in the 2879
first distribution rate case under section 4909.18 of the 2880
Revised Code that occurs after the plan's expiration. 2881

Sec. 4928.17. (A) Except as otherwise provided in sections 2882
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2883
Revised Code ~~and beginning on the starting date of competitive-~~ 2884
~~retail electric service,~~ no electric utility shall engage in 2885
this state, either directly or through an affiliate, ~~in the~~ 2886
~~businesses of supplying a noncompetitive retail electric service~~ 2887
~~and supplying a competitive retail electric service, or in the~~ 2888
businesses of supplying a noncompetitive retail electric service 2889
and supplying a product or service other than retail electric 2890
service, unless the utility implements and operates under a 2891
corporate separation plan that is approved by the public 2892
utilities commission under this section, is consistent with the 2893
policy specified in section 4928.02 of the Revised Code, and 2894
achieves all of the following: 2895

(1) The plan provides, at minimum, for the provision of 2896
~~the competitive retail electric service or the nonelectric~~ 2897
product or service through a fully separated affiliate of the 2898
utility, and the plan includes separate accounting requirements, 2899
the code of conduct as ordered by the commission pursuant to a 2900
rule it shall adopt under division (A) of section 4928.06 of the 2901
Revised Code, and such other measures as are necessary to 2902
effectuate the policy specified in section 4928.02 of the 2903
Revised Code. 2904

(2) The plan satisfies the public interest in ~~preventing~~ 2905
~~unfair competitive advantage and~~ preventing the abuse of market 2906
power. 2907

(3) The plan is sufficient to ensure that the utility will 2908
not extend any undue preference or advantage to any affiliate, 2909
division, or part of its own business engaged in the business of 2910
supplying the ~~competitive retail electric service or nonelectric~~ 2911
product or service, including, but not limited to, utility 2912
resources such as trucks, tools, office equipment, office space, 2913
supplies, customer and marketing information, advertising, 2914
billing and mailing systems, personnel, and training, without 2915
compensation based upon fully loaded embedded costs charged to 2916
the affiliate; and to ensure that any such affiliate, division, 2917
or part will not receive undue preference or advantage from any 2918
affiliate, division, or part of the business engaged in business 2919
of supplying the noncompetitive retail electric service. No such 2920
utility, affiliate, division, or part shall extend such undue 2921
preference. ~~Notwithstanding any other division of this section,~~ 2922
~~a utility's obligation under division (A)(3) of this section~~ 2923
~~shall be effective January 1, 2000.~~ 2924

(B) The commission may approve, modify and approve, or 2925

disapprove a corporate separation plan filed with the commission 2926
under division (A) of this section. As part of the code of 2927
conduct required under division (A) (1) of this section, the 2928
commission shall adopt rules pursuant to division (A) of section 2929
4928.06 of the Revised Code regarding corporate separation and 2930
procedures for plan filing and approval. The rules shall include 2931
limitations on affiliate practices solely for the purpose of 2932
maintaining a separation of the affiliate's business from the 2933
business of the utility to prevent ~~unfair competitive advantage~~ 2934
abuse of market power by virtue of that relationship. The rules 2935
also shall include an opportunity for any person having a real 2936
and substantial interest in the corporate separation plan to 2937
file specific objections to the plan and propose specific 2938
responses to issues raised in the objections, which objections 2939
and responses the commission shall address in its final order. 2940
Prior to commission approval of the plan, the commission shall 2941
afford a hearing upon those aspects of the plan that the 2942
commission determines reasonably require a hearing. The 2943
commission may reject and require refiling of a substantially 2944
inadequate plan under this section. 2945

(C) The commission shall issue an order approving or 2946
modifying and approving a corporate separation plan under this 2947
section, to be effective on the date specified in the order, 2948
only upon findings that the plan reasonably complies with the 2949
requirements of division (A) of this section and will provide 2950
for ongoing compliance with the policy specified in section 2951
4928.02 of the Revised Code. However, for good cause shown, the 2952
commission may issue an order approving or modifying and 2953
approving a corporate separation plan under this section that 2954
does not comply with division (A) (1) of this section but 2955
complies with such functional separation requirements as the 2956

commission authorizes to apply for an interim period prescribed 2957
in the order, upon a finding that such alternative plan will 2958
provide for ongoing compliance with the policy specified in 2959
section 4928.02 of the Revised Code. 2960

(D) Any party may seek an amendment to a corporate 2961
separation plan approved under this section, and the commission, 2962
pursuant to a request from any party or on its own initiative, 2963
may order as it considers necessary the filing of an amended 2964
corporate separation plan to reflect changed circumstances. 2965

~~(E) No electric distribution utility shall sell or 2966
transfer any generating asset it wholly or partly owns at any 2967
time without obtaining prior commission approval. 2968~~

Sec. 4928.20. (A) The legislative authority of a municipal 2969
corporation may adopt an ordinance, or the board of township 2970
trustees of a township or the board of county commissioners of a 2971
county may adopt a resolution, under which, ~~on or after the~~ 2972
~~starting date of competitive retail electric service,~~ it may 2973
aggregate in accordance with this section the retail electrical 2974
loads located, respectively, within the municipal corporation, 2975
township, or unincorporated area of the county and, for that 2976
purpose, may enter into service agreements to facilitate for 2977
those loads the sale and purchase of electricity. The 2978
legislative authority or board also may exercise such authority 2979
jointly with any other such legislative authority or board. For 2980
customers that are not mercantile customers, an ordinance or 2981
resolution under this division shall specify whether the 2982
aggregation will occur only with the prior, affirmative consent 2983
of each person owning, occupying, controlling, or using an 2984
electric load center proposed to be aggregated or will occur 2985
automatically for all such persons pursuant to the opt-out 2986

requirements of division (D) of this section. The aggregation of 2987
mercantile customers shall occur only with the prior, 2988
affirmative consent of each such person owning, occupying, 2989
controlling, or using an electric load center proposed to be 2990
aggregated. Nothing in this division, however, authorizes the 2991
aggregation of the retail electric loads of an electric load 2992
center, as defined in section 4933.81 of the Revised Code, that 2993
is located in the certified territory of a nonprofit electric 2994
supplier under sections 4933.81 to 4933.90 of the Revised Code 2995
or an electric load center served by transmission or 2996
distribution facilities of a municipal electric utility. 2997

(B) If an ordinance or resolution adopted under division 2998
(A) of this section specifies that aggregation of customers that 2999
are not mercantile customers will occur automatically as 3000
described in that division, the ordinance or resolution shall 3001
direct the board of elections to submit the question of the 3002
authority to aggregate to the electors of the respective 3003
municipal corporation, township, or unincorporated area of a 3004
county at a special election on the day of the next primary or 3005
general election in the municipal corporation, township, or 3006
county. The legislative authority or board shall certify a copy 3007
of the ordinance or resolution to the board of elections not 3008
less than ninety days before the day of the special election. No 3009
ordinance or resolution adopted under division (A) of this 3010
section that provides for an election under this division shall 3011
take effect unless approved by a majority of the electors voting 3012
upon the ordinance or resolution at the election held pursuant 3013
to this division. 3014

(C) Upon the applicable requisite authority under 3015
divisions (A) and (B) of this section, the legislative authority 3016
or board shall develop a plan of operation and governance for 3017

the aggregation program so authorized. Before adopting a plan 3018
under this division, the legislative authority or board shall 3019
hold at least two public hearings on the plan. Before the first 3020
hearing, the legislative authority or board shall publish notice 3021
of the hearings once a week for two consecutive weeks in a 3022
newspaper of general circulation in the jurisdiction or as 3023
provided in section 7.16 of the Revised Code. The notice shall 3024
summarize the plan and state the date, time, and location of 3025
each hearing. 3026

(D) No legislative authority or board, pursuant to an 3027
ordinance or resolution under divisions (A) and (B) of this 3028
section that provides for automatic aggregation of customers 3029
that are not mercantile customers as described in division (A) 3030
of this section, shall aggregate the electrical load of any 3031
electric load center located within its jurisdiction unless it 3032
in advance clearly discloses to the person owning, occupying, 3033
controlling, or using the load center that the person will be 3034
enrolled automatically in the aggregation program and will 3035
remain so enrolled unless the person affirmatively elects by a 3036
stated procedure not to be so enrolled. The disclosure shall 3037
state prominently the rates, charges, and other terms and 3038
conditions of enrollment. The stated procedure shall allow any 3039
person enrolled in the aggregation program the opportunity to 3040
opt out of the program every three years, without paying a 3041
switching fee. Any such person that opts out before the 3042
commencement of the aggregation program pursuant to the stated 3043
procedure shall default to the standard service offer provided 3044
under section 4928.14 or division (D) of section 4928.35 of the 3045
Revised Code until the person chooses an alternative supplier. 3046

(E) (1) With respect to a governmental aggregation for a 3047
municipal corporation that is authorized pursuant to divisions 3048

(A) to (D) of this section, resolutions may be proposed by 3049
initiative or referendum petitions in accordance with sections 3050
731.28 to 731.41 of the Revised Code. 3051

(2) With respect to a governmental aggregation for a 3052
township or the unincorporated area of a county, which 3053
aggregation is authorized pursuant to divisions (A) to (D) of 3054
this section, resolutions may be proposed by initiative or 3055
referendum petitions in accordance with sections 731.28 to 3056
731.40 of the Revised Code, except that: 3057

(a) The petitions shall be filed, respectively, with the 3058
township fiscal officer or the board of county commissioners, 3059
who shall perform those duties imposed under those sections upon 3060
the city auditor or village clerk. 3061

(b) The petitions shall contain the signatures of not less 3062
than ten per cent of the total number of electors in, 3063
respectively, the township or the unincorporated area of the 3064
county who voted for the office of governor at the preceding 3065
general election for that office in that area. 3066

(F) A governmental aggregator under division (A) of this 3067
section is not a public utility engaging in the wholesale 3068
purchase and resale of electricity, and provision of the 3069
aggregated service is not a wholesale utility transaction. A 3070
governmental aggregator shall be subject to supervision and 3071
regulation by the public utilities commission only to the extent 3072
of any competitive retail electric service it provides and 3073
commission authority under this chapter. 3074

(G) This section does not apply in the case of a municipal 3075
corporation that supplies such aggregated service to electric 3076
load centers to which its municipal electric utility also 3077

supplies a noncompetitive retail electric service through 3078
transmission or distribution facilities the utility singly or 3079
jointly owns or operates. 3080

(H) A governmental aggregator shall not include in its 3081
aggregation the accounts of any of the following: 3082

(1) A customer that has opted out of the aggregation; 3083

(2) A customer in contract with a certified electric 3084
services company; 3085

(3) A customer that has a special contract with an 3086
electric distribution utility; 3087

(4) A customer that is not located within the governmental 3088
aggregator's governmental boundaries; 3089

(5) Subject to division (C) of section 4928.21 of the 3090
Revised Code, a customer who appears on the "do not aggregate" 3091
list maintained under that section. 3092

(I) Customers that are part of a governmental aggregation 3093
under this section shall be responsible only for such portion of 3094
a surcharge under section 4928.144 of the Revised Code that is 3095
proportionate to the benefits, as determined by the commission, 3096
that electric load centers within the jurisdiction of the 3097
governmental aggregation as a group receive. The proportionate 3098
surcharge so established shall apply to each customer of the 3099
governmental aggregation while the customer is part of that 3100
aggregation. If a customer ceases being such a customer, the 3101
otherwise applicable surcharge shall apply. Nothing in this 3102
section shall result in less than full recovery by an electric 3103
distribution utility of any surcharge authorized under section 3104
4928.144 of the Revised Code. Nothing in this section shall 3105
result in less than the full and timely imposition, charging, 3106

collection, and adjustment by an electric distribution utility, 3107
its assignee, or any collection agent, of the phase-in-recovery 3108
charges authorized pursuant to a final financing order issued 3109
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3110

~~(J) On behalf of the customers that are part of a 3111
governmental aggregation under this section and by filing 3112
written notice with the public utilities commission, the 3113
legislative authority that formed or is forming that 3114
governmental aggregation may elect not to receive standby 3115
service within the meaning of division (B) (2) (d) of section 3116
4928.143 of the Revised Code from an electric distribution 3117
utility in whose certified territory the governmental 3118
aggregation is located and that operates under an approved 3119
electric security plan under that section. Upon the filing of 3120
that notice, the electric distribution utility shall not charge 3121
any such customer to whom competitive retail electric generation 3122
service is provided by another supplier under the governmental 3123
aggregation for the standby service. Any such consumer that 3124
returns to the utility for competitive retail electric service 3125
shall pay the market price of power incurred by the utility to 3126
serve that consumer plus any amount attributable to the 3127
utility's cost of compliance with the renewable energy resource 3128
provisions of section 4928.64 of the Revised Code to serve the 3129
consumer. Such market price shall include, but not be limited 3130
to, capacity and energy charges; all charges associated with the 3131
provision of that power supply through the regional transmission 3132
organization, including, but not limited to, transmission, 3133
ancillary services, congestion, and settlement and 3134
administrative charges; and all other costs incurred by the 3135
utility that are associated with the procurement, provision, and 3136
administration of that power supply, as such costs may be 3137~~

~~approved by the commission. The period of time during which the market price and renewable energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the 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, 3168
letter of credit, reserve account, surety bond, swap 3169
arrangement, hedging arrangement, liquidity or credit support 3170
arrangement, or other similar agreement or arrangement entered 3171
into in connection with the issuance of phase-in-recovery bonds 3172
that is designed to promote the credit quality and marketability 3173
of the bonds or to mitigate the risk of an increase in interest 3174
rates. 3175

(B) "Assignee" means any person or entity to which an 3176
interest in phase-in-recovery property is sold, assigned, 3177
transferred, or conveyed, other than as security, and any 3178
successor to or subsequent assignee of such a person or entity. 3179

(C) "Bond" includes debentures, notes, certificates of 3180
participation, certificates of beneficial interest, certificates 3181
of ownership or other evidences of indebtedness or ownership 3182
that are issued by an electric distribution utility or an 3183
assignee under a final financing order, the proceeds of which 3184
are used directly or indirectly to recover, finance, or 3185
refinance phase-in costs and financing costs, and that are 3186
secured by or payable from revenues from phase-in-recovery 3187
charges. 3188

(D) "Bondholder" means any holder or owner of a phase-in- 3189
recovery bond. 3190

(E) "Financing costs" means any of the following: 3191

(1) Principal, interest, and redemption premiums that are 3192
payable on phase-in-recovery bonds; 3193

(2) Any payment required under an ancillary agreement; 3194

(3) Any amount required to fund or replenish a reserve 3195
account or another account established under any indenture, 3196

ancillary agreement, or other financing document relating to	3197
phase-in-recovery bonds;	3198
(4) Any costs of retiring or refunding any existing debt	3199
and equity securities of an electric distribution utility in	3200
connection with either the issuance of, or the use of proceeds	3201
from, phase-in-recovery bonds;	3202
(5) Any costs incurred by an electric distribution utility	3203
to obtain modifications of or amendments to any indenture,	3204
financing agreement, security agreement, or similar agreement or	3205
instrument relating to any existing secured or unsecured	3206
obligation of the electric distribution utility in connection	3207
with the issuance of phase-in-recovery bonds;	3208
(6) Any costs incurred by an electric distribution utility	3209
to obtain any consent, release, waiver, or approval from any	3210
holder of an obligation described in division (E) (5) of this	3211
section that are necessary to be incurred for the electric	3212
distribution utility to issue or cause the issuance of phase-in-	3213
recovery bonds;	3214
(7) Any taxes, franchise fees, or license fees imposed on	3215
phase-in-recovery revenues;	3216
(8) Any costs related to issuing or servicing phase-in-	3217
recovery bonds or related to obtaining a financing order,	3218
including servicing fees and expenses, trustee fees and	3219
expenses, legal, accounting, or other professional fees and	3220
expenses, administrative fees, placement fees, underwriting	3221
fees, capitalized interest and equity, and rating-agency fees;	3222
(9) Any other similar costs that the public utilities	3223
commission finds appropriate.	3224
(F) "Financing order" means an order issued by the public	3225

utilities commission under section 4928.232 of the Revised Code 3226
that authorizes an electric distribution utility or an assignee 3227
to issue phase-in-recovery bonds and recover phase-in-recovery 3228
charges. 3229

(G) "Final financing order" means a financing order that 3230
has become final and has taken effect as provided in section 3231
4928.233 of the Revised Code. 3232

(H) "Financing party" means either of the following: 3233

(1) Any trustee, collateral agent, or other person acting 3234
for the benefit of any bondholder; 3235

(2) Any party to an ancillary agreement, the rights and 3236
obligations of which relate to or depend upon the existence of 3237
phase-in-recovery property, the enforcement and priority of a 3238
security interest in phase-in-recovery property, the timely 3239
collection and payment of phase-in-recovery revenues, or a 3240
combination of these factors. 3241

(I) "Financing statement" has the same meaning as in 3242
section 1309.102 of the Revised Code. 3243

(J) "Phase-in costs" means costs, inclusive of carrying 3244
charges incurred before, on, or after ~~the effective date of this~~ 3245
~~section~~ March 22, 2012, authorized by the commission before, on, 3246
or after ~~the effective date of this section~~ March 22, 2012, to 3247
be securitized or deferred as regulatory assets in proceedings 3248
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3249
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3250
4928.14 of the Revised Code as it existed prior to July 31, 3251
2008, or section 4928.143 of the Revised Code as it existed 3252
prior to the effective date of the amendments to this section by 3253
this act pursuant to a final order for which appeals have been 3254

exhausted. "Phase-in costs" excludes the following: 3255

(1) With respect to any electric generating facility that, 3256
on and after ~~the effective date of this section~~ March 22, 2012, 3257
is owned, in whole or in part, by an electric distribution 3258
utility applying for a financing order under section 4928.231 of 3259
the Revised Code, costs that are authorized under division (B) 3260
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3261
section existed prior to the effective date of the amendments to 3262
this section by this act; 3263

(2) Costs incurred after ~~the effective date of this~~ 3264
~~section~~ March 22, 2012, related to the ongoing operation of an 3265
electric generating facility, but not environmental clean-up or 3266
remediation costs incurred by an electric distribution utility 3267
because of its ownership or operation of an electric generating 3268
facility prior to ~~the effective date of this section~~ March 22, 3269
2012, which such clean-up or remediation costs are imposed or 3270
incurred pursuant to federal or state law, rules, or regulations 3271
and for which the commission approves or approved recovery in 3272
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3273
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3274
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3275
July 31, 2008, or section 4928.143 of the Revised Code as it 3276
existed prior to the effective date of the amendments to this 3277
section by this act. 3278

(K) "Phase-in-recovery property" means the property, 3279
rights, and interests of an electric distribution utility or an 3280
assignee under a final financing order, including the right to 3281
impose, charge, and collect the phase-in-recovery charges that 3282
shall be used to pay and secure the payment of phase-in-recovery 3283
bonds and financing costs, and including the right to obtain 3284

adjustments to those charges, and any revenues, receipts, 3285
collections, rights to payment, payments, moneys, claims, or 3286
other proceeds arising from the rights and interests created 3287
under the final financing order. 3288

(L) "Phase-in-recovery revenues" means all revenues, 3289
receipts, collections, payments, moneys, claims, or other 3290
proceeds arising from phase-in-recovery property. 3291

(M) "Successor" means, with respect to any entity, another 3292
entity that succeeds by operation of law to the rights and 3293
obligations of the first legal entity pursuant to any 3294
bankruptcy, reorganization, restructuring, or other insolvency 3295
proceeding, any merger, acquisition, or consolidation, or any 3296
sale or transfer of assets, regardless of whether any of these 3297
occur as a result of a restructuring of the electric power 3298
industry or otherwise. 3299

Sec. 4928.231. (A) An electric distribution utility may 3300
apply to the public utilities commission for a financing order 3301
that authorizes the following: 3302

(1) The issuance of phase-in-recovery bonds, in one or 3303
more series, to recover uncollected phase-in costs; 3304

(2) The imposition, charging, and collection of phase-in- 3305
recovery charges, in accordance with the adjustment mechanism 3306
approved by the commission under section 4928.232 of the Revised 3307
Code, and consistent with the commission's authority regarding 3308
governmental aggregation as provided in division (I) of section 3309
4928.20 of the Revised Code, to recover both of the following: 3310

(a) Uncollected phase-in costs; 3311

(b) Financing costs. 3312

(3) The creation of phase-in-recovery property under the financing order.	3313 3314
(B) The application shall include all of the following:	3315
(1) A description of the uncollected phase-in costs that the electric distribution utility seeks to recover through the issuance of phase-in-recovery bonds;	3316 3317 3318
(2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;	3319 3320
(3) The expected term during which the phase-in costs associated with the issuance of each series of phase-in-recovery bonds are expected to be recovered;	3321 3322 3323
(4) An estimate of the financing costs, as described in section 4928.23 of the Revised Code, associated with the issuance of each series of phase-in-recovery bonds;	3324 3325 3326
(5) An estimate of the amount of phase-in-recovery charges necessary to recover the phase-in costs and financing costs set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of phase-in-recovery bonds;	3327 3328 3329 3330 3331 3332
(6) For phase-in-recovery charges not subject to allocation according to an existing order, a proposed methodology for allocating phase-in-recovery charges among customer classes, including a proposed methodology for allocating such charges to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;	3333 3334 3335 3336 3337 3338 3339
(7) A description of a proposed adjustment mechanism for	3340

use as described in division (A) (2) of this section; 3341

(8) A description and valuation of how the issuance of the 3342
phase-in-recovery bonds, including financing costs, will both 3343
result in cost savings to customers and mitigate rate impacts to 3344
customers when compared to the use of other financing mechanisms 3345
or cost-recovery methods available to the electric distribution 3346
utility; 3347

(9) Any other information required by the commission. 3348

(C) The electric distribution utility may restate or 3349
incorporate by reference in the application any information 3350
required under division (B) (9) of this section that the electric 3351
distribution utility filed with the commission under section 3352
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3353
, section 4928.14 of the Revised Code as it existed prior to 3354
July 31, 2008, or section 4928.143 of the Revised Code as it 3355
existed prior to the amendments to this section by this act. 3356

Sec. 4928.232. (A) Proceedings before the public utilities 3357
commission on an application submitted by an electric 3358
distribution utility under section 4928.231 of the Revised Code 3359
shall be governed by Chapter 4903. of the Revised Code, but only 3360
to the extent that chapter is not inconsistent with this section 3361
or section 4928.233 of the Revised Code. Any party that 3362
participated in the proceeding in which phase-in costs were 3363
approved under section 4909.18 or sections 4928.141 to 4928.144 3364
of the Revised Code ~~or~~, section 4928.14 of the Revised Code as 3365
it existed prior to July 31, 2008, or section 4928.143 of the 3366
Revised Code as it existed prior to the amendments to this 3367
section by this act shall have standing to participate in 3368
proceedings under sections 4928.23 to 4928.2318 of the Revised 3369
Code. 3370

(B) When reviewing an application for a financing order 3371
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3372
the commission may hold such hearings, make such inquiries or 3373
investigations, and examine such witnesses, books, papers, 3374
documents, and contracts as the commission considers proper to 3375
carry out these sections. Within thirty days after the filing of 3376
an application under section 4928.231 of the Revised Code, the 3377
commission shall publish a schedule of the proceeding. 3378

(C) (1) Not later than one hundred thirty-five days after 3379
the date the application is filed, the commission shall issue 3380
either a financing order, granting the application in whole or 3381
with modifications, or an order suspending or rejecting the 3382
application. 3383

(2) If the commission suspends an application for a 3384
financing order, the commission shall notify the electric 3385
distribution utility of the suspension and may direct the 3386
electric distribution utility to provide additional information 3387
as the commission considers necessary to evaluate the 3388
application. Not later than ninety days after the suspension, 3389
the commission shall issue either a financing order, granting 3390
the application in whole or with modifications, or an order 3391
rejecting the application. 3392

(D) (1) The commission shall not issue a financing order 3393
under division (C) of this section unless the commission 3394
determines that the financing order is consistent with section 3395
4928.02 of the Revised Code. 3396

(2) Except as provided in division (D) (1) of this section, 3397
the commission shall issue a financing order under division (C) 3398
of this section if, at the time the financing order is issued, 3399
the commission finds that the issuance of the phase-in-recovery 3400

bonds and the phase-in-recovery charges authorized by the order 3401
results in, consistent with market conditions, both measurably 3402
enhancing cost savings to customers and mitigating rate impacts 3403
to customers as compared with traditional financing mechanisms 3404
or traditional cost-recovery methods available to the electric 3405
distribution utility or, if the commission previously approved a 3406
recovery method, as compared with that recovery method. 3407

(E) The commission shall include all of the following in a 3408
financing order issued under division (C) of this section: 3409

(1) A determination of the maximum amount and a 3410
description of the phase-in costs that may be recovered through 3411
phase-in-recovery bonds issued under the financing order; 3412

(2) A description of phase-in-recovery property, the 3413
creation of which is authorized by the financing order; 3414

(3) A description of the financing costs that may be 3415
recovered through phase-in-recovery charges and the period over 3416
which those costs may be recovered; 3417

(4) For phase-in-recovery charges not subject to 3418
allocation according to an existing order, a description of the 3419
methodology and calculation for allocating phase-in-recovery 3420
charges among customer classes, including the allocation of such 3421
charges, if any, to governmental aggregation customers based 3422
upon the proportionate benefit determination made under division 3423
(I) of section 4928.20 of the Revised Code; 3424

(5) A description of the adjustment mechanism for use in 3425
the imposition, charging, and collection of the phase-in- 3426
recovery charges; 3427

(6) The maximum term of the phase-in-recovery bonds; 3428

(7) Any other provision the commission considers 3429
appropriate to ensure the full and timely imposition, charging, 3430
collection, and adjustment, pursuant to an approved adjustment 3431
mechanism, of the phase-in-recovery charges described in 3432
divisions (E) (3) to (5) of this section. 3433

(F) The commission may, in a financing order, afford the 3434
electric distribution utility flexibility in establishing the 3435
terms and conditions for the phase-in-recovery bonds to 3436
accommodate changes in market conditions, including repayment 3437
schedules, interest rates, financing costs, collateral 3438
requirements, required debt service and other reserves, and the 3439
ability of the electric distribution utility, at its option, to 3440
effect a series of issuances of phase-in-recovery bonds and 3441
correlated assignments, sales, pledges, or other transfers of 3442
phase-in-recovery property. Any changes made under this section 3443
to terms and conditions for the phase-in-recovery bonds shall be 3444
in conformance with the financing order. 3445

(G) A financing order may provide that the creation of 3446
phase-in-recovery property shall be simultaneous with the sale 3447
of that property to an assignee as provided in the application 3448
and the pledge of the property to secure phase-in-recovery 3449
bonds. 3450

(H) The commission shall, in a financing order, require 3451
that after the final terms of each issuance of phase-in-recovery 3452
bonds have been established, and prior to the issuance of those 3453
bonds, the electric distribution utility shall determine the 3454
resulting phase-in-recovery charges in accordance with the 3455
adjustment mechanism described in the financing order. These 3456
phase-in-recovery charges shall be final and effective upon the 3457
issuance of the phase-in-recovery bonds, without further 3458

commission action. 3459

Sec. 4928.34. (A) The public utilities commission shall 3460
not approve or prescribe a transition plan under division (A) or 3461
(B) of section 4928.33 of the Revised Code unless the commission 3462
first makes all of the following determinations: 3463

(1) The unbundled components for the electric transmission 3464
component of retail electric service, as specified in the 3465
utility's rate unbundling plan required by division (A)(1) of 3466
section 4928.31 of the Revised Code, equal the tariff rates 3467
determined by the federal energy regulatory commission that are 3468
in effect on the date of the approval of the transition plan 3469
under sections 4928.31 to 4928.40 of the Revised Code, as each 3470
such rate is determined applicable to each particular customer 3471
class and rate schedule by the commission. The unbundled 3472
transmission component shall include a sliding scale of charges 3473
under division (B) of section 4905.31 of the Revised Code to 3474
ensure that refunds determined or approved by the federal energy 3475
regulatory commission are flowed through to retail electric 3476
customers. 3477

(2) The unbundled components for retail electric 3478
distribution service in the rate unbundling plan equal the 3479
difference between the costs attributable to the utility's 3480
transmission and distribution rates and charges under its 3481
schedule of rates and charges in effect on the effective date of 3482
this section, based upon the record in the most recent rate 3483
proceeding of the utility for which the utility's schedule was 3484
established, and the tariff rates for electric transmission 3485
service determined by the federal energy regulatory commission 3486
as described in division (A)(1) of this section. 3487

(3) All other unbundled components required by the 3488

commission in the rate unbundling plan equal the costs 3489
attributable to the particular service as reflected in the 3490
utility's schedule of rates and charges in effect on the 3491
effective date of this section. 3492

(4) The unbundled components for retail electric 3493
generation service in the rate unbundling plan equal the 3494
residual amount remaining after the determination of the 3495
transmission, distribution, and other unbundled components, and 3496
after any adjustments necessary to reflect the effects of the 3497
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3498
No. 3 of the 123rd general assembly. 3499

(5) All unbundled components in the rate unbundling plan 3500
have been adjusted to reflect any base rate reductions on file 3501
with the commission and as scheduled to be in effect by December 3502
31, 2005, under rate settlements in effect on the effective date 3503
of this section. However, all earnings obligations, 3504
restrictions, or caps imposed on an electric utility in a 3505
commission order prior to the effective date of this section are 3506
void. 3507

(6) Subject to division (A)(5) of this section, the total 3508
of all unbundled components in the rate unbundling plan are 3509
capped and shall equal during the market development period, 3510
except as specifically provided in this chapter, the total of 3511
all rates and charges in effect under the applicable bundled 3512
schedule of the electric utility pursuant to section 4905.30 of 3513
the Revised Code in effect on the day before the effective date 3514
of this section, including the transition charge determined 3515
under section 4928.40 of the Revised Code, adjusted for any 3516
changes in the taxation of electric utilities and retail 3517
electric service under Sub. S.B. No. 3 of the 123rd General 3518

Assembly, the universal service rider authorized by section 3519
4928.51 of the Revised Code, and the temporary rider authorized 3520
by section 4928.61 of the Revised Code. For the purpose of this 3521
division, the rate cap applicable to a customer receiving 3522
electric service pursuant to an arrangement approved by the 3523
commission under section 4905.31 of the Revised Code is, for the 3524
term of the arrangement, the total of all rates and charges in 3525
effect under the arrangement. For any rate schedule filed 3526
pursuant to section 4905.30 of the Revised Code or any 3527
arrangement subject to approval pursuant to section 4905.31 of 3528
the Revised Code, the initial tax-related adjustment to the rate 3529
cap required by this division shall be equal to the rate of 3530
taxation specified in section 5727.81 of the Revised Code and 3531
applicable to the schedule or arrangement. To the extent such 3532
total annual amount of the tax-related adjustment is greater 3533
than or less than the comparable amount of the total annual tax 3534
reduction experienced by the electric utility as a result of the 3535
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3536
such difference shall be addressed by the commission through 3537
accounting procedures, refunds, or an annual surcharge or credit 3538
to customers, or through other appropriate means, to avoid 3539
placing the financial responsibility for the difference upon the 3540
electric utility or its shareholders. Any adjustments in the 3541
rate of taxation specified in section 5727.81 of the Revised 3542
Code ~~section~~ shall not occur without a corresponding adjustment 3543
to the rate cap for each such rate schedule or arrangement. The 3544
department of taxation shall advise the commission and self- 3545
assessors under section 5727.81 of the Revised Code prior to the 3546
effective date of any change in the rate of taxation specified 3547
under that section, and the commission shall modify the rate cap 3548
to reflect that adjustment so that the rate cap adjustment is 3549
effective as of the effective date of the change in the rate of 3550

taxation. This division shall be applied, to the extent 3551
possible, to eliminate any increase in the price of electricity 3552
for customers that otherwise may occur as a result of 3553
establishing the taxes contemplated in section 5727.81 of the 3554
Revised Code. 3555

(7) The rate unbundling plan complies with any rules 3556
adopted by the commission under division (A) of section 4928.06 3557
of the Revised Code. 3558

(8) The corporate separation plan required by division (A) 3559
(2) of section 4928.31 of the Revised Code complies with section 3560
4928.17 of the Revised Code and any rules adopted by the 3561
commission under division (A) of section 4928.06 of the Revised 3562
Code. 3563

(9) Any plan or plans the commission requires to address 3564
operational support systems and any other technical 3565
implementation issues pertaining to competitive retail electric 3566
service comply with any rules adopted by the commission under 3567
division (A) of section 4928.06 of the Revised Code. 3568

(10) The employee assistance plan required by division (A) 3569
(4) of section 4928.31 of the Revised Code sufficiently provides 3570
severance, retraining, early retirement, retention, 3571
outplacement, and other assistance for the utility's employees 3572
whose employment is affected by electric industry restructuring 3573
under this chapter. 3574

(11) The consumer education plan required under division 3575
(A) (5) of section 4928.31 of the Revised Code complies with 3576
former section 4928.42 of the Revised Code and any rules adopted 3577
by the commission under division (A) of section 4928.06 of the 3578
Revised Code. 3579

(12) The transition revenues for which an electric utility 3580
is authorized a revenue opportunity under sections 4928.31 to 3581
4928.40 of the Revised Code are the allowable transition costs 3582
of the utility as such costs are determined by the commission 3583
pursuant to section 4928.39 of the Revised Code, and the 3584
transition charges for the customer classes and rate schedules 3585
of the utility are the charges determined pursuant to section 3586
4928.40 of the Revised Code. 3587

(13) Any independent transmission plan included in the 3588
transition plan filed under section 4928.31 of the Revised Code 3589
reasonably complies with section 4928.12 of the Revised Code and 3590
any rules adopted by the commission under division (A) of 3591
section 4928.06 of the Revised Code, unless the commission, for 3592
good cause shown, authorizes the utility to defer compliance 3593
until an order is issued under division (G) of section 4928.35 3594
of the Revised Code. 3595

(14) The utility is in compliance with sections 4928.01 to 3596
4928.11 of the Revised Code and any rules or orders of the 3597
commission adopted or issued under those sections. 3598

(15) All unbundled components in the rate unbundling plan 3599
have been adjusted to reflect the elimination of the tax on 3600
gross receipts imposed by section 5727.30 of the Revised Code. 3601

In addition, a transition plan approved by the commission 3602
under section 4928.33 of the Revised Code but not containing an 3603
approved independent transmission plan shall contain the express 3604
conditions that the utility will comply with an order issued 3605
under division (G) of section 4928.35 of the Revised Code. 3606

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3607
~~Revised Code, if~~ If the commission finds that any part of the 3608

transition plan would constitute an abandonment under sections 3609
4905.20 and 4905.21 of the Revised Code, the commission shall 3610
not approve that part of the transition plan unless it makes the 3611
finding required for approval of an abandonment application 3612
under section 4905.21 of the Revised Code. Sections 4905.20 and 3613
4905.21 of the Revised Code otherwise shall not apply to a 3614
transition plan under sections 4928.31 to 4928.40 of the Revised 3615
Code. 3616

Sec. 4928.542. The winning bid or bids selected through 3617
the competitive procurement process established under section 3618
4928.54 of the Revised Code shall meet all of the following 3619
requirements: 3620

(A) Be designed to provide reliable competitive retail 3621
electric service to percentage of income payment plan program 3622
customers; 3623

(B) Reduce the cost of the percentage of income payment 3624
plan program relative to the otherwise applicable standard 3625
service offer established under sections 4928.141, ~~and~~ 4928.142, ~~and~~ 3626
~~and 4928.143~~ of the Revised Code; 3627

(C) Result in the best value for persons paying the 3628
universal service rider under section 4928.52 of the Revised 3629
Code. 3630

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3631
renewable energy resource" means a renewable energy resource, as 3632
defined in section 4928.01 of the Revised Code that: 3633

(a) Has a placed-in-service date on or after January 1, 3634
1998; 3635

(b) Is any run-of-the-river hydroelectric facility that 3636
has an in-service date on or after January 1, 1980; 3637

(c) Is a small hydroelectric facility;	3638
(d) Is created on or after January 1, 1998, by the	3639
modification or retrofit of any facility placed in service prior	3640
to January 1, 1998; or	3641
(e) Is a mercantile customer-sited renewable energy	3642
resource, whether new or existing, that the mercantile customer	3643
commits for integration into the electric distribution utility's	3644
demand-response, energy efficiency, or peak demand reduction	3645
programs as provided under division (A) (2) (c) of section 4928.66	3646
of the Revised Code, including, but not limited to, any of the	3647
following:	3648
(i) A resource that has the effect of improving the	3649
relationship between real and reactive power;	3650
(ii) A resource that makes efficient use of waste heat or	3651
other thermal capabilities owned or controlled by a mercantile	3652
customer;	3653
(iii) Storage technology that allows a mercantile customer	3654
more flexibility to modify its demand or load and usage	3655
characteristics;	3656
(iv) Electric generation equipment owned or controlled by	3657
a mercantile customer that uses a renewable energy resource.	3658
(2) For the purpose of this section and as it considers	3659
appropriate, the public utilities commission may classify any	3660
new technology as such a qualifying renewable energy resource.	3661
(B) (1) By the end of 2026, an electric distribution	3662
utility shall have provided from qualifying renewable energy	3663
resources, including, at its discretion, qualifying renewable	3664
energy resources obtained pursuant to an electricity supply	3665

contract, a portion of the electricity supply required for its 3666
 standard service offer under ~~section~~sections 4928.141 and 3667
4928.142 of the Revised Code, and an electric services company 3668
 shall have provided a portion of its electricity supply for 3669
 retail consumers in this state from qualifying renewable energy 3670
 resources, including, at its discretion, qualifying renewable 3671
 energy resources obtained pursuant to an electricity supply 3672
 contract. That portion shall equal eight and one-half per cent 3673
 of the total number of kilowatt hours of electricity sold by the 3674
 subject utility or company to any and all retail electric 3675
 consumers whose electric load centers are served by that utility 3676
 and are located within the utility's certified territory or, in 3677
 the case of an electric services company, are served by the 3678
 company and are located within this state. However, nothing in 3679
 this section precludes a utility or company from providing a 3680
 greater percentage. 3681

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3682
The portion required under division (B) (1) of this section shall 3683
 be generated from renewable energy resources in accordance with 3684
 the following benchmarks: 3685

	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 3687
by the utility or company shall be met either: 3688

(a) Through facilities located in this state; or 3689

(b) With resources that can be shown to be deliverable 3690
into this state. 3691

(C) (1) The commission annually shall review an electric 3692

distribution utility's or electric services company's compliance 3693
with the most recent applicable benchmark under division (B) (2) 3694
of this section and, in the course of that review, shall 3695
identify any undercompliance or noncompliance of the utility or 3696
company that it determines is weather-related, related to 3697
equipment or resource shortages for qualifying renewable energy 3698
resources as applicable, or is otherwise outside the utility's 3699
or company's control. 3700

(2) Subject to the cost cap provisions of division (C) (3) 3701
of this section, if the commission determines, after notice and 3702
opportunity for hearing, and based upon its findings in that 3703
review regarding avoidable undercompliance or noncompliance, but 3704
subject to division (C) (4) of this section, that the utility or 3705
company has failed to comply with any such benchmark, the 3706
commission shall impose a renewable energy compliance payment on 3707
the utility or company. 3708

(a) The compliance payment pertaining to the solar energy 3709
resource benchmarks under division (B) (2) of this section shall 3710
be an amount per megawatt hour of undercompliance or 3711
noncompliance in the period under review, as follows: 3712

(i) Three hundred dollars for 2014, 2015, and 2016; 3713

(ii) Two hundred fifty dollars for 2017 and 2018; 3714

(iii) Two hundred dollars for 2019. 3715

(b) The compliance payment pertaining to the renewable 3716
energy resource benchmarks under division (B) (2) of this section 3717
shall equal the number of additional renewable energy credits 3718
that the electric distribution utility or electric services 3719
company would have needed to comply with the applicable 3720
benchmark in the period under review times an amount that shall 3721

begin at forty-five dollars and shall be adjusted annually by 3722
the commission to reflect any change in the consumer price index 3723
~~as defined in section 101.27 of the Revised Code~~, but shall not 3724
be less than forty-five dollars. As used in this division, 3725
"consumer price index" means the consumer price index prepared 3726
by the United States bureau of labor statistics (U.S. city 3727
average for urban wage earners and clerical workers: all items, 3728
1982-1984=100), or, if that index is no longer published, a 3729
generally available comparable index. 3730

(c) The compliance payment shall not be passed through by 3731
the electric distribution utility or electric services company 3732
to consumers. The compliance payment shall be remitted to the 3733
commission, for deposit to the credit of the advanced energy 3734
fund created under section 4928.61 of the Revised Code. Payment 3735
of the compliance payment shall be subject to such collection 3736
and enforcement procedures as apply to the collection of a 3737
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3738
Revised Code. 3739

(3) An electric distribution utility or an electric 3740
services company need not comply with a benchmark under division 3741
(B) (2) of this section to the extent that its reasonably 3742
expected cost of that compliance exceeds its reasonably expected 3743
cost of otherwise producing or acquiring the requisite 3744
electricity by three per cent or more. The cost of compliance 3745
shall be calculated as though any exemption from taxes and 3746
assessments had not been granted under section 5727.75 of the 3747
Revised Code. 3748

(4) (a) An electric distribution utility or electric 3749
services company may request the commission to make a force 3750
majeure determination pursuant to this division regarding all or 3751

part of the utility's or company's compliance with any minimum 3752
benchmark under division (B) (2) of this section during the 3753
period of review occurring pursuant to division (C) (2) of this 3754
section. The commission may require the electric distribution 3755
utility or electric services company to make solicitations for 3756
renewable energy resource credits as part of its default service 3757
before the utility's or company's request of force majeure under 3758
this division can be made. 3759

(b) Within ninety days after the filing of a request by an 3760
electric distribution utility or electric services company under 3761
division (C) (4) (a) of this section, the commission shall 3762
determine if qualifying renewable energy resources are 3763
reasonably available in the marketplace in sufficient quantities 3764
for the utility or company to comply with the subject minimum 3765
benchmark during the review period. In making this 3766
determination, the commission shall consider whether the 3767
electric distribution utility or electric services company has 3768
made a good faith effort to acquire sufficient qualifying 3769
renewable energy or, as applicable, solar energy resources to so 3770
comply, including, but not limited to, by banking or seeking 3771
renewable energy resource credits or by seeking the resources 3772
through long-term contracts. Additionally, the commission shall 3773
consider the availability of qualifying renewable energy or 3774
solar energy resources in this state and other jurisdictions in 3775
the PJM interconnection regional transmission organization, 3776
L.L.C., or its successor and the midcontinent independent system 3777
operator or its successor. 3778

(c) If, pursuant to division (C) (4) (b) of this section, 3779
the commission determines that qualifying renewable energy or 3780
solar energy resources are not reasonably available to permit 3781
the electric distribution utility or electric services company 3782

to comply, during the period of review, with the subject minimum 3783
benchmark prescribed under division (B) (2) of this section, the 3784
commission shall modify that compliance obligation of the 3785
utility or company as it determines appropriate to accommodate 3786
the finding. Commission modification shall not automatically 3787
reduce the obligation for the electric distribution utility's or 3788
electric services company's compliance in subsequent years. If 3789
it modifies the electric distribution utility or electric 3790
services company obligation under division (C) (4) (c) of this 3791
section, the commission may require the utility or company, if 3792
sufficient renewable energy resource credits exist in the 3793
marketplace, to acquire additional renewable energy resource 3794
credits in subsequent years equivalent to the utility's or 3795
company's modified obligation under division (C) (4) (c) of this 3796
section. 3797

(5) The commission shall establish a process to provide 3798
for at least an annual review of the renewable energy resource 3799
market in this state and in the service territories of the 3800
regional transmission organizations that manage transmission 3801
systems located in this state. The commission shall use the 3802
results of this study to identify any needed changes to the 3803
amount of the renewable energy compliance payment specified 3804
under divisions (C) (2) (a) and (b) of this section. Specifically, 3805
the commission may increase the amount to ensure that payment of 3806
compliance payments is not used to achieve compliance with this 3807
section in lieu of actually acquiring or realizing energy 3808
derived from qualifying renewable energy resources. However, if 3809
the commission finds that the amount of the compliance payment 3810
should be otherwise changed, the commission shall present this 3811
finding to the general assembly for legislative enactment. 3812

(D) The commission annually shall submit to the general 3813

assembly in accordance with section 101.68 of the Revised Code a 3814
report describing all of the following: 3815

(1) The compliance of electric distribution utilities and 3816
electric services companies with division (B) of this section; 3817

(2) The average annual cost of renewable energy credits 3818
purchased by utilities and companies for the year covered in the 3819
report; 3820

(3) Any strategy for utility and company compliance or for 3821
encouraging the use of qualifying renewable energy resources in 3822
supplying this state's electricity needs in a manner that 3823
considers available technology, costs, job creation, and 3824
economic impacts. 3825

The commission shall begin providing the information 3826
described in division (D) (2) of this section in each report 3827
submitted after September 10, 2012. The commission shall allow 3828
and consider public comments on the report prior to its 3829
submission to the general assembly. Nothing in the report shall 3830
be binding on any person, including any utility or company for 3831
the purpose of its compliance with any benchmark under division 3832
(B) of this section, or the enforcement of that provision under 3833
division (C) of this section. 3834

(E) All costs incurred by an electric distribution utility 3835
in complying with the requirements of this section shall be 3836
bypassable by any consumer that has exercised choice of supplier 3837
under section 4928.03 of the Revised Code. 3838

Sec. 4928.645. (A) An electric distribution utility or 3839
electric services company may use, for the purpose of complying 3840
with the requirements under divisions (B) (1) and (2) of section 3841
4928.64 of the Revised Code, renewable energy credits any time 3842

in the five calendar years following the date of their purchase 3843
or acquisition from any entity, including, but not limited to, 3844
the following: 3845

(1) A mercantile customer; 3846

(2) An owner or operator of a hydroelectric generating 3847
facility that is located at a dam on a river, or on any water 3848
discharged to a river, that is within or bordering this state or 3849
within or bordering an adjoining state, or that produces power 3850
that can be shown to be deliverable into this state; 3851

(3) A seller of compressed natural gas that has been 3852
produced from biologically derived methane gas, provided that 3853
the seller may only provide renewable energy credits for metered 3854
amounts of gas. 3855

(B) (1) The public utilities commission shall adopt rules 3856
specifying that one unit of credit shall equal one megawatt hour 3857
of electricity derived from renewable energy resources, except 3858
that, for a generating facility of seventy-five megawatts or 3859
greater that is situated within this state and has committed by 3860
December 31, 2009, to modify or retrofit its generating unit or 3861
units to enable the facility to generate principally from 3862
biomass energy by June 30, 2013, each megawatt hour of 3863
electricity generated principally from that biomass energy shall 3864
equal, in units of credit, the product obtained by multiplying 3865
the actual percentage of biomass feedstock heat input used to 3866
generate such megawatt hour by the quotient obtained by dividing 3867
the then existing unit dollar amount used to determine a 3868
renewable energy compliance payment as provided under division 3869
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3870
existing market value of one renewable energy credit, but such 3871
megawatt hour shall not equal less than one unit of credit. 3872

Renewable energy resources do not have to be converted to 3873
electricity in order to be eligible to receive renewable energy 3874
credits. The rules shall specify that, for purposes of 3875
converting the quantity of energy derived from biologically 3876
derived methane gas to an electricity equivalent, one megawatt 3877
hour equals 3,412,142 British thermal units. 3878

(2) The rules also shall provide for this state a system 3879
of registering renewable energy credits by specifying which of 3880
any generally available registries shall be used for that 3881
purpose and not by creating a registry. That selected system of 3882
registering renewable energy credits shall allow a hydroelectric 3883
generating facility to be eligible for obtaining renewable 3884
energy credits and shall allow customer-sited projects or 3885
actions the broadest opportunities to be eligible for obtaining 3886
renewable energy credits. 3887

~~(C) Beginning January 1, 2020, a qualifying solar resource 3888
as defined in section 3706.40 of the Revised Code is not 3889
eligible to obtain a renewable energy credit under this section 3890
for any megawatt hour for which the resource has been issued a 3891
solar energy credit under section 3706.45 of the Revised Code. 3892~~

~~(D) Except for compressed natural gas that has been 3893
produced from biologically derived methane gas, energy generated 3894
by using natural gas as a resource is not eligible to obtain a 3895
renewable energy credit under this section. 3896~~

Sec. 4928.73. (A) As used in this section: 3897

(1) "Mercantile customer member" means a mercantile 3898
customer connected to a mercantile customer self-power system. 3899

(2) "Mercantile customer self-power system" means one or 3900
more electric generation facilities, electric storage 3901

facilities, or both, along with any associated facilities, that 3902
meet all of the following: 3903

(a) Produce electricity primarily for the consumption of a 3904
mercantile customer member or a group of mercantile customer 3905
members; 3906

(b) Connect directly to the mercantile customer member's 3907
side of the electric meter; 3908

(c) Deliver electricity to the mercantile customer 3909
member's side of the electric meter without the use of an 3910
electric distribution utility's or an electric cooperative's 3911
distribution system or transmission system; 3912

(d) Is located on either of the following: 3913

(i) A property owned or controlled by a mercantile 3914
customer member or the entity that owns or operates the 3915
mercantile customer self-power system, provided that the 3916
property is not located more than one mile from the customer or 3917
group of customers that consume the electricity produced by the 3918
facilities; 3919

(ii) Land adjacent to a mercantile customer member if the 3920
facilities connect directly with the customer. 3921

(B) The mercantile customer self-power system may be owned 3922
or operated by a mercantile customer member, group of mercantile 3923
customer members, or an entity that is not a mercantile customer 3924
member. 3925

(C) A mercantile customer self-power system may provide 3926
electric generation service to one or more mercantile customers. 3927

(D) The public utilities commission shall adopt rules to 3928
implement this section that are applicable to electric 3929

distribution utilities. 3930

(E) Nothing in this section prohibits an electric 3931
distribution utility or an electric cooperative from charging a 3932
mercantile customer for distribution or transmission service 3933
used by a mercantile customer. 3934

Sec. 4929.20. ~~(A)~~ (A) (1) No governmental aggregator as 3935
defined in division (K) (1) of section 4929.01 of the Revised 3936
Code or no retail natural gas supplier shall provide a 3937
competitive retail natural gas service on or after thirteen 3938
months following ~~the effective date of this section~~ June 26, 3939
2001, to a consumer in this state without first being certified 3940
by the public utilities commission regarding its managerial, 3941
technical, and financial capability to provide that service and 3942
providing reasonable financial assurances sufficient to protect 3943
customers and natural gas companies from default. ~~In addition, a~~ 3944
~~retail natural gas supplier may be required to provide a~~ 3945
~~performance bond sufficient to protect customers and natural gas~~ 3946
~~companies from default.~~ Certification shall be granted pursuant 3947
to procedures and standards the commission shall prescribe in 3948
accordance with rules adopted under section 4929.10 of the 3949
Revised Code. However, certification or certification renewal 3950
shall be deemed approved thirty days after the filing of an 3951
application with the commission unless the commission suspends 3952
that approval for good cause shown. In the case of such a 3953
suspension, the commission shall act to approve or deny 3954
certification or certification renewal to the applicant not 3955
later than ninety days after the date of the suspension. 3956

(2) The commission shall establish rules to require a 3957
competitive retail natural gas supplier to maintain financial 3958
assurances sufficient to protect customers and natural gas 3959

companies from default. Such rules also shall specifically allow 3960
a natural gas company to set reasonable standards for its 3961
security and the security of its customers through financial 3962
requirements set in its tariffs. 3963

(3) As used in division (A) (2) of this section, "retail 3964
natural gas supplier" has the same meaning as in section 4929.01 3965
of the Revised Code, but excludes a broker or aggregator. 3966

(B) Capability standards adopted in rules pursuant to 3967
division (A) of this section shall be sufficient to ensure 3968
compliance with section 4929.22 of the Revised Code and with the 3969
minimum service requirements established under section 4929.23 3970
of the Revised Code. The standards shall allow flexibility for 3971
voluntary aggregation, to encourage market creativity in 3972
responding to consumer needs and demands. The rules shall 3973
include procedures for biennially renewing certification. 3974

(C) (1) The commission may suspend, rescind, or 3975
conditionally rescind the certification of any retail natural 3976
gas supplier or governmental aggregator issued under this 3977
section if the commission determines, after reasonable notice 3978
and opportunity for hearing, that the retail natural gas 3979
supplier or governmental aggregator has failed to comply with 3980
any applicable certification standards prescribed in rules 3981
adopted pursuant to this section or section 4929.22 of the 3982
Revised Code. 3983

(2) An affected natural gas company may file an 3984
application with the commission for approval of authority to 3985
recover in accordance with division (C) (2) of this section 3986
incremental costs reasonably and prudently incurred by the 3987
company in connection with the commission's continuation, 3988
suspension, rescission, or conditional rescission of a 3989

particular retail natural gas supplier's certification under 3990
division (C) (1) of this section. Upon the filing of such an 3991
application, the commission shall conduct an audit of such 3992
incremental costs as are specified in the application. Cost 3993
recovery shall be through a rider on the base rates of customers 3994
of the company for which there is a choice of supplier of 3995
commodity sales service as a result of revised schedules 3996
approved under division (C) of section 4929.29 of the Revised 3997
Code, a rule or order adopted or issued by the commission under 3998
Chapter 4905. of the Revised Code, or an exemption granted by 3999
the commission under sections 4929.04 to 4929.08 of the Revised 4000
Code. The rider shall take effect ninety days after the date of 4001
the application's filing unless the commission, based on the 4002
audit results and for good cause shown, sets the matter for 4003
hearing. After the hearing, the commission shall approve the 4004
application, and authorize such cost recovery rider effective on 4005
the date specified in the order, only for such incremental costs 4006
as the commission determines were reasonably and prudently 4007
incurred by the company in connection with the continuation, 4008
suspension, rescission, or conditional rescission of a retail 4009
natural gas supplier's certification under division (C) (1) of 4010
this section. Any proceeding under division (C) (2) of this 4011
section shall be governed by Chapter 4903. of the Revised Code. 4012

(D) No natural gas company, on and after thirteen months 4013
~~following the effective date of this section~~ June 26, 2001, 4014
shall knowingly distribute natural gas, to a retail consumer in 4015
this state, for any governmental aggregator, as defined in 4016
division (K) (1) of section 4929.01 of the Revised Code, or 4017
retail natural gas supplier, that has not been certified by the 4018
commission pursuant to this section. 4019

(E) Notwithstanding any provision of section 121.95 of the 4020

Revised Code to the contrary, a regulatory restriction contained 4021
in a rule adopted under section 4929.20 of the Revised Code is 4022
not subject to sections 121.95 to 121.953 of the Revised Code. 4023

Sec. 4929.221. (A) If a competitive retail natural gas 4024
service supplier offers a residential customer or non-mercantile 4025
commercial customer a contract for a fixed introductory rate 4026
that converts to a variable rate upon the expiration of the 4027
fixed rate, the supplier shall send two notices to each 4028
residential customer and non-mercantile commercial customer that 4029
enters into such a contract. Each notice shall provide all of 4030
the following information to the customer: 4031

(1) The fixed rate that is expiring under the contract; 4032

(2) The expiration date of the contract's fixed rate; 4033

(3) The rate to be charged upon the contract's conversion 4034
to a variable rate; 4035

(4) The public utilities commission web site that, as a 4036
comparison tool, lists rates offered by competitive retail 4037
natural gas service suppliers; 4038

(5) A statement explaining that appearing on each 4039
customer's bill is a price-to-compare notice that lists the 4040
natural gas company's default rate for natural gas charged to 4041
customers who decide not to shop for a competitive supplier. 4042

(B) The notices shall be sent by standard United States 4043
mail as follows: 4044

(1) The supplier shall send the first notice not earlier 4045
than ninety days and not later than sixty days prior to the 4046
expiration of the fixed rate. 4047

(2) The supplier shall send the second notice not earlier 4048

than forty-five days and not later than thirty days prior to the 4049
expiration of the fixed rate. 4050

(C) A competitive retail natural gas service supplier 4051
shall provide an annual notice, by standard United States mail, 4052
to each residential customer and non-mercantile commercial 4053
customer that has entered into a contract with the supplier that 4054
has converted to a variable rate upon the expiration of the 4055
contract's fixed introductory rate. The notice shall inform the 4056
customer that the customer is currently subject to a variable 4057
rate and that other fixed rate contracts are available. 4058

(D) Not later than one hundred fifty days after the 4059
effective date of this section, the commission shall adopt rules 4060
in order to implement divisions (A) to (C) of this section. The 4061
rules, at a minimum, shall include the following requirements 4062
regarding the notices required under divisions (A) to (C) of 4063
this section: 4064

(1) To use clear and unambiguous language in order to 4065
enable the customer to make an informed decision; 4066

(2) To design the notices in a way to ensure that they 4067
cannot be confused with marketing materials. 4068

(E) Notwithstanding any provision of section 121.95 of the 4069
Revised Code to the contrary, a regulatory restriction contained 4070
in a rule adopted under section 4929.221 of the Revised Code is 4071
not subject to sections 121.95 to 121.953 of the Revised Code. 4072

Sec. 4929.222. (A) As used in this section, "customer 4073
account information" means a unique natural gas company number 4074
or other customer identification number used by the company to 4075
identify a customer and the customer's account record. 4076

(B) The public utilities commission shall adopt rules to 4077

ensure that a natural gas company processes a customer's change 4078
in competitive retail natural gas supplier by using customer 4079
account information. A customer who consents to a change of 4080
supplier shall not be required to provide customer account 4081
information to the supplier if the customer provides a valid 4082
form of government-issued identification issued to the customer 4083
or a sufficient alternative form of identification that allows 4084
the supplier to establish the customer's identity accurately. 4085

(C) Notwithstanding any provision of section 121.95 of the 4086
Revised Code to the contrary, a regulatory restriction contained 4087
in a rule adopted under this section is not subject to sections 4088
121.95 to 121.953 of the Revised Code. 4089

Sec. 5727.01. As used in this chapter: 4090

(A) "Public utility" means each person referred to as a 4091
telephone company, telegraph company, electric company, natural 4092
gas company, pipe-line company, water-works company, water 4093
transportation company, heating company, rural electric company, 4094
railroad company, combined company, or energy company. 4095

(B) "Gross receipts" means the entire receipts for 4096
business done by any person from operations as a public utility, 4097
or incidental thereto, or in connection therewith, including any 4098
receipts received under Chapter 4928. of the Revised Code. The 4099
gross receipts for business done by an incorporated company 4100
engaged in operation as a public utility includes the entire 4101
receipts for business done by such company under the exercise of 4102
its corporate powers, whether from the operation as a public 4103
utility or from any other business. 4104

(C) "Rural electric company" means any nonprofit 4105
corporation, organization, association, or cooperative engaged 4106

in the business of supplying electricity to its members or 4107
persons owning an interest therein in an area the major portion 4108
of which is rural. "Rural electric company" excludes an energy 4109
company. 4110

(D) Any person: 4111

(1) Is a telegraph company when engaged in the business of 4112
transmitting telegraphic messages to, from, through, or in this 4113
state; 4114

(2) Is a telephone company when primarily engaged in the 4115
business of providing local exchange telephone service, 4116
excluding cellular radio service, in this state; 4117

(3) Is an electric company when engaged in the business of 4118
generating, transmitting, or distributing electricity within 4119
this state for use by others, but excludes a rural electric 4120
company or an energy company; 4121

(4) Is a natural gas company when engaged in the business 4122
of supplying or distributing natural gas for lighting, power, or 4123
heating purposes to consumers within this state, excluding a 4124
person that is a governmental aggregator or retail natural gas 4125
supplier as defined in section 4929.01 of the Revised Code; 4126

(5) Is a pipe-line company when engaged in the business of 4127
transporting natural gas, oil, or coal or its derivatives 4128
through pipes or tubing, either wholly or partially within this 4129
state; 4130

(6) Is a water-works company when engaged in the business 4131
of supplying water through pipes or tubing, or in a similar 4132
manner, to consumers within this state; 4133

(7) Is a water transportation company when engaged in the 4134

transportation of passengers or property, by boat or other 4135
watercraft, over any waterway, whether natural or artificial, 4136
from one point within this state to another point within this 4137
state, or between points within this state and points without 4138
this state; 4139

(8) Is a heating company when engaged in the business of 4140
supplying water, steam, or air through pipes or tubing to 4141
consumers within this state for heating purposes; 4142

(9) Is a railroad company when engaged in the business of 4143
owning or operating a railroad either wholly or partially within 4144
this state on rights-of-way acquired and held exclusively by 4145
such company, or otherwise, and includes a passenger, street, 4146
suburban, or interurban railroad company; 4147

(10) Is an energy company when engaged in the business of 4148
generating, transmitting, storing and releasing, or distributing 4149
electricity within this state for use by others solely from an 4150
energy facility with an aggregate nameplate capacity in excess 4151
of two hundred fifty kilowatts. 4152

As used in division (D)(2) of this section, "local 4153
exchange telephone service" means making available or furnishing 4154
access and a dial tone to all persons within a local calling 4155
area for use in originating and receiving voice grade 4156
communications over a switched network operated by the provider 4157
of the service within the area and for gaining access to other 4158
telecommunication services. 4159

(E) "Taxable property" means the property required by 4160
section 5727.06 of the Revised Code to be assessed by the tax 4161
commissioner, but does not include either of the following: 4162

(1) An item of tangible personal property that for the 4163

period subsequent to the effective date of an air, water, or 4164
noise pollution control certificate and continuing so long as 4165
the certificate is in force, has been certified as part of the 4166
pollution control facility with respect to which the certificate 4167
has been issued; 4168

(2) An item of tangible personal property that during the 4169
construction of a plant or facility and until the item is first 4170
capable of operation, whether actually used in operation or not, 4171
is incorporated in or being held exclusively for incorporation 4172
in that plant or facility. 4173

Notwithstanding section 5701.03 of the Revised Code, for 4174
tax year 2006 and thereafter, "taxable property" includes 4175
patterns, jigs, dies, and drawings of an electric company or a 4176
combined company for use in the activity of an electric company. 4177

(F) "Taxing district" means a municipal corporation or 4178
township, or part thereof, in which the aggregate rate of 4179
taxation is uniform. 4180

(G) "Telecommunications service" has the same meaning as 4181
in division (AA) of section 5739.01 of the Revised Code. 4182

(H) "Interexchange telecommunications company" means a 4183
person that is engaged in the business of transmitting 4184
telephonic messages to, from, through, or in this state, but 4185
that is not a telephone company. 4186

(I) "Sale and leaseback transaction" means a transaction 4187
in which a public utility or interexchange telecommunications 4188
company sells any tangible personal property to a person other 4189
than a public utility or interexchange telecommunications 4190
company and leases that property back from the buyer. 4191

(J) "Production equipment" means all taxable steam, 4192

nuclear, hydraulic, renewable resource, clean coal technology, 4193
and other production plant equipment used to generate or store 4194
and release electricity. For tax years prior to 2001, 4195
"production equipment" includes taxable station equipment that 4196
is located at a production plant. 4197

(K) "Tax year" means the year for which property or gross 4198
receipts are subject to assessment under this chapter. This 4199
division does not limit the tax commissioner's ability to assess 4200
and value property or gross receipts outside the tax year. 4201

(L) "Combined company" means any person engaged in the 4202
activity of an electric company or rural electric company that 4203
is also engaged in the activity of a heating company or a 4204
natural gas company, or any combination thereof. 4205

(M) "Public utility property lessor" means any person, 4206
other than a public utility or an interexchange 4207
telecommunications company, that leases personal property, other 4208
than in a sale and leaseback transaction, to a public utility, 4209
other than a railroad, water transportation, telephone, or 4210
telegraph company if the property would be taxable property if 4211
owned by the public utility. A public utility property lessor is 4212
subject to this chapter only for the purposes of reporting and 4213
paying tax on taxable property it leases to a public utility 4214
other than a telephone or telegraph company. A public utility 4215
property lessor that leases property to a public utility other 4216
than a telephone or telegraph company is not a public utility, 4217
but it shall report its property and be assessed in the same 4218
manner as the utility to which it leases the property. 4219

(N) "Energy resource" means any of the following: 4220

(1) "Renewable energy resource" as defined in section 4221

4928.01 of the Revised Code;	4222
(2) "Clean coal technology" as described in division (A)	4223
(34) (c) of section 4928.01 of the Revised Code;	4224
(3) "Advanced nuclear technology" as described in division	4225
(A) (34) (d) of section 4928.01 of the Revised Code;	4226
(4) "Cogeneration technology" as described in division (A)	4227
(34) (b) of section 4928.01 of the Revised Code;	4228
<u>(5) Energy storage system.</u>	4229
(O) "Energy conversion equipment" means tangible personal	4230
property connected to a wind turbine tower, connected to and	4231
behind solar radiation collector areas and designed to convert	4232
the radiant energy of the sun into electricity or heat, or	4233
connected to any other property used to generate <u>or store and</u>	4234
<u>release electricity</u> from an energy resource, through which	4235
electricity is transferred to controls, transformers, or power	4236
electronics and to the transmission interconnection point.	4237
"Energy conversion equipment" includes, but is not limited	4238
to, inverters, batteries, switch gears, wiring, collection	4239
lines, substations, ancillary tangible personal property, or any	4240
lines and associated tangible personal property located between	4241
substations and the transmission interconnection point.	4242
(P) "Energy facility" means one or more interconnected	4243
wind turbines, solar panels, <u>energy storage systems,</u> or other	4244
tangible personal property used to generate <u>or store and release</u>	4245
electricity from an energy resource owned by the same person,	4246
including:	4247
(1) All interconnection equipment, devices, and related	4248
apparatus connected to such tangible personal property;	4249

(2) All cables, equipment, devices, and related apparatus 4250
that connect the generators to an electricity grid or to a 4251
building or facility that directly consumes the electricity 4252
produced, that facilitate the transmission of electrical energy 4253
from the generators to the grid, building, or facility, and, 4254
where applicable, that transform voltage before ultimate 4255
delivery of electricity to the grid, building, or facility. 4256

"Energy facility" includes buildings, structures, 4257
improvements, or fixtures exclusively used to house, support, or 4258
stabilize tangible personal property constituting the facility 4259
or that are otherwise necessary for the operation of that 4260
property; and so much of the land on which such tangible 4261
personal property is situated as is required for operation of 4262
the facility and is not devoted to some other use, not to 4263
exceed, in the case of wind turbines, one-half acre for each 4264
wind turbine, and regardless of whether the land is owned by the 4265
owner or lessee of the tangible personal property or by another 4266
person. 4267

(Q) "Nameplate capacity" means the original interconnected 4268
maximum rated alternating current output of a generator or other 4269
electric production equipment under specific conditions 4270
designated by the manufacturer, expressed in the number of 4271
kilowatts or megawatts. 4272

(R) "Qualifying production equipment" means production 4273
equipment and energy conversion equipment that is placed into 4274
service on or after the last day of the year that includes the 4275
effective date of this amendment. 4276

(S) "Energy storage system" means tangible personal 4277
property that is capable of storing and releasing energy. 4278

Sec. 5727.031. (A) A person that is engaged in some other 4279
primary business to which the supplying of electricity to others 4280
is incidental shall file a report under section 5727.08 of the 4281
Revised Code as an electric company but shall only report 4282
therein as taxable property the amounts required in divisions 4283
(B) and (C) of this section. All time limits and other 4284
procedural requirements of this chapter for the reporting and 4285
assessment of property of electric companies apply to persons 4286
required to file a report under this section. For the purposes 4287
of this section, "the supplying of electricity to others" shall 4288
not include donating all of the electricity a person generates 4289
to a political subdivision of the state. 4290

(B) A person subject to this section shall report the true 4291
value of the boilers, machinery, equipment, and any personal 4292
property used to supply electricity to others, which shall be 4293
the sum of the following: 4294

(1) The true value of the property that is taxable 4295
production equipment, as such true value ~~it~~ would be determined 4296
for an electric company under section 5727.11 of the Revised 4297
Code, multiplied by the per cent of the electricity generated in 4298
the preceding calendar year that was not used by the person who 4299
generated it; plus 4300

(2) The true value of the property that is not production 4301
equipment, as ~~it~~ such true value would be determined for an 4302
electric company under section 5727.11 of the Revised Code, 4303
multiplied by the per cent of the electricity generated in the 4304
preceding calendar year that was not used by the person who 4305
generated it. 4306

(C) The property reported under division (B) of this 4307
section shall be listed and assessed at an amount equal to the 4308

sum of the products determined under divisions (C) (1) and (2) of 4309
this section. 4310

(1) Multiply the portion of the true value determined 4311
under division (B) (1) of this section by the assessment rate in 4312
section 5727.111 of the Revised Code that is applicable to the_ 4313
taxable production equipment of an electric company; 4314

(2) Multiply the portion of the true value determined 4315
under division (B) (2) of this section by the assessment rate in 4316
section 5727.111 of the Revised Code that is applicable to the 4317
taxable property of an electric company that is not production 4318
equipment. 4319

Sec. 5727.06. (A) Except as otherwise provided by law, the 4320
following constitutes the taxable property of a public utility, 4321
interexchange telecommunications company, or public utility 4322
property lessor that shall be assessed by the tax commissioner: 4323

(1) For tax years before tax year 2006: 4324

(a) In the case of a railroad company, all real property 4325
and tangible personal property owned or operated by the railroad 4326
company in this state on the thirty-first day of December of the 4327
preceding year; 4328

(b) In the case of a water transportation company, all 4329
tangible personal property, except watercraft, owned or operated 4330
by the water transportation company in this state on the thirty- 4331
first day of December of the preceding year and all watercraft 4332
owned or operated by the water transportation company in this 4333
state during the preceding calendar year; 4334

(c) In the case of all other public utilities and 4335
interexchange telecommunications companies, all tangible 4336
personal property that on the thirty-first day of December of 4337

the preceding year was both located in this state and: 4338

(i) Owned by the public utility or interexchange 4339
telecommunications company; or 4340

(ii) Leased by the public utility or interexchange 4341
telecommunications company under a sale and leaseback 4342
transaction. 4343

(2) For tax years 2006, 2007, and 2008: 4344

(a) In the case of a railroad company, all real property 4345
used in railroad operations and tangible personal property owned 4346
or operated by the railroad company in this state on the thirty- 4347
first day of December of the preceding year; 4348

(b) In the case of a water transportation company, all 4349
tangible personal property, except watercraft, owned or operated 4350
by the water transportation company in this state on the thirty- 4351
first day of December of the preceding year and all watercraft 4352
owned or operated by the water transportation company in this 4353
state during the preceding calendar year; 4354

(c) In the case of all other public utilities except 4355
telephone and telegraph companies, all tangible personal 4356
property that on the thirty-first day of December of the 4357
preceding year was both located in this state and either owned 4358
by the public utility or leased by the public utility under a 4359
sale and leaseback transaction. 4360

(3) For tax year 2009 and each tax year thereafter: 4361

(a) In the case of a railroad company, all real property 4362
used in railroad operations and tangible personal property owned 4363
or operated by the railroad company in this state on the thirty- 4364
first day of December of the preceding year; 4365

(b) In the case of a water transportation company, all 4366
tangible personal property, except watercraft, owned or operated 4367
by the water transportation company in this state on the thirty- 4368
first day of December of the preceding year and all watercraft 4369
owned or operated by the water transportation company in this 4370
state during the preceding calendar year; 4371

(c) In the case of all other public utilities except 4372
telephone and telegraph companies, all tangible personal 4373
property except qualifying production equipment that on the 4374
thirty-first day of December of the preceding year was both 4375
located in this state and either owned by the public utility or 4376
leased by the public utility under a sale and leaseback 4377
transaction, and that is not exempted from taxation under 4378
section 5727.75 of the Revised Code; 4379

(d) In the case of a public utility property lessor, all 4380
personal property except qualifying production equipment that on 4381
the thirty-first day of December of the preceding year was both 4382
located in this state and leased, in other than a sale and 4383
leaseback transaction, to a public utility other than a 4384
railroad, telephone, telegraph, or water transportation company. 4385
The assessment rate used under section 5727.111 of the Revised 4386
Code shall be based on the assessment rate that would apply if 4387
the public utility owned the property, and that is not exempted 4388
from taxation under section 5727.75 of the Revised Code. 4389

(4) For tax years 2005 and 2006, in the case of telephone, 4390
telegraph, or interexchange telecommunications companies, all 4391
tangible personal property that on the thirty-first day of 4392
December of the preceding year was both located in this state 4393
and either owned by the telephone, telegraph, or interexchange 4394
telecommunications company or leased by the telephone, 4395

telegraph, or interexchange telecommunications company under a 4396
sale and leaseback transaction. 4397

(5) (a) For tax year 2007 and thereafter, in the case of 4398
telephone, telegraph, or interexchange telecommunications 4399
companies, all tangible personal property shall be listed and 4400
assessed for taxation under Chapter 5711. of the Revised Code, 4401
but the tangible personal property shall be valued in accordance 4402
with this chapter using the composite annual allowances and 4403
other valuation procedures prescribed under section 5727.11 of 4404
the Revised Code by the tax commissioner for such property for 4405
tax year 2006, notwithstanding any section of Chapter 5711. of 4406
the Revised Code to the contrary. 4407

(b) A telephone, telegraph, or interexchange 4408
telecommunications company subject to division (A) (5) (a) of this 4409
section shall file a combined return with the tax commissioner 4410
in accordance with section 5711.13 of the Revised Code even if 4411
the company has tangible personal property in only one county. 4412
Such a company also is subject to the issuance of a preliminary 4413
assessment certificate by the tax commissioner under section 4414
5711.25 of the Revised Code. Such a company is not required to 4415
file a county supplemental return under section 5711.131 of the 4416
Revised Code. 4417

(6) In the case of an energy company, for tax year 2011 4418
and each tax year thereafter, all tangible personal property 4419
except qualifying production equipment that on the thirty-first 4420
day of December of the preceding year was both located in this 4421
state and either owned by the company or leased by the company 4422
under a sale and leaseback transaction, and that is not exempted 4423
from taxation under section 5727.75 of the Revised Code. 4424

(B) This division applies to tax years before tax year 4425

2007. 4426

In the case of an interexchange telecommunications 4427
company, all taxable property shall be subject to the provisions 4428
of this chapter and shall be valued by the commissioner in 4429
accordance with division (A) of section 5727.11 of the Revised 4430
Code. A person described by this division shall file the report 4431
required by section 5727.08 of the Revised Code. Persons 4432
described in this division shall not be considered taxpayers, as 4433
defined in division (B) of section 5711.01 of the Revised Code, 4434
and shall not be required to file a return and list their 4435
taxable property under any provision of Chapter 5711. of the 4436
Revised Code. 4437

(C) The lien of the state for taxes levied each year on 4438
the real and personal property of public utilities and 4439
interexchange telecommunications companies and on the personal 4440
property of public utility property lessors shall attach thereto 4441
on the thirty-first day of December of the preceding year. 4442

(D) Property that is required by division (A) (3) (b) of 4443
this section to be assessed by the tax commissioner under this 4444
chapter shall not be listed by the owner of the property under 4445
Chapter 5711. of the Revised Code. 4446

(E) The ten-thousand-dollar exemption provided for in 4447
division (C) (3) of section 5709.01 of the Revised Code does not 4448
apply to any personal property that is valued under this 4449
chapter. 4450

(F) The tax commissioner may adopt rules governing the 4451
listing of the taxable property of public utilities and 4452
interexchange telecommunications companies and the determination 4453
of true value. 4454

Sec. 5727.11. (A) Except as otherwise provided in this 4455
section, the true value of all taxable property, except property 4456
of a railroad company, required by section 5727.06 of the 4457
Revised Code to be assessed by the tax commissioner shall be 4458
determined by a method of valuation using cost as capitalized on 4459
the public utility's books and records less composite annual 4460
allowances as prescribed by the commissioner. If the 4461
commissioner finds that application of this method will not 4462
result in the determination of true value of the public 4463
utility's taxable property, the commissioner may use another 4464
method of valuation. 4465

(B) (1) Except as provided in division (B) (2) of this 4466
section, the true value of current gas stored underground is the 4467
cost of that gas shown on the books and records of the public 4468
utility on the thirty-first day of December of the preceding 4469
year. 4470

(2) For tax year 2001 and thereafter, the true value of 4471
current gas stored underground is the quotient obtained by 4472
dividing (a) the average value of the current gas stored 4473
underground, which shall be determined by adding the value of 4474
the gas on hand at the end of each calendar month in the 4475
calendar year preceding the tax year, or, if applicable, the 4476
last day of business of each month for a partial month, divided 4477
by (b) the total number of months the natural gas company was in 4478
business during the calendar year prior to the beginning of the 4479
tax year. With the approval of the tax commissioner, a natural 4480
gas company may use a date other than the end of a calendar 4481
month to value its current gas stored underground. 4482

(C) The true value of noncurrent gas stored underground is 4483
thirty-five per cent of the cost of that gas shown on the books 4484

and records of the public utility on the thirty-first day of 4485
December of the preceding year. 4486

(D) (1) Except as provided in division (D) (2) of this 4487
section, the true value of the taxable production equipment of 4488
an electric company and the true value of all taxable property 4489
of a rural electric company is the equipment's or property's 4490
cost as capitalized on the company's books and records less 4491
fifty per cent of that cost as an allowance for depreciation and 4492
obsolescence. 4493

(2) The true value of the taxable production equipment or 4494
energy conversion equipment of an electric company, rural 4495
electric company, or energy company purchased, transferred, or 4496
placed into service after October 5, 1999, is the purchase price 4497
of the equipment as capitalized on the company's books and 4498
records less composite annual allowances as prescribed by the 4499
tax commissioner. 4500

(E) The true value of taxable property, except property of 4501
a railroad company, required by section 5727.06 of the Revised 4502
Code to be assessed by the tax commissioner shall not include 4503
the allowance for funds used during construction or interest 4504
during construction that has been capitalized on the public 4505
utility's books and records as part of the total cost of the 4506
taxable property. This division shall not apply to the taxable 4507
property of an electric company or a rural electric company, 4508
excluding transmission and distribution property, first placed 4509
into service after December 31, 2000, or to the taxable property 4510
a person purchases, which includes transfers, if that property 4511
was used in business by the seller prior to the purchase. 4512

(F) The true value of watercraft owned or operated by a 4513
water transportation company shall be determined by multiplying 4514

the true value of the watercraft as determined under division 4515
(A) of this section by a fraction, the numerator of which is the 4516
number of revenue-earning miles traveled by the watercraft in 4517
the waters of this state and the denominator of which is the 4518
number of revenue-earning miles traveled by the watercraft in 4519
all waters. 4520

(G) The cost of property subject to a sale and leaseback 4521
transaction is the cost of the property as capitalized on the 4522
books and records of the public utility owning the property 4523
immediately prior to the sale and leaseback transaction. 4524

(H) The cost as capitalized on the books and records of a 4525
public utility includes amounts capitalized that represent 4526
regulatory assets, if such amounts previously were included on 4527
the company's books and records as capitalized costs of taxable 4528
personal property. 4529

(I) Any change in the composite annual allowances as 4530
prescribed by the commissioner on a prospective basis shall not 4531
be admissible in any judicial or administrative action or 4532
proceeding as evidence of value with regard to prior years' 4533
taxes. Information about the business, property, or transactions 4534
of any taxpayer obtained by the commissioner for the purpose of 4535
adopting or modifying the composite annual allowances shall not 4536
be subject to discovery or disclosure. 4537

Sec. 5727.111. The taxable property of each public 4538
utility, except a railroad company, and of each interexchange 4539
telecommunications company shall be assessed at the following 4540
percentages of true value: 4541

(A) In the case of a rural electric company, fifty per 4542
cent in the case of its taxable transmission and distribution 4543

property placed into service before the last day of the year 4544
that includes the effective date of this amendment and its 4545
energy conversion equipment, and twenty-five per cent for all 4546
its other taxable property; 4547

(B) In the case of a telephone or telegraph company, 4548
twenty-five per cent for taxable property first subject to 4549
taxation in this state for tax year 1995 or thereafter for tax 4550
years before tax year 2007, and pursuant to division (H) of 4551
section 5711.22 of the Revised Code for tax year 2007 and 4552
thereafter, and the following for all other taxable property: 4553

(1) For tax years prior to 2005, eighty-eight per cent; 4554

(2) For tax year 2005, sixty-seven per cent; 4555

(3) For tax year 2006, forty-six per cent; 4556

(4) For tax year 2007 and thereafter, pursuant to division 4557
(H) of section 5711.22 of the Revised Code. 4558

(C) Twenty-five per cent in the case of (1) a natural gas 4559
company or (2) a water-works company for taxable property first 4560
subject to taxation in this state for tax year 2017 and 4561
thereafter; 4562

(D) Eighty-eight per cent in the case of taxable property 4563
of a pipe-line company placed into service before the last day 4564
of the year that includes the effective date of this amendment, 4565
a water-works company for taxable property first subject to 4566
taxation in this state before tax year 2017, or a heating 4567
company; 4568

(E) (1) For tax year 2005, eighty-eight per cent in the 4569
case of the taxable transmission and distribution property of an 4570
electric company, and twenty-five per cent for all its other 4571

taxable property; 4572

(2) For tax year 2006 and each tax year thereafter, in the 4573
case of an electric company, eighty-five per cent in the case of 4574
its taxable transmission and distribution property placed into 4575
service before the last day of the year that includes the 4576
effective date of this amendment and its energy conversion 4577
equipment, twenty-five per cent in the case of its other taxable 4578
transmission and distribution property, and twenty-four per cent 4579
for all its other taxable property. 4580

(F) (1) Twenty-five per cent in the case of an 4581
interexchange telecommunications company for tax years before 4582
tax year 2007; 4583

(2) Pursuant to division (H) of section 5711.22 of the 4584
Revised Code for tax year 2007 and thereafter. 4585

(G) Twenty-five per cent in the case of a water 4586
transportation company; 4587

(H) ~~For tax year 2011 and each tax year thereafter in~~ In 4588
the case of an energy company, twenty-four per cent in the case 4589
of its taxable production equipment, twenty-five per cent for 4590
its taxable transmission and distribution property placed into 4591
service on or after the last day of the year that includes the 4592
effective date of this amendment, and eighty-five per cent for 4593
all its other taxable property. 4594

(I) Twenty-five per cent in the case of taxable property 4595
of a pipe-line company placed into service on or after the last 4596
day of the year that includes the effective date of this 4597
amendment. 4598

Sec. 5727.75. (A) For purposes of this section: 4599

(1) "Qualified energy project" means an energy project 4600
certified by the director of development pursuant to this 4601
section. 4602

(2) "Energy project" means a project to provide electric 4603
power through the construction, installation, and use of an 4604
energy facility. 4605

(3) "Alternative energy zone" means a county declared as 4606
such by the board of county commissioners under division (E) (1) 4607
(b) or (c) of this section. 4608

(4) "Full-time equivalent employee" means the total number 4609
of employee-hours for which compensation was paid to individuals 4610
employed at a qualified energy project for services performed at 4611
the project during the calendar year divided by two thousand 4612
eighty hours. For the purpose of this calculation, "performed at 4613
the project" includes only hours worked at the qualified energy 4614
project and devoted to site preparation or protection, 4615
construction and installation, and the unloading and 4616
distribution of materials at the project site, but does not 4617
include hours worked by superintendents, owners, manufacturers' 4618
representatives, persons employed in a bona fide executive, 4619
management, supervisory, or administrative capacity, or persons 4620
whose sole employment on the project is transporting materials 4621
or persons to the project site. 4622

(5) "Solar energy project" means an energy project 4623
composed of an energy facility using solar panels to generate 4624
electricity. 4625

(6) "Internet identifier of record" has the same meaning 4626
as in section 9.312 of the Revised Code. 4627

(7) "Applicable year" means the later of the following: 4628

(a) The tax year in which the secretary of the treasury of the United States, or the secretary's delegate, determines, in accordance with section 45Y of the Internal Revenue Code, that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than twenty-five per cent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022;

(b) Tax year 2029.

(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 4658
the construction or installation of the energy facility is 4659
entered into. 4660

(c) For a qualified energy project with a nameplate 4661
capacity of twenty megawatts or greater, a board of county 4662
commissioners of a county in which property of the project is 4663
located has adopted a resolution under division (E) (1) (b) or (c) 4664
of this section to approve the application submitted under 4665
division (E) of this section to exempt the property located in 4666
that county from taxation. A board's adoption of a resolution 4667
rejecting an application or its failure to adopt a resolution 4668
approving the application does not affect the tax-exempt status 4669
of the qualified energy project's property that is located in 4670
another county. 4671

(2) If tangible personal property of a qualified energy 4672
project using renewable energy resources was exempt from 4673
taxation under this section beginning in any of tax years 2011 4674
through the applicable year, and the certification under 4675
division (E) (2) of this section has not been revoked, the 4676
tangible personal property of the qualified energy project is 4677
exempt from taxation for the tax year following the applicable 4678
year and all ensuing tax years if the property was placed into 4679
service before the first day of the tax year following the 4680
applicable year, as certified in the construction progress 4681
report required under division (F) (2) of this section. Tangible 4682
personal property that has not been placed into service before 4683
that date is taxable property subject to taxation. An energy 4684
project for which certification has been revoked is ineligible 4685
for further exemption under this section. Revocation does not 4686
affect the tax-exempt status of the project's tangible personal 4687
property for the tax year in which revocation occurs or any 4688

prior tax year. 4689

(C) Tangible personal property of a qualified energy 4690
project using clean coal technology, advanced nuclear 4691
technology, or cogeneration technology is exempt from taxation 4692
for the first tax year that the property would be listed for 4693
taxation and all subsequent years if all of the following 4694
circumstances are met: 4695

(1) The property was placed into service before January 1, 4696
2021. Tangible personal property that has not been placed into 4697
service before that date is taxable property subject to 4698
taxation. 4699

(2) For such a qualified energy project with a nameplate 4700
capacity of twenty megawatts or greater, a board of county 4701
commissioners of a county in which property of the qualified 4702
energy project is located has adopted a resolution under 4703
division (E) (1) (b) or (c) of this section to approve the 4704
application submitted under division (E) of this section to 4705
exempt the property located in that county from taxation. A 4706
board's adoption of a resolution rejecting the application or 4707
its failure to adopt a resolution approving the application does 4708
not affect the tax-exempt status of the qualified energy 4709
project's property that is located in another county. 4710

(3) The certification for the qualified energy project 4711
issued under division (E) (2) of this section has not been 4712
revoked. An energy project for which certification has been 4713
revoked is ineligible for exemption under this section. 4714
Revocation does not affect the tax-exempt status of the 4715
project's tangible personal property for the tax year in which 4716
revocation occurs or any prior tax year. 4717

(D) Except as otherwise provided in this section, real 4718
property of a qualified energy project is exempt from taxation 4719
for any tax year for which the tangible personal property of the 4720
qualified energy project is exempted under this section. 4721

(E) (1) (a) A person may apply to the director of 4722
development for certification of an energy project as a 4723
qualified energy project on or before the following dates: 4724

(i) The last day of the tax year preceding the applicable 4725
year, for an energy project using renewable energy resources; 4726

(ii) December 31, 2017, for an energy project using clean 4727
coal technology, advanced nuclear technology, or cogeneration 4728
technology. 4729

(b) The director shall forward a copy of each application 4730
for certification of an energy project with a nameplate capacity 4731
of twenty megawatts or greater to the board of county 4732
commissioners of each county in which the project is located and 4733
to each taxing unit with territory located in each of the 4734
affected counties. Any board that receives from the director a 4735
copy of an application submitted under this division shall adopt 4736
a resolution approving or rejecting the application unless it 4737
has adopted a resolution under division (E) (1) (c) of this 4738
section. A resolution adopted under division (E) (1) (b) or (c) of 4739
this section may require an annual service payment to be made in 4740
addition to the service payment required under division (G) of 4741
this section. The sum of the service payment required in the 4742
resolution and the service payment required under division (G) 4743
of this section shall not exceed nine thousand dollars per 4744
megawatt of nameplate capacity located in the county. The 4745
resolution shall specify the time and manner in which the 4746
payments required by the resolution shall be paid to the county 4747

treasurer. The county treasurer shall deposit the payment to the 4748
credit of the county's general fund to be used for any purpose 4749
for which money credited to that fund may be used. 4750

The board shall send copies of the resolution to the owner 4751
of the facility and the director by certified mail or, if the 4752
board has record of an internet identifier of record associated 4753
with the owner or director, by ordinary mail and by that 4754
internet identifier of record. The board shall send such notice 4755
within thirty days after receipt of the application, or a longer 4756
period of time if authorized by the director. 4757

(c) A board of county commissioners may adopt a resolution 4758
declaring the county to be an alternative energy zone and 4759
declaring all applications submitted to the director of 4760
development under this division after the adoption of the 4761
resolution, and prior to its repeal, to be approved by the 4762
board. 4763

All tangible personal property and real property of an 4764
energy project with a nameplate capacity of twenty megawatts or 4765
greater is taxable if it is located in a county in which the 4766
board of county commissioners adopted a resolution rejecting the 4767
application submitted under this division or failed to adopt a 4768
resolution approving the application under division (E) (1) (b) or 4769
(c) of this section. 4770

(2) The director shall certify an energy project if all of 4771
the following circumstances exist: 4772

(a) The application was timely submitted. 4773

(b) For an energy project with a nameplate capacity of 4774
twenty megawatts or greater, a board of county commissioners of 4775
at least one county in which the project is located has adopted 4776

a resolution approving the application under division (E) (1) (b) 4777
or (c) of this section. 4778

(c) No portion of the project's facility was used to 4779
supply electricity before December 31, 2009. 4780

(d) For construction or installation of a qualified energy 4781
project described in division (B) (1) (b) of this section, that 4782
the project is subject to wage requirements described in section 4783
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 4784
requirements described in section 45(b) (8) (A) (i) of the Internal 4785
Revenue Code, provided both of the following apply: 4786

(i) The person applies for such certificate after ~~the~~ 4787
~~effective date of this amendment~~ October 3, 2023. 4788

(ii) A board of commissioners of at least one county in 4789
which the project is located is required to adopt a resolution 4790
approving the application under division (E) (1) (b) or (c) of 4791
this section. 4792

(3) The director shall deny a certification application if 4793
the director determines the person has failed to comply with any 4794
requirement under this section. The director may revoke a 4795
certification if the director determines the person, or 4796
subsequent owner or lessee pursuant to a sale and leaseback 4797
transaction of the qualified energy project, has failed to 4798
comply with any requirement under this section. Upon 4799
certification or revocation, the director shall notify the 4800
person, owner, or lessee, the tax commissioner, and the county 4801
auditor of a county in which the project is located of the 4802
certification or revocation. Notice shall be provided in a 4803
manner convenient to the director. 4804

(F) The owner or a lessee pursuant to a sale and leaseback 4805

transaction of a qualified energy project shall do each of the 4806
following: 4807

(1) Comply with all applicable regulations; 4808

(2) File with the director of development a certified 4809
construction progress report before the first day of March of 4810
each year during the energy facility's construction or 4811
installation indicating the percentage of the project completed, 4812
and the project's nameplate capacity, as of the preceding 4813
thirty-first day of December. Unless otherwise instructed by the 4814
director of development, the owner or lessee of an energy 4815
project shall file a report with the director on or before the 4816
first day of March each year after completion of the energy 4817
facility's construction or installation indicating the project's 4818
nameplate capacity as of the preceding thirty-first day of 4819
December. Not later than sixty days after June 17, 2010, the 4820
owner or lessee of an energy project, the construction of which 4821
was completed before June 17, 2010, shall file a certificate 4822
indicating the project's nameplate capacity. 4823

(3) File with the director of development, in a manner 4824
prescribed by the director, a report of the total number of 4825
full-time equivalent employees, and the total number of full- 4826
time equivalent employees domiciled in Ohio, who are employed in 4827
the construction or installation of the energy facility; 4828

(4) For energy projects with a nameplate capacity of 4829
twenty megawatts or greater, repair all roads, bridges, and 4830
culverts affected by construction as reasonably required to 4831
restore them to their preconstruction condition, as determined 4832
by the county engineer in consultation with the local 4833
jurisdiction responsible for the roads, bridges, and culverts. 4834
In the event that the county engineer deems any road, bridge, or 4835

culvert to be inadequate to support the construction or 4836
decommissioning of the energy facility, the road, bridge, or 4837
culvert shall be rebuilt or reinforced to the specifications 4838
established by the county engineer prior to the construction or 4839
decommissioning of the facility. The owner or lessee of the 4840
facility shall post a bond in an amount established by the 4841
county engineer and to be held by the board of county 4842
commissioners to ensure funding for repairs of roads, bridges, 4843
and culverts affected during the construction. The bond shall be 4844
released by the board not later than one year after the date the 4845
repairs are completed. The energy facility owner or lessee 4846
pursuant to a sale and leaseback transaction shall post a bond, 4847
as may be required by the Ohio power siting board in the 4848
certificate authorizing commencement of construction issued 4849
pursuant to section 4906.10 of the Revised Code, to ensure 4850
funding for repairs to roads, bridges, and culverts resulting 4851
from decommissioning of the facility. The energy facility owner 4852
or lessee and the county engineer may enter into an agreement 4853
regarding specific transportation plans, reinforcements, 4854
modifications, use and repair of roads, financial security to be 4855
provided, and any other relevant issue. 4856

(5) Provide or facilitate training for fire and emergency 4857
responders for response to emergency situations related to the 4858
energy project and, for energy projects with a nameplate 4859
capacity of twenty megawatts or greater, at the person's 4860
expense, equip the fire and emergency responders with proper 4861
equipment as reasonably required to enable them to respond to 4862
such emergency situations; 4863

(6) (a) Except as otherwise provided in this division, for 4864
projects for which certification as a qualified energy project 4865
was applied for, under division (E) of this section, before ~~the~~ 4866

~~effective date of this amendment~~ October 3, 2023, maintain a 4867
ratio of Ohio-domiciled full-time equivalent employees employed 4868
in the construction or installation of the energy project to 4869
total full-time equivalent employees employed in the 4870
construction or installation of the energy project of not less 4871
than eighty per cent in the case of a solar energy project, and 4872
not less than fifty per cent in the case of any other energy 4873
project. A person applying for such a qualified energy project 4874
may certify to the director of development that the project will 4875
be voluntarily subject to the wage requirements described in 4876
section 45(b) (7) (A) of the Internal Revenue Code and 4877
apprenticeship requirements described in section 45(b) (8) (A) (i) 4878
of the Internal Revenue Code as authorized in division (F) (6) (b) 4879
of this section. Upon receipt of that certification, the project 4880
shall comply with division (F) (6) (b) of this section rather than 4881
division (F) (6) (a) of this section. 4882

(b) For projects for which certification as a qualified 4883
energy project was applied for, under division (E) of this 4884
section, on or after ~~the effective date of this amendment~~ 4885
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 4886
equivalent employees employed in the construction or 4887
installation of the energy project to total full-time equivalent 4888
employees employed in the construction or installation of the 4889
energy project of not less than seventy per cent in the case of 4890
a solar energy project, and not less than fifty per cent in the 4891
case of any other energy project. 4892

(c) For purposes of divisions (F) (6) (a) and (b) of this 4893
section, in the case of an energy project for which 4894
certification from the power siting board is required under 4895
section 4906.20 of the Revised Code, the number of full-time 4896
equivalent employees employed in the construction or 4897

installation of the energy project equals the number actually 4898
employed or the number projected to be employed in the 4899
certificate application, if such projection is required under 4900
regulations adopted pursuant to section 4906.03 of the Revised 4901
Code, whichever is greater. For all other energy projects, the 4902
number of full-time equivalent employees employed in the 4903
construction or installation of the energy project equals the 4904
number actually employed or the number projected to be employed 4905
by the director of development, whichever is greater. To 4906
estimate the number of employees to be employed in the 4907
construction or installation of an energy project, the director 4908
shall use a generally accepted job-estimating model in use for 4909
renewable energy projects, including but not limited to the job 4910
and economic development impact model. The director may adjust 4911
an estimate produced by a model to account for variables not 4912
accounted for by the model. 4913

(7) For energy projects with a nameplate capacity in 4914
excess of twenty megawatts, establish a relationship with any of 4915
the following to educate and train individuals for careers in 4916
the wind or solar energy industry: 4917

(a) A member of the university system of Ohio as defined 4918
in section 3345.011 of the Revised Code; 4919

(b) A person offering an apprenticeship program registered 4920
with the employment and training administration within the 4921
United States department of labor or with the apprenticeship 4922
council created by section 4139.02 of the Revised Code; 4923

(c) A career-technical center, joint vocational school 4924
district, comprehensive career-technical center, or compact 4925
career-technical center; 4926

(d) A training center operated by a labor organization, or 4927
with a training center operated by a for-profit or nonprofit 4928
organization. 4929

The relationship may include endowments, cooperative 4930
programs, internships, apprenticeships, research and development 4931
projects, and curriculum development. 4932

(8) Offer to sell power or renewable energy credits from 4933
the energy project to electric distribution utilities or 4934
electric service companies subject to renewable energy resource 4935
requirements under section 4928.64 of the Revised Code that have 4936
issued requests for proposal for such power or renewable energy 4937
credits. If no electric distribution utility or electric service 4938
company issues a request for proposal on or before December 31, 4939
2010, or accepts an offer for power or renewable energy credits 4940
within forty-five days after the offer is submitted, power or 4941
renewable energy credits from the energy project may be sold to 4942
other persons. Division (F) (8) of this section does not apply 4943
if: 4944

(a) The owner or lessee is a rural electric company or a 4945
municipal power agency as defined in section 3734.058 of the 4946
Revised Code. 4947

(b) The owner or lessee is a person that, before 4948
completion of the energy project, contracted for the sale of 4949
power or renewable energy credits with a rural electric company 4950
or a municipal power agency. 4951

(c) The owner or lessee contracts for the sale of power or 4952
renewable energy credits from the energy project before June 17, 4953
2010. 4954

(9) Make annual service payments as required by division 4955

(G) of this section and as may be required in a resolution 4956
adopted by a board of county commissioners under division (E) of 4957
this section. 4958

(G) The owner or a lessee pursuant to a sale and leaseback 4959
transaction of a qualified energy project shall make annual 4960
service payments in lieu of taxes to the county treasurer on or 4961
before the final dates for payments of taxes on public utility 4962
personal property on the real and public utility personal 4963
property tax list for each tax year for which property of the 4964
energy project is exempt from taxation under this section. The 4965
county treasurer shall allocate the payment on the basis of the 4966
project's physical location. Upon receipt of a payment, or if 4967
timely payment has not been received, the county treasurer shall 4968
certify such receipt or non-receipt to the director of 4969
development and tax commissioner in a form determined by the 4970
director and commissioner, respectively. Each payment shall be 4971
in the following amount: 4972

(1) In the case of a solar energy project, seven thousand 4973
dollars per megawatt of nameplate capacity located in the county 4974
as of the thirty-first-day of December of the preceding tax 4975
year; 4976

(2) In the case of any other energy project using 4977
renewable energy resources, the following: 4978

(a) If the project maintains during the construction or 4979
installation of the energy facility a ratio of Ohio-domiciled 4980
full-time equivalent employees to total full-time equivalent 4981
employees of not less than seventy-five per cent, six thousand 4982
dollars per megawatt of nameplate capacity located in the county 4983
as of the thirty-first day of December of the preceding tax 4984
year; 4985

(b) If the project maintains during the construction or 4986
installation of the energy facility a ratio of Ohio-domiciled 4987
full-time equivalent employees to total full-time equivalent 4988
employees of less than seventy-five per cent but not less than 4989
sixty per cent, seven thousand dollars per megawatt of nameplate 4990
capacity located in the county as of the thirty-first day of 4991
December of the preceding tax year; 4992

(c) If the project maintains during the construction or 4993
installation of the energy facility a ratio of Ohio-domiciled 4994
full-time equivalent employees to total full-time equivalent 4995
employees of less than sixty per cent but not less than fifty 4996
per cent, eight thousand dollars per megawatt of nameplate 4997
capacity located in the county as of the thirty-first day of 4998
December of the preceding tax year. 4999

(3) In the case of an energy project using clean coal 5000
technology, advanced nuclear technology, or cogeneration 5001
technology, the following: 5002

(a) If the project maintains during the construction or 5003
installation of the energy facility a ratio of Ohio-domiciled 5004
full-time equivalent employees to total full-time equivalent 5005
employees of not less than seventy-five per cent, six thousand 5006
dollars per megawatt of nameplate capacity located in the county 5007
as of the thirty-first day of December of the preceding tax 5008
year; 5009

(b) If the project maintains during the construction or 5010
installation of the energy facility a ratio of Ohio-domiciled 5011
full-time equivalent employees to total full-time equivalent 5012
employees of less than seventy-five per cent but not less than 5013
sixty per cent, seven thousand dollars per megawatt of nameplate 5014
capacity located in the county as of the thirty-first day of 5015

December of the preceding tax year; 5016

(c) If the project maintains during the construction or 5017
installation of the energy facility a ratio of Ohio-domiciled 5018
full-time equivalent employees to total full-time equivalent 5019
employees of less than sixty per cent but not less than fifty 5020
per cent, eight thousand dollars per megawatt of nameplate 5021
capacity located in the county as of the thirty-first day of 5022
December of the preceding tax year. 5023

(H) The director of development in consultation with the 5024
tax commissioner shall adopt rules pursuant to Chapter 119. of 5025
the Revised Code to implement and enforce this section. 5026

(I) This section and any payments in lieu of taxes made as 5027
required under this section continue to apply and be required 5028
notwithstanding the enactment of S.B. 2 of the 136th general 5029
assembly. 5030

Sec. 5727.76. (A) As used in this section, "qualifying 5031
property" means property that is dedicated to transporting or 5032
transmitting electricity or natural gas and that is placed into 5033
service in a priority investment area designated under section 5034
122.161 of the Revised Code during a time when that designation 5035
is in effect. 5036

(B) Qualifying property shall be exempt from taxation for 5037
the tax year following the year in which the property is placed 5038
into service and for the ensuing four tax years. 5039

Section 2. That existing sections 303.213, 519.213, 5040
713.081, 4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 4906.10, 5041
4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 5042
4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 4909.191, 5043
4909.42, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 4928.142, 5044

4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, 5045
4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 5046
5727.031, 5727.06, 5727.11, 5727.111, and 5727.75 of the Revised 5047
Code are hereby repealed. 5048

Section 3. That sections 3706.40, 3706.41, 3706.43, 5049
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5050
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 5051
4928.642 of the Revised Code are hereby repealed. 5052

Section 4. (A) Beginning on the effective date of this 5053
section, no electric distribution utility shall collect from its 5054
retail customers in this state any charge that was authorized 5055
under section 4928.148 of the Revised Code prior to the repeal 5056
of that section by this act for retail recovery of prudently 5057
incurred costs related to a legacy generation resource. 5058
Beginning on the effective date of this section, the electric 5059
distribution utility shall not apply for, and the public 5060
utilities commission shall not authorize, any rider or cost 5061
recovery mechanism for a legacy generation resource. 5062

The public utilities commission shall continue any 5063
investigation commenced pursuant to section 4928.148 of the 5064
Revised Code prior to the repeal of that section by this act for 5065
purposes of determining the prudence and reasonableness of the 5066
actions of electric distribution utilities with ownership 5067
interests in the legacy generation resource, including their 5068
decisions related to offering the contractual commitment into 5069
the wholesale markets, and excluding from recovery those costs 5070
that the commission determines imprudent and unreasonable. 5071

(B) Beginning on the effective date of this section, no 5072
electric distribution utility shall collect from its retail 5073
customers in the state any charge that was authorized under 5074

section 3706.46 of the Revised Code to meet the revenue 5075
requirement for disbursements from the Solar Generation Fund to 5076
owners or operators of qualifying solar resources that was 5077
required under section 3706.55 of the Revised Code before the 5078
repeal of these sections by this act. 5079

Section 5. Section 4909.193 as enacted by this act and the 5080
amendments to section 4909.42 of the Revised Code by this act 5081
apply to applications filed under section 4909.18 of the Revised 5082
Code on or after the effective date of this section. 5083

Section 6. On the effective date of this section, or as 5084
soon as possible thereafter, the Treasurer of State shall 5085
transfer the cash balance of amounts remaining in the solar 5086
generation fund to the school energy efficiency loan fund 5087
created in section 3706.52 of the Revised Code. 5088

Section 7. Section 4928.01 of the Revised Code is 5089
presented in this act as a composite of the section as amended 5090
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 5091
General Assembly, applying the principle stated in division (B) 5092
of section 1.52 of the Revised Code that amendments are to be 5093
harmonized if reasonably capable of simultaneous operation, 5094
finds that the composite is the resulting version of the section 5095
in effect prior to the effective date of the section as 5096
presented in this act. 5097