

As Reported by 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
3313.372, 3313.373, 4905.03, 4906.01, 4906.03,	2
4906.06, 4906.07, 4906.10, 4909.04, 4909.05,	3
4909.052, 4909.06, 4909.07, 4909.08, 4909.15,	4
4909.156, 4909.173, 4909.174, 4909.18, 4909.19,	5
4909.191, 4909.42, 4928.01, 4928.05, 4928.08,	6
4928.14, 4928.141, 4928.142, 4928.144, 4928.17,	7
4928.20, 4928.23, 4928.231, 4928.232, 4928.34,	8
4928.542, 4928.64, 4928.645, 4929.20, 4933.81,	9
5711.01, 5727.01, 5727.031, 5727.06, 5727.11,	10
5727.111, and 5727.75; to enact sections	11
122.161, 3313.377, 3313.378, 4903.27, 4905.23,	12
4905.311, 4905.321, 4905.331, 4909.041,	13
4909.042, 4909.181, 4909.192, 4909.193,	14
4928.041, 4928.101, 4928.102, 4928.103,	15
4928.105, 4928.149, 4928.1410, 4928.73,	16
4929.221, 4929.222, and 5727.76; and to repeal	17
sections 3706.40, 3706.41, 3706.43, 3706.431,	18
3706.45, 3706.46, 3706.49, 3706.491, 3706.55,	19
3706.551, 3706.59, 3706.63, 3706.65, 4928.143,	20
4928.148, and 4928.642 of the Revised Code	21
regarding public utilities law, to make changes	22
regarding utility tangible personal property	23
taxation, and to repeal parts of H.B. 6 of the	24
133rd General 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
3313.372, 3313.373, 4905.03, 4906.01, 4906.03, 4906.06, 4906.07, 27
4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 28
4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 4909.19, 29
4909.191, 4909.42, 4928.01, 4928.05, 4928.08, 4928.14, 4928.141, 30
4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 31
4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 4929.20, 32
4933.81, 5711.01, 5727.01, 5727.031, 5727.06, 5727.11, 5727.111, 33
and 5727.75 be amended and sections 122.161, 3313.377, 3313.378, 34
4903.27, 4905.23, 4905.311, 4905.321, 4905.331, 4909.041, 35
4909.042, 4909.181, 4909.192, 4909.193, 4928.041, 4928.101, 36
4928.102, 4928.103, 4928.105, 4928.149, 4928.1410, 4928.73, 37
4929.221, 4929.222, and 5727.76 of the Revised Code be enacted 38
to read as 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. 3313.372. (A) As used in this section, "energy 202
conservation measure" means an installation or modification of 203
an installation in, or remodeling of, a building, to reduce 204
energy consumption. It includes: 205

(1) Insulation of the building structure and systems 206
within the building; 207

(2) Storm windows and doors, multiglazed windows and 208
doors, heat absorbing or heat reflective glazed and coated 209
window and door systems, additional glazing, reductions in glass 210
area, and other window and door system modifications that reduce 211
energy consumption; 212

(3) Automatic energy control systems; 213

(4) Heating, ventilating, or air conditioning system 214
modifications or replacements; 215

(5) Caulking and weatherstripping; 216

(6) Replacement or modification of lighting fixtures to 217
increase the energy efficiency of the system without increasing 218
the overall illumination of a facility, unless such increase in 219
illumination is necessary to conform to the applicable state or 220
local building code for the proposed lighting system; 221

(7) Energy recovery systems; 222

(8) Cogeneration systems that produce steam or forms of 223
energy such as heat, as well as electricity, for use primarily 224

within a building or complex of buildings; 225

(9) Solar panels; 226

(10) Any other modification, installation, or remodeling 227
approved by the Ohio facilities construction commission as an 228
energy conservation measure. 229

(B) A board of education of a city, exempted village, 230
local, or joint vocational school district may enter into an 231
installment payment contract for the purchase and installation 232
of energy conservation measures. The provisions of such 233
installment payment contracts dealing with interest charges and 234
financing terms shall not be subject to the competitive bidding 235
requirements of section 3313.46 of the Revised Code, and shall 236
be on the following terms: 237

(1) Not less than one-fifteenth of the costs thereof shall 238
be paid within two years from the date of purchase. 239

(2) The remaining balance of the costs thereof shall be 240
paid within fifteen years from the date of purchase. 241

The provisions of any installment payment contract entered 242
into pursuant to this section shall provide that all payments, 243
except payments for repairs and obligations on termination of 244
the contract prior to its expiration, shall not exceed the 245
calculated energy, water, or waste water cost savings, avoided 246
operating costs, and avoided capital costs attributable to the 247
one or more measures over a defined period of time. Those 248
payments shall be made only to the extent that the savings 249
described in this division actually occur. The energy services 250
company shall warrant and guarantee that the energy conservation 251
measures shall realize guaranteed savings and shall be 252
responsible to pay an amount equal to any savings shortfall. 253

An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B) (3) of that section, in which case the contract shall be awarded through a competitive selection process pursuant to rules adopted by the facilities construction commission.

An installment payment contract entered into by a board of education under this section may include services for measurement and verification of energy savings associated with the guarantee. The annual cost of measurement and verification services shall not exceed ten per cent of the guaranteed savings in any year of the installment payment contract.

(C) If a board of education determines that a surety bond is necessary to secure energy, water, or waste water cost savings guaranteed in a contract entered into by the board of education under this section, the energy services company shall provide a surety bond that satisfies all of the following requirements:

(1) The penal sum of the surety bond for the first guarantee year shall equal the amount of savings included in the annual guaranteed savings amount that is measured and calculated in accordance with the measurement and verification plan included in the contract, but may not include guaranteed savings that are not measured or that are stipulated in the contract. The annual guaranteed savings amount shall include only the savings guaranteed in the contract for the one-year term that begins on the first day of the first savings guarantee year and

may not include amounts from subsequent years. 284

(2) The surety bond shall have a term of not more than one 285
year unless renewed. At the option of the board of education, 286
the surety bond may be renewed for one or two additional terms, 287
each term not to exceed one year. The surety bond may not be 288
renewed or extended so that it is in effect for more than three 289
consecutive years. 290

In the event of a renewal, the penal sum of the surety 291
bond for each renewed year shall be revised so that the penal 292
sum equals the annual guaranteed savings amount for such renewal 293
year that is measured and calculated in accordance with the 294
measurement and verification plan included in the contract, but 295
may not include guaranteed savings that are not measured or that 296
are stipulated in the contract. Regardless of the number of 297
renewals of the bond, the aggregate liability under each renewed 298
bond may not exceed the penal sum stated in the renewal 299
certificate for the applicable renewal year. 300

(3) The surety bond for the first year shall be issued 301
within thirty days of the commencement of the first savings 302
guarantee year under the contract. 303

In the event of renewal, the surety shall deliver to the 304
board of education a renewal certificate reflecting the revised 305
penal sum within thirty days of the board of education's 306
request. The board of education shall deliver the request for 307
renewal not less than thirty days prior to the expiration date 308
of the surety bond then in existence. A surety bond furnished 309
pursuant to section 153.54 of the Revised Code shall not secure 310
obligations related to energy, water, or waste water cost 311
savings as referenced in division (C) of this section. 312

(D) The board may issue the notes of the school district 313
signed by the president and the treasurer of the board and 314
specifying the terms of the purchase and securing the deferred 315
payments provided in this section, payable at the times provided 316
and bearing interest at a rate not exceeding the rate determined 317
as provided in section 9.95 of the Revised Code. The notes may 318
contain an option for prepayment and shall not be subject to 319
Chapter 133. of the Revised Code. In the resolution authorizing 320
the notes, the board may provide, without the vote of the 321
electors of the district, for annually levying and collecting 322
taxes in amounts sufficient to pay the interest on and retire 323
the notes, except that the total net indebtedness of the 324
district without a vote of the electors incurred under this and 325
all other sections of the Revised Code, except section 3318.052 326
of the Revised Code, shall not exceed one per cent of the 327
district's tax valuation. Revenues derived from local taxes or 328
otherwise, for the purpose of conserving energy or for defraying 329
the current operating expenses of the district, may be applied 330
to the payment of interest and the retirement of such notes. The 331
notes may be sold at private sale or given to the energy 332
services company under the installment payment contract 333
authorized by division (B) of this section. 334

(E) Debt incurred under this section shall not be included 335
in the calculation of the net indebtedness of a school district 336
under section 133.06 of the Revised Code. 337

(F) No school district board shall enter into an 338
installment payment contract under division (B) of this section 339
unless it first obtains a report of the costs of the energy 340
conservation measures and the savings thereof as described under 341
division (G)(1) of section 133.06 of the Revised Code as a 342
requirement for issuing energy securities, makes a finding that 343

the amount spent on such measures is not likely to exceed the 344
amount of money it would save in energy costs and resultant 345
operational and maintenance costs as described in that division, 346
except that that finding shall cover the ensuing fifteen years, 347
and the facilities construction commission determines that the 348
district board's findings are reasonable and approves the 349
contract as described in that division. 350

The district board shall monitor the savings and maintain 351
a report of those savings, which shall be submitted to the 352
commission in the same manner as required by division (G) of 353
section 133.06 of the Revised Code in the case of energy 354
securities. 355

(G) A board of education may apply to the Ohio facilities 356
construction commission for a loan from the school energy 357
performance contracting loan fund, established by section 358
3313.378 of the Revised Code, for purposes of paying for all or 359
part of an installment contract under division (B) of this 360
section. 361

Sec. 3313.373. (A) As used in this section: 362

(1) "Energy saving measure" means both of the following: 363

(a) The acquisition and installation, by purchase, lease, 364
lease purchase, lease with an option to buy, or installment 365
purchase, of an energy conservation measure as defined in 366
section 3313.372 of the Revised Code and any attendant 367
architectural and engineering consulting services. 368

(b) Architectural and engineering consulting services 369
related to energy conservation. 370

(2) "Shared-savings contract" means a contract for one or 371
more energy savings measures, which contract provides that all 372

payments, except payments for maintenance and repairs and 373
obligations on termination of the contract prior to its 374
expiration, are to be a stated percentage of calculated savings 375
of energy costs attributable to the energy saving measure over a 376
defined period of time and are to be made only to the extent 377
that such savings occur. A contract that requires any additional 378
capital investment or contribution of funds, other than funds 379
available from state or federal energy grants, or that is for an 380
initial term of longer than ten years is not a shared-savings 381
contract. 382

(B) The board of education of a city, local, exempted 383
village, or joint vocational school district may enter into a 384
shared-savings contract with any person experienced in the 385
design and implementation of energy saving measures for 386
buildings owned or rented by the board. Such contract is not 387
subject to section 3313.46 of the Revised Code. If the contract 388
is for a term extending beyond the fiscal year, it shall be 389
considered to be a continuing contract within the meaning of 390
division (D) of section 5705.41 of the Revised Code. A board of 391
education entering into an installment contract under this 392
section shall also comply with section 3313.372 of the Revised 393
Code. 394

(C) In the case of a shared-savings contract running 395
beyond the fiscal year in which it is entered into, the board 396
shall include in its annual appropriations measure for each 397
subsequent year any amounts payable under shared-savings 398
contracts during such year and shall furnish the certification 399
required by section 5705.44 of the Revised Code, but the failure 400
of a board to make such an appropriation or furnish the 401
certificates referred to in division (D) of section 5705.41, or 402
5705.412 or 5705.44 of the Revised Code, shall not affect the 403

validity of the shared-savings contract or the board's 404
obligations under the contract. 405

(D) A board of education may apply to the Ohio facilities 406
construction commission for a loan from the school energy 407
performance contracting loan fund, established by section 408
3313.378 of the Revised Code, for purposes of paying for all or 409
part of a shared-savings contract under this section. 410

Sec. 3313.377. (A) As used in this section: 411

(1) "Energy conservation measure" has the same meaning as 412
in section 3313.372 of the Revised Code; 413

(2) "Energy saving measure" has the same meaning as in 414
section 3313.373 of the Revised Code. 415

(B) The Ohio facilities construction commission may issue 416
a loan from funds in the school energy performance contracting 417
loan fund created in section 3313.378 of the Revised Code to a 418
board of education of a city, exempted village, local, or joint 419
vocational school district that applies for a loan under section 420
3313.372 or 3313.373 of the Revised Code. 421

(C) Nothing in this section prohibits a board of education 422
that receives a loan under this section from utilizing any other 423
energy efficiency program. 424

(D) The terms of a loan issued under this section shall be 425
as follows: 426

(1) Two per cent annual interest on the loan; 427

(2) The full loan amount, plus interest, shall be repaid 428
in not more than ten years from the issuance of the loan; 429

(3) Repayment on the loan begins six months after the 430

installation of the energy conservation measures is complete or 431
the implementation of energy savings measures is completed; 432

(4) Any other provision considered appropriate by the 433
commission. 434

(E) All repayment amounts for any loans issued under this 435
section shall be made to the commission. The commission shall 436
deposit all repayment amounts received in the school energy 437
performance contracting loan fund created in section 3313.378 of 438
the Revised Code. 439

(F) If the commission enters into an agreement with a 440
board for a loan under this section, the commission shall 441
promptly direct the treasurer of state to remit money from the 442
school energy performance contracting loan fund to the board as 443
provided in the terms of the agreement. 444

(G) The commission shall adopt rules to implement this 445
section, including a loan application. 446

Sec. 3313.378. (A) The school energy performance 447
contracting loan fund is created in the custody of the state 448
treasurer, but is not part of the state treasury. The money in 449
the fund shall be used for purposes of funding loans issued 450
under section 3313.377 of the Revised Code. The fund shall 451
consist of the funds transferred from the solar generation fund, 452
repayments of loans from this fund, interest on amounts in the 453
school energy performance contracting loan fund, and any 454
appropriations, grants, or gifts made to the fund. 455

(B) The fund shall be administered by the Ohio facilities 456
construction commission, and the commission shall request the 457
treasurer of state to create the account for the fund. The 458
treasurer of state shall distribute the money in the fund in 459

accordance with directions provided by the commission. 460

Sec. 4903.27. For all cases involving an application 461
pursuant to section 4909.18 of the Revised Code, the public 462
utilities commission shall not permit any new discovery 463
beginning not later than two hundred fifteen days after the 464
application is submitted. 465

Sec. 4905.03. As used in this chapter, any person, firm, 466
copartnership, voluntary association, joint-stock association, 467
company, or corporation, wherever organized or incorporated, is: 468

(A) A telephone company, when engaged in the business of 469
transmitting telephonic messages to, from, through, or in this 470
state; 471

(B) A for-hire motor carrier, when engaged in the business 472
of transporting persons or property by motor vehicle for 473
compensation, except when engaged in any of the operations in 474
intrastate commerce described in divisions (B)(1) to (9) of 475
section 4921.01 of the Revised Code, but including the carrier's 476
agents, officers, and representatives, as well as employees 477
responsible for hiring, supervising, training, assigning, or 478
dispatching drivers and employees concerned with the 479
installation, inspection, and maintenance of motor-vehicle 480
equipment and accessories; 481

(C) An electric light company, when engaged in the 482
business of supplying electricity for light, heat, or power 483
purposes to consumers within this state, including supplying 484
electric transmission service for electricity delivered to 485
consumers in this state, but excluding a regional transmission 486
organization approved by the federal energy regulatory 487
commission;— 488

An electric light company does not include a self- 489
generator or mercantile customer self-power system. 490

(D) A gas company, when engaged in the business of 491
supplying artificial gas for lighting, power, or heating 492
purposes to consumers within this state or when engaged in the 493
business of supplying artificial gas to gas companies or to 494
natural gas companies within this state, but a producer engaged 495
in supplying to one or more gas or natural gas companies, only 496
such artificial gas as is manufactured by that producer as a by- 497
product of some other process in which the producer is primarily 498
engaged within this state is not thereby a gas company. All 499
rates, rentals, tolls, schedules, charges of any kind, or 500
agreements between any gas company and any other gas company or 501
any natural gas company providing for the supplying of 502
artificial gas and for compensation for the same are subject to 503
the jurisdiction of the public utilities commission. 504

(E) A natural gas company, when engaged in the business of 505
supplying natural gas for lighting, power, or heating purposes 506
to consumers within this state. Notwithstanding the above, 507
neither the delivery nor sale of Ohio-produced natural gas or 508
Ohio-produced raw natural gas liquids by a producer or gatherer 509
under a public utilities commission-ordered exemption, adopted 510
before, as to producers, or after, as to producers or gatherers, 511
January 1, 1996, or the delivery or sale of Ohio-produced 512
natural gas or Ohio-produced raw natural gas liquids by a 513
producer or gatherer of Ohio-produced natural gas or Ohio- 514
produced raw natural gas liquids, either to a lessor under an 515
oil and gas lease of the land on which the producer's drilling 516
unit is located, or the grantor incident to a right-of-way or 517
easement to the producer or gatherer, shall cause the producer 518
or gatherer to be a natural gas company for the purposes of this 519

section. 520

All rates, rentals, tolls, schedules, charges of any kind, 521
or agreements between a natural gas company and other natural 522
gas companies or gas companies providing for the supply of 523
natural gas and for compensation for the same are subject to the 524
jurisdiction of the public utilities commission. The commission, 525
upon application made to it, may relieve any producer or 526
gatherer of natural gas, defined in this section as a gas 527
company or a natural gas company, of compliance with the 528
obligations imposed by this chapter and Chapters 4901., 4903., 529
4907., 4909., 4921., and 4923. of the Revised Code, so long as 530
the producer or gatherer is not affiliated with or under the 531
control of a gas company or a natural gas company engaged in the 532
transportation or distribution of natural gas, or so long as the 533
producer or gatherer does not engage in the distribution of 534
natural gas to consumers. 535

Nothing in division (E) of this section limits the 536
authority of the commission to enforce sections 4905.90 to 537
4905.96 of the Revised Code. 538

(F) A pipe-line company, when engaged in the business of 539
transporting natural gas, oil, or coal or its derivatives 540
through pipes or tubing, either wholly or partly within this 541
state, but not when engaged in the business of the transport 542
associated with gathering lines, raw natural gas liquids, or 543
finished product natural gas liquids; 544

(G) A water-works company, when engaged in the business of 545
supplying water through pipes or tubing, or in a similar manner, 546
to consumers within this state; 547

(H) A heating or cooling company, when engaged in the 548

business of supplying water, steam, or air through pipes or 549
tubing to consumers within this state for heating or cooling 550
purposes; 551

(I) A messenger company, when engaged in the business of 552
supplying messengers for any purpose; 553

(J) A street railway company, when engaged in the business 554
of operating as a common carrier, a railway, wholly or partly 555
within this state, with one or more tracks upon, along, above, 556
or below any public road, street, alleyway, or ground, within 557
any municipal corporation, operated by any motive power other 558
than steam and not a part of an interurban railroad, whether the 559
railway is termed street, inclined-plane, elevated, or 560
underground railway; 561

(K) A suburban railroad company, when engaged in the 562
business of operating as a common carrier, whether wholly or 563
partially within this state, a part of a street railway 564
constructed or extended beyond the limits of a municipal 565
corporation, and not a part of an interurban railroad; 566

(L) An interurban railroad company, when engaged in the 567
business of operating a railroad, wholly or partially within 568
this state, with one or more tracks from one municipal 569
corporation or point in this state to another municipal 570
corporation or point in this state, whether constructed upon the 571
public highways or upon private rights-of-way, outside of 572
municipal corporations, using electricity or other motive power 573
than steam power for the transportation of passengers, packages, 574
express matter, United States mail, baggage, and freight. Such 575
an interurban railroad company is included in the term 576
"railroad" as used in section 4907.02 of the Revised Code. 577

(M) A sewage disposal system company, when engaged in the 578
business of sewage disposal services through pipes or tubing, 579
and treatment works, or in a similar manner, within this state. 580

As used in division (E) of this section, "natural gas" 581
includes natural gas that has been processed to enable 582
consumption or to meet gas quality standards or that has been 583
blended with propane, hydrogen, biologically derived methane 584
gas, or any other artificially produced or processed gas. 585

As used in this section, "gathering lines" has the same 586
meaning as in section 4905.90 of the Revised Code, and "raw 587
natural gas liquids" and "finished product natural gas liquids" 588
have the same meanings as in section 4906.01 of the Revised 589
Code. 590

As used in this section, "self-generator" has the same 591
meaning as in section 4928.01 of the Revised Code, and 592
"mercantile customer self-power system" has the same meaning as 593
in section 4928.73 of the Revised Code. 594

Sec. 4905.23. (A) As used in this section, "base load 595
electric generating facility" means an electric generating plant 596
and associated facilities located in this state that primarily 597
uses a nonrenewable fuel source to generate electricity, 598
including natural gas and nuclear reaction, and that is not 599
owned or operated by a public utility, municipal corporation, or 600
electric cooperative. 601

(B) No person shall enter into a settlement to abandon, 602
close, or shut down a base load electric generating facility or 603
a generating plant owned or operated by a public utility. 604

Sec. 4905.311. (A) As used in this section, "electric 605
distribution utility" has the same meaning as in section 4928.01 606

of the Revised Code.

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(B) Notwithstanding any provision of the Revised Code to
the contrary, an electric distribution utility may supply behind
the meter electric generation service, provided that any behind
the meter electric generation facilities that the utility
intends to use to supply such service were in operation prior to
the effective date of this section.

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

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

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

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

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

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

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Sec. 4905.321. (A) Notwithstanding section 4905.32 of the
Revised Code, all revenues collected from customers by a public

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utility as part of a rider or rates that are later found to be 635
unreasonable, unlawful, or otherwise improper by the supreme 636
court shall be subject to refund from the date of the issuance 637
of the supreme court's decision until the date when, on remand, 638
the public utilities commission makes changes to the rider or 639
rates to implement the supreme court's decision. 640

(B) The commission shall order the payment of the refunds 641
described in division (A) of this section in a manner designed 642
to allocate the refunds to customer classes in the same 643
proportion as the charges were originally collected. 644

(C) The commission shall determine how to allocate any 645
remaining funds described in division (A) of this section that 646
cannot be refunded for whatever reason. 647

(D) The commission shall order the payment of the funds 648
described in division (A) of this section and shall determine 649
how to allocate any remaining funds that cannot be refunded not 650
more than thirty days after the date of the issuance of the 651
supreme court's decision. 652

Sec. 4905.331. (A) As used in this section: 653

(1) "Electric distribution utility" has the same meaning 654
as in section 4928.01 of the Revised Code. 655

(2) "Electric service" means any service involved in 656
supplying or arranging for the supply of electricity to ultimate 657
consumers in this state. "Electric service" includes "retail 658
electric service" as defined in section 4928.01 of the Revised 659
Code. 660

(3) "Proceeding" includes a proceeding relating to 661
electric service under Chapters 4909. and 4928. of the Revised 662
Code. 663

(B) No electric distribution utility or its affiliate may 664
do either of the following to induce any party to a public 665
utilities commission proceeding to enter into a settlement of a 666
matter pending before the commission: 667

(1) Make a cash payment to that party; 668

(2) Enter into any agreement or any financial or private 669
arrangement with that party that is not made part of the public 670
case record. 671

(C) Notwithstanding division (B) of this section, the 672
commission may do any of the following: 673

(1) Reasonably allocate costs among rate schedules; 674

(2) Reasonably design rates within a rate schedule; 675

(3) Approve reasonable rates designed for particular 676
customers or classes of customers; 677

(4) Approve a resolution of a proceeding under section 678
4905.26 of the Revised Code; 679

(5) Approve payments to any governmental entity, nonprofit 680
organization, or other association for implementing low-income 681
weatherization service programs, subject to the following 682
conditions: 683

(a) The payments are at a rate that is reasonably tailored 684
to the costs of providing the programs. 685

(b) The payments are for programs that are subject to an 686
existing or new audit procedure. 687

(c) The payments are not for low-income weatherization 688
education programs. 689

Sec. 4906.01. As used in Chapter 4906. of the Revised 690

Code: 691

(A) "Person" means an individual, corporation, business 692
trust, association, estate, trust, or partnership or any 693
officer, board, commission, department, division, or bureau of 694
the state or a political subdivision of the state, or any other 695
entity. 696

(B) (1) "Major utility facility" means: 697

(a) Electric generating plant and associated facilities 698
designed for, or capable of, operation at a capacity of fifty 699
megawatts or more; 700

(b) An electric transmission line and associated 701
facilities of a design capacity of one hundred kilovolts or 702
more; 703

(c) A gas pipeline that is greater than five hundred feet 704
in length, and its associated facilities, is more than nine 705
inches in outside diameter and is designed for transporting gas 706
at a maximum allowable operating pressure in excess of one 707
hundred twenty-five pounds per square inch. 708

(2) "Major utility facility" does not include any of the 709
following: 710

(a) Gas transmission lines over which an agency of the 711
United States has exclusive jurisdiction; 712

(b) Any solid waste facilities as defined in section 713
6123.01 of the Revised Code; 714

(c) Electric distributing lines and associated facilities 715
as defined by the power siting board; 716

(d) Any manufacturing facility that creates byproducts 717

that may be used in the generation of electricity as defined by 718
the power siting board; 719

(e) Gathering lines, gas gathering pipelines, and 720
processing plant gas stub pipelines as those terms are defined 721
in section 4905.90 of the Revised Code and associated 722
facilities; 723

(f) Any gas processing plant as defined in section 4905.90 724
of the Revised Code; 725

(g) Natural gas liquids finished product pipelines; 726

(h) Pipelines from a gas processing plant as defined in 727
section 4905.90 of the Revised Code to a natural gas liquids 728
fractionation plant, including a raw natural gas liquids 729
pipeline, or to an interstate or intrastate gas pipeline; 730

(i) Any natural gas liquids fractionation plant; 731

(j) A production operation as defined in section 1509.01 732
of the Revised Code, including all pipelines upstream of any 733
gathering lines; 734

(k) Any compressor stations used by the following: 735

(i) A gathering line, a gas gathering pipeline, a 736
processing plant gas stub pipeline, or a gas processing plant as 737
those terms are defined in section 4905.90 of the Revised Code; 738

(ii) A natural gas liquids finished product pipeline, a 739
natural gas liquids fractionation plant, or any pipeline 740
upstream of a natural gas liquids fractionation plant; or 741

(iii) A production operation as defined in section 1509.01 742
of the Revised Code. 743

(C) "Commence to construct" means any clearing of land, 744

excavation, or other action that would adversely affect the 745
natural environment of the site or route of a major utility 746
facility, but does not include surveying changes needed for 747
temporary use of sites or routes for nonutility purposes, or 748
uses in securing geological data, including necessary borings to 749
ascertain foundation conditions. 750

(D) "Certificate" means a certificate of environmental 751
compatibility and public need issued by the power siting board 752
under section 4906.10 of the Revised Code or a construction 753
certificate issued by the board under rules adopted under 754
~~division~~ divisions (E) ~~or (F)~~ to (H) of section 4906.03 of the 755
Revised Code. 756

(E) "Gas" means natural gas, flammable gas, or gas that is 757
toxic or corrosive. 758

(F) "Natural gas liquids finished product pipeline" means 759
a pipeline that carries finished product natural gas liquids to 760
the inlet of an interstate or intrastate finished product 761
natural gas liquid transmission pipeline, rail loading facility, 762
or other petrochemical or refinery facility. 763

(G) "Large solar facility" means an electric generating 764
plant that consists of solar panels and associated facilities 765
with a single interconnection to the electrical grid that is a 766
major utility facility. 767

(H) "Large wind farm" means an electric generating plant 768
that consists of wind turbines and associated facilities with a 769
single interconnection to the electrical grid that is a major 770
utility facility. 771

(I) "Natural gas liquids fractionation plant" means a 772
facility that takes a feed of raw natural gas liquids and 773

produces finished product natural gas liquids. 774

(J) "Raw natural gas" means hydrocarbons that are produced 775
in a gaseous state from gas wells and that generally include 776
methane, ethane, propane, butanes, pentanes, hexanes, heptanes, 777
octanes, nonanes, and decanes, plus other naturally occurring 778
impurities like water, carbon dioxide, hydrogen sulfide, 779
nitrogen, oxygen, and helium. 780

(K) "Raw natural gas liquids" means naturally occurring 781
hydrocarbons contained in raw natural gas that are extracted in 782
a gas processing plant and liquefied and generally include 783
mixtures of ethane, propane, butanes, and natural gasoline. 784

(L) "Finished product natural gas liquids" means an 785
individual finished product produced by a natural gas liquids 786
fractionation plant as a liquid that meets the specifications 787
for commercial products as defined by the gas processors 788
association. Those products include ethane, propane, iso-butane, 789
normal butane, and natural gasoline. 790

Sec. 4906.03. The power siting board shall: 791

(A) Require such information from persons subject to its 792
jurisdiction as it considers necessary to assist in the conduct 793
of hearings and any investigations or studies it may undertake; 794

(B) Conduct any studies or investigations that it 795
considers necessary or appropriate to carry out its 796
responsibilities under this chapter; 797

(C) Adopt rules establishing criteria for evaluating the 798
effects on environmental values of proposed and alternative 799
sites, and projected needs for electric power, and such other 800
rules as are necessary and convenient to implement this chapter, 801
including rules governing application fees, supplemental 802

application fees, and other reasonable fees to be paid by 803
persons subject to the board's jurisdiction. The board shall 804
make an annual accounting of its collection and use of these 805
fees and shall issue an annual report of its accounting, in the 806
form and manner prescribed by its rules, not later than the last 807
day of June of the year following the calendar year to which the 808
report applies. 809

(D) Approve, disapprove, or modify and approve 810
applications for certificates; 811

(E) Notwithstanding sections 4906.06 to 4906.14 of the 812
Revised Code, the board may adopt rules to provide for an 813
accelerated review of an application for a construction 814
certificate for construction of a major utility facility related 815
to a coal research and development project as defined in section 816
1555.01 of the Revised Code, or to a coal development project as 817
defined in section 1551.30 of the Revised Code, submitted to the 818
Ohio coal development office for review under division (B)(7) of 819
section 1551.33 of the Revised Code. Applications for 820
construction certificates for construction of major utility 821
facilities for Ohio coal research and development shall be filed 822
with the board on the same day as the proposed facility or 823
project is submitted to the Ohio coal development office for 824
review. 825

The board shall render a decision on an application for a 826
construction certificate within ninety days after receipt of the 827
application and all of the data and information it may require 828
from the applicant. In rendering a decision on an application 829
for a construction certificate, the board shall only consider 830
the criteria and make the findings and determinations set forth 831
in divisions (A)(2), (3), (5), and (7) and division (B) of 832

section 4906.10 of the Revised Code. 833

(F) Notwithstanding sections 4906.06 to 4906.14 of the 834
Revised Code, the board shall adopt rules to provide for an 835
accelerated review of an application for a construction 836
certificate for any of the following: 837

(1) An electric transmission line that is: 838

(a) Not more than two miles in length; 839

(b) Primarily needed to attract or meet the requirements 840
of a specific customer or specific customers; 841

(c) Necessary to maintain reliable electric service as a 842
result of the retirement or shutdown of an electric generating 843
facility located within the state; or 844

(d) A rebuilding of an existing transmission line. 845

(2) An electric generating facility that uses waste heat 846
or natural gas and is primarily within the current boundary of 847
an existing industrial or electric generating facility; 848

(3) A gas pipeline that is not more than five miles in 849
length or is primarily needed to meet the requirements of a 850
specific customer or specific customers. 851

The board shall adopt rules that provide for the automatic 852
certification to any entity described in this division when an 853
application by any such entity is not suspended by the board, an 854
administrative law judge, or the chairperson or executive 855
director of the board for good cause shown, within ninety days 856
of submission of the application. If an application is 857
suspended, the board shall approve, disapprove, or modify and 858
approve the application not later than ninety days after the 859
date of the suspension. 860

(G) Notwithstanding sections 4906.06 to 4906.14 of the 861
Revised Code, the board shall adopt rules to provide for the 862
accelerated review of an application for a construction 863
certificate for any of the following that are located in a 864
priority investment area designated and approved under section 865
122.161 of the Revised Code: 866

(1) An electric generating plant and associated 867
facilities; 868

(2) An electric transmission line and associated 869
facilities; 870

(3) Gas Pipeline infrastructure. 871

The chairperson of the board, not later than forty-five 872
days after receipt of an application submitted under division 873
(G) of this section, shall determine if it complies with all 874
application requirements set by the public utilities commission 875
by rule. If the chairperson does not issue a determination 876
within the time period required by this division, the 877
application shall be deemed in compliance by operation of law. 878

The board shall render a decision on an application 879
submitted under this division not later than forty-five days 880
after the application is determined in compliance with all 881
requirements set by the commission. If the board does not render 882
a decision within forty-five days, the application shall be 883
considered approved by operation of law, and the board shall 884
issue a certificate to the applicant. 885

The board shall adopt rules to implement this division, 886
including rules that prioritize applications for construction on 887
areas negatively impacted by the decline of the coal industry. 888

(H) Notwithstanding sections 4906.06 to 4906.14 of the 889

Revised Code, the board shall adopt rules to provide for the 890
accelerated review of an application for a construction 891
certificate for a major utility facility if at the time the 892
application is filed the construction will be located, in whole, 893
on property owned by, or under a lease with a term of twenty- 894
five years or more with, the applicant; in whole or in part, on 895
an easement or right-of-way; or on any combination of such 896
property, easement, or right-of-way. 897

No accelerated application shall be granted under the 898
rules adopted under division (H) of this section for 899
construction of a major utility facility, in whole or in part, 900
on property under a lease or an easement or right-of-way, if 901
additional consent for construction on the property, easement, 902
or right-of-way is required by any person or entity other than 903
the power siting board. 904

The board shall render a decision on an application 905
submitted under this division not later than forty-five days 906
after receipt of the application. If the board does not render a 907
decision within forty-five days, the application shall be 908
considered approved by operation of law, and the board shall 909
issue a certificate to the applicant. 910

Sec. 4906.06. (A) An applicant for a certificate shall 911
file with the office of the chairperson of the power siting 912
board an application, in such form as the board prescribes, 913
containing the following information: 914

(1) A description of the location and of the major utility 915
facility; 916

(2) A summary of any studies that have been made by or for 917
the applicant of the environmental impact of the facility; 918

(3) A statement explaining the need for the facility;	919
(4) A statement of the reasons why the proposed location is best suited for the facility;	920 921
(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;	922 923 924
(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.	925 926 927 928 929
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.	930 931 932 933
(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.	934 935 936 937 938 939
(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.	940 941 942 943 944 945 946
(D) Inadvertent failure of service on, or notice to, any	947

of the persons identified in divisions (B) and (C) of this 948
section may be cured pursuant to orders of the board designed to 949
afford them adequate notice to enable them to participate 950
effectively in the proceeding. In addition, the board, after 951
filing, may require the applicant to serve notice of the 952
application or copies thereof or both upon such other persons, 953
and file proof thereof, as the board considers appropriate. 954

(E) An application for an amendment of a certificate shall 955
be in such form and contain such information as the board 956
prescribes. Notice of such an application shall be given as 957
required in divisions (B) and (C) of this section. 958

(F) Each application for certificate or an amendment shall 959
be accompanied by the application fee prescribed by board rule. 960
All application fees, supplemental application fees, and other 961
fees collected by the board shall be deposited in the state 962
treasury to the credit of the power siting board fund, which is 963
hereby created. The chairperson shall administer and authorize 964
expenditures from the fund for any of the purposes of this 965
chapter. If the chairperson determines that moneys credited to 966
the fund from an applicant's fee are not sufficient to pay the 967
board's expenses associated with its review of the application, 968
the chairperson shall request the approval of the controlling 969
board to assess a supplemental application fee upon an applicant 970
to pay anticipated additional expenses associated with the 971
board's review of the application or an amendment to an 972
application. If the chairperson finds that an application fee 973
exceeds the amount needed to pay the board's expenses for review 974
of the application, the chairperson shall cause a refund of the 975
excess amount to be issued to the applicant from the fund. 976

(G) The chairperson shall determine whether an application 977

is in compliance with this section not more than forty-five days 978
after the application is filed. If the chairperson does not 979
issue a determination within the time period required by this 980
division, the application shall be deemed in compliance by 981
operation of law. 982

Sec. 4906.07. (A) Upon the receipt of an application 983
complying with section 4906.06 of the Revised Code, the power 984
siting board shall promptly fix a date for a public hearing 985
thereon, not less than ~~sixty~~ forty-five nor more than ~~ninety~~ 986
sixty days after such receipt, and shall conclude the proceeding 987
as expeditiously as practicable. 988

(B) On an application for an amendment of a certificate, 989
the board shall hold a hearing in the same manner as a hearing 990
is held on an application for a certificate if the proposed 991
change in the facility would result in any material increase in 992
any environmental impact of the facility or a substantial change 993
in the location of all or a portion of such facility other than 994
as provided in the alternates set forth in the application. 995

(C) The chairperson of the power siting board shall cause 996
each application filed with the board to be investigated and 997
shall, not less than ~~fifteen~~ five days prior to the date any 998
application is set for hearing submit a written report to the 999
board and to the applicant. A copy of such report shall be made 1000
available to any person upon request. Such report shall set 1001
forth the nature of the investigation, and shall contain 1002
recommended findings with regard to division (A) of section 1003
4906.10 of the Revised Code and shall become part of the record 1004
and served upon all parties to the proceeding. 1005

Sec. 4906.10. (A) The power siting board shall render a 1006
decision upon the record either granting or denying the 1007

application as filed, or granting it upon such terms, 1008
conditions, or modifications of the construction, operation, or 1009
maintenance of the major utility facility as the board considers 1010
appropriate. The certificate shall be subject to sections 1011
4906.101, 4906.102, and 4906.103 of the Revised Code and 1012
conditioned upon the facility being in compliance with standards 1013
and rules adopted under section 4561.32 and Chapters 3704., 1014
3734., and 6111. of the Revised Code. An applicant may withdraw 1015
an application if the board grants a certificate on terms, 1016
conditions, or modifications other than those proposed by the 1017
applicant in the application. 1018

The board shall not grant a certificate for the 1019
construction, operation, and maintenance of a major utility 1020
facility, either as proposed or as modified by the board, unless 1021
it finds and determines all of the following: 1022

(1) The basis of the need for the facility if the facility 1023
is an electric transmission line or gas pipeline; 1024

(2) The nature of the probable environmental impact; 1025

(3) That the facility represents the minimum adverse 1026
environmental impact, considering the state of available 1027
technology and the nature and economics of the various 1028
alternatives, and other pertinent considerations; 1029

(4) In the case of an electric transmission line or 1030
generating facility, that the facility is consistent with 1031
regional plans for expansion of the electric power grid of the 1032
electric systems serving this state and interconnected utility 1033
systems and that the facility will serve the interests of 1034
electric system economy and reliability; 1035

(5) That the facility will comply with Chapters 3704., 1036

3734., and 6111. of the Revised Code and all rules and standards 1037
adopted under those chapters and under section 4561.32 of the 1038
Revised Code. In determining whether the facility will comply 1039
with all rules and standards adopted under section 4561.32 of 1040
the Revised Code, the board shall consult with the office of 1041
aviation of the division of multi-modal planning and programs of 1042
the department of transportation under section 4561.341 of the 1043
Revised Code. 1044

(6) That the facility will serve the public interest, 1045
convenience, and necessity; 1046

(7) In addition to the provisions contained in divisions 1047
(A) (1) to (6) of this section and rules adopted under those 1048
divisions, what its impact will be on the viability as 1049
agricultural land of any land in an existing agricultural 1050
district established under Chapter 929. of the Revised Code that 1051
is located within the site and alternative site of the proposed 1052
major utility facility. Rules adopted to evaluate impact under 1053
division (A) (7) of this section shall not require the 1054
compilation, creation, submission, or production of any 1055
information, document, or other data pertaining to land not 1056
located within the site and alternative site. 1057

(8) That the facility incorporates maximum feasible water 1058
conservation practices as determined by the board, considering 1059
available technology and the nature and economics of the various 1060
alternatives. 1061

(B) If the board determines that the location of all or a 1062
part of the proposed facility should be modified, it may 1063
condition its certificate upon that modification, provided that 1064
the municipal corporations and counties, and persons residing 1065
therein, affected by the modification shall have been given 1066

reasonable notice thereof. 1067

(C) A copy of the decision and any opinion issued 1068
therewith shall be served upon each party. 1069

(D) The board shall render a decision under this section 1070
not later than one hundred twenty days after the date the 1071
application is found in compliance with section 4906.06 of the 1072
Revised Code. If the board does not render a decision within the 1073
time period required by this division, the application shall be 1074
deemed approved by operation of law, and the board shall issue a 1075
certificate to the applicant subject to the conditions contained 1076
within the staff report issued under section 4906.07 of the 1077
Revised Code. 1078

Sec. 4909.04. (A) The public utilities commission, for the 1079
purpose of ascertaining the reasonableness and justice of rates 1080
and charges for the service rendered by public utilities or 1081
railroads, or for any other purpose authorized by law, may 1082
investigate and ascertain the value of the property of any 1083
public utility or railroad in this state used or useful for the 1084
service and convenience of the public, using the same criteria 1085
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 1086
the Revised Code. At the request of the legislative authority of 1087
any municipal corporation, the commission, after hearing and 1088
determining that such a valuation is necessary, may also 1089
investigate and ascertain the value of the property of any 1090
public utility used and useful for the service and convenience 1091
of the public where the whole or major portion of such public 1092
utility is situated in such municipal corporation. 1093

(B) To assist the commission in preparing such a 1094
valuation, every public utility or railroad shall: 1095

(1) Furnish to the commission, or to its agents, as the 1096
commission requires, maps, profiles, schedules of rates and 1097
tariffs, contracts, reports of engineers, and other documents, 1098
records, and papers, or copies of any of them, in aid of any 1099
investigation and ascertainment of the value of its property; 1100

(2) Grant to the commission or its agents free access to 1101
all of its premises and property and its accounts, records, and 1102
memoranda whenever and wherever requested by any such authorized 1103
agent; 1104

(3) Cooperate with and aid the commission and its agents 1105
in the work of the valuation of its property in such further 1106
particulars and to such extent as the commission requires and 1107
directs. 1108

(C) The commission may make all rules which seem necessary 1109
to ascertain the value of the property and plant of each public 1110
utility or railroad. 1111

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 1112
4909.05 of the Revised Code: 1113

(A) A "lease purchase agreement" is an agreement pursuant 1114
to which a public utility leasing property is required to make 1115
rental payments for the term of the agreement and either the 1116
utility is granted the right to purchase the property upon the 1117
completion of the term of the agreement and upon the payment of 1118
an additional fixed sum of money or title to the property vests 1119
in the utility upon the making of the final rental payment. 1120

(B) A "leaseback" is the sale or transfer of property by a 1121
public utility to another person contemporaneously followed by 1122
the leasing of the property to the public utility on a long-term 1123
basis. 1124

Sec. 4909.042. (A) With respect to an electric light 1125
company that chooses to file a forecasted test period under 1126
section 4909.18 of the Revised Code, the public utilities 1127
commission shall prescribe the form and details of the valuation 1128
report of the property of the utility. Such report shall include 1129
all the kinds and classes of property, with the value of each, 1130
owned, held, or projected to be owned or held during the test 1131
period, by the utility for the service and convenience of the 1132
public. 1133

(B) Such report shall contain the following facts in 1134
detail: 1135

(1) The original cost of each parcel of land owned in fee 1136
and projected to be owned in fee and in use during the test 1137
period, determined by the commission; and also a statement of 1138
the conditions of acquisition, whether by direct purchase, by 1139
donation, by exercise of the power of eminent domain, or 1140
otherwise; 1141

(2) The actual acquisition cost, not including periodic 1142
rental fees, of rights-of-way, trailways, or other land rights 1143
projected to be held during the test period, by virtue of 1144
easements, leases, or other forms of grants of rights as to 1145
usage; 1146

(3) The original cost of all other kinds and classes of 1147
property projected to be used and useful during the test period, 1148
in the rendition of service to the public. Such original costs 1149
of property, other than land owned in fee, shall be the cost, as 1150
determined to be reasonable by the commission, to the person 1151
that first dedicated or dedicates the property to the public use 1152
and shall be set forth in property accounts and subaccounts as 1153
prescribed by the commission; 1154

(4) The cost of property constituting all or part of a 1155
project projected to be leased to or used by the utility during 1156
the test period, under Chapter 165., 3706., 6121., or 6123. of 1157
the Revised Code and not included under division (B) (3) of this 1158
section exclusive of any interest directly or indirectly paid by 1159
the utility with respect thereto whether or not capitalized; 1160

(5) In the discretion of the commission, the cost to a 1161
utility, in an amount determined to be reasonable by the 1162
commission, of property constituting all or part of a project 1163
projected to be leased to the utility during the test period, 1164
under a lease purchase agreement or a leaseback and not included 1165
under division (B) (3) of this section exclusive of any interest 1166
directly or indirectly paid by the utility with respect thereto 1167
whether or not capitalized; 1168

(6) The proper and adequate reserve for depreciation, as 1169
determined to be reasonable by the commission; 1170

(7) Any sums of money or property that the utility is 1171
projected to receive during the test period, as total or partial 1172
defrayal of the cost of its property; 1173

(8) The valuation of the property of the utility, which 1174
shall be the sum of the amounts contained in the report pursuant 1175
to divisions (B) (1) to (5) of this section, less the sum of the 1176
amounts contained in the report pursuant to divisions (B) (6) and 1177
(7) of this section. 1178

(C) The report shall show separately the property 1179
projected to be used and useful to or held by the utility during 1180
the test period, and such other items as the commission 1181
considers proper. The commission may require an additional 1182
report showing the extent to which the property is projected to 1183

be used and useful during the test period. Such reports shall be 1184
filed in the office of the commission for the information of the 1185
governor and the general assembly. 1186

Sec. 4909.05. As used in this section: 1187

~~(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.~~ 1188
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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.~~ 1195
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~~(C) The~~ With respect to every public utility, other than 1199
an electric light company that chooses to file a forecasted test 1200
period under section 4909.18 of the Revised Code, the public 1201
utilities commission shall prescribe the form and details of the 1202
valuation report of the property of each public utility or 1203
railroad in the state. Such report shall include all the kinds 1204
and classes of property, with the value of each, owned, held, 1205
or, with respect to a natural gas, water-works, or sewage 1206
disposal system company, projected to be owned or held as of the 1207
date certain, by each public utility or railroad used and 1208
useful, or, with respect to a natural gas, water-works, or 1209
sewage disposal system company, projected to be used and useful 1210
as of the date certain, for the service and convenience of the 1211
public. ~~Such~~ 1212

(B) Such report shall contain the following facts in 1213
detail: 1214

(1) The original cost of each parcel of land owned in fee 1215
and in use, or, with respect to a natural gas, water-works, or 1216
sewage disposal system company, projected to be owned in fee and 1217
in use as of the date certain, determined by the commission; and 1218
also a statement of the conditions of acquisition, whether by 1219
direct purchase, by donation, by exercise of the power of 1220
eminent domain, or otherwise; 1221

(2) The actual acquisition cost, not including periodic 1222
rental fees, of rights-of-way, trailways, or other land rights 1223
held, or, with respect to a natural gas, water-works, or sewage 1224
disposal system company, projected to be held as of the date 1225
certain, by virtue of easements, leases, or other forms of 1226
grants of rights as to usage; 1227

(3) The original cost of all other kinds and classes of 1228
property used and useful, or, with respect to a natural gas, 1229
water-works, or sewage disposal system company, projected to be 1230
used and useful as of the date certain, in the rendition of 1231
service to the public. Subject to section 4909.052 of the 1232
Revised Code, such original costs of property, other than land 1233
owned in fee, shall be the cost, as determined to be reasonable 1234
by the commission, to the person that first dedicated or 1235
dedicates the property to the public use and shall be set forth 1236
in property accounts and subaccounts as prescribed by the 1237
commission. To the extent that the costs of property comprising 1238
a coal research and development facility, as defined in section 1239
1555.01 of the Revised Code, or a coal development project, as 1240
defined in section 1551.30 of the Revised Code, have been 1241
allowed for recovery as Ohio coal research and development costs 1242

under section 4905.304 of the Revised Code, none of those costs 1243
shall be included as a cost of property under this division. 1244

(4) The cost of property constituting all or part of a 1245
project leased to or used by the utility, or, with respect to a 1246
natural gas, water-works, or sewage disposal system company, 1247
projected to be leased to or used by the utility as of the date 1248
certain, under Chapter 165., 3706., 6121., or 6123. of the 1249
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 1250
this section exclusive of any interest directly or indirectly 1251
paid by the utility with respect thereto whether or not 1252
capitalized; 1253

(5) In the discretion of the commission, the cost to a 1254
utility, in an amount determined to be reasonable by the 1255
commission, of property constituting all or part of a project 1256
leased to the utility, or, with respect to a natural gas, water- 1257
works, or sewage disposal system company, projected to be leased 1258
to the utility as of the date certain, under a lease purchase 1259
agreement or a leaseback and not included under division ~~(C) (3)~~ 1260
(B) (3) of this section exclusive of any interest directly or 1261
indirectly paid by the utility with respect thereto whether or 1262
not capitalized; 1263

(6) The cost of the replacement of water service lines 1264
incurred by a water-works company under section 4909.173 of the 1265
Revised Code and the water service line replacement 1266
reimbursement amounts provided to customers under section 1267
4909.174 of the Revised Code; 1268

(7) The proper and adequate reserve for depreciation, as 1269
determined to be reasonable by the commission; 1270

(8) Any sums of money or property that the company may 1271

have received, or, with respect to a natural gas, water-works, 1272
or sewage disposal system company, is projected to receive as of 1273
the date certain, as total or partial defrayal of the cost of 1274
its property; 1275

(9) The valuation of the property of the company, which 1276
shall be the sum of the amounts contained in the report pursuant 1277
to divisions ~~(C) (1)~~ (B) (1) to (6) of this section, less the sum 1278
of the amounts contained in the report pursuant to divisions ~~(C)~~ 1279
~~(7)~~ (B) (7) and (8) of this section. 1280

(C) The report shall show separately the property used and 1281
useful to such public utility or railroad in the furnishing of 1282
the service to the public, the property held by such public 1283
utility or railroad for other purposes, and the property 1284
projected to be used and useful to or held by a natural gas, 1285
water-works, or sewage disposal system company as of the date 1286
certain, and such other items as the commission considers 1287
proper. The commission may require an additional report showing 1288
the extent to which the property is used and useful, or, with 1289
respect to a natural gas, water-works, or sewage disposal system 1290
company, projected to be used and useful as of the date certain. 1291
Such reports shall be filed in the office of the commission for 1292
the information of the governor and the general assembly. 1293

Sec. 4909.052. Subject to a finding that such costs are 1294
just and reasonable, the public utilities commission in 1295
evaluating a petition submitted under section 4905.481 of the 1296
Revised Code shall accept the original cost, reported under 1297
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 1298
of the acquisition of a municipal water-works or sewage disposal 1299
system company that is acquired by a large water-works or sewage 1300
disposal system company, provided that the original cost is 1301

determined according to all of the following requirements: 1302

(A) The acquiring company has three appraisals performed 1303
on the property of the company being acquired. 1304

(B) The three appraisals are performed by three 1305
independent utility-valuation experts mutually selected by the 1306
acquiring company and the company being acquired from the list 1307
maintained under section 4909.054 of the Revised Code. 1308

(C) The average of the three appraisals is used as the 1309
fair market value of the company being acquired. 1310

(D) Each utility-valuation expert does all of the 1311
following: 1312

(1) Determines the fair market value of the company to be 1313
acquired by establishing the amount for which the company would 1314
be sold in a voluntary transaction between a willing buyer and a 1315
willing seller under no obligation to buy or sell; 1316

(2) Determines the fair market value in compliance with 1317
the uniform standards of professional appraisal practice; 1318

(3) Employs the cost, market, and income approach to 1319
independently quantify the future benefits of the company to be 1320
acquired; 1321

(4) Incorporates the assessment described in division (D) 1322
(5) of this section into the appraisal under the cost, market, 1323
and income approach; 1324

(5) Engages one engineer who is licensed to prepare an 1325
assessment of the tangible assets of the company to be acquired. 1326
The original source of funding for any part of the tangible 1327
assets shall not be relevant to the determination of the value 1328
of those assets. 1329

(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; 1360

(B) With respect to an electric light company that chooses 1361
to file a forecasted test period under section 4909.18 of the 1362
Revised Code, the valuation and value during the forecasted test 1363
period. 1364

Sec. 4909.07. The public utilities commission, during the 1365
making of the valuation provided for in sections 4909.04 to 1366
4909.13 of the Revised Code, and after its completion, shall in 1367
like manner keep itself informed through its engineers, experts, 1368
and other assistants of all extensions, improvements, or other 1369
changes in the condition and value of the property of all public 1370
utilities or railroads and shall ascertain the value of such 1371
extensions, improvements, and changes. The commission shall, as 1372
is required for the proper regulation of such public utilities 1373
or railroads, revise and correct its valuations of property, 1374
showing such revisions and corrections as a whole and as to each 1375
county. Such revisions and corrections shall be filed in the 1376
same manner as original reports. 1377

"Valuation" and "value," as used in this section, may 1378
include, ~~with~~ : 1379

(A) With respect to a public utility that is a natural 1380
gas, water-works, or sewage disposal system company, projected 1381
valuation and value as of the date certain, if applicable 1382
because of a future date certain under section 4909.15 of the 1383
Revised Code; 1384

(B) With respect to an electric light company that chooses 1385
to file a forecasted test period under section 4909.18 of the 1386
Revised Code, the valuation and value during the forecasted test 1387
period. 1388

Sec. 4909.08. When the public utilities commission has 1389
completed the valuation of the property of any public utility or 1390
railroad and before such valuation becomes final, it shall give 1391
notice by registered letter to such public utility or railroad, 1392
and if a substantial portion of said public utility or railroad 1393
is situated in a municipal corporation, then to the mayor of 1394
such municipal corporation, stating the valuations placed upon 1395
the several kinds and classes of property of such public utility 1396
or railroad and upon the property as a whole and give such 1397
further notice by publication or otherwise as it shall deem 1398
necessary to apprise the public of such valuation. If, within 1399
thirty days after such notification, no protest has been filed 1400
with the commission, such valuation becomes final. If notice of 1401
protest has been filed by any public utility or railroad, the 1402
commission shall fix a time for hearing such protest and shall 1403
consider at such hearing any matter material thereto presented 1404
by such public utility, railroad, or municipal corporation, in 1405
support of its protest or by any representative of the public 1406
against such protest. If, after the hearing of any protest of 1407
any valuation so fixed, the commission is of the opinion that 1408
its inventory is incomplete or inaccurate or that its valuation 1409
is incorrect, it shall make such changes as are necessary and 1410
shall issue an order making such corrected valuations final. A 1411
final valuation by the commission and all classifications made 1412
for the ascertainment of such valuations shall be public and are 1413
prima-facie evidence relative to the value of the property. 1414

"Valuation" and "value," as used in this section, may 1415
include, ~~with~~ : 1416

(A) With respect to a public utility that is a natural 1417
gas, water-works, or sewage disposal system company, projected 1418
valuation and value as of the date certain, if applicable 1419

because of a future date certain under section 4909.15 of the 1420
Revised Code; 1421

(B) With respect to an electric light company that chooses 1422
to file a forecasted test period under section 4909.18 of the 1423
Revised Code, the valuation and value during the forecasted test 1424
period. 1425

Sec. 4909.15. (A) The public utilities commission, when 1426
fixing and determining just and reasonable rates, fares, tolls, 1427
rentals, and charges, shall determine: 1428

~~(1) The~~ (1) (a) With respect to a public utility that is a 1429
natural gas, water-works, or sewage disposal system company, or 1430
that is an electric light company that chooses not to file a 1431
forecasted test period under section 4909.18 of the Revised 1432
Code, the valuation as of the date certain of the property of 1433
the public utility that is used and useful or, with respect to a 1434
natural gas, water-works, or sewage disposal system company, is 1435
projected to be used and useful as of the date certain, in 1436
rendering the public utility service for which rates are to be 1437
fixed and determined. ~~The~~ 1438

(b) With respect to an electric light company that chooses 1439
to file a forecasted test period under section 4909.18 of the 1440
Revised Code, the valuation of the property of the utility that 1441
is projected to be used and useful during the forecasted test 1442
period in rendering the public utility service for which rates 1443
are to be fixed and determined. 1444

(c) The valuation so determined under division (A) (1) of 1445
this section for any public utility shall be the total value as 1446
set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the 1447
Revised Code and division (B) (9) of section 4909.05 of the 1448

Revised Code, and a reasonable allowance for materials and 1449
supplies and a reasonable allowance for cash working capital as 1450
determined by the commission. 1451

~~The commission, in its discretion, may include in the~~ 1452
~~valuation a reasonable allowance for construction work in~~ 1453
~~progress but, in no event, may such an allowance be made by the~~ 1454
~~commission until it has determined that the particular~~ 1455
~~construction project is at least seventy-five per cent complete.~~ 1456

~~In determining the percentage completion of a particular~~ 1457
~~construction project, the commission shall consider, among other~~ 1458
~~relevant criteria, the per cent of time elapsed in construction;~~ 1459
~~the per cent of construction funds, excluding allowance for~~ 1460
~~funds used during construction, expended, or obligated to such~~ 1461
~~construction funds budgeted where all such funds are adjusted to~~ 1462
~~reflect current purchasing power; and any physical inspection~~ 1463
~~performed by or on behalf of any party, including the~~ 1464
~~commission's staff.~~ 1465

~~A reasonable allowance for construction work in progress~~ 1466
~~shall not exceed ten per cent of the total valuation as stated~~ 1467
~~in this division, not including such allowance for construction~~ 1468
~~work in progress.~~ 1469

~~Where the commission permits an allowance for construction~~ 1470
~~work in progress, the dollar value of the project or portion~~ 1471
~~thereof included in the valuation as construction work in~~ 1472
~~progress shall not be included in the valuation as plant in~~ 1473
~~service until such time as the total revenue effect of the~~ 1474
~~construction work in progress allowance is offset by the total~~ 1475
~~revenue effect of the plant in service exclusion. Carrying~~ 1476
~~charges calculated in a manner similar to allowance for funds~~ 1477
~~used during construction shall accrue on that portion of the~~ 1478

~~project in service but not reflected in rates as plant in- 1479~~
~~service, and such accrued carrying charges shall be included in- 1480~~
~~the valuation of the property at the conclusion of the offset- 1481~~
~~period for purposes of division (C) (9) of section 4909.05 of the 1482~~
~~Revised Code. 1483~~

~~From and after April 10, 1985, no allowance for- 1484~~
~~construction work in progress as it relates to a particular- 1485~~
~~construction project shall be reflected in rates for a period- 1486~~
~~exceeding forty-eight consecutive months commencing on the date- 1487~~
~~the initial rates reflecting such allowance become effective, 1488~~
~~except as otherwise provided in this division. 1489~~

~~The applicable maximum period in rates for an allowance- 1490~~
~~for construction work in progress as it relates to a particular- 1491~~
~~construction project shall be tolled if, and to the extent, a- 1492~~
~~delay in the in-service date of the project is caused by the- 1493~~
~~action or inaction of any federal, state, county, or municipal- 1494~~
~~agency having jurisdiction, where such action or inaction- 1495~~
~~relates to a change in a rule, standard, or approval of such- 1496~~
~~agency, and where such action or inaction is not the result of- 1497~~
~~the failure of the utility to reasonably endeavor to comply with 1498~~
~~any rule, standard, or approval prior to such change. 1499~~

~~In the event that such period expires before the project- 1500~~
~~goes into service, the commission shall exclude, from the date- 1501~~
~~of expiration, the allowance for the project as construction- 1502~~
~~work in progress from rates, except that the commission may- 1503~~
~~extend the expiration date up to twelve months for good cause- 1504~~
~~shown. 1505~~

~~In the event that a utility has permanently canceled, 1506~~
~~abandoned, or terminated construction of a project for which it- 1507~~
~~was previously permitted a construction work in progress- 1508~~

~~allowance, the commission immediately shall exclude the~~ 1509
~~allowance for the project from the valuation.~~ 1510

~~In the event that a construction work in progress project~~ 1511
~~previously included in the valuation is removed from the~~ 1512
~~valuation pursuant to this division, any revenues collected by~~ 1513
~~the utility from its customers after April 10, 1985, that~~ 1514
~~resulted from such prior inclusion shall be offset against~~ 1515
~~future revenues over the same period of time as the project was~~ 1516
~~included in the valuation as construction work in progress. The~~ 1517
~~total revenue effect of such offset shall not exceed the total~~ 1518
~~revenues previously collected.~~ 1519

~~In no event shall the total revenue effect of any offset~~ 1520
~~or offsets provided under division (A) (1) of this section exceed~~ 1521
~~the total revenue effect of any construction work in progress~~ 1522
~~allowance.~~ 1523

(2) A fair and reasonable rate of return to the utility on 1524
the valuation as determined in division (A) (1) of this section; 1525

(3) The dollar annual return to which the utility is 1526
entitled by applying the fair and reasonable rate of return as 1527
determined under division (A) (2) of this section to the 1528
valuation of the utility determined under division (A) (1) of 1529
this section; 1530

(4) The cost to the utility of rendering the public 1531
utility service for the test period used for the determination 1532
under division (C) (1) of this section, less the total of any 1533
interest on cash or credit refunds paid, pursuant to section 1534
4909.42 of the Revised Code, by the utility during the test 1535
period. 1536

~~(a)~~ Federal, state, and local taxes imposed on or measured 1537

by net income may, in the discretion of the commission, be 1538
computed by the normalization method of accounting, provided the 1539
utility maintains accounting reserves that reflect differences 1540
between taxes actually payable and taxes on a normalized basis, 1541
provided that no determination as to the treatment in the rate- 1542
making process of such taxes shall be made that will result in 1543
loss of any tax depreciation or other tax benefit to which the 1544
utility would otherwise be entitled, and further provided that 1545
such tax benefit as redounds to the utility as a result of such 1546
a computation may not be retained by the company, used to fund 1547
any dividend or distribution, or utilized for any purpose other 1548
than the defrayal of the operating expenses of the utility and 1549
the defrayal of the expenses of the utility in connection with 1550
construction work. 1551

~~(b) The amount of any tax credits granted to an electric 1552
light company under section 5727.391 of the Revised Code for 1553
Ohio coal burned prior to January 1, 2000, shall not be retained 1554
by the company, used to fund any dividend or distribution, or 1555
utilized for any purposes other than the defrayal of the 1556
allowable operating expenses of the company and the defrayal of 1557
the allowable expenses of the company in connection with the 1558
installation, acquisition, construction, or use of a compliance 1559
facility. The amount of the tax credits granted to an electric 1560
light company under that section for Ohio coal burned prior to 1561
January 1, 2000, shall be returned to its customers within three 1562
years after initially claiming the credit through an offset to 1563
the company's rates or fuel component, as determined by the 1564
commission, as set forth in schedules filed by the company under 1565
section 4905.30 of the Revised Code. As used in division (A) (4) 1566
(b) of this section, "compliance facility" has the same meaning 1567
as in section 5727.391 of the Revised Code. 1568~~

(B) The commission shall compute the gross annual revenues 1569
to which the utility is entitled by adding the dollar amount of 1570
return under division (A) (3) of this section to the cost, for 1571
the test period used for the determination under division (C) (1) 1572
of this section, of rendering the public utility service under 1573
division (A) (4) of this section. 1574

(C) (1) Except as provided in division (D) of this section, 1575
the revenues and expenses of the utility shall be determined 1576
during a test period. ~~The utility may~~ as follows: 1577

(a) Electric light companies may propose a forecasted test 1578
period. If the company proposes a forecasted test period, the 1579
company shall propose annual base rates for three consecutive 1580
twelve-month periods in a single forecasted test period 1581
application. During the first twelve-month period, the company 1582
may propose a reasonably forecasted rate base during a thirteen- 1583
month average, revenues, and expenses for the first twelve 1584
months that new base rates will be in effect. 1585

During the second twelve-month period, the base rate 1586
revenue requirement shall be adjusted for the return of, and 1587
return on, incremental rate base additions approved by the 1588
commission in the initial application. During the third twelve- 1589
month period, the base rate revenue requirement may be adjusted 1590
for the return of and return on incremental rate base additions 1591
approved by the commission in the initial application. 1592

For each twelve-month period, forecasted plant investment, 1593
forecasted revenue, and forecasted expenses versus actual 1594
investment, actual revenue, and actual expenses shall be trued 1595
up via a cost recovery mechanism approved by the commission. 1596

Each true-up process shall include an adjustment to actual 1597

for the rate of return that the company is authorized to earn on 1598
the actual investments made. The company shall provide the 1599
commission with actual financial information during the true-up 1600
process to ensure accuracy. As part of the true-up process, the 1601
commission shall include only rate base components that have 1602
been found by the commission to be used and useful in rendering 1603
public utility service. 1604

(b) All utilities, except for electric light companies 1605
that choose to file under division (C) (1) (a) of this section, 1606
shall propose a test period ~~for this determination~~ that is any 1607
twelve-month period beginning not more than six months prior to 1608
the date the application is filed and ending not more than nine 1609
months subsequent to that date. ~~The test period for determining~~ 1610
~~revenues and expenses of the utility shall be the test period~~ 1611
~~proposed by the utility, unless otherwise ordered by the~~ 1612
~~commission.~~ 1613

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1614
this section, the date certain shall be not later than the date 1615
of filing, except that it shall be, for a natural gas, water- 1616
works, or sewage disposal system company, not later than the end 1617
of the test period. 1618

(D) ~~A natural gas, water works, or sewage disposal system~~ 1619
~~company~~ Utilities filing under division (C) (1) (b) of this 1620
section may propose adjustments to the revenues and expenses ~~to~~ 1621
~~be determined under division (C) (1) of this section for any~~ 1622
changes that are, during the test period or the twelve-month 1623
period immediately following the test period, reasonably 1624
expected to occur. ~~The natural gas, water works, or sewage~~ 1625
~~disposal system company~~ utility shall identify and quantify, 1626
individually, any proposed adjustments. The commission shall 1627

incorporate the proposed adjustments into the determination if 1628
the adjustments are just and reasonable. 1629

(E) When the commission is of the opinion, after hearing 1630
and after making the determinations under divisions (A) and (B) 1631
of this section, that any rate, fare, charge, toll, rental, 1632
schedule, classification, or service, or any joint rate, fare, 1633
charge, toll, rental, schedule, classification, or service 1634
rendered, charged, demanded, exacted, or proposed to be 1635
rendered, charged, demanded, or exacted, is, or will be, unjust, 1636
unreasonable, unjustly discriminatory, unjustly preferential, or 1637
in violation of law, that the service is, or will be, 1638
inadequate, or that the maximum rates, charges, tolls, or 1639
rentals chargeable by any such public utility are insufficient 1640
to yield reasonable compensation for the service rendered, and 1641
are unjust and unreasonable, the commission shall: 1642

(1) With due regard among other things to the value of all 1643
property of the public utility ~~actually used and useful for the~~ 1644
~~convenience of the public~~ as determined under division (A) (1) of 1645
this section, excluding from such value the value of any 1646
franchise or right to own, operate, or enjoy the same in excess 1647
of the amount, exclusive of any tax or annual charge, actually 1648
paid to any political subdivision of the state or county, as the 1649
consideration for the grant of such franchise or right, and 1650
excluding any value added to such property by reason of a 1651
monopoly or merger, with due regard in determining the dollar 1652
annual return under division (A) (3) of this section to the 1653
necessity of making reservation out of the income for surplus, 1654
depreciation, and contingencies, and; 1655

(2) With due regard to all such other matters as are 1656
proper, according to the facts in each case, 1657

(a) Including a fair and reasonable rate of return 1658
determined by the commission with reference to a cost of debt 1659
equal to the actual embedded cost of debt of such public 1660
utility, 1661

(b) But not including the portion of any periodic rental 1662
or use payments representing that cost of property that is 1663
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1664
and (5) of section 4909.042 of the Revised Code and divisions 1665
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1666
determine the just and reasonable rate, fare, charge, toll, 1667
rental, or service to be rendered, charged, demanded, exacted, 1668
or collected for the performance or rendition of the service 1669
that will provide the public utility the allowable gross annual 1670
revenues under division (B) of this section, and order such just 1671
and reasonable rate, fare, charge, toll, rental, or service to 1672
be substituted for the existing one. After such determination 1673
and order no change in the rate, fare, toll, charge, rental, 1674
schedule, classification, or service shall be made, rendered, 1675
charged, demanded, exacted, or changed by such public utility 1676
without the order of the commission, and any other rate, fare, 1677
toll, charge, rental, classification, or service is prohibited. 1678

(F) Upon application of any person or any public utility, 1679
and after notice to the parties in interest and opportunity to 1680
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1681
4909., 4921., and 4923. of the Revised Code for other hearings, 1682
has been given, the commission may rescind, alter, or amend an 1683
order fixing any rate, fare, toll, charge, rental, 1684
classification, or service, or any other order made by the 1685
commission. Certified copies of such orders shall be served and 1686
take effect as provided for original orders. 1687

Sec. 4909.156. In fixing the just, reasonable, and 1688
compensatory rates, joint rates, tolls, classifications, 1689
charges, or rentals to be observed and charged for service by 1690
any public utility, the public utilities commission shall, in 1691
action upon an application filed pursuant to section 4909.18 of 1692
the Revised Code, require a public utility to file a report 1693
showing the proportionate amounts of the valuation of the 1694
property of the utility, as determined under section 4909.042 or 1695
4909.05 of the Revised Code, and the proportionate amounts of 1696
the revenues and expenses of the utility that are proposed to be 1697
considered as attributable to the service area involved in the 1698
application. 1699

"Valuation," as used in this section, may include, ~~with~~: 1700

(A) With respect to a public utility that is a natural 1701
gas, water-works, or sewage disposal system company, projected 1702
valuation as of the date certain, if applicable because of a 1703
future date certain under section 4909.15 of the Revised Code; 1704

(B) With respect to an electric light company that chooses 1705
to file a forecasted test period under section 4909.18 of the 1706
Revised Code, the valuation and value during the forecasted test 1707
period. 1708

Sec. 4909.173. (A) As used in this section and section 1709
4909.174 of the Revised Code: 1710

(1) "Customer-owned water service line" means the water 1711
service line connected to the water-works company's water 1712
service line at the curb of a customer's property. 1713

(2) "Water-works company" means an entity defined under 1714
division (G) of section 4905.03 of the Revised Code that is a 1715
public utility under section 4905.02 of the Revised Code. 1716

(B) A water-works company may do any of the following:	1717
(1) Replace lead customer-owned water service lines	1718
concurrently with a scheduled utility main replacement project,	1719
an emergency replacement, or company-initiated lead water	1720
service line replacement program;	1721
(2) Replace lead customer-owned water service lines when	1722
mandated or ordered to replace such lines by law or a state or	1723
federal regulatory agency;	1724
(3) Replace customer-owned water service lines of other	1725
composition when mandated or ordered to replace such lines by	1726
law or a state or federal regulatory agency.	1727
(C) If a water-works company replaces customer-owned water	1728
service lines under this section, then the company shall include	1729
the cost of the replacement of the water service lines,	1730
including the cost of replacement of both company side and	1731
customer-owned water service lines and the cost to evaluate	1732
customer-owned water service lines of unknown composition, in	1733
the valuation report of the property of the company as required	1734
under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the Revised	1735
Code for inclusion in a rate case under this chapter.	1736
(D) The water service customer who is responsible for the	1737
customer-owned water service line that was replaced under this	1738
section shall hold legal title to the replaced water service	1739
line.	1740
Sec. 4909.174. (A) A water-works company shall reimburse a	1741
customer who replaces the customer's customer-owned water	1742
service line, if both of the following occur:	1743
(1) The company confirms that the customer-owned water	1744
service line was composed of lead or other composition that was	1745

mandated or ordered to be replaced by law or a state or federal 1746
regulatory agency; 1747

(2) The customer submits the reimbursement request to the 1748
company not later than twelve months after the completion of the 1749
water line replacement. 1750

(B) A water-works company that provides a reimbursement to 1751
a customer under this section shall include the reimbursement 1752
amount in the valuation report of the property of the company as 1753
required under division ~~(C) (6)~~ (B) (6) of section 4909.05 of the 1754
Revised Code for inclusion in a rate case under this chapter. 1755

Sec. 4909.18. Any public utility desiring to establish any 1756
rate, joint rate, toll, classification, charge, or rental, or to 1757
modify, amend, change, increase, or reduce any existing rate, 1758
joint rate, toll, classification, charge, or rental, or any 1759
regulation or practice affecting the same, shall file a written 1760
application with the public utilities commission. Except for 1761
actions under section 4909.16 of the Revised Code, no public 1762
utility may issue the notice of intent to file an application 1763
pursuant to division (B) of section 4909.43 of the Revised Code 1764
to increase any existing rate, joint rate, toll, classification, 1765
charge, or rental, until a final order under this section has 1766
been issued by the commission on any pending prior application 1767
to increase the same rate, joint rate, toll, classification, 1768
charge, or rental or until two hundred seventy-five days after 1769
filing such application, whichever is sooner. Such application 1770
shall be verified by the president or a vice-president and the 1771
secretary or treasurer of the applicant. Such application shall 1772
contain a schedule of the existing rate, joint rate, toll, 1773
classification, charge, or rental, or regulation or practice 1774
affecting the same, a schedule of the modification amendment, 1775

change, increase, or reduction sought to be established, and a 1776
statement of the facts and grounds upon which such application 1777
is based. If such application proposes a new service or the use 1778
of new equipment, or proposes the establishment or amendment of 1779
a regulation, the application shall fully describe the new 1780
service or equipment, or the regulation proposed to be 1781
established or amended, and shall explain how the proposed 1782
service or equipment differs from services or equipment 1783
presently offered or in use, or how the regulation proposed to 1784
be established or amended differs from regulations presently in 1785
effect. The application shall provide such additional 1786
information as the commission may require in its discretion. If 1787
the commission determines that such application is not for an 1788
increase in any rate, joint rate, toll, classification, charge, 1789
or rental, the commission may permit the filing of the schedule 1790
proposed in the application and fix the time when such schedule 1791
shall take effect. If it appears to the commission that the 1792
proposals in the application may be unjust or unreasonable, the 1793
commission shall set the matter for hearing and shall give 1794
notice of such hearing by sending written notice of the date set 1795
for the hearing to the public utility and publishing notice of 1796
the hearing one time in a newspaper of general circulation in 1797
each county in the service area affected by the application. At 1798
such hearing, the burden of proof to show that the proposals in 1799
the application are just and reasonable shall be upon the public 1800
utility. After such hearing, the commission shall, where 1801
practicable, issue an appropriate order within six months from 1802
the date the application was filed. 1803

If the commission determines that said application is for 1804
an increase in any rate, joint rate, toll, classification, 1805
charge, or rental there shall also, unless otherwise ordered by 1806

the commission, be filed with the application in duplicate the 1807
following exhibits: 1808

(A) A report of its property used and useful, or, with 1809
respect to a natural gas, water-works, or sewage disposal system 1810
company, projected to be used and useful, as of the date 1811
certain, or during the forecasted test period, if the 1812
application is filed under division (C) (1) (a) of section 4909.15 1813
of the Revised Code, in rendering the service referred to in 1814
such application, as provided in ~~section~~ sections 4909.042 and 1815
4909.05 of the Revised Code; 1816

(B) A complete operating statement of its last fiscal 1817
year, showing in detail all its receipts, revenues, and incomes 1818
from all sources, all of its operating costs and other 1819
expenditures, and any analysis such public utility deems 1820
applicable to the matter referred to in said application; 1821

(C) A statement of the income and expense anticipated 1822
under the application filed; 1823

(D) A statement of financial condition summarizing assets, 1824
liabilities, and net worth; 1825

(E) Such other information as the commission may require 1826
in its discretion. 1827

Sec. 4909.181. (A) As used in this section, "electric 1828
distribution utility" has the same meaning as in section 4928.01 1829
of the Revised Code. 1830

(B) Not later than December 31, 2029, and at least every 1831
three years thereafter, each electric distribution utility shall 1832
file a rate case application regarding distribution service 1833
under section 4909.18 of the Revised Code. 1834

Sec. 4909.19. (A) Upon the filing of any application for 1835
increase provided for by section 4909.18 of the Revised Code the 1836
public utility shall forthwith publish notice of such 1837
application, in a form approved by the public utilities 1838
commission, once a week for two consecutive weeks in a newspaper 1839
published and in general circulation throughout the territory in 1840
which such public utility operates and directly affected by the 1841
matters referred to in said application. The notice shall 1842
include instructions for direct electronic access to the 1843
application or other documents on file with the public utilities 1844
commission. The first publication of the notice shall be made in 1845
its entirety and may be made in a preprinted insert in the 1846
newspaper. The second publication may be abbreviated if all of 1847
the following apply: 1848

(1) The abbreviated notice is at least one-fourth of the 1849
size of the notice in the first publication. 1850

(2) At the same time the abbreviated notice is published, 1851
the notice in the first publication is posted in its entirety on 1852
the newspaper's web site, if the newspaper has a web site, and 1853
the commission's web site. 1854

(3) The abbreviated notice contains a statement of the web 1855
site posting or postings, as applicable, and instructions for 1856
accessing the posting or postings. 1857

(B) The commission shall determine a format for the 1858
content of all notices required under this section, and shall 1859
consider costs and technological efficiencies in making that 1860
determination. Defects in the publication of said notice shall 1861
not affect the legality or sufficiency of notices published 1862
under this section provided that the commission has 1863
substantially complied with this section, as described in 1864

section 4905.09 of the Revised Code. 1865

(C) The commission shall at once cause an investigation to 1866
be made of the facts set forth in said application and the 1867
exhibits attached thereto, and of the matters connected 1868
therewith. Within ~~a reasonable time as determined by the~~ 1869
~~commission~~ one hundred eighty days after the ~~filing of such~~ 1870
application is determined to be complete, a written report shall 1871
be made and filed with the commission, a copy of which shall be 1872
sent by certified mail to the applicant, the mayor of any 1873
municipal corporation affected by the application, and to such 1874
other persons as the commission deems interested. If no 1875
objection to such report is made by any party interested within 1876
thirty days after such filing and the mailing of copies thereof, 1877
the commission shall fix a date within ten days for the final 1878
hearing upon said application, giving notice thereof to all 1879
parties interested. At such hearing the commission shall 1880
consider the matters set forth in said application and make such 1881
order respecting the prayer thereof as to it seems just and 1882
reasonable. 1883

If objections are filed with the commission, the 1884
commission shall cause a pre-hearing conference to be held 1885
between all parties, intervenors, and the commission staff in 1886
all cases involving more than one hundred thousand customers. 1887

If objections are filed with the commission within thirty 1888
days after the filing of such report, the application shall be 1889
promptly set down for hearing of testimony before the commission 1890
or be forthwith referred to an attorney examiner designated by 1891
the commission to take all the testimony with respect to the 1892
application and objections which may be offered by any 1893
interested party. The commission shall also fix the time and 1894

place to take testimony giving ten days' written notice of such 1895
time and place to all parties. The taking of testimony shall 1896
commence on the date fixed in said notice and shall continue 1897
from day to day until completed. The attorney examiner may, upon 1898
good cause shown, grant continuances for not more than three 1899
days, excluding Saturdays, Sundays, and holidays. The commission 1900
may grant continuances for a longer period than three days upon 1901
its order for good cause shown. At any hearing involving rates 1902
or charges sought to be increased, the burden of proof to show 1903
that the increased rates or charges are just and reasonable 1904
shall be on the public utility. 1905

When the taking of testimony is completed, a full and 1906
complete record of such testimony noting all objections made and 1907
exceptions taken by any party or counsel, shall be made, signed 1908
by the attorney examiner, and filed with the commission. Prior 1909
to the formal consideration of the application by the commission 1910
and the rendition of any order respecting the prayer of the 1911
application, a quorum of the commission shall consider the 1912
recommended opinion and order of the attorney examiner, in an 1913
open, formal, public proceeding in which an overview and 1914
explanation is presented orally. Thereafter, the commission 1915
shall make such order respecting the prayer of such application 1916
as seems just and reasonable to it. 1917

In all proceedings before the commission in which the 1918
taking of testimony is required, except when heard by the 1919
commission, attorney examiners shall be assigned by the 1920
commission to take such testimony and fix the time and place 1921
therefor, and such testimony shall be taken in the manner 1922
prescribed in this section. All testimony shall be under oath or 1923
affirmation and taken down and transcribed by a reporter and 1924
made a part of the record in the case. The commission may hear 1925

the testimony or any part thereof in any case without having the 1926
same referred to an attorney examiner and may take additional 1927
testimony. Testimony shall be taken and a record made in 1928
accordance with such general rules as the commission prescribes 1929
and subject to such special instructions in any proceedings as 1930
it, by order, directs. 1931

Sec. 4909.191. (A) If the public utilities commission, 1932
under division (D) of section 4909.15 of the Revised Code, 1933
incorporated proposed adjustments to revenues and expenses into 1934
the commission's determination under that section, the ~~natural~~ 1935
~~gas, water-works, or sewage disposal system company~~ public 1936
utility shall, not later than ninety days after actual data for 1937
all of the incorporated adjustments becomes known, submit to the 1938
commission proposed rate or charge adjustments that provide for 1939
the recalculation of rates or charges, reflective of customer- 1940
class responsibility, corresponding to the differences, if any, 1941
between the incorporated adjustments to revenues and expenses 1942
and the actual revenues and expenses associated with the 1943
incorporated adjustments. 1944

(B) If the commission incorporated projected value or 1945
valuation of property into the commission's determination under 1946
division ~~(A) (1)~~ (A) (1) (a) of section 4909.15 of the Revised Code, 1947
the natural gas, water-works, or sewage disposal system company 1948
shall, not later than ninety days after data for the actual 1949
value or valuation as of the date certain becomes known, submit 1950
to the commission proposed rate or charge adjustments that 1951
provide for the recalculation of rates or charges, reflective of 1952
customer-class responsibility, corresponding to the differences, 1953
if any, between the projected value or valuation incorporated 1954
into the commission's determination and the actual value or 1955
valuation as of the date certain. 1956

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

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

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

(E) The reconciliation adjustments ordered under division 1987
(D) of this section may be subject to a final reconciliation by 1988
the commission. Any such final reconciliation shall occur after 1989
the twelve-month period described in division (D) of this 1990
section. 1991

Sec. 4909.192. When considering an application to increase 1992
rates under section 4909.18 of the Revised Code, the public 1993
utilities commission may approve the following: 1994

(A) Nondiscriminatory programs available for all energy- 1995
intensive customers to implement economic development, job 1996
growth, job retention, or interruptible rates that enhance 1997
distribution and transmission grid reliability and promote 1998
economic development. 1999

(B) Nondiscriminatory programs available for all 2000
mercantile customers, as defined in section 4928.01 of the 2001
Revised Code, that align retail rate recovery with how 2002
transmission costs are incurred by or charged to the electric 2003
distribution utility, as defined in section 4928.01 of the 2004
Revised Code, or programs that allow customers to be billed 2005
directly for transmission service by a competitive retail 2006
electric service provider. 2007

Sec. 4909.193. The public utilities commission shall 2008
determine whether an application for an increase filed under 2009
section 4909.18 of the Revised Code is complete not more than 2010
forty-five days after the application is filed. If the 2011
commission does not issue a determination within the time period 2012
required by this section, the application shall be deemed 2013
complete by operation of law. 2014

Sec. 4909.42. If the proceeding on an application filed 2015

with the public utilities commission under section 4909.18 of 2016
the Revised Code by any public utility requesting an increase on 2017
any rate, rate mechanism, joint rate, toll, classification, 2018
charge, or rental or requesting a change in a regulation or 2019
practice affecting the same has not been concluded and an order 2020
entered pursuant to section 4909.19 of the Revised Code at the 2021
expiration of ~~two hundred seventy-five~~ two hundred ninety days 2022
from the date of filing the application is determined complete, 2023
~~an~~ the public utility may request a temporary increase not to 2024
~~exceed the proposed increase~~ and any party to the proceeding may 2025
request a temporary decrease, which shall go into effect upon 2026
~~the filing of a bond or a letter of credit by the public~~ 2027
~~utility~~ and remain in effect until modified in accordance with 2028
the commission's determination on the merits of the application. 2029
~~The bond or letter of credit shall be filed with the commission~~ 2030
~~and shall be payable to the state for the use and benefit of the~~ 2031
~~customers affected by the proposed increase or change~~ If the 2032
commission does not issue an order within three hundred twenty 2033
days after the application is deemed complete, the application 2034
shall be deemed approved by operation of law. A temporary 2035
increase or decrease under this section shall not exceed the 2036
midpoint of the rates recommended in the staff report filed 2037
pursuant to section 4909.19 of the Revised Code and is subject 2038
to refund. 2039

~~An affidavit attached to the bond or letter of credit must~~ 2040
~~be signed by two of the officers of the utility, under oath, and~~ 2041
~~must contain a promise on behalf of the utility to refund any~~ 2042
~~amounts collected by the utility over the rate, joint rate,~~ 2043
~~toll, classification, charge, or rental, as determined in the~~ 2044
~~final order of the commission. All refunds shall include~~ 2045
~~interest at the rate stated in section 1343.03 of the Revised~~ 2046

~~Code. The refund shall be in the form of a temporary reduction in rates following the final order of the commission, and shall be accomplished in such manner as shall be prescribed by the commission in its final order. The commission shall exercise continuing and exclusive jurisdiction over such refunds.~~

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

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

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

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

(2) "Billing and collection agent" means a fully

independent agent, not affiliated with or otherwise controlled 2076
by an electric utility, electric services company, electric 2077
cooperative, or governmental aggregator subject to certification 2078
under section 4928.08 of the Revised Code, to the extent that 2079
the agent is under contract with such utility, company, 2080
cooperative, or aggregator solely to provide billing and 2081
collection for retail electric service on behalf of the utility 2082
company, cooperative, or aggregator. 2083

(3) "Certified territory" means the certified territory 2084
established for an electric supplier under sections 4933.81 to 2085
4933.90 of the Revised Code. 2086

(4) "Competitive retail electric service" means a 2087
component of retail electric service that is competitive as 2088
provided under division (B) of this section. 2089

(5) "Electric cooperative" means a not-for-profit electric 2090
light company that both is or has been financed in whole or in 2091
part under the "Rural Electrification Act of 1936," 49 Stat. 2092
1363, 7 U.S.C. 901, and owns or operates facilities in this 2093
state to generate, transmit, or distribute electricity, or a 2094
not-for-profit successor of such company. 2095

(6) "Electric distribution utility" means an electric 2096
utility that supplies at least retail electric distribution 2097
service and does not own or operate an electric generating 2098
facility. 2099

(7) "Electric light company" has the same meaning as in 2100
section 4905.03 of the Revised Code and includes an electric 2101
~~services company, but excludes any self-generator to the extent~~ 2102
~~that it consumes electricity it so produces, sells that~~ 2103
~~electricity for resale, or obtains electricity from a generating~~ 2104

~~facility it hosts on its premises.~~ 2105

(8) "Electric load center" has the same meaning as in 2106
section 4933.81 of the Revised Code. 2107

(9) "Electric services company" means an electric light 2108
company that is engaged on a for-profit or not-for-profit basis 2109
in the business of supplying or arranging for the supply of only 2110
a competitive retail electric service in this state. "Electric 2111
services company" includes a power marketer, power broker, 2112
aggregator, or independent power producer but excludes an 2113
electric cooperative, municipal electric utility, governmental 2114
aggregator, or billing and collection agent. 2115

(10) "Electric supplier" has the same meaning as in 2116
section 4933.81 of the Revised Code. 2117

(11) "Electric utility" means an electric light company 2118
that has a certified territory and is engaged on a for-profit 2119
basis ~~either~~ in the business of supplying at least a 2120
noncompetitive retail electric service in this state ~~or in the~~ 2121
~~businesses of supplying both a noncompetitive and a competitive~~ 2122
~~retail electric service in this state.~~ "Electric utility" 2123
excludes a municipal electric utility or a billing and 2124
collection agent. 2125

(12) "Firm electric service" means electric service other 2126
than nonfirm electric service. 2127

(13) "Governmental aggregator" means a legislative 2128
authority of a municipal corporation, a board of township 2129
trustees, or a board of county commissioners acting as an 2130
aggregator for the provision of a competitive retail electric 2131
service under authority conferred under section 4928.20 of the 2132
Revised Code. 2133

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

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

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

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

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

(19) "Mercantile customer" means a commercial or

industrial customer if the electricity consumed is for 2163
nonresidential use and the customer consumes more than seven 2164
hundred thousand kilowatt hours per year or is part of a 2165
national account involving multiple facilities in one or more 2166
states. 2167

(20) "Municipal electric utility" means a municipal 2168
corporation that owns or operates facilities to generate, 2169
transmit, or distribute electricity. 2170

(21) "Noncompetitive retail electric service" means a 2171
component of retail electric service that is noncompetitive as 2172
provided under division (B) of this section. 2173

(22) "Nonfirm electric service" means electric service 2174
provided pursuant to a schedule filed under section 4905.30 of 2175
the Revised Code or pursuant to an arrangement under section 2176
4905.31 of the Revised Code, which schedule or arrangement 2177
includes conditions that may require the customer to curtail or 2178
interrupt electric usage during nonemergency circumstances upon 2179
notification by an electric utility. 2180

(23) "Percentage of income payment plan arrears" means 2181
funds eligible for collection through the percentage of income 2182
payment plan rider, but uncollected as of July 1, 2000. 2183

(24) "Person" has the same meaning as in section 1.59 of 2184
the Revised Code. 2185

(25) "Advanced energy project" means any technologies, 2186
products, activities, or management practices or strategies that 2187
facilitate the generation or use of electricity or energy and 2188
that reduce or support the reduction of energy consumption or 2189
support the production of clean, renewable energy for 2190
industrial, distribution, commercial, institutional, 2191

governmental, research, not-for-profit, or residential energy 2192
users, including, but not limited to, advanced energy resources 2193
and renewable energy resources. "Advanced energy project" also 2194
includes any project described in division (A), (B), or (C) of 2195
section 4928.621 of the Revised Code. 2196

(26) "Regulatory assets" means the unamortized net 2197
regulatory assets that are capitalized or deferred on the 2198
regulatory books of the electric utility, pursuant to an order 2199
or practice of the public utilities commission or pursuant to 2200
generally accepted accounting principles as a result of a prior 2201
commission rate-making decision, and that would otherwise have 2202
been charged to expense as incurred or would not have been 2203
capitalized or otherwise deferred for future regulatory 2204
consideration absent commission action. "Regulatory assets" 2205
includes, but is not limited to, all deferred demand-side 2206
management costs; all deferred percentage of income payment plan 2207
arrears; post-in-service capitalized charges and assets 2208
recognized in connection with statement of financial accounting 2209
standards no. 109 (receivables from customers for income taxes); 2210
future nuclear decommissioning costs and fuel disposal costs as 2211
those costs have been determined by the commission in the 2212
electric utility's most recent rate or accounting application 2213
proceeding addressing such costs; the undepreciated costs of 2214
safety and radiation control equipment on nuclear generating 2215
plants owned or leased by an electric utility; and fuel costs 2216
currently deferred pursuant to the terms of one or more 2217
settlement agreements approved by the commission. 2218

(27) "Retail electric service" means any service involved 2219
in supplying or arranging for the supply of electricity to 2220
ultimate consumers in this state, from the point of generation 2221
to the point of consumption. For the purposes of this chapter, 2222

retail electric service includes one or more of the following 2223
"service components": generation service, aggregation service, 2224
power marketing service, power brokerage service, transmission 2225
service, distribution service, ancillary service, metering 2226
service, and billing and collection service. 2227

(28) "Starting date of competitive retail electric 2228
service" means January 1, 2001. 2229

(29) "Customer-generator" means a user of a net metering 2230
system. 2231

(30) "Net metering" means measuring the difference in an 2232
applicable billing period between the electricity supplied by an 2233
electric service provider and the electricity generated by a 2234
customer-generator that is fed back to the electric service 2235
provider. 2236

(31) "Net metering system" means a facility for the 2237
production of electrical energy that does all of the following: 2238

(a) Uses as its fuel either solar, wind, biomass, landfill 2239
gas, or hydropower, or uses a microturbine or a fuel cell; 2240

(b) Is located on a customer-generator's premises; 2241

(c) Operates in parallel with the electric utility's 2242
transmission and distribution facilities; 2243

(d) Is intended primarily to offset part or all of the 2244
customer-generator's requirements for electricity. For an 2245
industrial customer-generator with a net metering system that 2246
has a capacity of less than twenty megawatts and uses wind as 2247
energy, this means the net metering system was sized so as to 2248
not exceed one hundred per cent of the customer-generator's 2249
annual requirements for electric energy at the time of 2250

interconnection. 2251

(32) "Self-generator" means an entity in this state that 2252
owns or hosts on ~~its premises~~ property the entity controls an 2253
electric generation facility that produces electricity primarily 2254
for the owner's consumption and that may provide any such excess 2255
electricity to another entity, ~~whether the~~ and that meets all of 2256
the following: 2257

(a) The facility is installed or operated by the owner or 2258
by an agent a third party under a contract, including a lease, 2259
purchase power agreement, or other service contract. 2260

(b) The facility connects directly to the owner's side of 2261
the electric meter. 2262

(c) The facility delivers electricity to the owner's side 2263
of the electric meter without the use of an electric 2264
distribution utility's or electric cooperative's distribution 2265
system or transmission system. 2266

(33) "Rate plan" means the standard service offer in 2267
effect on the effective date of the amendment of this section by 2268
S.B. 221 of the 127th general assembly, July 31, 2008. 2269

(34) "Advanced energy resource" means any of the 2270
following: 2271

(a) Any method or any modification or replacement of any 2272
property, process, device, structure, or equipment that 2273
increases the generation output of an electric generating 2274
facility to the extent such efficiency is achieved without 2275
additional carbon dioxide emissions by that facility; 2276

(b) Any distributed generation system consisting of 2277
customer cogeneration technology; 2278

(c) Clean coal technology that includes a carbon-based 2279
product that is chemically altered before combustion to 2280
demonstrate a reduction, as expressed as ash, in emissions of 2281
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 2282
sulfur trioxide in accordance with the American society of 2283
testing and materials standard D1757A or a reduction of metal 2284
oxide emissions in accordance with standard D5142 of that 2285
society, or clean coal technology that includes the design 2286
capability to control or prevent the emission of carbon dioxide, 2287
which design capability the commission shall adopt by rule and 2288
shall be based on economically feasible best available 2289
technology or, in the absence of a determined best available 2290
technology, shall be of the highest level of economically 2291
feasible design capability for which there exists generally 2292
accepted scientific opinion; 2293

(d) Advanced nuclear energy technology consisting of 2294
generation III technology as defined by the nuclear regulatory 2295
commission; other, later technology; or significant improvements 2296
to existing facilities; 2297

(e) Any fuel cell used in the generation of electricity, 2298
including, but not limited to, a proton exchange membrane fuel 2299
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2300
solid oxide fuel cell; 2301

(f) Advanced solid waste or construction and demolition 2302
debris conversion technology, including, but not limited to, 2303
advanced stoker technology, and advanced fluidized bed 2304
gasification technology, that results in measurable greenhouse 2305
gas emissions reductions as calculated pursuant to the United 2306
States environmental protection agency's waste reduction model 2307
(WARM) ; 2308

(g) Demand-side management and any energy efficiency improvement;	2309 2310
(h) Any new, retrofitted, refueled, or repowered generating facility located in Ohio, including a simple or combined-cycle natural gas generating facility or a generating facility that uses biomass, coal, modular nuclear, or any other fuel as its input;	2311 2312 2313 2314 2315
(i) Any uprated capacity of an existing electric generating facility if the uprated capacity results from the deployment of advanced technology.	2316 2317 2318
"Advanced energy resource" does not include a waste energy recovery system that is, or has been, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.	2319 2320 2321 2322
(35) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code.	2323 2324
(36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.	2325 2326
(37) (a) "Renewable energy resource" means any of the following:	2327 2328
(i) Solar photovoltaic or solar thermal energy;	2329
(ii) Wind energy;	2330
(iii) Power produced by a hydroelectric facility;	2331
(iv) Power produced by a small hydroelectric facility, which is a facility that operates, or is rated to operate, at an aggregate capacity of less than six megawatts;	2332 2333 2334
(v) Power produced by a run-of-the-river hydroelectric	2335

facility placed in service on or after January 1, 1980, that is 2336
located within this state, relies upon the Ohio river, and 2337
operates, or is rated to operate, at an aggregate capacity of 2338
forty or more megawatts; 2339

(vi) Geothermal energy; 2340

(vii) Fuel derived from solid wastes, as defined in 2341
section 3734.01 of the Revised Code, through fractionation, 2342
biological decomposition, or other process that does not 2343
principally involve combustion; 2344

(viii) Biomass energy; 2345

(ix) Energy produced by cogeneration technology that is 2346
placed into service on or before December 31, 2015, and for 2347
which more than ninety per cent of the total annual energy input 2348
is from combustion of a waste or byproduct gas from an air 2349
contaminant source in this state, which source has been in 2350
operation since on or before January 1, 1985, provided that the 2351
cogeneration technology is a part of a facility located in a 2352
county having a population of more than three hundred sixty-five 2353
thousand but less than three hundred seventy thousand according 2354
to the most recent federal decennial census; 2355

(x) Biologically derived methane gas; 2356

(xi) Heat captured from a generator of electricity, 2357
boiler, or heat exchanger fueled by biologically derived methane 2358
gas; 2359

(xii) Energy derived from nontreated by-products of the 2360
pulping process or wood manufacturing process, including bark, 2361
wood chips, sawdust, and lignin in spent pulping liquors. 2362

"Renewable energy resource" includes, but is not limited 2363

to, any fuel cell used in the generation of electricity, 2364
including, but not limited to, a proton exchange membrane fuel 2365
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 2366
solid oxide fuel cell; a linear generator; wind turbine located 2367
in the state's territorial waters of Lake Erie; methane gas 2368
emitted from an abandoned coal mine; waste energy recovery 2369
system placed into service or retrofitted on or after the 2370
effective date of the amendment of this section by S.B. 315 of 2371
the 129th general assembly, September 10, 2012, except that a 2372
waste energy recovery system described in division (A) (38) (b) of 2373
this section may be included only if it was placed into service 2374
between January 1, 2002, and December 31, 2004; storage facility 2375
that will promote the better utilization of a renewable energy 2376
resource; or distributed generation system used by a customer to 2377
generate electricity from any such energy. 2378

"Renewable energy resource" does not include a waste 2379
energy recovery system that is, or was, on or after January 1, 2380
2012, included in an energy efficiency program of an electric 2381
distribution utility pursuant to requirements under section 2382
4928.66 of the Revised Code. 2383

(b) As used in division (A) (37) of this section, 2384
"hydroelectric facility" means a hydroelectric generating 2385
facility that is located at a dam on a river, or on any water 2386
discharged to a river, that is within or bordering this state or 2387
within or bordering an adjoining state and meets all of the 2388
following standards: 2389

(i) The facility provides for river flows that are not 2390
detrimental for fish, wildlife, and water quality, including 2391
seasonal flow fluctuations as defined by the applicable 2392
licensing agency for the facility. 2393

(ii) The facility demonstrates that it complies with the 2394
water quality standards of this state, which compliance may 2395
consist of certification under Section 401 of the "Clean Water 2396
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2397
demonstrates that it has not contributed to a finding by this 2398
state that the river has impaired water quality under Section 2399
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2400
U.S.C. 1313. 2401

(iii) The facility complies with mandatory prescriptions 2402
regarding fish passage as required by the federal energy 2403
regulatory commission license issued for the project, regarding 2404
fish protection for riverine, anadromous, and catadromous fish. 2405

(iv) The facility complies with the recommendations of the 2406
Ohio environmental protection agency and with the terms of its 2407
federal energy regulatory commission license regarding watershed 2408
protection, mitigation, or enhancement, to the extent of each 2409
agency's respective jurisdiction over the facility. 2410

(v) The facility complies with provisions of the 2411
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2412
to 1544, as amended. 2413

(vi) The facility does not harm cultural resources of the 2414
area. This can be shown through compliance with the terms of its 2415
federal energy regulatory commission license or, if the facility 2416
is not regulated by that commission, through development of a 2417
plan approved by the Ohio historic preservation office, to the 2418
extent it has jurisdiction over the facility. 2419

(vii) The facility complies with the terms of its federal 2420
energy regulatory commission license or exemption that are 2421
related to recreational access, accommodation, and facilities 2422

or, if the facility is not regulated by that commission, the 2423
facility complies with similar requirements as are recommended 2424
by resource agencies, to the extent they have jurisdiction over 2425
the facility; and the facility provides access to water to the 2426
public without fee or charge. 2427

(viii) The facility is not recommended for removal by any 2428
federal agency or agency of any state, to the extent the 2429
particular agency has jurisdiction over the facility. 2430

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 2431
this section do not apply to a small hydroelectric facility 2432
under division (A) (37) (a) (iv) of this section. 2433

(38) "Waste energy recovery system" means any of the 2434
following: 2435

(a) A facility that generates electricity through the 2436
conversion of energy from either of the following: 2437

(i) Exhaust heat from engines or manufacturing, 2438
industrial, commercial, or institutional sites, except for 2439
exhaust heat from a facility whose primary purpose is the 2440
generation of electricity; 2441

(ii) Reduction of pressure in gas pipelines before gas is 2442
distributed through the pipeline, provided that the conversion 2443
of energy to electricity is achieved without using additional 2444
fossil fuels. 2445

(b) A facility at a state institution of higher education 2446
as defined in section 3345.011 of the Revised Code that recovers 2447
waste heat from electricity-producing engines or combustion 2448
turbines and that simultaneously uses the recovered heat to 2449
produce steam, provided that the facility was placed into 2450
service between January 1, 2002, and December 31, 2004; 2451

(c) A facility that produces steam from recovered waste 2452
heat from a manufacturing process and uses that steam, or 2453
transfers that steam to another facility, to provide heat to 2454
another manufacturing process or to generate electricity. 2455

(39) "Smart grid" means capital improvements to an 2456
electric distribution utility's distribution infrastructure that 2457
improve reliability, efficiency, resiliency, or reduce energy 2458
demand or use, including, but not limited to, advanced metering 2459
and automation of system functions. 2460

(40) "Combined heat and power system" means the 2461
coproduction of electricity and useful thermal energy from the 2462
same fuel source designed to achieve thermal-efficiency levels 2463
of at least sixty per cent, with at least twenty per cent of the 2464
system's total useful energy in the form of thermal energy. 2465

~~(41) "Legacy generation resource" means all generating 2466~~
~~facilities owned directly or indirectly by a corporation that 2467~~
~~was formed prior to 1960 by investor-owned utilities for the 2468~~
~~original purpose of providing power to the federal government 2469~~
~~for use in the nation's defense or in furtherance of national 2470~~
~~interests, including the Ohio valley electric corporation. 2471~~

~~(42) "Prudently incurred costs related to a legacy 2472~~
~~generation resource" means costs, including deferred costs, 2473~~
~~allocated pursuant to a power agreement approved by the federal 2474~~
~~energy regulatory commission that relates to a legacy generation 2475~~
~~resource, less any revenues realized from offering the 2476~~
~~contractual commitment for the power agreement into the 2477~~
~~wholesale markets, provided that where the net revenues exceed 2478~~
~~net costs, those excess revenues shall be credited to customers. 2479~~
~~Such costs shall exclude any return on investment in common 2480~~
~~equity and, in the event of a premature retirement of a legacy 2481~~

~~generation resource, shall exclude any recovery of remaining~~ 2482
~~debt. Such costs shall include any incremental costs resulting~~ 2483
~~from the bankruptcy of a current or former sponsor under such~~ 2484
~~power agreement or co-owner of the legacy generation resource if~~ 2485
~~not otherwise recovered through a utility rate cost recovery~~ 2486
~~mechanism.~~ 2487

~~(43) (a)~~ (41) (a) "Green energy" means any energy generated 2488
by using an energy resource that does one or more of the 2489
following: 2490

(i) Releases reduced air pollutants, thereby reducing 2491
cumulative air emissions; 2492

(ii) Is more sustainable and reliable relative to some 2493
fossil fuels. 2494

(b) "Green energy" includes energy generated using the 2495
following: 2496

(i) Natural gas as a resource; 2497

(ii) Nuclear reaction. 2498

(42) "Linear generator" means an integrated system 2499
consisting of oscillators, cylinders, electricity conversion 2500
equipment, and associated balance of plant components that meet 2501
the following criteria: 2502

(a) Converts the linear motion of oscillators directly 2503
into electricity without the use of a flame or spark; 2504

(b) Is dispatchable with the ability to vary power output 2505
across all loads; 2506

(c) Can operate on multiple fuel types including renewable 2507
fuels such as hydrogen, ammonia, and biogas. 2508

(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.

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

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

Sec. 4928.05. (A) ~~(1) On and after the starting date of~~
~~competitive retail electric service, a~~ A competitive retail
electric service supplied by an ~~electric utility or electric~~
services company, or by an electric utility consistent with
section 4928.141 of the Revised Code, shall not be subject to
supervision and regulation by a municipal corporation under
Chapter 743. of the Revised Code or by the public utilities
commission under Chapters 4901. to 4909., 4933., 4935., and
4963. of the Revised Code, except sections 4905.10 and 4905.31,
division (B) of section 4905.33, and sections 4905.35 and
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40,
and 4963.41 of the Revised Code only to the extent related to
service reliability and public safety; and except as otherwise

provided in this chapter. The commission's authority to enforce 2539
those excepted provisions with respect to a competitive retail 2540
electric service shall be such authority as is provided for 2541
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2542
and 4963. of the Revised Code and this chapter. Nothing in this 2543
division shall be construed to limit the commission's authority 2544
under sections 4928.141 to ~~to~~, 4928.142, and 4928.144 of the 2545
Revised Code. 2546

~~On and after the starting date of competitive retail~~ 2547
~~electric service, a~~ (2) A competitive retail electric service 2548
supplied by an electric cooperative shall not be subject to 2549
supervision and regulation by the commission under Chapters 2550
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2551
except as otherwise expressly provided in sections 4928.01 to 2552
4928.10 and 4928.16 of the Revised Code. 2553

~~(2) On and after the starting date of competitive retail~~ 2554
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2555
service supplied by an electric utility shall be subject to 2556
supervision and regulation by the commission under Chapters 2557
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2558
this chapter, to the extent that authority is not preempted by 2559
federal law. The commission's authority to enforce those 2560
provisions with respect to a noncompetitive retail electric 2561
service shall be the authority provided under those chapters and 2562
this chapter, to the extent the authority is not preempted by 2563
federal law. Notwithstanding Chapters 4905. and 4909. of the 2564
Revised Code, commission authority under this chapter shall 2565
include the authority to provide for the recovery, through a 2566
reconcilable rider on an electric distribution utility's 2567
distribution rates, of all transmission and transmission-related 2568
costs, including ancillary and congestion costs, imposed on or 2569

charged to the utility by the federal energy regulatory 2570
commission or a regional transmission organization, independent 2571
transmission operator, or similar organization approved by the 2572
federal energy regulatory commission. 2573

(2) The commission shall exercise its jurisdiction with 2574
respect to the delivery of electricity by an electric utility in 2575
this state ~~on or after the starting date of competitive retail~~ 2576
~~electric service~~ so as to ensure that no aspect of the delivery 2577
of electricity by the utility to consumers in this state that 2578
consists of a noncompetitive retail electric service is 2579
unregulated. 2580

~~On and after that starting date, a~~ (3) A noncompetitive 2581
retail electric service supplied by an electric cooperative 2582
shall not be subject to supervision and regulation by the 2583
commission under Chapters 4901. to 4909., 4933., 4935., and 2584
4963. of the Revised Code, except sections 4933.81 to 4933.90 2585
and 4935.03 of the Revised Code. The commission's authority to 2586
enforce those excepted sections with respect to a noncompetitive 2587
retail electric service of an electric cooperative shall be such 2588
authority as is provided for their enforcement under Chapters 2589
4933. and 4935. of the Revised Code. 2590

~~(B) Nothing in this chapter affects the authority of the~~ 2591
~~commission under Title XLIX of the Revised Code to regulate an~~ 2592
~~electric light company in this state or an electric service~~ 2593
~~supplied in this state prior to the starting date of competitive~~ 2594
~~retail electric service.~~ 2595

Sec. 4928.08. (A) This section applies to an electric 2596
cooperative, or to a governmental aggregator that is a municipal 2597
electric utility, only to the extent of a competitive retail 2598
electric service it provides to a customer to whom it does not 2599

provide a noncompetitive retail electric service through 2600
transmission or distribution facilities it singly or jointly 2601
owns or operates. 2602

~~(B)~~ (B) (1) No electric utility, electric services company, 2603
electric cooperative, or governmental aggregator shall provide a 2604
competitive retail electric service to a consumer in this state 2605
on and after the starting date of competitive retail electric 2606
service without first being certified by the public utilities 2607
commission regarding its managerial, technical, and financial 2608
capability to provide that service and providing a financial 2609
guarantee sufficient to protect customers and electric 2610
distribution utilities from default. Certification shall be 2611
granted pursuant to procedures and standards the commission 2612
shall prescribe in accordance with division (C) of this section, 2613
except that certification or certification renewal shall be 2614
deemed approved thirty days after the filing of an application 2615
with the commission unless the commission suspends that approval 2616
for good cause shown. In the case of such a suspension, the 2617
commission shall act to approve or deny certification or 2618
certification renewal to the applicant not later than ninety 2619
days after the date of the suspension. 2620

(2) The public utilities commission shall establish rules 2621
to require an electric services company to maintain financial 2622
assurances sufficient to protect customers and electric 2623
distribution utilities from default. Such rules also shall 2624
specifically allow an electric distribution utility to set 2625
reasonable standards for its security and the security of its 2626
customers through financial requirements set in its tariffs. 2627

(3) As used in division (B) (2) of this section, an 2628
"electric services company" has the same meaning as in section 2629

4928.01 of the Revised Code, but excludes a power broker or 2630
aggregator. 2631

(C) Capability standards adopted in rules under division 2632
(B) of this section shall be sufficient to ensure compliance 2633
with the minimum service requirements established under section 2634
4928.10 of the Revised Code and with section 4928.09 of the 2635
Revised Code. The standards shall allow flexibility for 2636
voluntary aggregation, to encourage market creativity in 2637
responding to consumer needs and demands, and shall allow 2638
flexibility for electric services companies that exclusively 2639
provide installation of small electric generation facilities, to 2640
provide ease of market access. The rules shall include 2641
procedures for biennially renewing certification. 2642

(D) The commission may suspend, rescind, or conditionally 2643
rescind the certification of any electric utility, electric 2644
services company, electric cooperative, or governmental 2645
aggregator issued under this section if the commission 2646
determines, after reasonable notice and opportunity for hearing, 2647
that the utility, company, cooperative, or aggregator has failed 2648
to comply with any applicable certification standards or has 2649
engaged in anticompetitive or unfair, deceptive, or 2650
unconscionable acts or practices in this state. 2651

(E) No electric distribution utility on and after the 2652
starting date of competitive retail electric service shall 2653
knowingly distribute electricity, to a retail consumer in this 2654
state, for any supplier of electricity that has not been 2655
certified by the commission pursuant to this section. 2656

(F) Notwithstanding any provision of section 121.95 of the 2657
Revised Code to the contrary, a regulatory restriction contained 2658
in a rule adopted under section 4928.08 of the Revised Code is 2659

not subject to sections 121.95 to 121.953 of the Revised Code. 2660

Sec. 4928.101. (A) As used in this section and section 2661
4928.102 of the Revised Code: 2662

(1) "Small commercial customer" means any customer that 2663
receives electric service pursuant to a nonresidential tariff if 2664
the customer's demand for electricity does not exceed twenty- 2665
five kilowatts within the last twelve months. 2666

(2) "Small commercial customer" excludes any customer that 2667
does one or both of the following: 2668

(a) Manages multiple electric meters and, within the last 2669
twelve months, the electricity demand for at least one of the 2670
meters is twenty-five kilowatts or more; 2671

(b) Has, at the customer's discretion, aggregated the 2672
demand for the customer-managed meters. 2673

(B) The consumer protections described in section 4928.10 2674
of the Revised Code and the rules adopted pursuant to that 2675
section apply to small commercial customers and to all other 2676
customers as set forth in the rules. 2677

Sec. 4928.102. (A) If a competitive retail electric 2678
service supplier offers a residential or small commercial 2679
customer a contract for a fixed introductory rate that converts 2680
to a variable rate upon the expiration of the fixed rate, the 2681
supplier shall send two notices to each residential and small 2682
commercial customer that enters into such a contract. Each 2683
notice shall provide all of the following information to the 2684
customer: 2685

(1) The fixed rate that is expiring under the contract; 2686

(2) The expiration date of the contract's fixed rate; 2687

(3) The rate to be charged upon the contract's conversion 2688
to a variable rate; 2689

(4) The public utilities commission web site that, as a 2690
comparison tool, lists rates offered by competitive retail 2691
electric service suppliers; 2692

(5) A statement explaining that appearing on each 2693
customer's bill is a price-to-compare notice that lists the 2694
utility's standard service offer price. 2695

(B) The notices shall be sent by standard United States 2696
mail as follows: 2697

(1) The supplier shall send the first notice not earlier 2698
than ninety days, and not later than sixty days, prior to the 2699
expiration of the fixed rate. 2700

(2) The supplier shall send the second notice not earlier 2701
than forty-five days, and not later than thirty days, prior to 2702
the expiration of the fixed rate. 2703

(C) A competitive retail electric service supplier shall 2704
provide an annual notice, by standard United States mail, to 2705
each residential and small commercial customer that has entered 2706
into a contract with the supplier that has converted to a 2707
variable rate upon the expiration of the contract's fixed 2708
introductory rate. The notice shall inform the customer that the 2709
customer is currently subject to a variable rate and that other 2710
fixed rate contracts are available. 2711

(D) Not later than one hundred fifty days after the 2712
effective date of this section, the commission shall adopt rules 2713
in order to implement divisions (A) to (C) of this section. The 2714
rules, at a minimum, shall include the following requirements 2715
regarding the notices required under divisions (A) to (C) of 2716

this section: 2717

(1) To use clear and unambiguous language in order to 2718
enable the customer to make an informed decision; 2719

(2) To design the notices in a way to ensure that they 2720
cannot be confused with marketing materials. 2721

(E) Notwithstanding any provision of section 121.95 of the 2722
Revised Code to the contrary, a regulatory restriction contained 2723
in a rule adopted under section 4928.102 of the Revised Code is 2724
not subject to sections 121.95 to 121.953 of the Revised Code. 2725

Sec. 4928.103. (A) As used in this section, "customer 2726
account information" means a unique electric distribution 2727
utility number or other customer identification number used by 2728
the utility to identify a customer and the customer's account 2729
record. 2730

(B) The public utilities commission shall adopt rules to 2731
ensure that an electric distribution utility processes a 2732
customer's change in competitive retail electric supplier by 2733
using customer account information. A customer who consents to a 2734
change of supplier shall not be required to provide customer 2735
account information to the supplier if the customer provides a 2736
valid form of government-issued identification issued to the 2737
customer or a sufficient alternative form of identification that 2738
allows the supplier to establish the customer's identity 2739
accurately. 2740

(C) Notwithstanding any provision of section 121.95 of the 2741
Revised Code to the contrary, a regulatory restriction contained 2742
in a rule adopted under this section is not subject to sections 2743
121.95 to 121.953 of the Revised Code. 2744

Sec. 4928.105. (A) Upon receiving a certified request from 2745

a competitive retail electric service supplier under a service 2746
agreement that explicitly authorizes an expedited return to an 2747
electric distribution utility's standard service offer, 2748
voluntarily entered into by a mercantile customer, a utility 2749
shall complete the request within three business days. 2750

(B) The electric distribution utility shall not be held 2751
liable for any disputes arising from the expedited return to the 2752
utility's standard service offer, provided the utility acts in 2753
accordance with the public utilities commission's rules. 2754

(C) The commission shall establish rules governing the 2755
process for an expedited return to the utility's standard 2756
service offer pursuant to this section, including the content of 2757
the certified request and any notice to the affected customer, 2758
and permitting electric distribution utilities to recover the 2759
administrative costs of processing requests under this section 2760
through reasonable fees assessed to competitive retail electric 2761
service suppliers. 2762

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2763
of this section, the failure of a supplier to provide retail 2764
electric generation service to customers within the certified 2765
territory of an electric distribution utility shall result in 2766
the supplier's customers, after reasonable notice, defaulting to 2767
the utility's standard service offer under sections 4928.141, 7, 2768
and 4928.142, and 4928.143 of the Revised Code until the 2769
customer chooses an alternative supplier. A- 2770

(B) A supplier is deemed under this section to have failed 2771
to provide such retail electric generation service if the 2772
commission finds, after reasonable notice and opportunity for 2773
hearing, that any of the following conditions are met: 2774

~~(A)~~ (1) The supplier has defaulted on its contracts with 2775
customers, is in receivership, or has filed for bankruptcy. 2776

~~(B)~~ (2) The supplier is no longer capable of providing the 2777
service. 2778

~~(C)~~ (3) The supplier is unable to provide delivery to 2779
transmission or distribution facilities for such period of time 2780
as may be reasonably specified by commission rule adopted under 2781
division (A) of section 4928.06 of the Revised Code. 2782

~~(D)~~ (4) The supplier's certification has been suspended, 2783
conditionally rescinded, or rescinded under division (D) of 2784
section 4928.08 of the Revised Code. 2785

(C) If an electric distribution utility has an electric 2786
security plan that was approved under section 4928.143 of the 2787
Revised Code as that section existed prior to the amendments to 2788
this section by this act, the failure of a supplier to provide 2789
retail electric generation service to customers within the 2790
certified territory of that utility shall result in the 2791
supplier's customers, after reasonable notice, defaulting to the 2792
utility's standard service offer under that electric security 2793
plan until the customer chooses an alternative supplier or until 2794
the utility's standard service offer is authorized under section 2795
4928.142 of the Revised Code. 2796

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2797
electric distribution utility shall provide consumers, on a 2798
comparable and nondiscriminatory basis within its certified 2799
territory, a standard service offer of all competitive retail 2800
electric services necessary to maintain essential electric 2801
service to consumers, including a firm supply of electric 2802
generation service. To that end, the electric distribution 2803

utility shall apply to the public utilities commission to 2804
establish the standard service offer in accordance with section 2805
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2806
~~may apply simultaneously under both sections, except that the~~ 2807
~~utility's first standard service offer application at minimum~~ 2808
~~shall include a filing under section 4928.143 of the Revised~~ 2809
~~Code. Only~~ Except as provided in division (A) (2) of this 2810
section, a standard service offer authorized in accordance with 2811
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2812
the utility's standard service offer for the purpose of 2813
compliance with this section~~+~~, and that standard service offer 2814
shall serve as the utility's default standard service offer for 2815
the purpose of section 4928.14 of the Revised Code. 2816
~~Notwithstanding the foregoing provision, the rate~~ 2817

(2) An electric distribution utility's electric security 2818
plan of an electric distribution utility that was approved under 2819
section 4928.143 of the Revised Code as that section existed 2820
prior to the amendments to this section by this act shall 2821
continue for the purpose of the utility's compliance with ~~this~~ 2822
division (A) (1) of this section until a standard service offer 2823
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2824
~~4928.143~~ of the Revised Code, ~~and, as applicable, pursuant to~~ 2825
~~division (D) of section 4928.143 of the Revised Code, any rate.~~ 2826
Each security plan that extends approved before the effective 2827
date of the amendments to this section by this act shall extend 2828
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2829
~~subject electric distribution utility for the duration of the~~ 2830
~~plan's term~~ through the final standard service offer auction 2831
delivery period approved by the public utilities commission 2832
under the plan as of the effective date of the amendments to 2833
this section by this act and thereafter shall terminate. 2834

(3) A standard service offer under section 4928.142 ~~or~~ 2835
~~4928.143~~ of the Revised Code shall exclude any previously 2836
authorized allowances for transition costs, with such exclusion 2837
being effective on and after the date that the allowance is 2838
scheduled to end under the utility's ~~rate~~ electric security 2839
plan. 2840

(B) The commission shall set the time for hearing of a 2841
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2842
send written notice of the hearing to the electric distribution 2843
utility, and publish notice in a newspaper of general 2844
circulation in each county in the utility's certified territory. 2845
The commission shall adopt rules regarding filings under ~~those~~ 2846
~~sections~~ the section. 2847

Sec. 4928.142. (A) For the purpose of complying with 2848
section 4928.141 of the Revised Code and subject to division (D) 2849
of this section and, as applicable, subject to the ~~rate plan~~ 2850
~~requirement~~ requirements of division (A) of section 4928.141 of 2851
the Revised Code, an electric distribution utility ~~may~~ shall 2852
establish a standard service offer price for retail electric 2853
generation service that is delivered to the utility under a 2854
market-rate offer. 2855

(1) The market-rate offer shall be determined through a 2856
competitive bidding process that provides for all of the 2857
following: 2858

- (a) Open, fair, and transparent competitive solicitation; 2859
- (b) Clear product definition; 2860
- (c) Standardized bid evaluation criteria; 2861
- (d) Oversight by an independent third party that shall 2862
design the solicitation, administer the bidding, and ensure that 2863

the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2864
this section are met; 2865

(e) Evaluation of the submitted bids prior to the 2866
selection of the least-cost bid winner or winners. 2867

No generation supplier shall be prohibited from 2868
participating in the bidding process. 2869

(2) The public utilities commission shall modify rules, or 2870
adopt new rules as necessary, concerning the conduct of the 2871
competitive bidding process and the qualifications of bidders, 2872
which rules shall foster supplier participation in the bidding 2873
process and shall be consistent with the requirements of 2874
division (A) (1) of this section. 2875

(B) Prior to initiating a competitive bidding process for 2876
a market-rate offer under division (A) of this section, the 2877
electric distribution utility shall file an application with the 2878
commission. An electric distribution utility may file its 2879
application with the commission prior to the effective date of 2880
the commission rules required under division (A) (2) of this 2881
section, and, as the commission determines necessary, the 2882
utility shall immediately conform its filing to the rules upon 2883
their taking effect. 2884

An application under this division shall detail the 2885
electric distribution utility's proposed compliance with the 2886
requirements of division (A) (1) of this section and with 2887
commission rules under division (A) (2) of this section and 2888
demonstrate that all of the following requirements are met: 2889

(1) The electric distribution utility or its transmission 2890
service affiliate belongs to at least one regional transmission 2891
organization that has been approved by the federal energy 2892

regulatory commission; or there otherwise is comparable and 2893
nondiscriminatory access to the electric transmission grid. 2894

(2) Any such regional transmission organization has a 2895
market-monitor function and the ability to take actions to 2896
identify and mitigate market power or the electric distribution 2897
utility's market conduct; or a similar market monitoring 2898
function exists with commensurate ability to identify and 2899
monitor market conditions and mitigate conduct associated with 2900
the exercise of market power. 2901

(3) A published source of information is available 2902
publicly or through subscription that identifies pricing 2903
information for traded electricity on- and off-peak energy 2904
products that are contracts for delivery beginning at least two 2905
years from the date of the publication and is updated on a 2906
regular basis. 2907

The commission shall initiate a proceeding and, within 2908
ninety days after the application's filing date, shall determine 2909
by order whether the electric distribution utility and its 2910
market-rate offer meet all of the foregoing requirements. If the 2911
finding is positive, the electric distribution utility ~~may~~ shall 2912
initiate its competitive bidding process. If the finding is 2913
negative as to one or more requirements, the commission in the 2914
order shall direct the electric distribution utility regarding 2915
how any deficiency ~~may~~ shall be timely remedied in a timely 2916
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2917
~~distribution utility shall withdraw the application. However, if~~ 2918
~~such remedy is made and the subsequent finding is positive and~~ 2919
~~also if the electric distribution utility made a simultaneous~~ 2920
~~filing under this section and section 4928.143 of the Revised~~ 2921
~~Code, the utility shall not initiate its competitive bid until~~ 2922

~~at least one hundred fifty days after the filing date of those~~ 2923
~~applications.~~ 2924

(C) Upon the completion of the competitive bidding process 2925
authorized by divisions (A) and (B) of this section, ~~including~~ 2926
~~for the purpose of division (D) of this section,~~ the commission 2927
shall select the least-cost bid winner or winners of that 2928
process, and such selected bid or bids, as prescribed as retail 2929
rates by the commission, shall be the electric distribution 2930
utility's standard service offer unless the commission, by order 2931
issued before the third calendar day following the conclusion of 2932
the competitive bidding process for the market rate offer, 2933
determines that one or more of the following criteria were not 2934
met: 2935

(1) Each portion of the bidding process was 2936
oversubscribed, such that the amount of supply bid upon was 2937
greater than the amount of the load bid out. 2938

(2) There were four or more bidders. 2939

(3) At least twenty-five per cent of the load is bid upon 2940
by one or more persons other than the electric distribution 2941
utility. 2942

All costs incurred by the electric distribution utility as 2943
a result of or related to the competitive bidding process or to 2944
procuring generation service to provide the standard service 2945
offer, including the costs of energy and capacity and the costs 2946
of all other products and services procured as a result of the 2947
competitive bidding process, shall be timely recovered through 2948
the standard service offer price, and, for that purpose, the 2949
commission shall approve a reconciliation mechanism, other 2950
recovery mechanism, or a combination of such mechanisms for the 2951

utility. 2952

(D) The ~~first~~ application filed under this section by an 2953
electric distribution utility ~~that, as of July 31, 2008,~~ 2954
~~directly owns, in whole or in part, operating electric~~ 2955
~~generating facilities that had been used and useful in this~~ 2956
~~state shall require that a portion of that the~~ utility's 2957
standard service offer load ~~for the first five years of the~~ 2958
~~market rate offer~~ be competitively bid under division (A) of 2959
this section ~~as follows: ten per cent of the load in year one,~~ 2960
~~not more than twenty per cent in year two, thirty per cent in~~ 2961
~~year three, forty per cent in year four, and fifty per cent in~~ 2962
~~year five. Consistent with those percentages, the commission~~ 2963
~~shall determine the actual percentages for each year of years~~ 2964
~~one through five. The standard service offer price for retail~~ 2965
~~electric generation service under this first application shall~~ 2966
~~be a proportionate blend of the bid price and the generation~~ 2967
~~service price for the remaining standard service offer load,~~ 2968
~~which latter price shall be equal to the electric distribution~~ 2969
~~utility's most recent standard service offer price, adjusted~~ 2970
~~upward or downward as the commission determines reasonable,~~ 2971
~~relative to the jurisdictional portion of any known and~~ 2972
~~measurable changes from the level of any one or more of the~~ 2973
~~following costs as reflected in that most recent standard~~ 2974
~~service offer price.~~ 2975

~~(1) The electric distribution utility's prudently incurred~~ 2976
~~cost of fuel used to produce electricity;~~ 2977

~~(2) Its prudently incurred purchased power costs;~~ 2978

~~(3) Its prudently incurred costs of satisfying the supply~~ 2979
~~and demand portfolio requirements of this state, including, but~~ 2980
~~not limited to, renewable energy resource and energy efficiency~~ 2981

requirements; 2982

~~(4) Its costs prudently incurred to comply with 2983
environmental laws and regulations, with consideration of the 2984
derating of any facility associated with those costs. 2985~~

~~In making any adjustment to the most recent standard 2986
service offer price on the basis of costs described in division 2987
(D) of this section, the commission shall include the benefits 2988
that may become available to the electric distribution utility 2989
as a result of or in connection with the costs included in the 2990
adjustment, including, but not limited to, the utility's receipt 2991
of emissions credits or its receipt of tax benefits or of other 2992
benefits, and, accordingly, the commission may impose such 2993
conditions on the adjustment to ensure that any such benefits 2994
are properly aligned with the associated cost responsibility. 2995
The commission shall also determine how such adjustments will 2996
affect the electric distribution utility's return on common 2997
equity that may be achieved by those adjustments. The commission 2998
shall not apply its consideration of the return on common equity 2999
to reduce any adjustments authorized under this division unless 3000
the adjustments will cause the electric distribution utility to 3001
earn a return on common equity that is significantly in excess 3002
of the return on common equity that is earned by publicly traded 3003
companies, including utilities, that face comparable business 3004
and financial risk, with such adjustments for capital structure 3005
as may be appropriate. The burden of proof for demonstrating 3006
that significantly excessive earnings will not occur shall be on 3007
the electric distribution utility. 3008~~

~~Additionally, the commission may adjust the electric 3009
distribution utility's most recent standard service offer price 3010
by such just and reasonable amount that the commission 3011~~

determines necessary to address any emergency that threatens the 3012
utility's financial integrity or to ensure that the resulting 3013
revenue available to the utility for providing the standard 3014
service offer is not so inadequate as to result, directly or 3015
indirectly, in a taking of property without compensation 3016
pursuant to Section 19 of Article I, Ohio Constitution. The 3017
electric distribution utility has the burden of demonstrating 3018
that any adjustment to its most recent standard service offer 3019
price is proper in accordance with this division. 3020

~~(E) Beginning in the second year of a blended price under 3021
division (D) of this section and notwithstanding any other 3022
requirement of this section, the commission may alter 3023
prospectively the proportions specified in that division to 3024
mitigate any effect of an abrupt or significant change in the 3025
electric distribution utility's standard service offer price 3026
that would otherwise result in general or with respect to any 3027
rate group or rate schedule but for such alteration. Any such 3028
alteration shall be made not more often than annually, and the 3029
commission shall not, by altering those proportions and in any 3030
event, including because of the length of time, as authorized 3031
under division (C) of this section, taken to approve the market 3032
rate offer, cause the duration of the blending period to exceed 3033
ten years as counted from the effective date of the approved 3034
market rate offer. Additionally, any such alteration shall be 3035
limited to an alteration affecting the prospective proportions 3036
used during the blending period and shall not affect any 3037
blending proportion previously approved and applied by the 3038
commission under this division. 3039~~

~~(F) An electric distribution utility that has received 3040
commission approval of its first application under division (C) 3041
of this section shall not, nor ever shall be authorized or 3042~~

~~required by the commission to, file an application under section 3043~~
~~4928.143 of the Revised Code. 3044~~

Sec. 4928.144. The public utilities commission by order 3045
may authorize any just and reasonable phase-in of any electric 3046
distribution utility ~~rate or price~~ established under sections 3047
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 3048
inclusive of carrying charges, as the commission considers 3049
necessary to ensure ~~rate or price~~ stability for consumers. If 3050
the commission's order includes such a phase-in, the order also 3051
shall provide for the creation of regulatory assets pursuant to 3052
generally accepted accounting principles, by authorizing the 3053
deferral of incurred costs equal to the amount not collected, 3054
plus carrying charges on that amount. Further, the order shall 3055
authorize the collection of those deferrals through a 3056
nonbypassable surcharge on any such rate or price so established 3057
for the electric distribution utility by the commission. 3058

Sec. 4928.149. No electric distribution utility may use 3059
any electric energy storage system to participate in the 3060
wholesale market, if the utility purchased or acquired that 3061
system for distribution service. 3062

Sec. 4928.1410. If an electric distribution utility has an 3063
existing electric security plan under which the commission had 3064
authorized the creation or continuation of riders, then, to the 3065
extent those riders will cease to exist after termination of the 3066
electric security plan, the electric distribution utility is 3067
authorized to create necessary regulatory assets or liabilities, 3068
along with carrying costs at the utility's weighted average cost 3069
of debt, for the resolution of any outstanding under-collection 3070
or over-collection of funds under such riders. The resolution of 3071
such regulatory assets or liabilities shall be addressed in the 3072

first distribution rate case under section 4909.18 of the 3073
Revised Code that occurs after the plan's expiration. 3074

Sec. 4928.17. (A) Except as otherwise provided in sections 3075
4928.141 or 4928.142 or 4928.143 or 4928.31 to 4928.40 of the 3076
Revised Code ~~and beginning on the starting date of competitive~~ 3077
~~retail electric service,~~ no electric utility shall engage in 3078
this state, either directly or through an affiliate, ~~in the~~ 3079
~~businesses of supplying a noncompetitive retail electric service~~ 3080
~~and supplying a competitive retail electric service, or in the~~ 3081
businesses of supplying a noncompetitive retail electric service 3082
and supplying a product or service other than retail electric 3083
service, unless the utility implements and operates under a 3084
corporate separation plan that is approved by the public 3085
utilities commission under this section, is consistent with the 3086
policy specified in section 4928.02 of the Revised Code, and 3087
achieves all of the following: 3088

(1) The plan provides, at minimum, for the provision of 3089
~~the competitive retail electric service or the nonelectric~~ 3090
product or service through a fully separated affiliate of the 3091
utility, and the plan includes separate accounting requirements, 3092
the code of conduct as ordered by the commission pursuant to a 3093
rule it shall adopt under division (A) of section 4928.06 of the 3094
Revised Code, and such other measures as are necessary to 3095
effectuate the policy specified in section 4928.02 of the 3096
Revised Code. 3097

(2) The plan satisfies the public interest in ~~preventing~~ 3098
~~unfair competitive advantage and preventing the abuse of market~~ 3099
power. 3100

(3) The plan is sufficient to ensure that the utility will 3101
not extend any undue preference or advantage to any affiliate, 3102

division, or part of its own business engaged in the business of 3103
supplying the ~~competitive retail electric service or nonelectric~~ 3104
product or service, including, but not limited to, utility 3105
resources such as trucks, tools, office equipment, office space, 3106
supplies, customer and marketing information, advertising, 3107
billing and mailing systems, personnel, and training, without 3108
compensation based upon fully loaded embedded costs charged to 3109
the affiliate; and to ensure that any such affiliate, division, 3110
or part will not receive undue preference or advantage from any 3111
affiliate, division, or part of the business engaged in business 3112
of supplying the noncompetitive retail electric service. No such 3113
utility, affiliate, division, or part shall extend such undue 3114
preference. ~~Notwithstanding any other division of this section,~~ 3115
~~a utility's obligation under division (A)(3) of this section~~ 3116
~~shall be effective January 1, 2000.~~ 3117

(B) The commission may approve, modify and approve, or 3118
disapprove a corporate separation plan filed with the commission 3119
under division (A) of this section. As part of the code of 3120
conduct required under division (A)(1) of this section, the 3121
commission shall adopt rules pursuant to division (A) of section 3122
4928.06 of the Revised Code regarding corporate separation and 3123
procedures for plan filing and approval. The rules shall include 3124
limitations on affiliate practices solely for the purpose of 3125
maintaining a separation of the affiliate's business from the 3126
business of the utility to prevent ~~unfair competitive advantage~~ 3127
abuse of market power by virtue of that relationship. The rules 3128
also shall include an opportunity for any person having a real 3129
and substantial interest in the corporate separation plan to 3130
file specific objections to the plan and propose specific 3131
responses to issues raised in the objections, which objections 3132
and responses the commission shall address in its final order. 3133

Prior to commission approval of the plan, the commission shall 3134
afford a hearing upon those aspects of the plan that the 3135
commission determines reasonably require a hearing. The 3136
commission may reject and require refiling of a substantially 3137
inadequate plan under this section. 3138

(C) The commission shall issue an order approving or 3139
modifying and approving a corporate separation plan under this 3140
section, to be effective on the date specified in the order, 3141
only upon findings that the plan reasonably complies with the 3142
requirements of division (A) of this section and will provide 3143
for ongoing compliance with the policy specified in section 3144
4928.02 of the Revised Code. However, for good cause shown, the 3145
commission may issue an order approving or modifying and 3146
approving a corporate separation plan under this section that 3147
does not comply with division (A)(1) of this section but 3148
complies with such functional separation requirements as the 3149
commission authorizes to apply for an interim period prescribed 3150
in the order, upon a finding that such alternative plan will 3151
provide for ongoing compliance with the policy specified in 3152
section 4928.02 of the Revised Code. 3153

(D) Any party may seek an amendment to a corporate 3154
separation plan approved under this section, and the commission, 3155
pursuant to a request from any party or on its own initiative, 3156
may order as it considers necessary the filing of an amended 3157
corporate separation plan to reflect changed circumstances. 3158

~~(E) No electric distribution utility shall sell or 3159~~
~~transfer any generating asset it wholly or partly owns at any 3160~~
~~time without obtaining prior commission approval. 3161~~

Sec. 4928.20. (A) The legislative authority of a municipal 3162
corporation may adopt an ordinance, or the board of township 3163

trustees of a township or the board of county commissioners of a 3164
county may adopt a resolution, under which, ~~on or after the~~ 3165
~~starting date of competitive retail electric service,~~ it may 3166
aggregate in accordance with this section the retail electrical 3167
loads located, respectively, within the municipal corporation, 3168
township, or unincorporated area of the county and, for that 3169
purpose, may enter into service agreements to facilitate for 3170
those loads the sale and purchase of electricity. The 3171
legislative authority or board also may exercise such authority 3172
jointly with any other such legislative authority or board. For 3173
customers that are not mercantile customers, an ordinance or 3174
resolution under this division shall specify whether the 3175
aggregation will occur only with the prior, affirmative consent 3176
of each person owning, occupying, controlling, or using an 3177
electric load center proposed to be aggregated or will occur 3178
automatically for all such persons pursuant to the opt-out 3179
requirements of division (D) of this section. The aggregation of 3180
mercantile customers shall occur only with the prior, 3181
affirmative consent of each such person owning, occupying, 3182
controlling, or using an electric load center proposed to be 3183
aggregated. Nothing in this division, however, authorizes the 3184
aggregation of the retail electric loads of an electric load 3185
center, as defined in section 4933.81 of the Revised Code, that 3186
is located in the certified territory of a nonprofit electric 3187
supplier under sections 4933.81 to 4933.90 of the Revised Code 3188
or an electric load center served by transmission or 3189
distribution facilities of a municipal electric utility. 3190

(B) If an ordinance or resolution adopted under division 3191
(A) of this section specifies that aggregation of customers that 3192
are not mercantile customers will occur automatically as 3193
described in that division, the ordinance or resolution shall 3194

direct the board of elections to submit the question of the 3195
authority to aggregate to the electors of the respective 3196
municipal corporation, township, or unincorporated area of a 3197
county at a special election on the day of the next primary or 3198
general election in the municipal corporation, township, or 3199
county. The legislative authority or board shall certify a copy 3200
of the ordinance or resolution to the board of elections not 3201
less than ninety days before the day of the special election. No 3202
ordinance or resolution adopted under division (A) of this 3203
section that provides for an election under this division shall 3204
take effect unless approved by a majority of the electors voting 3205
upon the ordinance or resolution at the election held pursuant 3206
to this division. 3207

(C) Upon the applicable requisite authority under 3208
divisions (A) and (B) of this section, the legislative authority 3209
or board shall develop a plan of operation and governance for 3210
the aggregation program so authorized. Before adopting a plan 3211
under this division, the legislative authority or board shall 3212
hold at least two public hearings on the plan. Before the first 3213
hearing, the legislative authority or board shall publish notice 3214
of the hearings once a week for two consecutive weeks in a 3215
newspaper of general circulation in the jurisdiction or as 3216
provided in section 7.16 of the Revised Code. The notice shall 3217
summarize the plan and state the date, time, and location of 3218
each hearing. 3219

(D) No legislative authority or board, pursuant to an 3220
ordinance or resolution under divisions (A) and (B) of this 3221
section that provides for automatic aggregation of customers 3222
that are not mercantile customers as described in division (A) 3223
of this section, shall aggregate the electrical load of any 3224
electric load center located within its jurisdiction unless it 3225

in advance clearly discloses to the person owning, occupying, 3226
controlling, or using the load center that the person will be 3227
enrolled automatically in the aggregation program and will 3228
remain so enrolled unless the person affirmatively elects by a 3229
stated procedure not to be so enrolled. The disclosure shall 3230
state prominently the rates, charges, and other terms and 3231
conditions of enrollment. The stated procedure shall allow any 3232
person enrolled in the aggregation program the opportunity to 3233
opt out of the program every three years, without paying a 3234
switching fee. Any such person that opts out before the 3235
commencement of the aggregation program pursuant to the stated 3236
procedure shall default to the standard service offer provided 3237
under section 4928.14 or division (D) of section 4928.35 of the 3238
Revised Code until the person chooses an alternative supplier. 3239

(E) (1) With respect to a governmental aggregation for a 3240
municipal corporation that is authorized pursuant to divisions 3241
(A) to (D) of this section, resolutions may be proposed by 3242
initiative or referendum petitions in accordance with sections 3243
731.28 to 731.41 of the Revised Code. 3244

(2) With respect to a governmental aggregation for a 3245
township or the unincorporated area of a county, which 3246
aggregation is authorized pursuant to divisions (A) to (D) of 3247
this section, resolutions may be proposed by initiative or 3248
referendum petitions in accordance with sections 731.28 to 3249
731.40 of the Revised Code, except that: 3250

(a) The petitions shall be filed, respectively, with the 3251
township fiscal officer or the board of county commissioners, 3252
who shall perform those duties imposed under those sections upon 3253
the city auditor or village clerk. 3254

(b) The petitions shall contain the signatures of not less 3255

than ten per cent of the total number of electors in, 3256
respectively, the township or the unincorporated area of the 3257
county who voted for the office of governor at the preceding 3258
general election for that office in that area. 3259

(F) A governmental aggregator under division (A) of this 3260
section is not a public utility engaging in the wholesale 3261
purchase and resale of electricity, and provision of the 3262
aggregated service is not a wholesale utility transaction. A 3263
governmental aggregator shall be subject to supervision and 3264
regulation by the public utilities commission only to the extent 3265
of any competitive retail electric service it provides and 3266
commission authority under this chapter. 3267

(G) This section does not apply in the case of a municipal 3268
corporation that supplies such aggregated service to electric 3269
load centers to which its municipal electric utility also 3270
supplies a noncompetitive retail electric service through 3271
transmission or distribution facilities the utility singly or 3272
jointly owns or operates. 3273

(H) A governmental aggregator shall not include in its 3274
aggregation the accounts of any of the following: 3275

(1) A customer that has opted out of the aggregation; 3276

(2) A customer in contract with a certified electric 3277
services company; 3278

(3) A customer that has a special contract with an 3279
electric distribution utility; 3280

(4) A customer that is not located within the governmental 3281
aggregator's governmental boundaries; 3282

(5) Subject to division (C) of section 4928.21 of the 3283

Revised Code, a customer who appears on the "do not aggregate"
list maintained under that section.

(I) Customers that are part of a governmental aggregation
under this section shall be responsible only for such portion of
a surcharge under section 4928.144 of the Revised Code that is
proportionate to the benefits, as determined by the commission,
that electric load centers within the jurisdiction of the
governmental aggregation as a group receive. The proportionate
surcharge so established shall apply to each customer of the
governmental aggregation while the customer is part of that
aggregation. If a customer ceases being such a customer, the
otherwise applicable surcharge shall apply. Nothing in this
section shall result in less than full recovery by an electric
distribution utility of any surcharge authorized under section
4928.144 of the Revised Code. Nothing in this section shall
result in less than the full and timely imposition, charging,
collection, and adjustment by an electric distribution utility,
its assignee, or any collection agent, of the phase-in-recovery
charges authorized pursuant to a final financing order issued
pursuant to sections 4928.23 to 4928.2318 of the Revised Code.

~~(J) On behalf of the customers that are part of a
governmental aggregation under this section and by filing
written notice with the public utilities commission, the
legislative authority that formed or is forming that
governmental aggregation may elect not to receive standby
service within the meaning of division (B) (2) (d) of section
4928.143 of the Revised Code from an electric distribution
utility in whose certified territory the governmental
aggregation is located and that operates under an approved
electric security plan under that section. Upon the filing of
that notice, the electric distribution utility shall not charge~~

~~any such customer to whom competitive retail electric generation~~ 3315
~~service is provided by another supplier under the governmental~~ 3316
~~aggregation for the standby service. Any such consumer that~~ 3317
~~returns to the utility for competitive retail electric service~~ 3318
~~shall pay the market price of power incurred by the utility to~~ 3319
~~serve that consumer plus any amount attributable to the~~ 3320
~~utility's cost of compliance with the renewable energy resource~~ 3321
~~provisions of section 4928.64 of the Revised Code to serve the~~ 3322
~~consumer. Such market price shall include, but not be limited~~ 3323
~~to, capacity and energy charges; all charges associated with the~~ 3324
~~provision of that power supply through the regional transmission~~ 3325
~~organization, including, but not limited to, transmission,~~ 3326
~~ancillary services, congestion, and settlement and~~ 3327
~~administrative charges; and all other costs incurred by the~~ 3328
~~utility that are associated with the procurement, provision, and~~ 3329
~~administration of that power supply, as such costs may be~~ 3330
~~approved by the commission. The period of time during which the~~ 3331
~~market price and renewable energy resource amount shall be so~~ 3332
~~assessed on the consumer shall be from the time the consumer so~~ 3333
~~returns to the electric distribution utility until the~~ 3334
~~expiration of the electric security plan. However, if that~~ 3335
~~period of time is expected to be more than two years, the~~ 3336
~~commission may reduce the time period to a period of not less~~ 3337
~~than two years.~~ 3338

~~(K)~~ The commission shall adopt rules and issue orders in 3339
proceedings under sections 4928.141 and 4928.142 of the Revised 3340
Code to encourage and promote large-scale governmental 3341
aggregation in this state. For that purpose, the commission 3342
shall conduct an immediate review of any rules it has adopted 3343
for the purpose of this section that are in effect on the 3344
effective date of the amendment of this section by S.B. 221 of 3345

the 127th general assembly, July 31, 2008. Further, within the 3346
context of an electric security plan under section 4928.143 of 3347
the Revised Code, as that section existed prior to its repeal by 3348
this act, or a market rate offer under section 4928.142 of the 3349
Revised Code, as amended by this act, the commission shall 3350
consider the effect on large-scale governmental aggregation of 3351
any nonbypassable generation charges, however collected, under 3352
that plan, or that would be established under that ~~plan~~offer, 3353
except any nonbypassable generation charges that relate to any 3354
cost incurred by the electric distribution utility, the deferral 3355
of which has been authorized by the commission prior to the 3356
effective date of the amendment of this section by S.B. 221 of 3357
the 127th general assembly, July 31, 2008. 3358

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of 3359
the Revised Code: 3360

(A) "Ancillary agreement" means any bond insurance policy, 3361
letter of credit, reserve account, surety bond, swap 3362
arrangement, hedging arrangement, liquidity or credit support 3363
arrangement, or other similar agreement or arrangement entered 3364
into in connection with the issuance of phase-in-recovery bonds 3365
that is designed to promote the credit quality and marketability 3366
of the bonds or to mitigate the risk of an increase in interest 3367
rates. 3368

(B) "Assignee" means any person or entity to which an 3369
interest in phase-in-recovery property is sold, assigned, 3370
transferred, or conveyed, other than as security, and any 3371
successor to or subsequent assignee of such a person or entity. 3372

(C) "Bond" includes debentures, notes, certificates of 3373
participation, certificates of beneficial interest, certificates 3374
of ownership or other evidences of indebtedness or ownership 3375

that are issued by an electric distribution utility or an 3376
assignee under a final financing order, the proceeds of which 3377
are used directly or indirectly to recover, finance, or 3378
refinance phase-in costs and financing costs, and that are 3379
secured by or payable from revenues from phase-in-recovery 3380
charges. 3381

(D) "Bondholder" means any holder or owner of a phase-in- 3382
recovery bond. 3383

(E) "Financing costs" means any of the following: 3384

(1) Principal, interest, and redemption premiums that are 3385
payable on phase-in-recovery bonds; 3386

(2) Any payment required under an ancillary agreement; 3387

(3) Any amount required to fund or replenish a reserve 3388
account or another account established under any indenture, 3389
ancillary agreement, or other financing document relating to 3390
phase-in-recovery bonds; 3391

(4) Any costs of retiring or refunding any existing debt 3392
and equity securities of an electric distribution utility in 3393
connection with either the issuance of, or the use of proceeds 3394
from, phase-in-recovery bonds; 3395

(5) Any costs incurred by an electric distribution utility 3396
to obtain modifications of or amendments to any indenture, 3397
financing agreement, security agreement, or similar agreement or 3398
instrument relating to any existing secured or unsecured 3399
obligation of the electric distribution utility in connection 3400
with the issuance of phase-in-recovery bonds; 3401

(6) Any costs incurred by an electric distribution utility 3402
to obtain any consent, release, waiver, or approval from any 3403

holder of an obligation described in division (E) (5) of this 3404
section that are necessary to be incurred for the electric 3405
distribution utility to issue or cause the issuance of phase-in- 3406
recovery bonds; 3407

(7) Any taxes, franchise fees, or license fees imposed on 3408
phase-in-recovery revenues; 3409

(8) Any costs related to issuing or servicing phase-in- 3410
recovery bonds or related to obtaining a financing order, 3411
including servicing fees and expenses, trustee fees and 3412
expenses, legal, accounting, or other professional fees and 3413
expenses, administrative fees, placement fees, underwriting 3414
fees, capitalized interest and equity, and rating-agency fees; 3415

(9) Any other similar costs that the public utilities 3416
commission finds appropriate. 3417

(F) "Financing order" means an order issued by the public 3418
utilities commission under section 4928.232 of the Revised Code 3419
that authorizes an electric distribution utility or an assignee 3420
to issue phase-in-recovery bonds and recover phase-in-recovery 3421
charges. 3422

(G) "Final financing order" means a financing order that 3423
has become final and has taken effect as provided in section 3424
4928.233 of the Revised Code. 3425

(H) "Financing party" means either of the following: 3426

(1) Any trustee, collateral agent, or other person acting 3427
for the benefit of any bondholder; 3428

(2) Any party to an ancillary agreement, the rights and 3429
obligations of which relate to or depend upon the existence of 3430
phase-in-recovery property, the enforcement and priority of a 3431

security interest in phase-in-recovery property, the timely 3432
collection and payment of phase-in-recovery revenues, or a 3433
combination of these factors. 3434

(I) "Financing statement" has the same meaning as in 3435
section 1309.102 of the Revised Code. 3436

(J) "Phase-in costs" means costs, inclusive of carrying 3437
charges incurred before, on, or after ~~the effective date of this~~ 3438
~~section~~ March 22, 2012, authorized by the commission before, on, 3439
or after ~~the effective date of this section~~ March 22, 2012, to 3440
be securitized or deferred as regulatory assets in proceedings 3441
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3442
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 3443
4928.14 of the Revised Code as it existed prior to July 31, 3444
2008, or section 4928.143 of the Revised Code as it existed 3445
prior to the effective date of the amendments to this section by 3446
this act pursuant to a final order for which appeals have been 3447
exhausted. "Phase-in costs" excludes the following: 3448

(1) With respect to any electric generating facility that, 3449
on and after ~~the effective date of this section~~ March 22, 2012, 3450
is owned, in whole or in part, by an electric distribution 3451
utility applying for a financing order under section 4928.231 of 3452
the Revised Code, costs that are authorized under division (B) 3453
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3454
section existed prior to the effective date of the amendments to 3455
this section by this act; 3456

(2) Costs incurred after ~~the effective date of this~~ 3457
~~section~~ March 22, 2012, related to the ongoing operation of an 3458
electric generating facility, but not environmental clean-up or 3459
remediation costs incurred by an electric distribution utility 3460
because of its ownership or operation of an electric generating 3461

facility prior to ~~the effective date of this section~~ March 22, 3462
2012, which such clean-up or remediation costs are imposed or 3463
incurred pursuant to federal or state law, rules, or regulations 3464
and for which the commission approves or approved recovery in 3465
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3466
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3467
~~or~~ section 4928.14 of the Revised Code as it existed prior to 3468
July 31, 2008, or section 4928.143 of the Revised Code as it 3469
existed prior to the effective date of the amendments to this 3470
section by this act. 3471

(K) "Phase-in-recovery property" means the property, 3472
rights, and interests of an electric distribution utility or an 3473
assignee under a final financing order, including the right to 3474
impose, charge, and collect the phase-in-recovery charges that 3475
shall be used to pay and secure the payment of phase-in-recovery 3476
bonds and financing costs, and including the right to obtain 3477
adjustments to those charges, and any revenues, receipts, 3478
collections, rights to payment, payments, moneys, claims, or 3479
other proceeds arising from the rights and interests created 3480
under the final financing order. 3481

(L) "Phase-in-recovery revenues" means all revenues, 3482
receipts, collections, payments, moneys, claims, or other 3483
proceeds arising from phase-in-recovery property. 3484

(M) "Successor" means, with respect to any entity, another 3485
entity that succeeds by operation of law to the rights and 3486
obligations of the first legal entity pursuant to any 3487
bankruptcy, reorganization, restructuring, or other insolvency 3488
proceeding, any merger, acquisition, or consolidation, or any 3489
sale or transfer of assets, regardless of whether any of these 3490
occur as a result of a restructuring of the electric power 3491

industry or otherwise. 3492

Sec. 4928.231. (A) An electric distribution utility may 3493
apply to the public utilities commission for a financing order 3494
that authorizes the following: 3495

(1) The issuance of phase-in-recovery bonds, in one or 3496
more series, to recover uncollected phase-in costs; 3497

(2) The imposition, charging, and collection of phase-in- 3498
recovery charges, in accordance with the adjustment mechanism 3499
approved by the commission under section 4928.232 of the Revised 3500
Code, and consistent with the commission's authority regarding 3501
governmental aggregation as provided in division (I) of section 3502
4928.20 of the Revised Code, to recover both of the following: 3503

(a) Uncollected phase-in costs; 3504

(b) Financing costs. 3505

(3) The creation of phase-in-recovery property under the 3506
financing order. 3507

(B) The application shall include all of the following: 3508

(1) A description of the uncollected phase-in costs that 3509
the electric distribution utility seeks to recover through the 3510
issuance of phase-in-recovery bonds; 3511

(2) An estimate of the date each series of phase-in- 3512
recovery bonds are expected to be issued; 3513

(3) The expected term during which the phase-in costs 3514
associated with the issuance of each series of phase-in-recovery 3515
bonds are expected to be recovered; 3516

(4) An estimate of the financing costs, as described in 3517
section 4928.23 of the Revised Code, associated with the 3518

issuance of each series of phase-in-recovery bonds; 3519

(5) An estimate of the amount of phase-in-recovery charges 3520
necessary to recover the phase-in costs and financing costs set 3521
forth in the application and the calculation for that estimate, 3522
which calculation shall take into account the estimated date or 3523
dates of issuance and the estimated principal amount of each 3524
series of phase-in-recovery bonds; 3525

(6) For phase-in-recovery charges not subject to 3526
allocation according to an existing order, a proposed 3527
methodology for allocating phase-in-recovery charges among 3528
customer classes, including a proposed methodology for 3529
allocating such charges to governmental aggregation customers 3530
based upon the proportionate benefit determination made under 3531
division (I) of section 4928.20 of the Revised Code; 3532

(7) A description of a proposed adjustment mechanism for 3533
use as described in division (A)(2) of this section; 3534

(8) A description and valuation of how the issuance of the 3535
phase-in-recovery bonds, including financing costs, will both 3536
result in cost savings to customers and mitigate rate impacts to 3537
customers when compared to the use of other financing mechanisms 3538
or cost-recovery methods available to the electric distribution 3539
utility; 3540

(9) Any other information required by the commission. 3541

(C) The electric distribution utility may restate or 3542
incorporate by reference in the application any information 3543
required under division (B)(9) of this section that the electric 3544
distribution utility filed with the commission under section 3545
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3546
, section 4928.14 of the Revised Code as it existed prior to 3547

July 31, 2008, or section 4928.143 of the Revised Code as it 3548
existed prior to the amendments to this section by this act. 3549

Sec. 4928.232. (A) Proceedings before the public utilities 3550
commission on an application submitted by an electric 3551
distribution utility under section 4928.231 of the Revised Code 3552
shall be governed by Chapter 4903. of the Revised Code, but only 3553
to the extent that chapter is not inconsistent with this section 3554
or section 4928.233 of the Revised Code. Any party that 3555
participated in the proceeding in which phase-in costs were 3556
approved under section 4909.18 or sections 4928.141 to 4928.144 3557
of the Revised Code ~~or,~~ section 4928.14 of the Revised Code as 3558
it existed prior to July 31, 2008, or section 4928.143 of the 3559
Revised Code as it existed prior to the amendments to this 3560
section by this act shall have standing to participate in 3561
proceedings under sections 4928.23 to 4928.2318 of the Revised 3562
Code. 3563

(B) When reviewing an application for a financing order 3564
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3565
the commission may hold such hearings, make such inquiries or 3566
investigations, and examine such witnesses, books, papers, 3567
documents, and contracts as the commission considers proper to 3568
carry out these sections. Within thirty days after the filing of 3569
an application under section 4928.231 of the Revised Code, the 3570
commission shall publish a schedule of the proceeding. 3571

(C) (1) Not later than one hundred thirty-five days after 3572
the date the application is filed, the commission shall issue 3573
either a financing order, granting the application in whole or 3574
with modifications, or an order suspending or rejecting the 3575
application. 3576

(2) If the commission suspends an application for a 3577

financing order, the commission shall notify the electric 3578
distribution utility of the suspension and may direct the 3579
electric distribution utility to provide additional information 3580
as the commission considers necessary to evaluate the 3581
application. Not later than ninety days after the suspension, 3582
the commission shall issue either a financing order, granting 3583
the application in whole or with modifications, or an order 3584
rejecting the application. 3585

(D) (1) The commission shall not issue a financing order 3586
under division (C) of this section unless the commission 3587
determines that the financing order is consistent with section 3588
4928.02 of the Revised Code. 3589

(2) Except as provided in division (D) (1) of this section, 3590
the commission shall issue a financing order under division (C) 3591
of this section if, at the time the financing order is issued, 3592
the commission finds that the issuance of the phase-in-recovery 3593
bonds and the phase-in-recovery charges authorized by the order 3594
results in, consistent with market conditions, both measurably 3595
enhancing cost savings to customers and mitigating rate impacts 3596
to customers as compared with traditional financing mechanisms 3597
or traditional cost-recovery methods available to the electric 3598
distribution utility or, if the commission previously approved a 3599
recovery method, as compared with that recovery method. 3600

(E) The commission shall include all of the following in a 3601
financing order issued under division (C) of this section: 3602

(1) A determination of the maximum amount and a 3603
description of the phase-in costs that may be recovered through 3604
phase-in-recovery bonds issued under the financing order; 3605

(2) A description of phase-in-recovery property, the 3606

creation of which is authorized by the financing order; 3607

(3) A description of the financing costs that may be 3608
recovered through phase-in-recovery charges and the period over 3609
which those costs may be recovered; 3610

(4) For phase-in-recovery charges not subject to 3611
allocation according to an existing order, a description of the 3612
methodology and calculation for allocating phase-in-recovery 3613
charges among customer classes, including the allocation of such 3614
charges, if any, to governmental aggregation customers based 3615
upon the proportionate benefit determination made under division 3616
(I) of section 4928.20 of the Revised Code; 3617

(5) A description of the adjustment mechanism for use in 3618
the imposition, charging, and collection of the phase-in- 3619
recovery charges; 3620

(6) The maximum term of the phase-in-recovery bonds; 3621

(7) Any other provision the commission considers 3622
appropriate to ensure the full and timely imposition, charging, 3623
collection, and adjustment, pursuant to an approved adjustment 3624
mechanism, of the phase-in-recovery charges described in 3625
divisions (E) (3) to (5) of this section. 3626

(F) The commission may, in a financing order, afford the 3627
electric distribution utility flexibility in establishing the 3628
terms and conditions for the phase-in-recovery bonds to 3629
accommodate changes in market conditions, including repayment 3630
schedules, interest rates, financing costs, collateral 3631
requirements, required debt service and other reserves, and the 3632
ability of the electric distribution utility, at its option, to 3633
effect a series of issuances of phase-in-recovery bonds and 3634
correlated assignments, sales, pledges, or other transfers of 3635

phase-in-recovery property. Any changes made under this section 3636
to terms and conditions for the phase-in-recovery bonds shall be 3637
in conformance with the financing order. 3638

(G) A financing order may provide that the creation of 3639
phase-in-recovery property shall be simultaneous with the sale 3640
of that property to an assignee as provided in the application 3641
and the pledge of the property to secure phase-in-recovery 3642
bonds. 3643

(H) The commission shall, in a financing order, require 3644
that after the final terms of each issuance of phase-in-recovery 3645
bonds have been established, and prior to the issuance of those 3646
bonds, the electric distribution utility shall determine the 3647
resulting phase-in-recovery charges in accordance with the 3648
adjustment mechanism described in the financing order. These 3649
phase-in-recovery charges shall be final and effective upon the 3650
issuance of the phase-in-recovery bonds, without further 3651
commission action. 3652

Sec. 4928.34. (A) The public utilities commission shall 3653
not approve or prescribe a transition plan under division (A) or 3654
(B) of section 4928.33 of the Revised Code unless the commission 3655
first makes all of the following determinations: 3656

(1) The unbundled components for the electric transmission 3657
component of retail electric service, as specified in the 3658
utility's rate unbundling plan required by division (A) (1) of 3659
section 4928.31 of the Revised Code, equal the tariff rates 3660
determined by the federal energy regulatory commission that are 3661
in effect on the date of the approval of the transition plan 3662
under sections 4928.31 to 4928.40 of the Revised Code, as each 3663
such rate is determined applicable to each particular customer 3664
class and rate schedule by the commission. The unbundled 3665

transmission component shall include a sliding scale of charges 3666
under division (B) of section 4905.31 of the Revised Code to 3667
ensure that refunds determined or approved by the federal energy 3668
regulatory commission are flowed through to retail electric 3669
customers. 3670

(2) The unbundled components for retail electric 3671
distribution service in the rate unbundling plan equal the 3672
difference between the costs attributable to the utility's 3673
transmission and distribution rates and charges under its 3674
schedule of rates and charges in effect on the effective date of 3675
this section, based upon the record in the most recent rate 3676
proceeding of the utility for which the utility's schedule was 3677
established, and the tariff rates for electric transmission 3678
service determined by the federal energy regulatory commission 3679
as described in division (A) (1) of this section. 3680

(3) All other unbundled components required by the 3681
commission in the rate unbundling plan equal the costs 3682
attributable to the particular service as reflected in the 3683
utility's schedule of rates and charges in effect on the 3684
effective date of this section. 3685

(4) The unbundled components for retail electric 3686
generation service in the rate unbundling plan equal the 3687
residual amount remaining after the determination of the 3688
transmission, distribution, and other unbundled components, and 3689
after any adjustments necessary to reflect the effects of the 3690
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3691
No. 3 of the 123rd general assembly. 3692

(5) All unbundled components in the rate unbundling plan 3693
have been adjusted to reflect any base rate reductions on file 3694
with the commission and as scheduled to be in effect by December 3695

31, 2005, under rate settlements in effect on the effective date 3696
of this section. However, all earnings obligations, 3697
restrictions, or caps imposed on an electric utility in a 3698
commission order prior to the effective date of this section are 3699
void. 3700

(6) Subject to division (A) (5) of this section, the total 3701
of all unbundled components in the rate unbundling plan are 3702
capped and shall equal during the market development period, 3703
except as specifically provided in this chapter, the total of 3704
all rates and charges in effect under the applicable bundled 3705
schedule of the electric utility pursuant to section 4905.30 of 3706
the Revised Code in effect on the day before the effective date 3707
of this section, including the transition charge determined 3708
under section 4928.40 of the Revised Code, adjusted for any 3709
changes in the taxation of electric utilities and retail 3710
electric service under Sub. S.B. No. 3 of the 123rd General 3711
Assembly, the universal service rider authorized by section 3712
4928.51 of the Revised Code, and the temporary rider authorized 3713
by section 4928.61 of the Revised Code. For the purpose of this 3714
division, the rate cap applicable to a customer receiving 3715
electric service pursuant to an arrangement approved by the 3716
commission under section 4905.31 of the Revised Code is, for the 3717
term of the arrangement, the total of all rates and charges in 3718
effect under the arrangement. For any rate schedule filed 3719
pursuant to section 4905.30 of the Revised Code or any 3720
arrangement subject to approval pursuant to section 4905.31 of 3721
the Revised Code, the initial tax-related adjustment to the rate 3722
cap required by this division shall be equal to the rate of 3723
taxation specified in section 5727.81 of the Revised Code and 3724
applicable to the schedule or arrangement. To the extent such 3725
total annual amount of the tax-related adjustment is greater 3726

than or less than the comparable amount of the total annual tax 3727
reduction experienced by the electric utility as a result of the 3728
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3729
such difference shall be addressed by the commission through 3730
accounting procedures, refunds, or an annual surcharge or credit 3731
to customers, or through other appropriate means, to avoid 3732
placing the financial responsibility for the difference upon the 3733
electric utility or its shareholders. Any adjustments in the 3734
rate of taxation specified in section 5727.81 of the Revised 3735
Code ~~section~~ shall not occur without a corresponding adjustment 3736
to the rate cap for each such rate schedule or arrangement. The 3737
department of taxation shall advise the commission and self- 3738
assessors under section 5727.81 of the Revised Code prior to the 3739
effective date of any change in the rate of taxation specified 3740
under that section, and the commission shall modify the rate cap 3741
to reflect that adjustment so that the rate cap adjustment is 3742
effective as of the effective date of the change in the rate of 3743
taxation. This division shall be applied, to the extent 3744
possible, to eliminate any increase in the price of electricity 3745
for customers that otherwise may occur as a result of 3746
establishing the taxes contemplated in section 5727.81 of the 3747
Revised Code. 3748

(7) The rate unbundling plan complies with any rules 3749
adopted by the commission under division (A) of section 4928.06 3750
of the Revised Code. 3751

(8) The corporate separation plan required by division (A) 3752
(2) of section 4928.31 of the Revised Code complies with section 3753
4928.17 of the Revised Code and any rules adopted by the 3754
commission under division (A) of section 4928.06 of the Revised 3755
Code. 3756

(9) Any plan or plans the commission requires to address 3757
operational support systems and any other technical 3758
implementation issues pertaining to competitive retail electric 3759
service comply with any rules adopted by the commission under 3760
division (A) of section 4928.06 of the Revised Code. 3761

(10) The employee assistance plan required by division (A) 3762
(4) of section 4928.31 of the Revised Code sufficiently provides 3763
severance, retraining, early retirement, retention, 3764
outplacement, and other assistance for the utility's employees 3765
whose employment is affected by electric industry restructuring 3766
under this chapter. 3767

(11) The consumer education plan required under division 3768
(A) (5) of section 4928.31 of the Revised Code complies with 3769
former section 4928.42 of the Revised Code and any rules adopted 3770
by the commission under division (A) of section 4928.06 of the 3771
Revised Code. 3772

(12) The transition revenues for which an electric utility 3773
is authorized a revenue opportunity under sections 4928.31 to 3774
4928.40 of the Revised Code are the allowable transition costs 3775
of the utility as such costs are determined by the commission 3776
pursuant to section 4928.39 of the Revised Code, and the 3777
transition charges for the customer classes and rate schedules 3778
of the utility are the charges determined pursuant to section 3779
4928.40 of the Revised Code. 3780

(13) Any independent transmission plan included in the 3781
transition plan filed under section 4928.31 of the Revised Code 3782
reasonably complies with section 4928.12 of the Revised Code and 3783
any rules adopted by the commission under division (A) of 3784
section 4928.06 of the Revised Code, unless the commission, for 3785
good cause shown, authorizes the utility to defer compliance 3786

until an order is issued under division (G) of section 4928.35 3787
of the Revised Code. 3788

(14) The utility is in compliance with sections 4928.01 to 3789
4928.11 of the Revised Code and any rules or orders of the 3790
commission adopted or issued under those sections. 3791

(15) All unbundled components in the rate unbundling plan 3792
have been adjusted to reflect the elimination of the tax on 3793
gross receipts imposed by section 5727.30 of the Revised Code. 3794

In addition, a transition plan approved by the commission 3795
under section 4928.33 of the Revised Code but not containing an 3796
approved independent transmission plan shall contain the express 3797
conditions that the utility will comply with an order issued 3798
under division (G) of section 4928.35 of the Revised Code. 3799

(B) ~~Subject to division (E) of section 4928.17 of the~~ 3800
~~Revised Code, if~~ If the commission finds that any part of the 3801
transition plan would constitute an abandonment under sections 3802
4905.20 and 4905.21 of the Revised Code, the commission shall 3803
not approve that part of the transition plan unless it makes the 3804
finding required for approval of an abandonment application 3805
under section 4905.21 of the Revised Code. Sections 4905.20 and 3806
4905.21 of the Revised Code otherwise shall not apply to a 3807
transition plan under sections 4928.31 to 4928.40 of the Revised 3808
Code. 3809

Sec. 4928.542. The winning bid or bids selected through 3810
the competitive procurement process established under section 3811
4928.54 of the Revised Code shall meet all of the following 3812
requirements: 3813

(A) Be designed to provide reliable competitive retail 3814
electric service to percentage of income payment plan program 3815

customers; 3816

(B) Reduce the cost of the percentage of income payment 3817
plan program relative to the otherwise applicable standard 3818
service offer established under sections 4928.141, and 4928.142, 3819
~~and 4928.143~~ of the Revised Code; 3820

(C) Result in the best value for persons paying the 3821
universal service rider under section 4928.52 of the Revised 3822
Code. 3823

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3824
renewable energy resource" means a renewable energy resource, as 3825
defined in section 4928.01 of the Revised Code that: 3826

(a) Has a placed-in-service date on or after January 1, 3827
1998; 3828

(b) Is any run-of-the-river hydroelectric facility that 3829
has an in-service date on or after January 1, 1980; 3830

(c) Is a small hydroelectric facility; 3831

(d) Is created on or after January 1, 1998, by the 3832
modification or retrofit of any facility placed in service prior 3833
to January 1, 1998; or 3834

(e) Is a mercantile customer-sited renewable energy 3835
resource, whether new or existing, that the mercantile customer 3836
commits for integration into the electric distribution utility's 3837
demand-response, energy efficiency, or peak demand reduction 3838
programs as provided under division (A) (2) (c) of section 4928.66 3839
of the Revised Code, including, but not limited to, any of the 3840
following: 3841

(i) A resource that has the effect of improving the 3842
relationship between real and reactive power; 3843

(ii) A resource that makes efficient use of waste heat or 3844
other thermal capabilities owned or controlled by a mercantile 3845
customer; 3846

(iii) Storage technology that allows a mercantile customer 3847
more flexibility to modify its demand or load and usage 3848
characteristics; 3849

(iv) Electric generation equipment owned or controlled by 3850
a mercantile customer that uses a renewable energy resource. 3851

(2) For the purpose of this section and as it considers 3852
appropriate, the public utilities commission may classify any 3853
new technology as such a qualifying renewable energy resource. 3854

(B) (1) By the end of 2026, an electric distribution 3855
utility shall have provided from qualifying renewable energy 3856
resources, including, at its discretion, qualifying renewable 3857
energy resources obtained pursuant to an electricity supply 3858
contract, a portion of the electricity supply required for its 3859
standard service offer under ~~section~~ sections 4928.141 and 3860
4928.142 of the Revised Code, and an electric services company 3861
shall have provided a portion of its electricity supply for 3862
retail consumers in this state from qualifying renewable energy 3863
resources, including, at its discretion, qualifying renewable 3864
energy resources obtained pursuant to an electricity supply 3865
contract. That portion shall equal eight and one-half per cent 3866
of the total number of kilowatt hours of electricity sold by the 3867
subject utility or company to any and all retail electric 3868
consumers whose electric load centers are served by that utility 3869
and are located within the utility's certified territory or, in 3870
the case of an electric services company, are served by the 3871
company and are located within this state. However, nothing in 3872
this section precludes a utility or company from providing a 3873

greater percentage. 3874

~~(2) Subject to section 4928.642 of the Revised Code, the~~ 3875

The portion required under division (B) (1) of this section shall 3876

be generated from renewable energy resources in accordance with 3877

the following benchmarks: 3878

3879

	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 3880
by the utility or company shall be met either: 3881

(a) Through facilities located in this state; or 3882

(b) With resources that can be shown to be deliverable 3883
into this state. 3884

(C) (1) The commission annually shall review an electric 3885
distribution utility's or electric services company's compliance 3886
with the most recent applicable benchmark under division (B) (2) 3887
of this section and, in the course of that review, shall 3888
identify any undercompliance or noncompliance of the utility or 3889
company that it determines is weather-related, related to 3890
equipment or resource shortages for qualifying renewable energy 3891
resources as applicable, or is otherwise outside the utility's 3892
or company's control. 3893

(2) Subject to the cost cap provisions of division (C) (3) 3894
of this section, if the commission determines, after notice and 3895
opportunity for hearing, and based upon its findings in that 3896
review regarding avoidable undercompliance or noncompliance, but 3897
subject to division (C) (4) of this section, that the utility or 3898
company has failed to comply with any such benchmark, the 3899
commission shall impose a renewable energy compliance payment on 3900

the utility or company. 3901

(a) The compliance payment pertaining to the solar energy 3902
resource benchmarks under division (B) (2) of this section shall 3903
be an amount per megawatt hour of undercompliance or 3904
noncompliance in the period under review, as follows: 3905

(i) Three hundred dollars for 2014, 2015, and 2016; 3906

(ii) Two hundred fifty dollars for 2017 and 2018; 3907

(iii) Two hundred dollars for 2019. 3908

(b) The compliance payment pertaining to the renewable 3909
energy resource benchmarks under division (B) (2) of this section 3910
shall equal the number of additional renewable energy credits 3911
that the electric distribution utility or electric services 3912
company would have needed to comply with the applicable 3913
benchmark in the period under review times an amount that shall 3914
begin at forty-five dollars and shall be adjusted annually by 3915
the commission to reflect any change in the consumer price index 3916
~~as defined in section 101.27 of the Revised Code~~, but shall not 3917
be less than forty-five dollars. As used in this division, 3918
"consumer price index" means the consumer price index prepared 3919
by the United States bureau of labor statistics (U.S. city 3920
average for urban wage earners and clerical workers: all items, 3921
1982-1984=100), or, if that index is no longer published, a 3922
generally available comparable index. 3923

(c) The compliance payment shall not be passed through by 3924
the electric distribution utility or electric services company 3925
to consumers. The compliance payment shall be remitted to the 3926
commission, for deposit to the credit of the advanced energy 3927
fund created under section 4928.61 of the Revised Code. Payment 3928
of the compliance payment shall be subject to such collection 3929

and enforcement procedures as apply to the collection of a 3930
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3931
Revised Code. 3932

(3) An electric distribution utility or an electric 3933
services company need not comply with a benchmark under division 3934
(B) (2) of this section to the extent that its reasonably 3935
expected cost of that compliance exceeds its reasonably expected 3936
cost of otherwise producing or acquiring the requisite 3937
electricity by three per cent or more. The cost of compliance 3938
shall be calculated as though any exemption from taxes and 3939
assessments had not been granted under section 5727.75 of the 3940
Revised Code. 3941

(4) (a) An electric distribution utility or electric 3942
services company may request the commission to make a force 3943
majeure determination pursuant to this division regarding all or 3944
part of the utility's or company's compliance with any minimum 3945
benchmark under division (B) (2) of this section during the 3946
period of review occurring pursuant to division (C) (2) of this 3947
section. The commission may require the electric distribution 3948
utility or electric services company to make solicitations for 3949
renewable energy resource credits as part of its default service 3950
before the utility's or company's request of force majeure under 3951
this division can be made. 3952

(b) Within ninety days after the filing of a request by an 3953
electric distribution utility or electric services company under 3954
division (C) (4) (a) of this section, the commission shall 3955
determine if qualifying renewable energy resources are 3956
reasonably available in the marketplace in sufficient quantities 3957
for the utility or company to comply with the subject minimum 3958
benchmark during the review period. In making this 3959

determination, the commission shall consider whether the 3960
electric distribution utility or electric services company has 3961
made a good faith effort to acquire sufficient qualifying 3962
renewable energy or, as applicable, solar energy resources to so 3963
comply, including, but not limited to, by banking or seeking 3964
renewable energy resource credits or by seeking the resources 3965
through long-term contracts. Additionally, the commission shall 3966
consider the availability of qualifying renewable energy or 3967
solar energy resources in this state and other jurisdictions in 3968
the PJM interconnection regional transmission organization, 3969
L.L.C., or its successor and the midcontinent independent system 3970
operator or its successor. 3971

(c) If, pursuant to division (C) (4) (b) of this section, 3972
the commission determines that qualifying renewable energy or 3973
solar energy resources are not reasonably available to permit 3974
the electric distribution utility or electric services company 3975
to comply, during the period of review, with the subject minimum 3976
benchmark prescribed under division (B) (2) of this section, the 3977
commission shall modify that compliance obligation of the 3978
utility or company as it determines appropriate to accommodate 3979
the finding. Commission modification shall not automatically 3980
reduce the obligation for the electric distribution utility's or 3981
electric services company's compliance in subsequent years. If 3982
it modifies the electric distribution utility or electric 3983
services company obligation under division (C) (4) (c) of this 3984
section, the commission may require the utility or company, if 3985
sufficient renewable energy resource credits exist in the 3986
marketplace, to acquire additional renewable energy resource 3987
credits in subsequent years equivalent to the utility's or 3988
company's modified obligation under division (C) (4) (c) of this 3989
section. 3990

(5) The commission shall establish a process to provide 3991
for at least an annual review of the renewable energy resource 3992
market in this state and in the service territories of the 3993
regional transmission organizations that manage transmission 3994
systems located in this state. The commission shall use the 3995
results of this study to identify any needed changes to the 3996
amount of the renewable energy compliance payment specified 3997
under divisions (C)(2)(a) and (b) of this section. Specifically, 3998
the commission may increase the amount to ensure that payment of 3999
compliance payments is not used to achieve compliance with this 4000
section in lieu of actually acquiring or realizing energy 4001
derived from qualifying renewable energy resources. However, if 4002
the commission finds that the amount of the compliance payment 4003
should be otherwise changed, the commission shall present this 4004
finding to the general assembly for legislative enactment. 4005

(D) The commission annually shall submit to the general 4006
assembly in accordance with section 101.68 of the Revised Code a 4007
report describing all of the following: 4008

(1) The compliance of electric distribution utilities and 4009
electric services companies with division (B) of this section; 4010

(2) The average annual cost of renewable energy credits 4011
purchased by utilities and companies for the year covered in the 4012
report; 4013

(3) Any strategy for utility and company compliance or for 4014
encouraging the use of qualifying renewable energy resources in 4015
supplying this state's electricity needs in a manner that 4016
considers available technology, costs, job creation, and 4017
economic impacts. 4018

The commission shall begin providing the information 4019

described in division (D) (2) of this section in each report 4020
submitted after September 10, 2012. The commission shall allow 4021
and consider public comments on the report prior to its 4022
submission to the general assembly. Nothing in the report shall 4023
be binding on any person, including any utility or company for 4024
the purpose of its compliance with any benchmark under division 4025
(B) of this section, or the enforcement of that provision under 4026
division (C) of this section. 4027

(E) All costs incurred by an electric distribution utility 4028
in complying with the requirements of this section shall be 4029
bypassable by any consumer that has exercised choice of supplier 4030
under section 4928.03 of the Revised Code. 4031

Sec. 4928.645. (A) An electric distribution utility or 4032
electric services company may use, for the purpose of complying 4033
with the requirements under divisions (B) (1) and (2) of section 4034
4928.64 of the Revised Code, renewable energy credits any time 4035
in the five calendar years following the date of their purchase 4036
or acquisition from any entity, including, but not limited to, 4037
the following: 4038

(1) A mercantile customer; 4039

(2) An owner or operator of a hydroelectric generating 4040
facility that is located at a dam on a river, or on any water 4041
discharged to a river, that is within or bordering this state or 4042
within or bordering an adjoining state, or that produces power 4043
that can be shown to be deliverable into this state; 4044

(3) A seller of compressed natural gas that has been 4045
produced from biologically derived methane gas, provided that 4046
the seller may only provide renewable energy credits for metered 4047
amounts of gas. 4048

(B) (1) The public utilities commission shall adopt rules 4049
specifying that one unit of credit shall equal one megawatt hour 4050
of electricity derived from renewable energy resources, except 4051
that, for a generating facility of seventy-five megawatts or 4052
greater that is situated within this state and has committed by 4053
December 31, 2009, to modify or retrofit its generating unit or 4054
units to enable the facility to generate principally from 4055
biomass energy by June 30, 2013, each megawatt hour of 4056
electricity generated principally from that biomass energy shall 4057
equal, in units of credit, the product obtained by multiplying 4058
the actual percentage of biomass feedstock heat input used to 4059
generate such megawatt hour by the quotient obtained by dividing 4060
the then existing unit dollar amount used to determine a 4061
renewable energy compliance payment as provided under division 4062
(C) (2) (b) of section 4928.64 of the Revised Code by the then 4063
existing market value of one renewable energy credit, but such 4064
megawatt hour shall not equal less than one unit of credit. 4065
Renewable energy resources do not have to be converted to 4066
electricity in order to be eligible to receive renewable energy 4067
credits. The rules shall specify that, for purposes of 4068
converting the quantity of energy derived from biologically 4069
derived methane gas to an electricity equivalent, one megawatt 4070
hour equals 3,412,142 British thermal units. 4071

(2) The rules also shall provide for this state a system 4072
of registering renewable energy credits by specifying which of 4073
any generally available registries shall be used for that 4074
purpose and not by creating a registry. That selected system of 4075
registering renewable energy credits shall allow a hydroelectric 4076
generating facility to be eligible for obtaining renewable 4077
energy credits and shall allow customer-sited projects or 4078
actions the broadest opportunities to be eligible for obtaining 4079

renewable energy credits. 4080

~~(C) Beginning January 1, 2020, a qualifying solar resource 4081
as defined in section 3706.40 of the Revised Code is not 4082
eligible to obtain a renewable energy credit under this section 4083
for any megawatt hour for which the resource has been issued a 4084
solar energy credit under section 3706.45 of the Revised Code. 4085~~

~~(D) Except for compressed natural gas that has been 4086
produced from biologically derived methane gas, energy generated 4087
by using natural gas as a resource is not eligible to obtain a 4088
renewable energy credit under this section. 4089~~

Sec. 4928.73. (A) As used in this section: 4090

(1) "Mercantile customer member" means a mercantile 4091
customer connected to a mercantile customer self-power system. 4092

(2) "Mercantile customer self-power system" means one or 4093
more electric generation facilities, electric storage 4094
facilities, or both, along with any associated facilities, that 4095
meet all of the following: 4096

(a) Produce electricity primarily for the consumption of a 4097
mercantile customer member or a group of mercantile customer 4098
members; 4099

(b) Connect directly to the mercantile customer member's 4100
side of the electric meter; 4101

(c) Deliver electricity to the mercantile customer 4102
member's side of the electric meter without the use of an 4103
electric distribution utility's or an electric cooperative's 4104
distribution system or transmission system; 4105

(d) Is located on either of the following: 4106

(i) A property owned or controlled by a mercantile 4107
customer member or the entity that owns or operates the 4108
mercantile customer self-power system, provided that the 4109
property is not located more than one mile from the customer or 4110
group of customers that consume the electricity produced by the 4111
facilities; 4112

(ii) Land adjacent to a mercantile customer member if the 4113
facilities connect directly with the customer. 4114

(B) The mercantile customer self-power system may be owned 4115
or operated by a mercantile customer member, group of mercantile 4116
customer members, or an entity that is not a mercantile customer 4117
member. 4118

(C) A mercantile customer self-power system may provide 4119
electric generation service to one or more mercantile customers. 4120

(D) The public utilities commission shall adopt rules to 4121
implement this section that are applicable to electric 4122
distribution utilities. 4123

(E) Nothing in this section prohibits an electric 4124
distribution utility or an electric cooperative from charging a 4125
mercantile customer for distribution or transmission service 4126
used by a mercantile customer. 4127

Sec. 4929.20. ~~(A)~~ (A) (1) No governmental aggregator as 4128
defined in division (K) (1) of section 4929.01 of the Revised 4129
Code or no retail natural gas supplier shall provide a 4130
competitive retail natural gas service on or after thirteen 4131
months following ~~the effective date of this section~~ June 26, 4132
2001, to a consumer in this state without first being certified 4133
by the public utilities commission regarding its managerial, 4134
technical, and financial capability to provide that service and 4135

providing reasonable financial assurances sufficient to protect 4136
customers and natural gas companies from default. ~~In addition, a~~ 4137
~~retail natural gas supplier may be required to provide a~~ 4138
~~performance bond sufficient to protect customers and natural gas~~ 4139
~~companies from default.~~ Certification shall be granted pursuant 4140
to procedures and standards the commission shall prescribe in 4141
accordance with rules adopted under section 4929.10 of the 4142
Revised Code. However, certification or certification renewal 4143
shall be deemed approved thirty days after the filing of an 4144
application with the commission unless the commission suspends 4145
that approval for good cause shown. In the case of such a 4146
suspension, the commission shall act to approve or deny 4147
certification or certification renewal to the applicant not 4148
later than ninety days after the date of the suspension. 4149

(2) The commission shall establish rules to require a 4150
competitive retail natural gas supplier to maintain financial 4151
assurances sufficient to protect customers and natural gas 4152
companies from default. Such rules also shall specifically allow 4153
a natural gas company to set reasonable standards for its 4154
security and the security of its customers through financial 4155
requirements set in its tariffs. 4156

(3) As used in division (A) (2) of this section, "retail 4157
natural gas supplier" has the same meaning as in section 4929.01 4158
of the Revised Code, but excludes a broker or aggregator. 4159

(B) Capability standards adopted in rules pursuant to 4160
division (A) of this section shall be sufficient to ensure 4161
compliance with section 4929.22 of the Revised Code and with the 4162
minimum service requirements established under section 4929.23 4163
of the Revised Code. The standards shall allow flexibility for 4164
voluntary aggregation, to encourage market creativity in 4165

responding to consumer needs and demands. The rules shall 4166
include procedures for biennially renewing certification. 4167

(C) (1) The commission may suspend, rescind, or 4168
conditionally rescind the certification of any retail natural 4169
gas supplier or governmental aggregator issued under this 4170
section if the commission determines, after reasonable notice 4171
and opportunity for hearing, that the retail natural gas 4172
supplier or governmental aggregator has failed to comply with 4173
any applicable certification standards prescribed in rules 4174
adopted pursuant to this section or section 4929.22 of the 4175
Revised Code. 4176

(2) An affected natural gas company may file an 4177
application with the commission for approval of authority to 4178
recover in accordance with division (C) (2) of this section 4179
incremental costs reasonably and prudently incurred by the 4180
company in connection with the commission's continuation, 4181
suspension, rescission, or conditional rescission of a 4182
particular retail natural gas supplier's certification under 4183
division (C) (1) of this section. Upon the filing of such an 4184
application, the commission shall conduct an audit of such 4185
incremental costs as are specified in the application. Cost 4186
recovery shall be through a rider on the base rates of customers 4187
of the company for which there is a choice of supplier of 4188
commodity sales service as a result of revised schedules 4189
approved under division (C) of section 4929.29 of the Revised 4190
Code, a rule or order adopted or issued by the commission under 4191
Chapter 4905. of the Revised Code, or an exemption granted by 4192
the commission under sections 4929.04 to 4929.08 of the Revised 4193
Code. The rider shall take effect ninety days after the date of 4194
the application's filing unless the commission, based on the 4195
audit results and for good cause shown, sets the matter for 4196

hearing. After the hearing, the commission shall approve the 4197
application, and authorize such cost recovery rider effective on 4198
the date specified in the order, only for such incremental costs 4199
as the commission determines were reasonably and prudently 4200
incurred by the company in connection with the continuation, 4201
suspension, rescission, or conditional rescission of a retail 4202
natural gas supplier's certification under division (C)(1) of 4203
this section. Any proceeding under division (C)(2) of this 4204
section shall be governed by Chapter 4903. of the Revised Code. 4205

(D) No natural gas company, on and after thirteen months 4206
following ~~the effective date of this section~~ June 26, 2001, 4207
shall knowingly distribute natural gas, to a retail consumer in 4208
this state, for any governmental aggregator, as defined in 4209
division (K)(1) of section 4929.01 of the Revised Code, or 4210
retail natural gas supplier, that has not been certified by the 4211
commission pursuant to this section. 4212

(E) Notwithstanding any provision of section 121.95 of the 4213
Revised Code to the contrary, a regulatory restriction contained 4214
in a rule adopted under section 4929.20 of the Revised Code is 4215
not subject to sections 121.95 to 121.953 of the Revised Code. 4216

Sec. 4929.221. (A) If a competitive retail natural gas 4217
service supplier offers a residential customer or non-mercantile 4218
commercial customer a contract for a fixed introductory rate 4219
that converts to a variable rate upon the expiration of the 4220
fixed rate, the supplier shall send two notices to each 4221
residential customer and non-mercantile commercial customer that 4222
enters into such a contract. Each notice shall provide all of 4223
the following information to the customer: 4224

(1) The fixed rate that is expiring under the contract; 4225

- (2) The expiration date of the contract's fixed rate; 4226
- (3) The rate to be charged upon the contract's conversion 4227
to a variable rate; 4228
- (4) The public utilities commission web site that, as a 4229
comparison tool, lists rates offered by competitive retail 4230
natural gas service suppliers; 4231
- (5) A statement explaining that appearing on each 4232
customer's bill is a price-to-compare notice that lists the 4233
natural gas company's default rate for natural gas charged to 4234
customers who decide not to shop for a competitive supplier. 4235
- (B) The notices shall be sent by standard United States 4236
mail as follows: 4237
- (1) The supplier shall send the first notice not earlier 4238
than ninety days and not later than sixty days prior to the 4239
expiration of the fixed rate. 4240
- (2) The supplier shall send the second notice not earlier 4241
than forty-five days and not later than thirty days prior to the 4242
expiration of the fixed rate. 4243
- (C) A competitive retail natural gas service supplier 4244
shall provide an annual notice, by standard United States mail, 4245
to each residential customer and non-mercantile commercial 4246
customer that has entered into a contract with the supplier that 4247
has converted to a variable rate upon the expiration of the 4248
contract's fixed introductory rate. The notice shall inform the 4249
customer that the customer is currently subject to a variable 4250
rate and that other fixed rate contracts are available. 4251
- (D) Not later than one hundred fifty days after the 4252
effective date of this section, the commission shall adopt rules 4253

in order to implement divisions (A) to (C) of this section. The 4254
rules, at a minimum, shall include the following requirements 4255
regarding the notices required under divisions (A) to (C) of 4256
this section: 4257

(1) To use clear and unambiguous language in order to 4258
enable the customer to make an informed decision; 4259

(2) To design the notices in a way to ensure that they 4260
cannot be confused with marketing materials. 4261

(E) Notwithstanding any provision of section 121.95 of the 4262
Revised Code to the contrary, a regulatory restriction contained 4263
in a rule adopted under section 4929.221 of the Revised Code is 4264
not subject to sections 121.95 to 121.953 of the Revised Code. 4265

Sec. 4929.222. (A) As used in this section, "customer 4266
account information" means a unique natural gas company number 4267
or other customer identification number used by the company to 4268
identify a customer and the customer's account record. 4269

(B) The public utilities commission shall adopt rules to 4270
ensure that a natural gas company processes a customer's change 4271
in competitive retail natural gas supplier by using customer 4272
account information. A customer who consents to a change of 4273
supplier shall not be required to provide customer account 4274
information to the supplier if the customer provides a valid 4275
form of government-issued identification issued to the customer 4276
or a sufficient alternative form of identification that allows 4277
the supplier to establish the customer's identity accurately. 4278

(C) Notwithstanding any provision of section 121.95 of the 4279
Revised Code to the contrary, a regulatory restriction contained 4280
in a rule adopted under this section is not subject to sections 4281
121.95 to 121.953 of the Revised Code. 4282

Sec. 4933.81. As used in sections 4933.81 to 4933.90 of 4283
the Revised Code: 4284

(A) "Electric supplier" means any electric light company 4285
as defined in section 4905.03 of the Revised Code, including 4286
electric light companies organized as nonprofit corporations, 4287
but not including municipal corporations or other units of local 4288
government that provide electric service. 4289

(B) "Adequate facilities" means distribution lines or 4290
facilities having sufficient capacity to meet the maximum 4291
estimated electric service requirements of its existing 4292
customers and of any new customer occurring during the year 4293
following the commencement of permanent electric service, and to 4294
assure all such customers of reasonable continuity and quality 4295
of service. Distribution facilities and lines of an electric 4296
supplier shall be considered "adequate facilities" if such 4297
supplier offers to undertake to make its distribution facilities 4298
and lines meet such service requirements and, in the 4299
determination of the public utilities commission, can do so 4300
within a reasonable time. 4301

(C) "Distribution line" means any electric line that is 4302
being or has been used primarily to provide electric service 4303
directly to electric load centers by the owner of such line. 4304

(D) "Existing distribution line" means any distribution 4305
line of an electric supplier which was in existence on January 4306
1, 1977, or under construction on that date. 4307

(E) "Electric load center" means all the electric- 4308
consuming facilities of any type or character owned, occupied, 4309
controlled, or used by a person at a single location, which 4310
facilities have been, are, or will be connected to and served at 4311

a metered point of delivery and to which electric service has 4312
been, is, or will be rendered. 4313

(F) "Electric service" means retail electric service 4314
furnished to an electric load center for ultimate consumption, 4315
but excludes furnishing electric power or energy at wholesale 4316
for resale. In the case of a for-profit electric supplier and 4317
beginning on the starting date of competitive retail electric 4318
service as defined in section 4928.01 of the Revised Code, 4319
"electric service" also excludes a competitive retail electric 4320
service.—, and, starting after the effective date of amendments 4321
to this section by this act, excludes: 4322

(1) Retail electric service provided to a mercantile 4323
customer member by its own mercantile customer self-power system 4324
as those terms are defined in section 4928.73 of the Revised 4325
Code; 4326

(2) Retail electric service provided to an electric load 4327
center to the extent the center is acting as a self-generator as 4328
defined in section 4928.01 of the Revised Code. 4329

In the case of a not-for-profit electric supplier and 4330
beginning on that competitive retail electric service starting 4331
date, "electric service" also excludes any service component of 4332
competitive retail electric service that is specified in an 4333
irrevocable filing the electric supplier makes with the public 4334
utilities commission for informational purposes only to 4335
eliminate permanently its certified territory under sections 4336
4933.81 to 4933.90 of the Revised Code as to that service 4337
component and further excludes any new electric load centers 4338
going into service after the effective date of amendments to 4339
this section by this act that use retail electric service 4340
described in division (F) (1) or (2) of this section. The filing 4341

shall specify the date on which such territory is so eliminated. 4342
Notwithstanding division (B) of section 4928.01 of the Revised 4343
Code, such a service component may include retail ancillary, 4344
metering, or billing and collection service irrespective of 4345
whether that service component has or has not been declared 4346
competitive under section 4928.04 of the Revised Code. Upon 4347
receipt of the filing by the commission, the not-for-profit 4348
electric supplier's certified territory shall be eliminated 4349
permanently as to the service component specified in the filing 4350
as of the date specified in the filing. As used in this 4351
division, "competitive retail electric service" and "retail 4352
electric service" have the same meanings as in section 4928.01 4353
of the Revised Code. 4354

(G) "Certified territory" means a geographical area the 4355
boundaries of which have been established pursuant to sections 4356
4933.81 to 4933.90 of the Revised Code within which an electric 4357
supplier is authorized and required to provide electric service. 4358

(H) "Other unit of local government" means any 4359
governmental unit or body that may come into existence after 4360
July 12, 1978, with powers and authority similar to those of a 4361
municipal corporation, or that is created to replace or exercise 4362
the relevant powers of any one or more municipal corporations. 4363

Sec. 5711.01. As used in this chapter: 4364

(A) (1) "Taxable property" includes all the kinds of 4365
property mentioned in division (B) of section 5709.01 and 4366
section 5709.02 of the Revised Code, and also the amount or 4367
value as of the date of conversion of all taxable property 4368
converted into bonds or other securities not taxed on or after 4369
the first day of November in the year preceding the date of 4370
listing, and of all other taxable property converted into 4371

deposits after the date as of which deposits are required to be 4372
listed in such year, except in the usual course of the 4373
taxpayer's business, to the extent the taxpayer may hold or 4374
control such bonds, securities, or deposits on such day, without 4375
deduction for indebtedness created in the purchase of such bonds 4376
or securities from the taxpayer's credits. "Taxable property" 4377
does not include such investments and deposits as are taxable at 4378
the source as provided in sections 5725.01 to 5725.26 of the 4379
Revised Code, surrender values under policies of insurance, or 4380
any tangible personal property acquired from a public utility or 4381
interexchange telecommunications company as defined in section 4382
5727.01 of the Revised Code and leased back to the public 4383
utility or interexchange telecommunications company pursuant to 4384
a sale and leaseback transaction as defined in division (I) of 4385
section 5727.01 of the Revised Code. For tax year 2007 and 4386
thereafter, "taxable property" of a telephone, telegraph, or 4387
interexchange telecommunications company, as defined in section 4388
5727.01 of the Revised Code, includes property subject to such a 4389
sale and leaseback transaction. 4390

(2) For tax year 2007 and thereafter, taxable property 4391
leased to a telephone, telegraph, or interexchange 4392
telecommunications company, as defined in section 5727.01 of the 4393
Revised Code, other than pursuant to a sale and leaseback 4394
transaction, shall be listed and assessed by the owner of the 4395
property as follows: 4396

(a) If the property leased to such a company is not 4397
governed by division (C) of section 5711.22 of the Revised Code 4398
in tax years 2007 and 2008, it shall be listed and assessed at 4399
the percentage of true value in money required under division 4400
(G) of section 5711.22 of the Revised Code. 4401

(b) All property leased to such a company in tax years 4402
2009 and 2010 shall be listed and assessed at the percentage of 4403
true value in money required under division (H) of section 4404
5711.22 of the Revised Code. 4405

(3) For tax years 2009 and 2010, the lessor of property 4406
subject to division (A) (2) of this section shall have the true 4407
value of the property the lessor leases to a telephone, 4408
telegraph, or interexchange telecommunications company 4409
determined under divisions ~~(A) (5)~~ (A) (6) and (E) of section 4410
5727.06 of the Revised Code. 4411

(B) "Taxpayer" means any owner of taxable property, 4412
including property exempt under division (C) of section 5709.01 4413
of the Revised Code, and includes every person residing in, or 4414
incorporated or organized by or under the laws of this state, or 4415
doing business in this state, or owning or having a beneficial 4416
interest in taxable personal property in this state and every 4417
fiduciary required by sections 5711.01 to 5711.36 of the Revised 4418
Code, to make a return for or on behalf of another. For tax year 4419
2007 and thereafter, "taxpayer" includes telephone companies, 4420
telegraph companies, and interexchange telecommunications 4421
company as defined in section 5727.01 of the Revised Code. The 4422
tax commissioner may by rule define and designate the taxpayer, 4423
as to any taxable property which would not otherwise be required 4424
by this section to be returned; and any such rule shall be 4425
considered supplementary to the enumeration of kinds of 4426
taxpayers following: 4427

(1) Individuals of full age and sound mind residing in 4428
this state; 4429

(2) Partnerships, corporations, associations, and joint- 4430
stock companies, under whatever laws organized or existing, 4431

doing business or having taxable property in this state; and 4432
corporations incorporated by or organized under the laws of this 4433
state, wherever their actual business is conducted; 4434

(3) Fiduciaries appointed by any court in this state or 4435
having title, possession, or custody of taxable personal 4436
property in this state or engaged in business in this state; 4437

(4) Unincorporated mutual funds. 4438

"Taxpayer" excludes all individuals, partnerships, 4439
corporations, associations, and joint-stock companies, their 4440
executors, administrators, and receivers who are defined in 4441
Title LVIII of the Revised Code as financial institutions, 4442
dealers in intangibles, domestic insurance companies, or public 4443
utilities, except to the extent they may be required by sections 4444
5711.01 to 5711.36 of the Revised Code, to make returns as 4445
fiduciaries, or by section 5725.26 of the Revised Code, to make 4446
returns of property leased, or held for the purpose of leasing, 4447
to others if the owner or lessor of the property acquired it for 4448
the sole purpose of leasing it to others or to the extent that 4449
property is taxable under section 5725.25 of the Revised Code. 4450

(C) "Return" means the taxpayer's annual report of taxable 4451
property. 4452

(D) "List" means the designation, in a return, of the 4453
description of taxable property, the valuation or amount 4454
thereof, the name of the owner, and the taxing district where 4455
assessable. 4456

(E) "Taxing district" means, in the case of property 4457
assessable on the classified tax list and duplicate, a municipal 4458
corporation or the territory in a county outside the limits of 4459
all municipal corporations therein; in the case of property 4460

assessable on the general tax list and duplicate, a municipal 4461
corporation or township, or part thereof, in which the aggregate 4462
rate of taxation is uniform. 4463

(F) "Assessor" includes the tax commissioner and the 4464
county auditor as deputy of the commissioner. 4465

(G) "Fiduciary" includes executors, administrators, 4466
parents, guardians, receivers, assignees, official custodians, 4467
factors, bailees, lessees, agents, attorneys, and employees, but 4468
does not include trustees unless the sense so requires. 4469

(H) "General tax list and duplicate" means the books or 4470
records containing the assessments of property subject to local 4471
tax levies. 4472

(I) "Classified tax list and duplicate" means the books or 4473
records containing the assessments of property not subject to 4474
local tax levies. 4475

(J) "Investment company" means any corporation, the shares 4476
of which are regularly offered for sale to the public, engaged 4477
solely in the business of investing and reinvesting funds in 4478
real property or investments, or holding or selling real 4479
property or investments for the purpose of realizing income or 4480
profit which is distributed to its shareholders. Investment 4481
company does not include any dealer in intangibles, as defined 4482
in section 5725.01 of the Revised Code. 4483

(K) "Unincorporated mutual fund" means any partnership, 4484
each partner of which is a corporation, engaged solely in the 4485
business of investing and reinvesting funds in investments, or 4486
holding or selling investments for the purpose of realizing 4487
income or profit which is distributed to its partners and which 4488
is subject to Chapter 1707. of the Revised Code. An 4489

unincorporated mutual fund does not include any dealer in 4490
intangibles as defined in section 5725.01 of the Revised Code. 4491

Sec. 5727.01. As used in this chapter: 4492

(A) "Public utility" means each person referred to as a 4493
telephone company, telegraph company, electric company, natural 4494
gas company, pipe-line company, water-works company, water 4495
transportation company, heating company, rural electric company, 4496
railroad company, combined company, or energy company. 4497

(B) "Gross receipts" means the entire receipts for 4498
business done by any person from operations as a public utility, 4499
or incidental thereto, or in connection therewith, including any 4500
receipts received under Chapter 4928. of the Revised Code. The 4501
gross receipts for business done by an incorporated company 4502
engaged in operation as a public utility includes the entire 4503
receipts for business done by such company under the exercise of 4504
its corporate powers, whether from the operation as a public 4505
utility or from any other business. 4506

(C) "Rural electric company" means any nonprofit 4507
corporation, organization, association, or cooperative engaged 4508
in the business of supplying electricity to its members or 4509
persons owning an interest therein in an area the major portion 4510
of which is rural. "Rural electric company" excludes an energy 4511
company. 4512

(D) Any person: 4513

(1) Is a telegraph company when engaged in the business of 4514
transmitting telegraphic messages to, from, through, or in this 4515
state; 4516

(2) Is a telephone company when primarily engaged in the 4517
business of providing local exchange telephone service, 4518

excluding cellular radio service, in this state; 4519

(3) Is an electric company when engaged in the business of 4520
generating, transmitting, or distributing electricity within 4521
this state for use by others, but excludes a rural electric 4522
company or an energy company; 4523

(4) Is a natural gas company when engaged in the business 4524
of supplying or distributing natural gas for lighting, power, or 4525
heating purposes to consumers within this state, excluding a 4526
person that is a governmental aggregator or retail natural gas 4527
supplier as defined in section 4929.01 of the Revised Code; 4528

(5) Is a pipe-line company when engaged in the business of 4529
transporting natural gas, oil, or coal or its derivatives 4530
through pipes or tubing, either wholly or partially within this 4531
state; 4532

(6) Is a water-works company when engaged in the business 4533
of supplying water through pipes or tubing, or in a similar 4534
manner, to consumers within this state; 4535

(7) Is a water transportation company when engaged in the 4536
transportation of passengers or property, by boat or other 4537
watercraft, over any waterway, whether natural or artificial, 4538
from one point within this state to another point within this 4539
state, or between points within this state and points without 4540
this state; 4541

(8) Is a heating company when engaged in the business of 4542
supplying water, steam, or air through pipes or tubing to 4543
consumers within this state for heating purposes; 4544

(9) Is a railroad company when engaged in the business of 4545
owning or operating a railroad either wholly or partially within 4546
this state on rights-of-way acquired and held exclusively by 4547

such company, or otherwise, and includes a passenger, street, 4548
suburban, or interurban railroad company; 4549

(10) Is an energy company when engaged in the business of 4550
generating, transmitting, storing and releasing, or distributing 4551
electricity within this state for use by others solely from an 4552
energy facility with an aggregate nameplate capacity in excess 4553
of two hundred fifty kilowatts. 4554

As used in division (D) (2) of this section, "local 4555
exchange telephone service" means making available or furnishing 4556
access and a dial tone to all persons within a local calling 4557
area for use in originating and receiving voice grade 4558
communications over a switched network operated by the provider 4559
of the service within the area and for gaining access to other 4560
telecommunication services. 4561

(E) "Taxable property" means the property required by 4562
section 5727.06 of the Revised Code to be assessed by the tax 4563
commissioner, but does not include either of the following: 4564

(1) An item of tangible personal property that for the 4565
period subsequent to the effective date of an air, water, or 4566
noise pollution control certificate and continuing so long as 4567
the certificate is in force, has been certified as part of the 4568
pollution control facility with respect to which the certificate 4569
has been issued; 4570

(2) An item of tangible personal property that during the 4571
construction of a plant or facility and until the item is first 4572
capable of operation, whether actually used in operation or not, 4573
is incorporated in or being held exclusively for incorporation 4574
in that plant or facility. 4575

Notwithstanding section 5701.03 of the Revised Code, for 4576

tax year 2006 and thereafter, "taxable property" includes 4577
patterns, jigs, dies, and drawings of an electric company or a 4578
combined company for use in the activity of an electric company. 4579

(F) "Taxing district" means a municipal corporation or 4580
township, or part thereof, in which the aggregate rate of 4581
taxation is uniform. 4582

(G) "Telecommunications service" has the same meaning as 4583
in division (AA) of section 5739.01 of the Revised Code. 4584

(H) "Interexchange telecommunications company" means a 4585
person that is engaged in the business of transmitting 4586
telephonic messages to, from, through, or in this state, but 4587
that is not a telephone company. 4588

(I) "Sale and leaseback transaction" means a transaction 4589
in which a public utility or interexchange telecommunications 4590
company sells any tangible personal property to a person other 4591
than a public utility or interexchange telecommunications 4592
company and leases that property back from the buyer. 4593

(J) "Production equipment" means all taxable steam, 4594
nuclear, hydraulic, renewable resource, clean coal technology, 4595
and other production plant equipment used to generate or store 4596
and release electricity. For tax years prior to 2001, 4597
"production equipment" includes taxable station equipment that 4598
is located at a production plant. 4599

(K) "Tax year" means the year for which property or gross 4600
receipts are subject to assessment under this chapter. This 4601
division does not limit the tax commissioner's ability to assess 4602
and value property or gross receipts outside the tax year. 4603

(L) "Combined company" means any person engaged in the 4604
activity of an electric company or rural electric company that 4605

is also engaged in the activity of a heating company or a 4606
natural gas company, or any combination thereof. 4607

(M) "Public utility property lessor" means any person, 4608
other than a public utility or an interexchange 4609
telecommunications company, that leases personal property, other 4610
than in a sale and leaseback transaction, to a public utility, 4611
other than a railroad, water transportation, telephone, or 4612
telegraph company if the property would be taxable property if 4613
owned by the public utility. A public utility property lessor is 4614
subject to this chapter only for the purposes of reporting and 4615
paying tax on taxable property it leases to a public utility 4616
other than a telephone or telegraph company. A public utility 4617
property lessor that leases property to a public utility other 4618
than a telephone or telegraph company is not a public utility, 4619
but it shall report its property and be assessed in the same 4620
manner as the utility to which it leases the property. 4621

(N) "Energy resource" means any of the following: 4622

(1) "Renewable energy resource" as defined in section 4623
4928.01 of the Revised Code; 4624

(2) "Clean coal technology" as described in division (A) 4625
(34) (c) of section 4928.01 of the Revised Code; 4626

(3) "Advanced nuclear technology" as described in division 4627
(A) (34) (d) of section 4928.01 of the Revised Code; 4628

(4) "Cogeneration technology" as described in division (A) 4629
(34) (b) of section 4928.01 of the Revised Code; 4630

(5) Energy storage system. 4631

(O) "Energy conversion equipment" means tangible personal 4632
property connected to a wind turbine tower, connected to and 4633

behind solar radiation collector areas and designed to convert 4634
the radiant energy of the sun into electricity or heat, or 4635
connected to any other property used to generate or store and 4636
release electricity from an energy resource, through which 4637
electricity is transferred to controls, transformers, or power 4638
electronics and to the transmission interconnection point. 4639

"Energy conversion equipment" includes, but is not limited 4640
to, inverters, batteries, switch gears, wiring, collection 4641
lines, substations, ancillary tangible personal property, or any 4642
lines and associated tangible personal property located between 4643
substations and the transmission interconnection point. 4644

(P) "Energy facility" means one or more interconnected 4645
wind turbines, solar panels, energy storage systems, or other 4646
tangible personal property used to generate or store and release 4647
electricity from an energy resource owned by the same person, 4648
including: 4649

(1) All interconnection equipment, devices, and related 4650
apparatus connected to such tangible personal property; 4651

(2) All cables, equipment, devices, and related apparatus 4652
that connect the generators to an electricity grid or to a 4653
building or facility that directly consumes the electricity 4654
produced, that facilitate the transmission of electrical energy 4655
from the generators to the grid, building, or facility, and, 4656
where applicable, that transform voltage before ultimate 4657
delivery of electricity to the grid, building, or facility. 4658

"Energy facility" includes buildings, structures, 4659
improvements, or fixtures exclusively used to house, support, or 4660
stabilize tangible personal property constituting the facility 4661
or that are otherwise necessary for the operation of that 4662

property; and so much of the land on which such tangible 4663
personal property is situated as is required for operation of 4664
the facility and is not devoted to some other use, not to 4665
exceed, in the case of wind turbines, one-half acre for each 4666
wind turbine, and regardless of whether the land is owned by the 4667
owner or lessee of the tangible personal property or by another 4668
person. 4669

(Q) "Nameplate capacity" means the original interconnected 4670
maximum rated alternating current output of a generator or other 4671
electric production equipment under specific conditions 4672
designated by the manufacturer, expressed in the number of 4673
kilowatts or megawatts. 4674

(R) "Qualifying production equipment" means production 4675
equipment and energy conversion equipment that is first used in 4676
business in this state beginning in calendar year 2026 and 4677
thereafter. 4678

(S) "Energy storage system" means tangible personal 4679
property that is capable of storing and releasing energy. 4680

Sec. 5727.031. (A) A person that is engaged in some other 4681
primary business to which the supplying of electricity to others 4682
is incidental shall file a report under section 5727.08 of the 4683
Revised Code as an electric company but shall only report 4684
therein as taxable property the amounts required in divisions 4685
(B) and (C) of this section. All time limits and other 4686
procedural requirements of this chapter for the reporting and 4687
assessment of property of electric companies apply to persons 4688
required to file a report under this section. For the purposes 4689
of this section, "the supplying of electricity to others" shall 4690
not include donating all of the electricity a person generates 4691
to a political subdivision of the state. 4692

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

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

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

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

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

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

Sec. 5727.06. (A) Except as otherwise provided by law, the 4722
following constitutes the taxable property of a public utility, 4723
interexchange telecommunications company, or public utility 4724
property lessor that shall be assessed by the tax commissioner: 4725

(1) For tax years before tax year 2006: 4726

(a) In the case of a railroad company, all real property 4727
and tangible personal property owned or operated by the railroad 4728
company in this state on the thirty-first day of December of the 4729
preceding year; 4730

(b) In the case of a water transportation company, all 4731
tangible personal property, except watercraft, owned or operated 4732
by the water transportation company in this state on the thirty- 4733
first day of December of the preceding year and all watercraft 4734
owned or operated by the water transportation company in this 4735
state during the preceding calendar year; 4736

(c) In the case of all other public utilities and 4737
interexchange telecommunications companies, all tangible 4738
personal property that on the thirty-first day of December of 4739
the preceding year was both located in this state and: 4740

(i) Owned by the public utility or interexchange 4741
telecommunications company; or 4742

(ii) Leased by the public utility or interexchange 4743
telecommunications company under a sale and leaseback 4744
transaction. 4745

(2) For tax years 2006, 2007, and 2008: 4746

(a) In the case of a railroad company, all real property 4747
used in railroad operations and tangible personal property owned 4748
or operated by the railroad company in this state on the thirty- 4749

first day of December of the preceding year; 4750

(b) In the case of a water transportation company, all 4751
tangible personal property, except watercraft, owned or operated 4752
by the water transportation company in this state on the thirty- 4753
first day of December of the preceding year and all watercraft 4754
owned or operated by the water transportation company in this 4755
state during the preceding calendar year; 4756

(c) In the case of all other public utilities except 4757
telephone and telegraph companies, all tangible personal 4758
property that on the thirty-first day of December of the 4759
preceding year was both located in this state and either owned 4760
by the public utility or leased by the public utility under a 4761
sale and leaseback transaction. 4762

(3) For tax ~~year~~years 2009 and ~~each tax year thereafter~~to 4763
2026: 4764

(a) In the case of a railroad company, all real property 4765
used in railroad operations and tangible personal property owned 4766
or operated by the railroad company in this state on the thirty- 4767
first day of December of the preceding year; 4768

(b) In the case of a water transportation company, all 4769
tangible personal property, except watercraft, owned or operated 4770
by the water transportation company in this state on the thirty- 4771
first day of December of the preceding year and all watercraft 4772
owned or operated by the water transportation company in this 4773
state during the preceding calendar year; 4774

(c) In the case of all other public utilities except 4775
telephone and telegraph companies, all tangible personal 4776
property that on the thirty-first day of December of the 4777
preceding year was both located in this state and either owned 4778

by the public utility or leased by the public utility under a 4779
sale and leaseback transaction, and that is not exempted from 4780
taxation under section 5727.75 of the Revised Code; 4781

(d) In the case of a public utility property lessor, all 4782
personal property that on the thirty-first day of December of 4783
the preceding year was both located in this state and leased, in 4784
other than a sale and leaseback transaction, to a public utility 4785
other than a railroad, telephone, telegraph, or water 4786
transportation company. The assessment rate used under section 4787
5727.111 of the Revised Code shall be based on the assessment 4788
rate that would apply if the public utility owned the property, 4789
and that is not exempted from taxation under section 5727.75 of 4790
the Revised Code. 4791

(4) For tax year 2027 and each tax year thereafter: 4792

(a) In the case of a railroad company, all real property 4793
used in railroad operations and tangible personal property owned 4794
or operated by the railroad company in this state on the thirty- 4795
first day of December of the preceding year; 4796

(b) In the case of a water transportation company, all 4797
tangible personal property, except watercraft, owned or operated 4798
by the water transportation company in this state on the thirty- 4799
first day of December of the preceding year and all watercraft 4800
owned or operated by the water transportation company in this 4801
state during the preceding calendar year; 4802

(c) In the case of all other public utilities except 4803
telephone and telegraph companies, all tangible personal 4804
property except qualifying production equipment that on the 4805
thirty-first day of December of the preceding year was both 4806
located in this state and either owned by the public utility or 4807

leased by the public utility under a sale and leaseback 4808
transaction, and that is not exempted from taxation under 4809
section 5727.75 of the Revised Code; 4810

(d) In the case of a public utility property lessor, all 4811
personal property except qualifying production equipment that on 4812
the thirty-first day of December of the preceding year was both 4813
located in this state and leased, in other than a sale and 4814
leaseback transaction, to a public utility other than a 4815
railroad, telephone, telegraph, or water transportation company. 4816
The assessment rate used under section 5727.111 of the Revised 4817
Code shall be based on the assessment rate that would apply if 4818
the public utility owned the property, and that is not exempted 4819
from taxation under section 5727.75 of the Revised Code. 4820

(5) For tax years 2005 and 2006, in the case of telephone, 4821
telegraph, or interexchange telecommunications companies, all 4822
tangible personal property that on the thirty-first day of 4823
December of the preceding year was both located in this state 4824
and either owned by the telephone, telegraph, or interexchange 4825
telecommunications company or leased by the telephone, 4826
telegraph, or interexchange telecommunications company under a 4827
sale and leaseback transaction. 4828

~~(5) (a)~~ (6) (a) For tax year 2007 and thereafter, in the case 4829
of telephone, telegraph, or interexchange telecommunications 4830
companies, all tangible personal property shall be listed and 4831
assessed for taxation under Chapter 5711. of the Revised Code, 4832
but the tangible personal property shall be valued in accordance 4833
with this chapter using the composite annual allowances and 4834
other valuation procedures prescribed under section 5727.11 of 4835
the Revised Code by the tax commissioner for such property for 4836
tax year 2006, notwithstanding any section of Chapter 5711. of 4837

the Revised Code to the contrary. 4838

(b) A telephone, telegraph, or interexchange 4839
telecommunications company subject to division ~~(A) (5) (a)~~ (A) (6) 4840
(a) of this section shall file a combined return with the tax 4841
commissioner in accordance with section 5711.13 of the Revised 4842
Code even if the company has tangible personal property in only 4843
one county. Such a company also is subject to the issuance of a 4844
preliminary assessment certificate by the tax commissioner under 4845
section 5711.25 of the Revised Code. Such a company is not 4846
required to file a county supplemental return under section 4847
5711.131 of the Revised Code. 4848

~~(6) (7)~~ In the case of an energy company, ~~for~~ : 4849

(a) For tax year years 2011 and each tax year thereafter to 4850
2026, all tangible personal property that on the thirty-first 4851
day of December of the preceding year was both located in this 4852
state and either owned by the company or leased by the company 4853
under a sale and leaseback transaction, and that is not exempted 4854
from taxation under section 5727.75 of the Revised Code. 4855

(b) For tax year 2027 and each tax year thereafter, all 4856
tangible personal property except qualifying production 4857
equipment that on the thirty-first day of December of the 4858
preceding year was both located in this state and either owned 4859
by the company or leased by the company under a sale and 4860
leaseback transaction, and that is not exempted from taxation 4861
under section 5727.75 of the Revised Code. 4862

(B) This division applies to tax years before tax year 4863
2007. 4864

In the case of an interexchange telecommunications 4865
company, all taxable property shall be subject to the provisions 4866

of this chapter and shall be valued by the commissioner in 4867
accordance with division (A) of section 5727.11 of the Revised 4868
Code. A person described by this division shall file the report 4869
required by section 5727.08 of the Revised Code. Persons 4870
described in this division shall not be considered taxpayers, as 4871
defined in division (B) of section 5711.01 of the Revised Code, 4872
and shall not be required to file a return and list their 4873
taxable property under any provision of Chapter 5711. of the 4874
Revised Code. 4875

(C) The lien of the state for taxes levied each year on 4876
the real and personal property of public utilities and 4877
interexchange telecommunications companies and on the personal 4878
property of public utility property lessors shall attach thereto 4879
on the thirty-first day of December of the preceding year. 4880

(D) Property that is required by division (A) (3) (b) of 4881
this section to be assessed by the tax commissioner under this 4882
chapter shall not be listed by the owner of the property under 4883
Chapter 5711. of the Revised Code. 4884

(E) The ten-thousand-dollar exemption provided for in 4885
division (C) (3) of section 5709.01 of the Revised Code does not 4886
apply to any personal property that is valued under this 4887
chapter. 4888

(F) The tax commissioner may adopt rules governing the 4889
listing of the taxable property of public utilities and 4890
interexchange telecommunications companies and the determination 4891
of true value. 4892

Sec. 5727.11. (A) Except as otherwise provided in this 4893
section, the true value of all taxable property, except property 4894
of a railroad company, required by section 5727.06 of the 4895

Revised Code to be assessed by the tax commissioner shall be 4896
determined by a method of valuation using cost as capitalized on 4897
the public utility's books and records less composite annual 4898
allowances as prescribed by the commissioner. If the 4899
commissioner finds that application of this method will not 4900
result in the determination of true value of the public 4901
utility's taxable property, the commissioner may use another 4902
method of valuation. 4903

(B) (1) Except as provided in division (B) (2) of this 4904
section, the true value of current gas stored underground is the 4905
cost of that gas shown on the books and records of the public 4906
utility on the thirty-first day of December of the preceding 4907
year. 4908

(2) For tax year 2001 and thereafter, the true value of 4909
current gas stored underground is the quotient obtained by 4910
dividing (a) the average value of the current gas stored 4911
underground, which shall be determined by adding the value of 4912
the gas on hand at the end of each calendar month in the 4913
calendar year preceding the tax year, or, if applicable, the 4914
last day of business of each month for a partial month, divided 4915
by (b) the total number of months the natural gas company was in 4916
business during the calendar year prior to the beginning of the 4917
tax year. With the approval of the tax commissioner, a natural 4918
gas company may use a date other than the end of a calendar 4919
month to value its current gas stored underground. 4920

(C) The true value of noncurrent gas stored underground is 4921
thirty-five per cent of the cost of that gas shown on the books 4922
and records of the public utility on the thirty-first day of 4923
December of the preceding year. 4924

(D) (1) Except as provided in division (D) (2) of this 4925

section, the true value of the taxable production equipment of 4926
an electric company and the true value of all taxable property 4927
of a rural electric company is the equipment's or property's 4928
cost as capitalized on the company's books and records less 4929
fifty per cent of that cost as an allowance for depreciation and 4930
obsolescence. 4931

(2) The true value of the taxable production equipment or 4932
energy conversion equipment of an electric company, rural 4933
electric company, or energy company purchased, transferred, or 4934
placed into service after October 5, 1999, is the purchase price 4935
of the equipment as capitalized on the company's books and 4936
records less composite annual allowances as prescribed by the 4937
tax commissioner. 4938

(E) The true value of taxable property, except property of 4939
a railroad company, required by section 5727.06 of the Revised 4940
Code to be assessed by the tax commissioner shall not include 4941
the allowance for funds used during construction or interest 4942
during construction that has been capitalized on the public 4943
utility's books and records as part of the total cost of the 4944
taxable property. This division shall not apply to the taxable 4945
property of an electric company or a rural electric company, 4946
excluding transmission and distribution property, first placed 4947
into service after December 31, 2000, or to the taxable property 4948
a person purchases, which includes transfers, if that property 4949
was used in business by the seller prior to the purchase. 4950

(F) The true value of watercraft owned or operated by a 4951
water transportation company shall be determined by multiplying 4952
the true value of the watercraft as determined under division 4953
(A) of this section by a fraction, the numerator of which is the 4954
number of revenue-earning miles traveled by the watercraft in 4955

the waters of this state and the denominator of which is the 4956
number of revenue-earning miles traveled by the watercraft in 4957
all waters. 4958

(G) The cost of property subject to a sale and leaseback 4959
transaction is the cost of the property as capitalized on the 4960
books and records of the public utility owning the property 4961
immediately prior to the sale and leaseback transaction. 4962

(H) The cost as capitalized on the books and records of a 4963
public utility includes amounts capitalized that represent 4964
regulatory assets, if such amounts previously were included on 4965
the company's books and records as capitalized costs of taxable 4966
personal property. 4967

(I) Any change in the composite annual allowances as 4968
prescribed by the commissioner on a prospective basis shall not 4969
be admissible in any judicial or administrative action or 4970
proceeding as evidence of value with regard to prior years' 4971
taxes. Information about the business, property, or transactions 4972
of any taxpayer obtained by the commissioner for the purpose of 4973
adopting or modifying the composite annual allowances shall not 4974
be subject to discovery or disclosure. 4975

Sec. 5727.111. The taxable property of each public 4976
utility, except a railroad company, and of each interexchange 4977
telecommunications company shall be assessed at the following 4978
percentages of true value: 4979

(A) In the case of a rural electric company, fifty per 4980
cent in the case of its taxable transmission and distribution 4981
property first subject to taxation in this state before tax year 4982
2027 and its energy conversion equipment, and twenty-five per 4983
cent for all its other taxable property; 4984

(B) In the case of a telephone or telegraph company, 4985
twenty-five per cent for taxable property first subject to 4986
taxation in this state for tax year 1995 or thereafter for tax 4987
years before tax year 2007, and pursuant to division (H) of 4988
section 5711.22 of the Revised Code for tax year 2007 and 4989
thereafter, and the following for all other taxable property: 4990

(1) For tax years prior to 2005, eighty-eight per cent; 4991

(2) For tax year 2005, sixty-seven per cent; 4992

(3) For tax year 2006, forty-six per cent; 4993

(4) For tax year 2007 and thereafter, pursuant to division 4994
(H) of section 5711.22 of the Revised Code. 4995

(C) Twenty-five per cent in the case of (1) a natural gas 4996
company or (2) a water-works company for taxable property first 4997
subject to taxation in this state for tax year 2017 and 4998
thereafter; 4999

(D) Eighty-eight per cent in the case of taxable property 5000
of a pipe-line company first subject to taxation in this state 5001
before tax year 2027, a water-works company for taxable property 5002
first subject to taxation in this state before tax year 2017, or 5003
a heating company; 5004

(E) (1) For tax year 2005, eighty-eight per cent in the 5005
case of the taxable transmission and distribution property of an 5006
electric company, and twenty-five per cent for all its other 5007
taxable property; 5008

(2) For tax ~~year~~ years 2006 ~~and each tax year thereafter to~~ 5009
2026, in the case of an electric company, eighty-five per cent 5010
in the case of its taxable transmission and distribution 5011
property and its energy conversion equipment, and twenty-four 5012

per cent for all its other taxable property. 5013

(3) For tax year 2027 and each tax year thereafter, in the 5014
case of an electric company, eighty-five per cent of its taxable 5015
transmission and distribution property first subject to taxation 5016
in this state before tax year 2027 and its energy conversion 5017
equipment, twenty-five per cent in the case of its other taxable 5018
transmission and distribution property, and twenty-four per cent 5019
for all its other taxable property. 5020

(F) (1) Twenty-five per cent in the case of an 5021
interexchange telecommunications company for tax years before 5022
tax year 2007; 5023

(2) Pursuant to division (H) of section 5711.22 of the 5024
Revised Code for tax year 2007 and thereafter. 5025

(G) Twenty-five per cent in the case of a water 5026
transportation company; 5027

~~(H)~~ (H) (1) ~~For tax year years 2011 and each tax year~~ 5028
~~thereafter to 2026,~~ in the case of an energy company, twenty- 5029
four per cent in the case of its taxable production equipment, 5030
and eighty-five per cent for all its other taxable property. 5031

(2) For tax year 2027 and each tax year thereafter, in the 5032
case of an energy company, twenty-four per cent in the case of 5033
its taxable production equipment, twenty-five per cent for its 5034
taxable transmission and distribution property first subject to 5035
taxation in this state for tax year 2027 and thereafter, and 5036
eighty-five per cent for all its other taxable property. 5037

(I) Twenty-five per cent in the case of taxable property 5038
of a pipe-line company first subject to taxation in this state 5039
for tax year 2027 and thereafter. 5040

Sec. 5727.75. (A) For purposes of this section: 5041

(1) "Qualified energy project" means an energy project 5042
certified by the director of development pursuant to this 5043
section. 5044

(2) "Energy project" means a project to provide electric 5045
power through the construction, installation, and use of an 5046
energy facility. 5047

(3) "Alternative energy zone" means a county declared as 5048
such by the board of county commissioners under division (E) (1) 5049
(b) or (c) of this section. 5050

(4) "Full-time equivalent employee" means the total number 5051
of employee-hours for which compensation was paid to individuals 5052
employed at a qualified energy project for services performed at 5053
the project during the calendar year divided by two thousand 5054
eighty hours. For the purpose of this calculation, "performed at 5055
the project" includes only hours worked at the qualified energy 5056
project and devoted to site preparation or protection, 5057
construction and installation, and the unloading and 5058
distribution of materials at the project site, but does not 5059
include hours worked by superintendents, owners, manufacturers' 5060
representatives, persons employed in a bona fide executive, 5061
management, supervisory, or administrative capacity, or persons 5062
whose sole employment on the project is transporting materials 5063
or persons to the project site. 5064

(5) "Solar energy project" means an energy project 5065
composed of an energy facility using solar panels to generate 5066
electricity. 5067

(6) "Internet identifier of record" has the same meaning 5068
as in section 9.312 of the Revised Code. 5069

(7) "Applicable year" means the later of the following: 5070

(a) The tax year in which the secretary of the treasury of 5071
the United States, or the secretary's delegate, determines, in 5072
accordance with section 45Y of the Internal Revenue Code, that 5073
the annual greenhouse gas emissions from the production of 5074
electricity in the United States are equal to or less than 5075
twenty-five per cent of the annual greenhouse gas emissions from 5076
the production of electricity in the United States for calendar 5077
year 2022; 5078

(b) Tax year 2029. 5079

(8) "Internal Revenue Code" means the Internal Revenue 5080
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5081

(B) (1) Tangible personal property of a qualified energy 5082
project using renewable energy resources is exempt from taxation 5083
for tax years 2011 through the applicable year if all of the 5084
following conditions are satisfied: 5085

(a) On or before the last day of the tax year preceding 5086
the applicable year, the owner or a lessee pursuant to a sale 5087
and leaseback transaction of the project submits an application 5088
to the power siting board for a certificate under section 5089
4906.20 of the Revised Code, or if that section does not apply, 5090
submits an application for any approval, consent, permit, or 5091
certificate or satisfies any condition required by a public 5092
agency or political subdivision of this state for the 5093
construction or initial operation of an energy project. 5094

(b) Construction or installation of the energy facility 5095
begins on or after January 1, 2009, and before the first day of 5096
the applicable year. For the purposes of this division, 5097
construction begins on the earlier of the date of application 5098

for a certificate or other approval or permit described in 5099
division (B) (1) (a) of this section, or the date the contract for 5100
the construction or installation of the energy facility is 5101
entered into. 5102

(c) For a qualified energy project with a nameplate 5103
capacity of twenty megawatts or greater, a board of county 5104
commissioners of a county in which property of the project is 5105
located has adopted a resolution under division (E) (1) (b) or (c) 5106
of this section to approve the application submitted under 5107
division (E) of this section to exempt the property located in 5108
that county from taxation. A board's adoption of a resolution 5109
rejecting an application or its failure to adopt a resolution 5110
approving the application does not affect the tax-exempt status 5111
of the qualified energy project's property that is located in 5112
another county. 5113

(2) If tangible personal property of a qualified energy 5114
project using renewable energy resources was exempt from 5115
taxation under this section beginning in any of tax years 2011 5116
through the applicable year, and the certification under 5117
division (E) (2) of this section has not been revoked, the 5118
tangible personal property of the qualified energy project is 5119
exempt from taxation for the tax year following the applicable 5120
year and all ensuing tax years if the property was placed into 5121
service before the first day of the tax year following the 5122
applicable year, as certified in the construction progress 5123
report required under division (F) (2) of this section. Tangible 5124
personal property that has not been placed into service before 5125
that date is taxable property subject to taxation. An energy 5126
project for which certification has been revoked is ineligible 5127
for further exemption under this section. Revocation does not 5128
affect the tax-exempt status of the project's tangible personal 5129

property for the tax year in which revocation occurs or any 5130
prior tax year. 5131

(C) Tangible personal property of a qualified energy 5132
project using clean coal technology, advanced nuclear 5133
technology, or cogeneration technology is exempt from taxation 5134
for the first tax year that the property would be listed for 5135
taxation and all subsequent years if all of the following 5136
circumstances are met: 5137

(1) The property was placed into service before January 1, 5138
2021. Tangible personal property that has not been placed into 5139
service before that date is taxable property subject to 5140
taxation. 5141

(2) For such a qualified energy project with a nameplate 5142
capacity of twenty megawatts or greater, a board of county 5143
commissioners of a county in which property of the qualified 5144
energy project is located has adopted a resolution under 5145
division (E) (1) (b) or (c) of this section to approve the 5146
application submitted under division (E) of this section to 5147
exempt the property located in that county from taxation. A 5148
board's adoption of a resolution rejecting the application or 5149
its failure to adopt a resolution approving the application does 5150
not affect the tax-exempt status of the qualified energy 5151
project's property that is located in another county. 5152

(3) The certification for the qualified energy project 5153
issued under division (E) (2) of this section has not been 5154
revoked. An energy project for which certification has been 5155
revoked is ineligible for exemption under this section. 5156
Revocation does not affect the tax-exempt status of the 5157
project's tangible personal property for the tax year in which 5158
revocation occurs or any prior tax year. 5159

(D) Except as otherwise provided in this section, real 5160
property of a qualified energy project is exempt from taxation 5161
for any tax year for which the tangible personal property of the 5162
qualified energy project is exempted under this section. 5163

(E) (1) (a) A person may apply to the director of 5164
development for certification of an energy project as a 5165
qualified energy project on or before the following dates: 5166

(i) The last day of the tax year preceding the applicable 5167
year, for an energy project using renewable energy resources; 5168

(ii) December 31, 2017, for an energy project using clean 5169
coal technology, advanced nuclear technology, or cogeneration 5170
technology. 5171

(b) The director shall forward a copy of each application 5172
for certification of an energy project with a nameplate capacity 5173
of twenty megawatts or greater to the board of county 5174
commissioners of each county in which the project is located and 5175
to each taxing unit with territory located in each of the 5176
affected counties. Any board that receives from the director a 5177
copy of an application submitted under this division shall adopt 5178
a resolution approving or rejecting the application unless it 5179
has adopted a resolution under division (E) (1) (c) of this 5180
section. A resolution adopted under division (E) (1) (b) or (c) of 5181
this section may require an annual service payment to be made in 5182
addition to the service payment required under division (G) of 5183
this section. The sum of the service payment required in the 5184
resolution and the service payment required under division (G) 5185
of this section shall not exceed nine thousand dollars per 5186
megawatt of nameplate capacity located in the county. The 5187
resolution shall specify the time and manner in which the 5188
payments required by the resolution shall be paid to the county 5189

treasurer. The county treasurer shall deposit the payment to the 5190
credit of the county's general fund to be used for any purpose 5191
for which money credited to that fund may be used. 5192

The board shall send copies of the resolution to the owner 5193
of the facility and the director by certified mail or, if the 5194
board has record of an internet identifier of record associated 5195
with the owner or director, by ordinary mail and by that 5196
internet identifier of record. The board shall send such notice 5197
within thirty days after receipt of the application, or a longer 5198
period of time if authorized by the director. 5199

(c) A board of county commissioners may adopt a resolution 5200
declaring the county to be an alternative energy zone and 5201
declaring all applications submitted to the director of 5202
development under this division after the adoption of the 5203
resolution, and prior to its repeal, to be approved by the 5204
board. 5205

All tangible personal property and real property of an 5206
energy project with a nameplate capacity of twenty megawatts or 5207
greater is taxable if it is located in a county in which the 5208
board of county commissioners adopted a resolution rejecting the 5209
application submitted under this division or failed to adopt a 5210
resolution approving the application under division (E) (1) (b) or 5211
(c) of this section. 5212

(2) The director shall certify an energy project if all of 5213
the following circumstances exist: 5214

(a) The application was timely submitted. 5215

(b) For an energy project with a nameplate capacity of 5216
twenty megawatts or greater, a board of county commissioners of 5217
at least one county in which the project is located has adopted 5218

a resolution approving the application under division (E) (1) (b) 5219
or (c) of this section. 5220

(c) No portion of the project's facility was used to 5221
supply electricity before December 31, 2009. 5222

(d) For construction or installation of a qualified energy 5223
project described in division (B) (1) (b) of this section, that 5224
the project is subject to wage requirements described in section 5225
45(b) (7) (A) of the Internal Revenue Code and apprenticeship 5226
requirements described in section 45(b) (8) (A) (i) of the Internal 5227
Revenue Code, provided both of the following apply: 5228

(i) The person applies for such certificate after ~~the~~ 5229
~~effective date of this amendment~~ October 3, 2023. 5230

(ii) A board of commissioners of at least one county in 5231
which the project is located is required to adopt a resolution 5232
approving the application under division (E) (1) (b) or (c) of 5233
this section. 5234

(3) The director shall deny a certification application if 5235
the director determines the person has failed to comply with any 5236
requirement under this section. The director may revoke a 5237
certification if the director determines the person, or 5238
subsequent owner or lessee pursuant to a sale and leaseback 5239
transaction of the qualified energy project, has failed to 5240
comply with any requirement under this section. Upon 5241
certification or revocation, the director shall notify the 5242
person, owner, or lessee, the tax commissioner, and the county 5243
auditor of a county in which the project is located of the 5244
certification or revocation. Notice shall be provided in a 5245
manner convenient to the director. 5246

(F) The owner or a lessee pursuant to a sale and leaseback 5247

transaction of a qualified energy project shall do each of the 5248
following: 5249

(1) Comply with all applicable regulations; 5250

(2) File with the director of development a certified 5251
construction progress report before the first day of March of 5252
each year during the energy facility's construction or 5253
installation indicating the percentage of the project completed, 5254
and the project's nameplate capacity, as of the preceding 5255
thirty-first day of December. Unless otherwise instructed by the 5256
director of development, the owner or lessee of an energy 5257
project shall file a report with the director on or before the 5258
first day of March each year after completion of the energy 5259
facility's construction or installation indicating the project's 5260
nameplate capacity as of the preceding thirty-first day of 5261
December. Not later than sixty days after June 17, 2010, the 5262
owner or lessee of an energy project, the construction of which 5263
was completed before June 17, 2010, shall file a certificate 5264
indicating the project's nameplate capacity. 5265

(3) File with the director of development, in a manner 5266
prescribed by the director, a report of the total number of 5267
full-time equivalent employees, and the total number of full- 5268
time equivalent employees domiciled in Ohio, who are employed in 5269
the construction or installation of the energy facility; 5270

(4) For energy projects with a nameplate capacity of 5271
twenty megawatts or greater, repair all roads, bridges, and 5272
culverts affected by construction as reasonably required to 5273
restore them to their preconstruction condition, as determined 5274
by the county engineer in consultation with the local 5275
jurisdiction responsible for the roads, bridges, and culverts. 5276
In the event that the county engineer deems any road, bridge, or 5277

culvert to be inadequate to support the construction or 5278
decommissioning of the energy facility, the road, bridge, or 5279
culvert shall be rebuilt or reinforced to the specifications 5280
established by the county engineer prior to the construction or 5281
decommissioning of the facility. The owner or lessee of the 5282
facility shall post a bond in an amount established by the 5283
county engineer and to be held by the board of county 5284
commissioners to ensure funding for repairs of roads, bridges, 5285
and culverts affected during the construction. The bond shall be 5286
released by the board not later than one year after the date the 5287
repairs are completed. The energy facility owner or lessee 5288
pursuant to a sale and leaseback transaction shall post a bond, 5289
as may be required by the Ohio power siting board in the 5290
certificate authorizing commencement of construction issued 5291
pursuant to section 4906.10 of the Revised Code, to ensure 5292
funding for repairs to roads, bridges, and culverts resulting 5293
from decommissioning of the facility. The energy facility owner 5294
or lessee and the county engineer may enter into an agreement 5295
regarding specific transportation plans, reinforcements, 5296
modifications, use and repair of roads, financial security to be 5297
provided, and any other relevant issue. 5298

(5) Provide or facilitate training for fire and emergency 5299
responders for response to emergency situations related to the 5300
energy project and, for energy projects with a nameplate 5301
capacity of twenty megawatts or greater, at the person's 5302
expense, equip the fire and emergency responders with proper 5303
equipment as reasonably required to enable them to respond to 5304
such emergency situations; 5305

(6) (a) Except as otherwise provided in this division, for 5306
projects for which certification as a qualified energy project 5307
was applied for, under division (E) of this section, before ~~the~~ 5308

~~effective date of this amendment~~ October 3, 2023, maintain a 5309
ratio of Ohio-domiciled full-time equivalent employees employed 5310
in the construction or installation of the energy project to 5311
total full-time equivalent employees employed in the 5312
construction or installation of the energy project of not less 5313
than eighty per cent in the case of a solar energy project, and 5314
not less than fifty per cent in the case of any other energy 5315
project. A person applying for such a qualified energy project 5316
may certify to the director of development that the project will 5317
be voluntarily subject to the wage requirements described in 5318
section 45(b) (7) (A) of the Internal Revenue Code and 5319
apprenticeship requirements described in section 45(b) (8) (A) (i) 5320
of the Internal Revenue Code as authorized in division (F) (6) (b) 5321
of this section. Upon receipt of that certification, the project 5322
shall comply with division (F) (6) (b) of this section rather than 5323
division (F) (6) (a) of this section. 5324

(b) For projects for which certification as a qualified 5325
energy project was applied for, under division (E) of this 5326
section, on or after ~~the effective date of this amendment~~ 5327
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5328
equivalent employees employed in the construction or 5329
installation of the energy project to total full-time equivalent 5330
employees employed in the construction or installation of the 5331
energy project of not less than seventy per cent in the case of 5332
a solar energy project, and not less than fifty per cent in the 5333
case of any other energy project. 5334

(c) For purposes of divisions (F) (6) (a) and (b) of this 5335
section, in the case of an energy project for which 5336
certification from the power siting board is required under 5337
section 4906.20 of the Revised Code, the number of full-time 5338
equivalent employees employed in the construction or 5339

installation of the energy project equals the number actually 5340
employed or the number projected to be employed in the 5341
certificate application, if such projection is required under 5342
regulations adopted pursuant to section 4906.03 of the Revised 5343
Code, whichever is greater. For all other energy projects, the 5344
number of full-time equivalent employees employed in the 5345
construction or installation of the energy project equals the 5346
number actually employed or the number projected to be employed 5347
by the director of development, whichever is greater. To 5348
estimate the number of employees to be employed in the 5349
construction or installation of an energy project, the director 5350
shall use a generally accepted job-estimating model in use for 5351
renewable energy projects, including but not limited to the job 5352
and economic development impact model. The director may adjust 5353
an estimate produced by a model to account for variables not 5354
accounted for by the model. 5355

(7) For energy projects with a nameplate capacity in 5356
excess of twenty megawatts, establish a relationship with any of 5357
the following to educate and train individuals for careers in 5358
the wind or solar energy industry: 5359

(a) A member of the university system of Ohio as defined 5360
in section 3345.011 of the Revised Code; 5361

(b) A person offering an apprenticeship program registered 5362
with the employment and training administration within the 5363
United States department of labor or with the apprenticeship 5364
council created by section 4139.02 of the Revised Code; 5365

(c) A career-technical center, joint vocational school 5366
district, comprehensive career-technical center, or compact 5367
career-technical center; 5368

(d) A training center operated by a labor organization, or 5369
with a training center operated by a for-profit or nonprofit 5370
organization. 5371

The relationship may include endowments, cooperative 5372
programs, internships, apprenticeships, research and development 5373
projects, and curriculum development. 5374

(8) Offer to sell power or renewable energy credits from 5375
the energy project to electric distribution utilities or 5376
electric service companies subject to renewable energy resource 5377
requirements under section 4928.64 of the Revised Code that have 5378
issued requests for proposal for such power or renewable energy 5379
credits. If no electric distribution utility or electric service 5380
company issues a request for proposal on or before December 31, 5381
2010, or accepts an offer for power or renewable energy credits 5382
within forty-five days after the offer is submitted, power or 5383
renewable energy credits from the energy project may be sold to 5384
other persons. Division (F)(8) of this section does not apply 5385
if: 5386

(a) The owner or lessee is a rural electric company or a 5387
municipal power agency as defined in section 3734.058 of the 5388
Revised Code. 5389

(b) The owner or lessee is a person that, before 5390
completion of the energy project, contracted for the sale of 5391
power or renewable energy credits with a rural electric company 5392
or a municipal power agency. 5393

(c) The owner or lessee contracts for the sale of power or 5394
renewable energy credits from the energy project before June 17, 5395
2010. 5396

(9) Make annual service payments as required by division 5397

(G) of this section and as may be required in a resolution 5398
adopted by a board of county commissioners under division (E) of 5399
this section. 5400

(G) The owner or a lessee pursuant to a sale and leaseback 5401
transaction of a qualified energy project shall make annual 5402
service payments in lieu of taxes to the county treasurer on or 5403
before the final dates for payments of taxes on public utility 5404
personal property on the real and public utility personal 5405
property tax list for each tax year for which property of the 5406
energy project is exempt from taxation under this section. The 5407
county treasurer shall allocate the payment on the basis of the 5408
project's physical location. Upon receipt of a payment, or if 5409
timely payment has not been received, the county treasurer shall 5410
certify such receipt or non-receipt to the director of 5411
development and tax commissioner in a form determined by the 5412
director and commissioner, respectively. Each payment shall be 5413
in the following amount: 5414

(1) In the case of a solar energy project, seven thousand 5415
dollars per megawatt of nameplate capacity located in the county 5416
as of the thirty-first-day of December of the preceding tax 5417
year; 5418

(2) In the case of any other energy project using 5419
renewable energy resources, the following: 5420

(a) If the project maintains during the construction or 5421
installation of the energy facility a ratio of Ohio-domiciled 5422
full-time equivalent employees to total full-time equivalent 5423
employees of not less than seventy-five per cent, six thousand 5424
dollars per megawatt of nameplate capacity located in the county 5425
as of the thirty-first day of December of the preceding tax 5426
year; 5427

(b) If the project maintains during the construction or 5428
installation of the energy facility a ratio of Ohio-domiciled 5429
full-time equivalent employees to total full-time equivalent 5430
employees of less than seventy-five per cent but not less than 5431
sixty per cent, seven thousand dollars per megawatt of nameplate 5432
capacity located in the county as of the thirty-first day of 5433
December of the preceding tax year; 5434

(c) If the project maintains during the construction or 5435
installation of the energy facility a ratio of Ohio-domiciled 5436
full-time equivalent employees to total full-time equivalent 5437
employees of less than sixty per cent but not less than fifty 5438
per cent, eight thousand dollars per megawatt of nameplate 5439
capacity located in the county as of the thirty-first day of 5440
December of the preceding tax year. 5441

(3) In the case of an energy project using clean coal 5442
technology, advanced nuclear technology, or cogeneration 5443
technology, the following: 5444

(a) If the project maintains during the construction or 5445
installation of the energy facility a ratio of Ohio-domiciled 5446
full-time equivalent employees to total full-time equivalent 5447
employees of not less than seventy-five per cent, six thousand 5448
dollars per megawatt of nameplate capacity located in the county 5449
as of the thirty-first day of December of the preceding tax 5450
year; 5451

(b) If the project maintains during the construction or 5452
installation of the energy facility a ratio of Ohio-domiciled 5453
full-time equivalent employees to total full-time equivalent 5454
employees of less than seventy-five per cent but not less than 5455
sixty per cent, seven thousand dollars per megawatt of nameplate 5456
capacity located in the county as of the thirty-first day of 5457

December of the preceding tax year; 5458

(c) If the project maintains during the construction or 5459
installation of the energy facility a ratio of Ohio-domiciled 5460
full-time equivalent employees to total full-time equivalent 5461
employees of less than sixty per cent but not less than fifty 5462
per cent, eight thousand dollars per megawatt of nameplate 5463
capacity located in the county as of the thirty-first day of 5464
December of the preceding tax year. 5465

(H) The director of development in consultation with the 5466
tax commissioner shall adopt rules pursuant to Chapter 119. of 5467
the Revised Code to implement and enforce this section. 5468

(I) This section and any payments in lieu of taxes made as 5469
required under this section continue to apply and be required 5470
notwithstanding the enactment of S.B. 2 of the 136th general 5471
assembly. 5472

Sec. 5727.76. (A) As used in this section, "qualifying 5473
property" means tangible personal property that is dedicated to 5474
transporting or transmitting electricity or natural gas and that 5475
is placed into service in a priority investment area designated 5476
under section 122.161 of the Revised Code during a time when 5477
that designation is in effect. 5478

(B) Qualifying property shall be exempt from taxation for 5479
the tax year following the year in which the property is placed 5480
into service and for the ensuing four tax years. 5481

Section 2. That existing sections 303.213, 519.213, 5482
713.081, 3313.372, 3313.373, 4905.03, 4906.01, 4906.03, 4906.06, 5483
4906.07, 4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 5484
4909.08, 4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 5485
4909.19, 4909.191, 4909.42, 4928.01, 4928.05, 4928.08, 4928.14, 5486

4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 5487
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5488
4929.20, 4933.81, 5711.01, 5727.01, 5727.031, 5727.06, 5727.11, 5489
5727.111, and 5727.75 of the Revised Code are hereby repealed. 5490

Section 3. That sections 3706.40, 3706.41, 3706.43, 5491
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5492
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 5493
4928.642 of the Revised Code are hereby repealed. 5494

Section 4. (A) Beginning on the effective date of this 5495
section, no electric distribution utility shall collect from its 5496
retail customers in this state any charge that was authorized 5497
under section 4928.148 of the Revised Code prior to the repeal 5498
of that section by this act for retail recovery of prudently 5499
incurred costs related to a legacy generation resource. 5500
Beginning on the effective date of this section, the electric 5501
distribution utility shall not apply for, and the public 5502
utilities commission shall not authorize, any rider or cost 5503
recovery mechanism for a legacy generation resource. 5504

The public utilities commission shall continue any 5505
investigation commenced pursuant to section 4928.148 of the 5506
Revised Code prior to the repeal of that section by this act for 5507
purposes of determining the prudence and reasonableness of the 5508
actions of electric distribution utilities with ownership 5509
interests in the legacy generation resource, including their 5510
decisions related to offering the contractual commitment into 5511
the wholesale markets, and excluding from recovery those costs 5512
that the commission determines imprudent and unreasonable. 5513

(B) Beginning on the effective date of this section, no 5514
electric distribution utility shall collect from its retail 5515
customers in the state any charge that was authorized under 5516

section 3706.46 of the Revised Code to meet the revenue 5517
requirement for disbursements from the Solar Generation Fund to 5518
owners or operators of qualifying solar resources that was 5519
required under section 3706.55 of the Revised Code before the 5520
repeal of these sections by this act. 5521

Beginning on the effective date of this section, the Ohio 5522
Air Quality Development Authority is prohibited from directing 5523
the Treasurer of State to remit, and the Treasurer of State is 5524
prohibited from remitting, any money from the Solar Generation 5525
Fund to owners or operators of qualifying solar resources, which 5526
remittance was permitted under section 3706.55 of the Revised 5527
Code prior to the repeal of that section by this act. 5528

Section 5. Section 4909.193 as enacted by this act and the 5529
amendments to sections 4909.19 and 4909.42 of the Revised Code 5530
by this act apply to applications filed under section 4909.18 of 5531
the Revised Code on or after the effective date of this section. 5532

Section 6. On the effective date of this section, or as 5533
soon as possible thereafter, the Treasurer of State shall 5534
transfer the cash balance of amounts remaining in the solar 5535
generation fund to the school energy performance contracting 5536
loan fund created in section 3313.378 of the Revised Code. 5537

Section 7. Section 4928.01 of the Revised Code is 5538
presented in this act as a composite of the section as amended 5539
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 5540
General Assembly, applying the principle stated in division (B) 5541
of section 1.52 of the Revised Code that amendments are to be 5542
harmonized if reasonably capable of simultaneous operation, 5543
finds that the composite is the resulting version of the section 5544
in effect prior to the effective date of the section as 5545
presented in this act. 5546