

**As Passed by the Senate**

**136th General Assembly**

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**2025-2026**

**Am. Sub. S. B. No. 2**

**Senators Reineke, Wilkin**

**Cosponsors: Senators Antonio, Brenner, Chavez, Cirino, Craig, Cutrona, DeMora, Gavarone, Hicks-Hudson, Johnson, Koehler, Landis, Manning, Patton, Reynolds, Romanchuk, Schaffer, Smith, Timken, Weinstein**

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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, 4928.107, 4928.149, 4928.1410, 16  
4928.73, 4929.221, 4929.222, and 5727.76; and to 17  
repeal sections 3706.40, 3706.41, 3706.43, 18  
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 19  
3706.55, 3706.551, 3706.59, 3706.63, 3706.65, 20  
4928.143, 4928.148, and 4928.642 of the Revised 21  
Code regarding public utilities law, to make 22  
changes regarding utility tangible personal 23

property taxation, and to repeal parts of H.B. 6 24  
of the 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, 4928.107, 4928.149, 4928.1410, 37  
4928.73, 4929.221, 4929.222, and 5727.76 of the Revised Code be 38  
enacted 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 a~~, 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 a~~, 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 facilities that are not subject to the jurisdiction of the power siting board under sections 4906.20 and 4906.201 of the Revised Code.	167 168 169 170
(2) "Small solar facility" means solar panels and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than fifty megawatts.	171 172 173 174
(3) <u>"Anaerobic digester" means a facility used to treat organic materials, such as food waste, manure, and sewage sludge, to produce biogas and digestate.</u>	175 176 177
(4) <u>"Other small electric generating facility" means an electric generating plant and associated facilities designed for, or capable of, operation at a capacity of less than fifty megawatts that is not a small wind farm, small solar facility, or anaerobic digester.</u>	178 179 180 181 182
(B) Sections 713.06 to 713.15 of the Revised Code confer power on the legislative authority of a municipal corporation with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm <del> or</del> , <u>small solar facility, anaerobic digester, or other small electric generating facility</u> as a public utility, whether publicly or privately owned, or the use of land for that purpose. With regard to a small wind farm, the regulations may be more strict than the regulations prescribed in rules adopted under division (B) (2) of section 4906.20 of the Revised Code.	183 184 185 186 187 188 189 190 191 192 193
(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 energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;	223 224 225
(9) <u>Solar panels</u> ;	226
(10) <u>Any other modification, installation, or remodeling approved by the Ohio facilities construction commission as an energy conservation measure.</u>	227 228 229
(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:	230 231 232 233 234 235 236 237
(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.	238 239
(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase.	240 241
The provisions of any installment payment contract entered into pursuant to this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, shall not exceed the calculated energy, water, or waste water cost savings, avoided operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time. Those payments shall be made only to the extent that the savings described in this division actually occur. The energy services company shall warrant and guarantee that the energy conservation	242 243 244 245 246 247 248 249 250 251

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 254  
education under this section shall require the board to contract 255  
in accordance with division (A) of section 3313.46 of the 256  
Revised Code for the installation, modification, or remodeling 257  
of energy conservation measures unless division (A) of section 258  
3313.46 of the Revised Code does not apply pursuant to division 259  
(B) (3) of that section, in which case the contract shall be 260  
awarded through a competitive selection process pursuant to 261  
rules adopted by the facilities construction commission. 262

An installment payment contract entered into by a board of 263  
education under this section may include services for 264  
measurement and verification of energy savings associated with 265  
the guarantee. The annual cost of measurement and verification 266  
services shall not exceed ten per cent of the guaranteed savings 267  
in any year of the installment payment contract. 268

(C) If a board of education determines that a surety bond 269  
is necessary to secure energy, water, or waste water cost 270  
savings guaranteed in a contract entered into by the board of 271  
education under this section, the energy services company shall 272  
provide a surety bond that satisfies all of the following 273  
requirements: 274

(1) The penal sum of the surety bond for the first 275  
guarantee year shall equal the amount of savings included in the 276  
annual guaranteed savings amount that is measured and calculated 277  
in accordance with the measurement and verification plan 278  
included in the contract, but may not include guaranteed savings 279  
that are not measured or that are stipulated in the contract. 280  
The annual guaranteed savings amount shall include only the 281

savings guaranteed in the contract for the one-year term that 282  
begins on the first day of the first savings guarantee year and 283  
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 5705.412 or 5705.44 of the Revised Code, shall not affect the validity of the shared-savings contract or the board's obligations under the contract.

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

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

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

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

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

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

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

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

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

(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. 607

(B) Notwithstanding any provision of the Revised Code to 608  
the contrary, an electric distribution utility may supply behind 609  
the meter electric generation service, provided that any behind 610  
the meter electric generation facilities that the utility 611  
intends to use to supply such service were in operation prior to 612  
the effective date of this section. 613

(C) No electric distribution utility shall recover any of 614  
the following costs through any rate, charge, or recovery from 615  
retail electric service customers that are not receiving behind 616  
the meter electric generation service from the utility: 617

(1) Costs associated with supplying behind the meter 618  
electric generation service; 619

(2) Costs associated with any behind the meter electric 620  
generation service facility; 621

(3) Stranded costs associated with the closing of any 622  
behind the meter electric generation service facility or an end- 623  
use customer of the behind the meter electric generation service 624  
ceasing operations. 625

(D) No electric distribution utility shall offer direct, 626  
associated inducements for contracting with the utility for any 627  
behind the meter electric generation service. 628

(E) The public utilities commission shall periodically 629  
audit all electric distribution utilities that provide any 630  
behind the meter electric generation service to ensure 631  
compliance with this section. 632

**Sec. 4905.321.** (A) Notwithstanding section 4905.32 of the 633  
Revised Code, all revenues collected from customers by a public 634

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 trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	692 693 694 695 696
(B) (1) "Major utility facility" means:	697
(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	698 699 700
(b) An electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more;	701 702 703
(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.	704 705 706 707 708
(2) "Major utility facility" does not include any of the following:	709 710
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	711 712
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	713 714
(c) Electric distributing lines and associated facilities as defined by the power siting board;	715 716
(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 an electric light company that chooses to file a forecasted test period under section 4909.18 of the Revised Code, the public utilities commission shall prescribe the form and details of the valuation report of the property of each public utility or railroad in the state. Such report shall include all the kinds and classes of property, with the value of each, owned, held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned or held as of the date certain, by each public utility or railroad used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, for the service and convenience of the public. Such~~ 1199  
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(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 Revised Code;

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

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

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

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

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

Revised Code, and a reasonable allowance for materials and 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 <del>(C) (6)</del> (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
<b>Sec. 4909.174.</b> (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

(C) Nondiscriminatory programs available for residential 2008  
customers and small commercial customers, as defined in section 2009  
4928.101 of the Revised Code, that reduce demand at peak times 2010  
for purposes of grid reliability or to help lower customer 2011  
rates, including peak demand reduction programs under section 2012  
4928.107 of the Revised Code. Any programs to reduce demand 2013  
proposed in an application to increase rates shall include terms 2014  
permitting competitive retail electric service providers, 2015  
certified under section 4928.08 of the Revised Code, to offer 2016

their customers access to these programs. 2017

Sec. 4909.193. The public utilities commission shall 2018  
determine whether an application for an increase filed under 2019  
section 4909.18 of the Revised Code is complete not more than 2020  
forty-five days after the application is filed. If the 2021  
commission does not issue a determination within the time period 2022  
required by this section, the application shall be deemed 2023  
complete by operation of law. 2024

Sec. 4909.42. If the proceeding on an application filed 2025  
with the public utilities commission under section 4909.18 of 2026  
the Revised Code by any public utility requesting an increase on 2027  
any rate, rate mechanism, joint rate, toll, classification, 2028  
charge, or rental or requesting a change in a regulation or 2029  
practice affecting the same has not been concluded and an order 2030  
entered pursuant to section 4909.19 of the Revised Code at the 2031  
expiration of ~~two hundred seventy-five~~ two hundred ninety days 2032  
from the date ~~of filing the application is determined complete,~~ 2033  
~~an~~ the public utility may request a temporary increase not to 2034  
exceed the proposed increase and any party to the proceeding may 2035  
request a temporary decrease, which shall go into effect upon 2036  
~~the filing of a bond or a letter of credit by the public~~ 2037  
~~utility~~ and remain in effect until modified in accordance with 2038  
the commission's determination on the merits of the application. 2039  
~~The bond or letter of credit shall be filed with the commission~~ 2040  
~~and shall be payable to the state for the use and benefit of the~~ 2041  
~~customers affected by the proposed increase or change~~ If the 2042  
commission does not issue an order within three hundred twenty 2043  
days after the application is deemed complete, the application 2044  
shall be deemed approved by operation of law. A temporary 2045  
increase or decrease under this section shall not exceed the 2046  
midpoint of the rates recommended in the staff report filed 2047

pursuant to section 4909.19 of the Revised Code and is subject 2048  
to refund. 2049

~~An affidavit attached to the bond or letter of credit must~~ 2050  
~~be signed by two of the officers of the utility, under oath, and~~ 2051  
~~must contain a promise on behalf of the utility to refund any~~ 2052  
~~amounts collected by the utility over the rate, joint rate,~~ 2053  
~~toll, classification, charge, or rental, as determined in the~~ 2054  
~~final order of the commission. All refunds shall include~~ 2055  
~~interest at the rate stated in section 1343.03 of the Revised~~ 2056  
~~Code. The refund shall be in the form of a temporary reduction~~ 2057  
~~in rates following the final order of the commission, and shall~~ 2058  
~~be accomplished in such manner as shall be prescribed by the~~ 2059  
~~commission in its final order. The commission shall exercise~~ 2060  
~~continuing and exclusive jurisdiction over such refunds.~~ 2061

~~If the public utilities commission has not entered a final~~ 2062  
~~order within five hundred forty-five days from the date of the~~ 2063  
~~filing of an application for an increase in rates under section~~ 2064  
~~4909.18 of the Revised Code, a public utility shall have no~~ 2065  
~~obligation to make a refund of amounts collected after the five~~ 2066  
~~hundred forty-fifth day which exceed the amounts authorized by~~ 2067  
~~the commission's final order.~~ 2068

Nothing in this section shall be construed to mitigate any 2069  
duty of the commission to issue a final order under section 2070  
4909.19 of the Revised Code. 2071

**Sec. 4928.01.** (A) As used in this chapter: 2072

(1) "Ancillary service" means any function necessary to 2073  
the provision of electric transmission or distribution service 2074  
to a retail customer and includes, but is not limited to, 2075  
scheduling, system control, and dispatch services; reactive 2076

supply from generation resources and voltage control service; 2077  
reactive supply from transmission resources service; regulation 2078  
service; frequency response service; energy imbalance service; 2079  
operating reserve-spinning reserve service; operating reserve- 2080  
supplemental reserve service; load following; back-up supply 2081  
service; real-power loss replacement service; dynamic 2082  
scheduling; system black start capability; and network stability 2083  
service. 2084

(2) "Billing and collection agent" means a fully 2085  
independent agent, not affiliated with or otherwise controlled 2086  
by an electric utility, electric services company, electric 2087  
cooperative, or governmental aggregator subject to certification 2088  
under section 4928.08 of the Revised Code, to the extent that 2089  
the agent is under contract with such utility, company, 2090  
cooperative, or aggregator solely to provide billing and 2091  
collection for retail electric service on behalf of the utility 2092  
company, cooperative, or aggregator. 2093

(3) "Certified territory" means the certified territory 2094  
established for an electric supplier under sections 4933.81 to 2095  
4933.90 of the Revised Code. 2096

(4) "Competitive retail electric service" means a 2097  
component of retail electric service that is competitive as 2098  
provided under division (B) of this section. 2099

(5) "Electric cooperative" means a not-for-profit electric 2100  
light company that both is or has been financed in whole or in 2101  
part under the "Rural Electrification Act of 1936," 49 Stat. 2102  
1363, 7 U.S.C. 901, and owns or operates facilities in this 2103  
state to generate, transmit, or distribute electricity, or a 2104  
not-for-profit successor of such company. 2105

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

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

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

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

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

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

collection agent. 2135

(12) "Firm electric service" means electric service other 2136  
than nonfirm electric service. 2137

(13) "Governmental aggregator" means a legislative 2138  
authority of a municipal corporation, a board of township 2139  
trustees, or a board of county commissioners acting as an 2140  
aggregator for the provision of a competitive retail electric 2141  
service under authority conferred under section 4928.20 of the 2142  
Revised Code. 2143

(14) A person acts "knowingly," regardless of the person's 2144  
purpose, when the person is aware that the person's conduct will 2145  
probably cause a certain result or will probably be of a certain 2146  
nature. A person has knowledge of circumstances when the person 2147  
is aware that such circumstances probably exist. 2148

(15) "Level of funding for low-income customer energy 2149  
efficiency programs provided through electric utility rates" 2150  
means the level of funds specifically included in an electric 2151  
utility's rates on October 5, 1999, pursuant to an order of the 2152  
public utilities commission issued under Chapter 4905. or 4909. 2153  
of the Revised Code and in effect on October 4, 1999, for the 2154  
purpose of improving the energy efficiency of housing for the 2155  
utility's low-income customers. The term excludes the level of 2156  
any such funds committed to a specific nonprofit organization or 2157  
organizations pursuant to a stipulation or contract. 2158

(16) "Low-income customer assistance programs" means the 2159  
percentage of income payment plan program, the home energy 2160  
assistance program, the home weatherization assistance program, 2161  
and the targeted energy efficiency and weatherization program. 2162

(17) "Market development period" for an electric utility 2163

means the period of time beginning on the starting date of 2164  
competitive retail electric service and ending on the applicable 2165  
date for that utility as specified in section 4928.40 of the 2166  
Revised Code, irrespective of whether the utility applies to 2167  
receive transition revenues under this chapter. 2168

(18) "Market power" means the ability to impose on 2169  
customers a sustained price for a product or service above the 2170  
price that would prevail in a competitive market. 2171

(19) "Mercantile customer" means a commercial or 2172  
industrial customer if the electricity consumed is for 2173  
nonresidential use and the customer consumes more than seven 2174  
hundred thousand kilowatt hours per year or is part of a 2175  
national account involving multiple facilities in one or more 2176  
states. 2177

(20) "Municipal electric utility" means a municipal 2178  
corporation that owns or operates facilities to generate, 2179  
transmit, or distribute electricity. 2180

(21) "Noncompetitive retail electric service" means a 2181  
component of retail electric service that is noncompetitive as 2182  
provided under division (B) of this section. 2183

(22) "Nonfirm electric service" means electric service 2184  
provided pursuant to a schedule filed under section 4905.30 of 2185  
the Revised Code or pursuant to an arrangement under section 2186  
4905.31 of the Revised Code, which schedule or arrangement 2187  
includes conditions that may require the customer to curtail or 2188  
interrupt electric usage during nonemergency circumstances upon 2189  
notification by an electric utility. 2190

(23) "Percentage of income payment plan arrears" means 2191  
funds eligible for collection through the percentage of income 2192

payment plan rider, but uncollected as of July 1, 2000. 2193

(24) "Person" has the same meaning as in section 1.59 of 2194  
the Revised Code. 2195

(25) "Advanced energy project" means any technologies, 2196  
products, activities, or management practices or strategies that 2197  
facilitate the generation or use of electricity or energy and 2198  
that reduce or support the reduction of energy consumption or 2199  
support the production of clean, renewable energy for 2200  
industrial, distribution, commercial, institutional, 2201  
governmental, research, not-for-profit, or residential energy 2202  
users, including, but not limited to, advanced energy resources 2203  
and renewable energy resources. "Advanced energy project" also 2204  
includes any project described in division (A), (B), or (C) of 2205  
section 4928.621 of the Revised Code. 2206

(26) "Regulatory assets" means the unamortized net 2207  
regulatory assets that are capitalized or deferred on the 2208  
regulatory books of the electric utility, pursuant to an order 2209  
or practice of the public utilities commission or pursuant to 2210  
generally accepted accounting principles as a result of a prior 2211  
commission rate-making decision, and that would otherwise have 2212  
been charged to expense as incurred or would not have been 2213  
capitalized or otherwise deferred for future regulatory 2214  
consideration absent commission action. "Regulatory assets" 2215  
includes, but is not limited to, all deferred demand-side 2216  
management costs; all deferred percentage of income payment plan 2217  
arrears; post-in-service capitalized charges and assets 2218  
recognized in connection with statement of financial accounting 2219  
standards no. 109 (receivables from customers for income taxes); 2220  
future nuclear decommissioning costs and fuel disposal costs as 2221  
those costs have been determined by the commission in the 2222

electric utility's most recent rate or accounting application 2223  
proceeding addressing such costs; the undepreciated costs of 2224  
safety and radiation control equipment on nuclear generating 2225  
plants owned or leased by an electric utility; and fuel costs 2226  
currently deferred pursuant to the terms of one or more 2227  
settlement agreements approved by the commission. 2228

(27) "Retail electric service" means any service involved 2229  
in supplying or arranging for the supply of electricity to 2230  
ultimate consumers in this state, from the point of generation 2231  
to the point of consumption. For the purposes of this chapter, 2232  
retail electric service includes one or more of the following 2233  
"service components": generation service, aggregation service, 2234  
power marketing service, power brokerage service, transmission 2235  
service, distribution service, ancillary service, metering 2236  
service, and billing and collection service. 2237

(28) "Starting date of competitive retail electric 2238  
service" means January 1, 2001. 2239

(29) "Customer-generator" means a user of a net metering 2240  
system. 2241

(30) "Net metering" means measuring the difference in an 2242  
applicable billing period between the electricity supplied by an 2243  
electric service provider and the electricity generated by a 2244  
customer-generator that is fed back to the electric service 2245  
provider. 2246

(31) "Net metering system" means a facility for the 2247  
production of electrical energy that does all of the following: 2248

(a) Uses as its fuel either solar, wind, biomass, landfill 2249  
gas, or hydropower, or uses a microturbine or a fuel cell; 2250

(b) Is located on a customer-generator's premises; 2251

(c) Operates in parallel with the electric utility's 2252  
transmission and distribution facilities; 2253

(d) Is intended primarily to offset part or all of the 2254  
customer-generator's requirements for electricity. For an 2255  
industrial customer-generator with a net metering system that 2256  
has a capacity of less than twenty megawatts and uses wind as 2257  
energy, this means the net metering system was sized so as to 2258  
not exceed one hundred per cent of the customer-generator's 2259  
annual requirements for electric energy at the time of 2260  
interconnection. 2261

(32) "Self-generator" means an entity in this state that 2262  
owns or hosts on ~~its premises~~ property the entity controls an 2263  
electric generation facility that produces electricity primarily 2264  
for the owner's consumption and that may provide any such excess 2265  
electricity to another entity, ~~whether the~~ and that meets all of 2266  
the following: 2267

(a) The facility is installed or operated by the owner or 2268  
by an agent a third party under a contract, including a lease, 2269  
purchase power agreement, or other service contract. 2270

(b) The facility connects directly to the owner's side of 2271  
the electric meter. 2272

(c) The facility delivers electricity to the owner's side 2273  
of the electric meter without the use of an electric 2274  
distribution utility's or electric cooperative's distribution 2275  
system or transmission system. 2276

(33) "Rate plan" means the standard service offer in 2277  
effect on the effective date of the amendment of this section by 2278  
S.B. 221 of the 127th general assembly, July 31, 2008. 2279

(34) "Advanced energy resource" means any of the 2280

following:	2281
(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;	2282 2283 2284 2285 2286
(b) Any distributed generation system consisting of customer cogeneration technology;	2287 2288
(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;	2289 2290 2291 2292 2293 2294 2295 2296 2297 2298 2299 2300 2301 2302 2303
(d) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;	2304 2305 2306 2307
(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel	2308 2309

cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	2310
solid oxide fuel cell;	2311
(f) Advanced solid waste or construction and demolition	2312
debris conversion technology, including, but not limited to,	2313
advanced stoker technology, and advanced fluidized bed	2314
gasification technology, that results in measurable greenhouse	2315
gas emissions reductions as calculated pursuant to the United	2316
States environmental protection agency's waste reduction model	2317
(WARM);	2318
(g) Demand-side management and any energy efficiency	2319
improvement;	2320
(h) Any new, retrofitted, refueled, or repowered	2321
generating facility located in Ohio, including a simple or	2322
combined-cycle natural gas generating facility or a generating	2323
facility that uses biomass, coal, modular nuclear, or any other	2324
fuel as its input;	2325
(i) Any uprated capacity of an existing electric	2326
generating facility if the uprated capacity results from the	2327
deployment of advanced technology.	2328
"Advanced energy resource" does not include a waste energy	2329
recovery system that is, or has been, included in an energy	2330
efficiency program of an electric distribution utility pursuant	2331
to requirements under section 4928.66 of the Revised Code.	2332
(35) "Air contaminant source" has the same meaning as in	2333
section 3704.01 of the Revised Code.	2334
(36) "Cogeneration technology" means technology that	2335
produces electricity and useful thermal output simultaneously.	2336
(37) (a) "Renewable energy resource" means any of the	2337

following:	2338
(i) Solar photovoltaic or solar thermal energy;	2339
(ii) Wind energy;	2340
(iii) Power produced by a hydroelectric facility;	2341
(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;	2342 2343 2344
(v) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;	2345 2346 2347 2348 2349
(vi) Geothermal energy;	2350
(vii) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;	2351 2352 2353 2354
(viii) Biomass energy;	2355
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	2356 2357 2358 2359 2360 2361 2362 2363 2364 2365

(x) Biologically derived methane gas;	2366
(xi) Heat captured from a generator of electricity,	2367
boiler, or heat exchanger fueled by biologically derived methane	2368
gas;	2369
(xii) Energy derived from nontreated by-products of the	2370
pulping process or wood manufacturing process, including bark,	2371
wood chips, sawdust, and lignin in spent pulping liquors.	2372
"Renewable energy resource" includes, but is not limited	2373
to, any fuel cell used in the generation of electricity,	2374
including, but not limited to, a proton exchange membrane fuel	2375
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	2376
solid oxide fuel cell; <u>a linear generator</u> ; wind turbine located	2377
in the state's territorial waters of Lake Erie; methane gas	2378
emitted from an abandoned coal mine; waste energy recovery	2379
system placed into service or retrofitted on or after the	2380
effective date of the amendment of this section by S.B. 315 of	2381
the 129th general assembly, September 10, 2012, except that a	2382
waste energy recovery system described in division (A) (38) (b) of	2383
this section may be included only if it was placed into service	2384
between January 1, 2002, and December 31, 2004; storage facility	2385
that will promote the better utilization of a renewable energy	2386
resource; or distributed generation system used by a customer to	2387
generate electricity from any such energy.	2388
"Renewable energy resource" does not include a waste	2389
energy recovery system that is, or was, on or after January 1,	2390
2012, included in an energy efficiency program of an electric	2391
distribution utility pursuant to requirements under section	2392
4928.66 of the Revised Code.	2393
(b) As used in division (A) (37) of this section,	2394

"hydroelectric facility" means a hydroelectric generating 2395  
facility that is located at a dam on a river, or on any water 2396  
discharged to a river, that is within or bordering this state or 2397  
within or bordering an adjoining state and meets all of the 2398  
following standards: 2399

(i) The facility provides for river flows that are not 2400  
detrimental for fish, wildlife, and water quality, including 2401  
seasonal flow fluctuations as defined by the applicable 2402  
licensing agency for the facility. 2403

(ii) The facility demonstrates that it complies with the 2404  
water quality standards of this state, which compliance may 2405  
consist of certification under Section 401 of the "Clean Water 2406  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 2407  
demonstrates that it has not contributed to a finding by this 2408  
state that the river has impaired water quality under Section 2409  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 2410  
U.S.C. 1313. 2411

(iii) The facility complies with mandatory prescriptions 2412  
regarding fish passage as required by the federal energy 2413  
regulatory commission license issued for the project, regarding 2414  
fish protection for riverine, anadromous, and catadromous fish. 2415

(iv) The facility complies with the recommendations of the 2416  
Ohio environmental protection agency and with the terms of its 2417  
federal energy regulatory commission license regarding watershed 2418  
protection, mitigation, or enhancement, to the extent of each 2419  
agency's respective jurisdiction over the facility. 2420

(v) The facility complies with provisions of the 2421  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 2422  
to 1544, as amended. 2423

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

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

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

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

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

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

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

(ii) Reduction of pressure in gas pipelines before gas is

distributed through the pipeline, provided that the conversion 2453  
of energy to electricity is achieved without using additional 2454  
fossil fuels. 2455

(b) A facility at a state institution of higher education 2456  
as defined in section 3345.011 of the Revised Code that recovers 2457  
waste heat from electricity-producing engines or combustion 2458  
turbines and that simultaneously uses the recovered heat to 2459  
produce steam, provided that the facility was placed into 2460  
service between January 1, 2002, and December 31, 2004; 2461

(c) A facility that produces steam from recovered waste 2462  
heat from a manufacturing process and uses that steam, or 2463  
transfers that steam to another facility, to provide heat to 2464  
another manufacturing process or to generate electricity. 2465

(39) "Smart grid" means capital improvements to an 2466  
electric distribution utility's distribution infrastructure that 2467  
improve reliability, efficiency, resiliency, or reduce energy 2468  
demand or use, including, but not limited to, advanced metering 2469  
and automation of system functions. 2470

(40) "Combined heat and power system" means the 2471  
coproduction of electricity and useful thermal energy from the 2472  
same fuel source designed to achieve thermal-efficiency levels 2473  
of at least sixty per cent, with at least twenty per cent of the 2474  
system's total useful energy in the form of thermal energy. 2475

~~(41) "Legacy generation resource" means all generating 2476  
facilities owned directly or indirectly by a corporation that 2477  
was formed prior to 1960 by investor-owned utilities for the 2478  
original purpose of providing power to the federal government 2479  
for use in the nation's defense or in furtherance of national 2480  
interests, including the Ohio valley electric corporation. 2481~~

<del>(42) "Prudently incurred costs related to a legacy</del>	2482
<del>generation resource" means costs, including deferred costs,</del>	2483
<del>allocated pursuant to a power agreement approved by the federal</del>	2484
<del>energy regulatory commission that relates to a legacy generation</del>	2485
<del>resource, less any revenues realized from offering the</del>	2486
<del>contractual commitment for the power agreement into the</del>	2487
<del>wholesale markets, provided that where the net revenues exceed</del>	2488
<del>net costs, those excess revenues shall be credited to customers.</del>	2489
<del>Such costs shall exclude any return on investment in common</del>	2490
<del>equity and, in the event of a premature retirement of a legacy</del>	2491
<del>generation resource, shall exclude any recovery of remaining</del>	2492
<del>debt. Such costs shall include any incremental costs resulting</del>	2493
<del>from the bankruptcy of a current or former sponsor under such</del>	2494
<del>power agreement or co-owner of the legacy generation resource if</del>	2495
<del>not otherwise recovered through a utility rate cost recovery</del>	2496
<del>mechanism.</del>	2497
<del>(43) (a) (41) (a) "Green energy" means any energy generated</del>	2498
<del>by using an energy resource that does one or more of the</del>	2499
<del>following:</del>	2500
<del>(i) Releases reduced air pollutants, thereby reducing</del>	2501
<del>cumulative air emissions;</del>	2502
<del>(ii) Is more sustainable and reliable relative to some</del>	2503
<del>fossil fuels.</del>	2504
<del>(b) "Green energy" includes energy generated using the</del>	2505
<del>following:</del>	2506
<del>(i) Natural gas as a resource;</del>	2507
<del>(ii) Nuclear reaction.</del>	2508
<del>(42) "Linear generator" means an integrated system</del>	2509
<del>consisting of oscillators, cylinders, electricity conversion</del>	2510

<u>equipment, and associated balance of plant components that meet</u>	2511
<u>the following criteria:</u>	2512
<u>(a) Converts the linear motion of oscillators directly</u>	2513
<u>into electricity without the use of a flame or spark;</u>	2514
<u>(b) Is dispatchable with the ability to vary power output</u>	2515
<u>across all loads;</u>	2516
<u>(c) Can operate on multiple fuel types including renewable</u>	2517
<u>fuels such as hydrogen, ammonia, and biogas.</u>	2518
(B) For the purposes of this chapter, a retail electric	2519
service component shall be deemed a competitive retail electric	2520
service if the service component is competitive pursuant to a	2521
declaration by a provision of the Revised Code or pursuant to an	2522
order of the public utilities commission authorized under	2523
division (A) of section 4928.04 of the Revised Code. Otherwise,	2524
the service component shall be deemed a noncompetitive retail	2525
electric service.	2526
<u>Sec. 4928.041. (A) Except as provided in sections 4928.141</u>	2527
<u>and 4928.142 of the Revised Code, no electric utility shall</u>	2528
<u>provide a competitive retail electric service in this state if</u>	2529
<u>that service was deemed competitive or otherwise legally</u>	2530
<u>classified as competitive prior to the effective date of this</u>	2531
<u>section.</u>	2532
<u>(B) The standard service offer under section 4928.141 of</u>	2533
<u>the Revised Code shall continue to be provided to consumers in</u>	2534
<u>this state by electric utilities.</u>	2535
<u>Sec. 4928.05. (A) (1) <del>On and after the starting date of</del></u>	2536
<u><del>competitive retail electric service, a</del> <u>A</u> competitive retail</u>	2537
<u>electric service supplied by an <del>electric utility or electric</del></u>	2538
<u>services company, or by an electric utility consistent with</u>	2539

section 4928.141 of the Revised Code, shall not be subject to 2540  
supervision and regulation by a municipal corporation under 2541  
Chapter 743. of the Revised Code or by the public utilities 2542  
commission under Chapters 4901. to 4909., 4933., 4935., and 2543  
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2544  
division (B) of section 4905.33, and sections 4905.35 and 2545  
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2546  
and 4963.41 of the Revised Code only to the extent related to 2547  
service reliability and public safety; and except as otherwise 2548  
provided in this chapter. The commission's authority to enforce 2549  
those excepted provisions with respect to a competitive retail 2550  
electric service shall be such authority as is provided for 2551  
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2552  
and 4963. of the Revised Code and this chapter. Nothing in this 2553  
division shall be construed to limit the commission's authority 2554  
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2555  
Revised Code. 2556

~~On and after the starting date of competitive retail~~ 2557  
~~electric service, a~~ (2) A competitive retail electric service 2558  
supplied by an electric cooperative shall not be subject to 2559  
supervision and regulation by the commission under Chapters 2560  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2561  
except as otherwise expressly provided in sections 4928.01 to 2562  
4928.10 and 4928.16 of the Revised Code. 2563

~~(2) On and after the starting date of competitive retail~~ 2564  
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2565  
service supplied by an electric utility shall be subject to 2566  
supervision and regulation by the commission under Chapters 2567  
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2568  
this chapter, to the extent that authority is not preempted by 2569  
federal law. The commission's authority to enforce those 2570

provisions with respect to a noncompetitive retail electric 2571  
service shall be the authority provided under those chapters and 2572  
this chapter, to the extent the authority is not preempted by 2573  
federal law. Notwithstanding Chapters 4905. and 4909. of the 2574  
Revised Code, commission authority under this chapter shall 2575  
include the authority to provide for the recovery, through a 2576  
reconcilable rider on an electric distribution utility's 2577  
distribution rates, of all transmission and transmission-related 2578  
costs, including ancillary and congestion costs, imposed on or 2579  
charged to the utility by the federal energy regulatory 2580  
commission or a regional transmission organization, independent 2581  
transmission operator, or similar organization approved by the 2582  
federal energy regulatory commission. 2583

(2) The commission shall exercise its jurisdiction with 2584  
respect to the delivery of electricity by an electric utility in 2585  
this state ~~on or after the starting date of competitive retail~~ 2586  
~~electric service~~ so as to ensure that no aspect of the delivery 2587  
of electricity by the utility to consumers in this state that 2588  
consists of a noncompetitive retail electric service is 2589  
unregulated. 2590

~~On and after that starting date, a~~ (3) A noncompetitive 2591  
retail electric service supplied by an electric cooperative 2592  
shall not be subject to supervision and regulation by the 2593  
commission under Chapters 4901. to 4909., 4933., 4935., and 2594  
4963. of the Revised Code, except sections 4933.81 to 4933.90 2595  
and 4935.03 of the Revised Code. The commission's authority to 2596  
enforce those excepted sections with respect to a noncompetitive 2597  
retail electric service of an electric cooperative shall be such 2598  
authority as is provided for their enforcement under Chapters 2599  
4933. and 4935. of the Revised Code. 2600

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

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

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

(2) The public utilities commission shall establish rules 2631  
to require an electric services company to maintain financial 2632  
assurances sufficient to protect customers and electric 2633  
distribution utilities from default. Such rules also shall 2634  
specifically allow an electric distribution utility to set 2635  
reasonable standards for its security and the security of its 2636  
customers through financial requirements set in its tariffs. 2637

(3) As used in division (B) (2) of this section, an 2638  
"electric services company" has the same meaning as in section 2639  
4928.01 of the Revised Code, but excludes a power broker or 2640  
aggregator. 2641

(C) Capability standards adopted in rules under division 2642  
(B) of this section shall be sufficient to ensure compliance 2643  
with the minimum service requirements established under section 2644  
4928.10 of the Revised Code and with section 4928.09 of the 2645  
Revised Code. The standards shall allow flexibility for 2646  
voluntary aggregation, to encourage market creativity in 2647  
responding to consumer needs and demands, and shall allow 2648  
flexibility for electric services companies that exclusively 2649  
provide installation of small electric generation facilities, to 2650  
provide ease of market access. The rules shall include 2651  
procedures for biennially renewing certification. 2652

(D) The commission may suspend, rescind, or conditionally 2653  
rescind the certification of any electric utility, electric 2654  
services company, electric cooperative, or governmental 2655  
aggregator issued under this section if the commission 2656  
determines, after reasonable notice and opportunity for hearing, 2657  
that the utility, company, cooperative, or aggregator has failed 2658  
to comply with any applicable certification standards or has 2659  
engaged in anticompetitive or unfair, deceptive, or 2660

unconscionable acts or practices in this state. 2661

(E) No electric distribution utility on and after the 2662  
starting date of competitive retail electric service shall 2663  
knowingly distribute electricity, to a retail consumer in this 2664  
state, for any supplier of electricity that has not been 2665  
certified by the commission pursuant to this section. 2666

(F) Notwithstanding any provision of section 121.95 of the 2667  
Revised Code to the contrary, a regulatory restriction contained 2668  
in a rule adopted under section 4928.08 of the Revised Code is 2669  
not subject to sections 121.95 to 121.953 of the Revised Code. 2670

Sec. 4928.101. (A) As used in this section and section 2671  
4928.102 of the Revised Code: 2672

(1) "Small commercial customer" means any customer that 2673  
receives electric service pursuant to a nonresidential tariff if 2674  
the customer's demand for electricity does not exceed twenty- 2675  
five kilowatts within the last twelve months. 2676

(2) "Small commercial customer" excludes any customer that 2677  
does one or both of the following: 2678

(a) Manages multiple electric meters and, within the last 2679  
twelve months, the electricity demand for at least one of the 2680  
meters is twenty-five kilowatts or more; 2681

(b) Has, at the customer's discretion, aggregated the 2682  
demand for the customer-managed meters. 2683

(B) The consumer protections described in section 4928.10 2684  
of the Revised Code and the rules adopted pursuant to that 2685  
section apply to small commercial customers and to all other 2686  
customers as set forth in the rules. 2687

Sec. 4928.102. (A) If a competitive retail electric 2688

service supplier offers a residential or small commercial 2689  
customer a contract for a fixed introductory rate that converts 2690  
to a variable rate upon the expiration of the fixed rate, the 2691  
supplier shall send two notices to each residential and small 2692  
commercial customer that enters into such a contract. Each 2693  
notice shall provide all of the following information to the 2694  
customer: 2695

(1) The fixed rate that is expiring under the contract; 2696

(2) The expiration date of the contract's fixed rate; 2697

(3) The rate to be charged upon the contract's conversion 2698  
to a variable rate; 2699

(4) The public utilities commission web site that, as a 2700  
comparison tool, lists rates offered by competitive retail 2701  
electric service suppliers; 2702

(5) A statement explaining that appearing on each 2703  
customer's bill is a price-to-compare notice that lists the 2704  
utility's standard service offer price. 2705

(B) The notices shall be sent by standard United States 2706  
mail as follows: 2707

(1) The supplier shall send the first notice not earlier 2708  
than ninety days, and not later than sixty days, prior to the 2709  
expiration of the fixed rate. 2710

(2) The supplier shall send the second notice not earlier 2711  
than forty-five days, and not later than thirty days, prior to 2712  
the expiration of the fixed rate. 2713

(C) A competitive retail electric service supplier shall 2714  
provide an annual notice, by standard United States mail, to 2715  
each residential and small commercial customer that has entered 2716

into a contract with the supplier that has converted to a 2717  
variable rate upon the expiration of the contract's fixed 2718  
introductory rate. The notice shall inform the customer that the 2719  
customer is currently subject to a variable rate and that other 2720  
fixed rate contracts are available. 2721

(D) Not later than one hundred fifty days after the 2722  
effective date of this section, the commission shall adopt rules 2723  
in order to implement divisions (A) to (C) of this section. The 2724  
rules, at a minimum, shall include the following requirements 2725  
regarding the notices required under divisions (A) to (C) of 2726  
this section: 2727

(1) To use clear and unambiguous language in order to 2728  
enable the customer to make an informed decision; 2729

(2) To design the notices in a way to ensure that they 2730  
cannot be confused with marketing materials. 2731

(E) Notwithstanding any provision of section 121.95 of the 2732  
Revised Code to the contrary, a regulatory restriction contained 2733  
in a rule adopted under section 4928.102 of the Revised Code is 2734  
not subject to sections 121.95 to 121.953 of the Revised Code. 2735

**Sec. 4928.103.** (A) As used in this section, "customer 2736  
account information" means a unique electric distribution 2737  
utility number or other customer identification number used by 2738  
the utility to identify a customer and the customer's account 2739  
record. 2740

(B) The public utilities commission shall adopt rules to 2741  
ensure that an electric distribution utility processes a 2742  
customer's change in competitive retail electric supplier by 2743  
using customer account information. A customer who consents to a 2744  
change of supplier shall not be required to provide customer 2745

account information to the supplier if the customer provides a 2746  
valid form of government-issued identification issued to the 2747  
customer or a sufficient alternative form of identification that 2748  
allows the supplier to establish the customer's identity 2749  
accurately. 2750

(C) Notwithstanding any provision of section 121.95 of the 2751  
Revised Code to the contrary, a regulatory restriction contained 2752  
in a rule adopted under this section is not subject to sections 2753  
121.95 to 121.953 of the Revised Code. 2754

**Sec. 4928.105.** (A) Upon receiving a certified request from 2755  
a competitive retail electric service supplier under a service 2756  
agreement that explicitly authorizes an expedited return to an 2757  
electric distribution utility's standard service offer, 2758  
voluntarily entered into by a mercantile customer, a utility 2759  
shall complete the request within three business days. 2760

(B) The electric distribution utility shall not be held 2761  
liable for any disputes arising from the expedited return to the 2762  
utility's standard service offer, provided the utility acts in 2763  
accordance with the public utilities commission's rules. 2764

(C) The commission shall establish rules governing the 2765  
process for an expedited return to the utility's standard 2766  
service offer pursuant to this section, including the content of 2767  
the certified request and any notice to the affected customer, 2768  
and permitting electric distribution utilities to recover the 2769  
administrative costs of processing requests under this section 2770  
through reasonable fees assessed to competitive retail electric 2771  
service suppliers. 2772

**Sec. 4928.107.** (A) As used in this section, "small 2773  
commercial customer" has the same meaning as in section 4928.101 2774

of the Revised Code. 2775

(B) An electric distribution utility may create a 2776  
voluntary demand response program to lower demand at peak times 2777  
for residential customers and small commercial customers as 2778  
described by this section. 2779

(C) (1) Each demand response program under this section 2780  
shall be evaluated by the public utilities commission to 2781  
determine if the program is cost-effective for customers. 2782

(2) No electric distribution utility shall offer a demand 2783  
reduction program under this section unless the program is 2784  
approved by the commission. 2785

(D) An electric distribution utility may enter into an 2786  
agreement with a residential customer or small commercial 2787  
customer for the customer to participate in the utility's demand 2788  
response program. 2789

(E) For customers that participate in the program, the 2790  
utility may take actions to reduce the customer's load at peak 2791  
times, such as reducing the temperature on the customer's air 2792  
conditioner. 2793

(F) A customer that participates in the program may 2794  
override the utility's action to reduce the customer's load. 2795

(G) A customer that agrees to participate in the utility's 2796  
demand response program shall be paid by the utility an annual 2797  
fee of forty dollars, or other amount determined by the 2798  
commission under division (H) of this section, if the customer 2799  
does not override the utility's action to reduce the customer's 2800  
load more than fifty per cent of the requested time. 2801

(H) The commission may raise or lower the fee amount under 2802

division (G) of this section at the time of the utility's rate 2803  
case or true up based on the current demand in the utility's 2804  
certified territory. 2805

**Sec. 4928.14.** ~~The~~ (A) Except as provided in division (C) 2806  
of this section, the failure of a supplier to provide retail 2807  
electric generation service to customers within the certified 2808  
territory of an electric distribution utility shall result in 2809  
the supplier's customers, after reasonable notice, defaulting to 2810  
the utility's standard service offer under sections 4928.141, 7, 2811  
and 4928.142, and 4928.143 of the Revised Code until the 2812  
customer chooses an alternative supplier. A- 2813

(B) A supplier is deemed under this section to have failed 2814  
to provide such retail electric generation service if the 2815  
commission finds, after reasonable notice and opportunity for 2816  
hearing, that any of the following conditions are met: 2817

~~(A)~~ (1) The supplier has defaulted on its contracts with 2818  
customers, is in receivership, or has filed for bankruptcy. 2819

~~(B)~~ (2) The supplier is no longer capable of providing the 2820  
service. 2821

~~(C)~~ (3) The supplier is unable to provide delivery to 2822  
transmission or distribution facilities for such period of time 2823  
as may be reasonably specified by commission rule adopted under 2824  
division (A) of section 4928.06 of the Revised Code. 2825

~~(D)~~ (4) The supplier's certification has been suspended, 2826  
conditionally rescinded, or rescinded under division (D) of 2827  
section 4928.08 of the Revised Code. 2828

(C) If an electric distribution utility has an electric 2829  
security plan that was approved under section 4928.143 of the 2830  
Revised Code as that section existed prior to the amendments to 2831

this section by this act, the failure of a supplier to provide 2832  
retail electric generation service to customers within the 2833  
certified territory of that utility shall result in the 2834  
supplier's customers, after reasonable notice, defaulting to the 2835  
utility's standard service offer under that electric security 2836  
plan until the customer chooses an alternative supplier or until 2837  
the utility's standard service offer is authorized under section 2838  
4928.142 of the Revised Code. 2839

**Sec. 4928.141.** ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2840  
electric distribution utility shall provide consumers, on a 2841  
comparable and nondiscriminatory basis within its certified 2842  
territory, a standard service offer of all competitive retail 2843  
electric services necessary to maintain essential electric 2844  
service to consumers, including a firm supply of electric 2845  
generation service. To that end, the electric distribution 2846  
utility shall apply to the public utilities commission to 2847  
establish the standard service offer in accordance with section 2848  
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2849  
~~may apply simultaneously under both sections, except that the~~ 2850  
~~utility's first standard service offer application at minimum~~ 2851  
~~shall include a filing under section 4928.143 of the Revised~~ 2852  
~~Code. Only~~ Except as provided in division (A) (2) of this 2853  
section, a standard service offer authorized in accordance with 2854  
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2855  
the utility's standard service offer for the purpose of 2856  
compliance with this section~~,~~ and that standard service offer 2857  
shall serve as the utility's default standard service offer for 2858  
the purpose of section 4928.14 of the Revised Code. 2859  
~~Notwithstanding the foregoing provision, the rate~~ 2860

(2) An electric distribution utility's electric security 2861  
plan of an electric distribution utility that was approved under 2862

section 4928.143 of the Revised Code as that section existed 2863  
prior to the amendments to this section by this act shall 2864  
continue for the purpose of the utility's compliance with ~~this~~ 2865  
division (A) (1) of this section until a standard service offer 2866  
is ~~first~~ authorized to be effective under section 4928.142 ~~or~~ 2867  
~~4928.143~~ of the Revised Code, ~~and, as applicable, pursuant to~~ 2868  
~~division (D) of section 4928.143 of the Revised Code, any rate .~~ 2869  
Each security plan that extends approved before the effective 2870  
date of the amendments to this section by this act shall extend 2871  
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2872  
~~subject electric distribution utility for the duration of the~~ 2873  
~~plan's term~~through the final standard service offer auction 2874  
delivery period approved by the public utilities commission 2875  
under the plan as of the effective date of the amendments to 2876  
this section by this act and thereafter shall terminate. 2877

(3) A standard service offer under section 4928.142 ~~or~~ 2878  
~~4928.143~~ of the Revised Code shall exclude any previously 2879  
authorized allowances for transition costs, with such exclusion 2880  
being effective on and after the date that the allowance is 2881  
scheduled to end under the utility's ~~rate~~ electric security 2882  
plan. 2883

(B) The commission shall set the time for hearing of a 2884  
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2885  
send written notice of the hearing to the electric distribution 2886  
utility, and publish notice in a newspaper of general 2887  
circulation in each county in the utility's certified territory. 2888  
The commission shall adopt rules regarding filings under ~~those~~ 2889  
~~sections~~ the section. 2890

**Sec. 4928.142.** (A) For the purpose of complying with 2891  
section 4928.141 of the Revised Code and subject to division (D) 2892

of this section and, as applicable, subject to the ~~rate plan~~ 2893  
~~requirement~~ requirements of division (A) of section 4928.141 of 2894  
the Revised Code, an electric distribution utility ~~may~~ shall 2895  
establish a standard service offer price for retail electric 2896  
generation service that is delivered to the utility under a 2897  
market-rate offer. 2898

(1) The market-rate offer shall be determined through a 2899  
competitive bidding process that provides for all of the 2900  
following: 2901

(a) Open, fair, and transparent competitive solicitation; 2902

(b) Clear product definition; 2903

(c) Standardized bid evaluation criteria; 2904

(d) Oversight by an independent third party that shall 2905  
design the solicitation, administer the bidding, and ensure that 2906  
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2907  
this section are met; 2908

(e) Evaluation of the submitted bids prior to the 2909  
selection of the least-cost bid winner or winners. 2910

No generation supplier shall be prohibited from 2911  
participating in the bidding process. 2912

(2) The public utilities commission shall modify rules, or 2913  
adopt new rules as necessary, concerning the conduct of the 2914  
competitive bidding process and the qualifications of bidders, 2915  
which rules shall foster supplier participation in the bidding 2916  
process and shall be consistent with the requirements of 2917  
division (A) (1) of this section. 2918

(B) Prior to initiating a competitive bidding process for 2919  
a market-rate offer under division (A) of this section, the 2920

electric distribution utility shall file an application with the 2921  
commission. An electric distribution utility may file its 2922  
application with the commission prior to the effective date of 2923  
the commission rules required under division (A)(2) of this 2924  
section, and, as the commission determines necessary, the 2925  
utility shall immediately conform its filing to the rules upon 2926  
their taking effect. 2927

An application under this division shall detail the 2928  
electric distribution utility's proposed compliance with the 2929  
requirements of division (A)(1) of this section and with 2930  
commission rules under division (A)(2) of this section and 2931  
demonstrate that all of the following requirements are met: 2932

(1) The electric distribution utility or its transmission 2933  
service affiliate belongs to at least one regional transmission 2934  
organization that has been approved by the federal energy 2935  
regulatory commission; or there otherwise is comparable and 2936  
nondiscriminatory access to the electric transmission grid. 2937

(2) Any such regional transmission organization has a 2938  
market-monitor function and the ability to take actions to 2939  
identify and mitigate market power or the electric distribution 2940  
utility's market conduct; or a similar market monitoring 2941  
function exists with commensurate ability to identify and 2942  
monitor market conditions and mitigate conduct associated with 2943  
the exercise of market power. 2944

(3) A published source of information is available 2945  
publicly or through subscription that identifies pricing 2946  
information for traded electricity on- and off-peak energy 2947  
products that are contracts for delivery beginning at least two 2948  
years from the date of the publication and is updated on a 2949  
regular basis. 2950

The commission shall initiate a proceeding and, within 2951  
ninety days after the application's filing date, shall determine 2952  
by order whether the electric distribution utility and its 2953  
market-rate offer meet all of the foregoing requirements. If the 2954  
finding is positive, the electric distribution utility ~~may~~ shall 2955  
initiate its competitive bidding process. If the finding is 2956  
negative as to one or more requirements, the commission in the 2957  
order shall direct the electric distribution utility regarding 2958  
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2959  
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2960  
~~distribution utility shall withdraw the application. However, if~~ 2961  
~~such remedy is made and the subsequent finding is positive and~~ 2962  
~~also if the electric distribution utility made a simultaneous~~ 2963  
~~filing under this section and section 4928.143 of the Revised~~ 2964  
~~Code, the utility shall not initiate its competitive bid until~~ 2965  
~~at least one hundred fifty days after the filing date of those~~ 2966  
~~applications.~~ 2967

(C) Upon the completion of the competitive bidding process 2968  
authorized by divisions (A) and (B) of this section, ~~including~~ 2969  
~~for the purpose of division (D) of this section,~~ the commission 2970  
shall select the least-cost bid winner or winners of that 2971  
process, and such selected bid or bids, as prescribed as retail 2972  
rates by the commission, shall be the electric distribution 2973  
utility's standard service offer unless the commission, by order 2974  
issued before the third calendar day following the conclusion of 2975  
the competitive bidding process for the market rate offer, 2976  
determines that one or more of the following criteria were not 2977  
met: 2978

(1) Each portion of the bidding process was 2979  
oversubscribed, such that the amount of supply bid upon was 2980  
greater than the amount of the load bid out. 2981

(2) There were four or more bidders. 2982

(3) At least twenty-five per cent of the load is bid upon 2983  
by one or more persons other than the electric distribution 2984  
utility. 2985

All costs incurred by the electric distribution utility as 2986  
a result of or related to the competitive bidding process or to 2987  
procuring generation service to provide the standard service 2988  
offer, including the costs of energy and capacity and the costs 2989  
of all other products and services procured as a result of the 2990  
competitive bidding process, shall be timely recovered through 2991  
the standard service offer price, and, for that purpose, the 2992  
commission shall approve a reconciliation mechanism, other 2993  
recovery mechanism, or a combination of such mechanisms for the 2994  
utility. 2995

(D) ~~The first application filed under this section by an 2996  
electric distribution utility that, as of July 31, 2008, 2997  
directly owns, in whole or in part, operating electric 2998  
generating facilities that had been used and useful in this 2999  
state shall require that a portion of that the utility's 3000  
standard service offer load for the first five years of the 3001  
market rate offer be competitively bid under division (A) of 3002  
this section as follows: ten per cent of the load in year one, 3003  
not more than twenty per cent in year two, thirty per cent in 3004  
year three, forty per cent in year four, and fifty per cent in 3005  
year five. Consistent with those percentages, the commission 3006  
shall determine the actual percentages for each year of years 3007  
one through five. The standard service offer price for retail 3008  
electric generation service under this first application shall 3009  
be a proportionate blend of the bid price and the generation 3010  
service price for the remaining standard service offer load, 3011~~

~~which latter price shall be equal to the electric distribution- 3012  
utility's most recent standard service offer price, adjusted- 3013  
upward or downward as the commission determines reasonable, 3014  
relative to the jurisdictional portion of any known and- 3015  
measurable changes from the level of any one or more of the 3016  
following costs as reflected in that most recent standard- 3017  
service offer price: 3018~~

~~(1) The electric distribution utility's prudently incurred 3019  
cost of fuel used to produce electricity; 3020~~

~~(2) Its prudently incurred purchased power costs; 3021~~

~~(3) Its prudently incurred costs of satisfying the supply- 3022  
and demand portfolio requirements of this state, including, but- 3023  
not limited to, renewable energy resource and energy efficiency- 3024  
requirements; 3025~~

~~(4) Its costs prudently incurred to comply with- 3026  
environmental laws and regulations, with consideration of the- 3027  
derating of any facility associated with those costs. 3028~~

~~In making any adjustment to the most recent standard- 3029  
service offer price on the basis of costs described in division- 3030  
(D) of this section, the commission shall include the benefits- 3031  
that may become available to the electric distribution utility- 3032  
as a result of or in connection with the costs included in the- 3033  
adjustment, including, but not limited to, the utility's receipt 3034  
of emissions credits or its receipt of tax benefits or of other- 3035  
benefits, and, accordingly, the commission may impose such- 3036  
conditions on the adjustment to ensure that any such benefits- 3037  
are properly aligned with the associated cost responsibility.- 3038  
The commission shall also determine how such adjustments will- 3039  
affect the electric distribution utility's return on common- 3040~~

~~equity that may be achieved by those adjustments. The commission 3041  
shall not apply its consideration of the return on common equity 3042  
to reduce any adjustments authorized under this division unless 3043  
the adjustments will cause the electric distribution utility to 3044  
earn a return on common equity that is significantly in excess 3045  
of the return on common equity that is earned by publicly traded 3046  
companies, including utilities, that face comparable business 3047  
and financial risk, with such adjustments for capital structure 3048  
as may be appropriate. The burden of proof for demonstrating 3049  
that significantly excessive earnings will not occur shall be on 3050  
the electric distribution utility. 3051~~

~~Additionally, the commission may adjust the electric 3052  
distribution utility's most recent standard service offer price 3053  
by such just and reasonable amount that the commission 3054  
determines necessary to address any emergency that threatens the 3055  
utility's financial integrity or to ensure that the resulting 3056  
revenue available to the utility for providing the standard 3057  
service offer is not so inadequate as to result, directly or 3058  
indirectly, in a taking of property without compensation 3059  
pursuant to Section 19 of Article I, Ohio Constitution. The 3060  
electric distribution utility has the burden of demonstrating 3061  
that any adjustment to its most recent standard service offer 3062  
price is proper in accordance with this division. 3063~~

~~(E) Beginning in the second year of a blended price under 3064  
division (D) of this section and notwithstanding any other 3065  
requirement of this section, the commission may alter 3066  
prospectively the proportions specified in that division to 3067  
mitigate any effect of an abrupt or significant change in the 3068  
electric distribution utility's standard service offer price 3069  
that would otherwise result in general or with respect to any 3070  
rate group or rate schedule but for such alteration. Any such 3071~~

~~alteration shall be made not more often than annually, and the~~ 3072  
~~commission shall not, by altering those proportions and in any~~ 3073  
~~event, including because of the length of time, as authorized~~ 3074  
~~under division (C) of this section, taken to approve the market~~ 3075  
~~rate offer, cause the duration of the blending period to exceed~~ 3076  
~~ten years as counted from the effective date of the approved~~ 3077  
~~market rate offer. Additionally, any such alteration shall be~~ 3078  
~~limited to an alteration affecting the prospective proportions~~ 3079  
~~used during the blending period and shall not affect any~~ 3080  
~~blending proportion previously approved and applied by the~~ 3081  
~~commission under this division.~~ 3082

~~(F) An electric distribution utility that has received~~ 3083  
~~commission approval of its first application under division (C)~~ 3084  
~~of this section shall not, nor ever shall be authorized or~~ 3085  
~~required by the commission to, file an application under section~~ 3086  
~~4928.143 of the Revised Code.~~ 3087

**Sec. 4928.144.** The public utilities commission by order 3088  
may authorize any just and reasonable phase-in of any electric 3089  
distribution utility ~~rate or price~~ established under sections 3090  
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 3091  
inclusive of carrying charges, as the commission considers 3092  
necessary to ensure ~~rate or price~~ stability for consumers. If 3093  
the commission's order includes such a phase-in, the order also 3094  
shall provide for the creation of regulatory assets pursuant to 3095  
generally accepted accounting principles, by authorizing the 3096  
deferral of incurred costs equal to the amount not collected, 3097  
plus carrying charges on that amount. Further, the order shall 3098  
authorize the collection of those deferrals through a 3099  
nonbypassable surcharge on any such rate or price so established 3100  
for the electric distribution utility by the commission. 3101

Sec. 4928.149. No electric distribution utility may use 3102  
any electric energy storage system to participate in the 3103  
wholesale market, if the utility purchased or acquired that 3104  
system for distribution service. 3105

Sec. 4928.1410. If an electric distribution utility has an 3106  
existing electric security plan under which the commission had 3107  
authorized the creation or continuation of riders, then, to the 3108  
extent those riders will cease to exist after termination of the 3109  
electric security plan, the electric distribution utility is 3110  
authorized to create necessary regulatory assets or liabilities, 3111  
along with carrying costs at the utility's weighted average cost 3112  
of debt, for the resolution of any outstanding under-collection 3113  
or over-collection of funds under such riders. The resolution of 3114  
such regulatory assets or liabilities shall be addressed in the 3115  
first distribution rate case under section 4909.18 of the 3116  
Revised Code that occurs after the plan's expiration. 3117

Sec. 4928.17. (A) Except as otherwise provided in sections 3118  
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 3119  
Revised Code ~~and beginning on the starting date of competitive-~~ 3120  
~~retail electric service,~~ no electric utility shall engage in 3121  
this state, either directly or through an affiliate, ~~in the~~ 3122  
~~businesses of supplying a noncompetitive retail electric service~~ 3123  
~~and supplying a competitive retail electric service, or in the~~ 3124  
businesses of supplying a noncompetitive retail electric service 3125  
and supplying a product or service other than retail electric 3126  
service, unless the utility implements and operates under a 3127  
corporate separation plan that is approved by the public 3128  
utilities commission under this section, is consistent with the 3129  
policy specified in section 4928.02 of the Revised Code, and 3130  
achieves all of the following: 3131

(1) The plan provides, at minimum, for the provision of 3132  
~~the competitive retail electric service or the nonelectric~~ 3133  
product or service through a fully separated affiliate of the 3134  
utility, and the plan includes separate accounting requirements, 3135  
the code of conduct as ordered by the commission pursuant to a 3136  
rule it shall adopt under division (A) of section 4928.06 of the 3137  
Revised Code, and such other measures as are necessary to 3138  
effectuate the policy specified in section 4928.02 of the 3139  
Revised Code. 3140

(2) The plan satisfies the public interest in ~~preventing~~ 3141  
~~unfair competitive advantage and~~ preventing the abuse of market 3142  
power. 3143

(3) The plan is sufficient to ensure that the utility will 3144  
not extend any undue preference or advantage to any affiliate, 3145  
division, or part of its own business engaged in the business of 3146  
supplying the ~~competitive retail electric service or nonelectric~~ 3147  
product or service, including, but not limited to, utility 3148  
resources such as trucks, tools, office equipment, office space, 3149  
supplies, customer and marketing information, advertising, 3150  
billing and mailing systems, personnel, and training, without 3151  
compensation based upon fully loaded embedded costs charged to 3152  
the affiliate; and to ensure that any such affiliate, division, 3153  
or part will not receive undue preference or advantage from any 3154  
affiliate, division, or part of the business engaged in business 3155  
of supplying the noncompetitive retail electric service. No such 3156  
utility, affiliate, division, or part shall extend such undue 3157  
preference. ~~Notwithstanding any other division of this section,~~ 3158  
~~a utility's obligation under division (A)(3) of this section~~ 3159  
~~shall be effective January 1, 2000.~~ 3160

(B) The commission may approve, modify and approve, or 3161

disapprove a corporate separation plan filed with the commission 3162  
under division (A) of this section. As part of the code of 3163  
conduct required under division (A) (1) of this section, the 3164  
commission shall adopt rules pursuant to division (A) of section 3165  
4928.06 of the Revised Code regarding corporate separation and 3166  
procedures for plan filing and approval. The rules shall include 3167  
limitations on affiliate practices solely for the purpose of 3168  
maintaining a separation of the affiliate's business from the 3169  
business of the utility to prevent ~~unfair competitive advantage~~ 3170  
abuse of market power by virtue of that relationship. The rules 3171  
also shall include an opportunity for any person having a real 3172  
and substantial interest in the corporate separation plan to 3173  
file specific objections to the plan and propose specific 3174  
responses to issues raised in the objections, which objections 3175  
and responses the commission shall address in its final order. 3176  
Prior to commission approval of the plan, the commission shall 3177  
afford a hearing upon those aspects of the plan that the 3178  
commission determines reasonably require a hearing. The 3179  
commission may reject and require refiling of a substantially 3180  
inadequate plan under this section. 3181

(C) The commission shall issue an order approving or 3182  
modifying and approving a corporate separation plan under this 3183  
section, to be effective on the date specified in the order, 3184  
only upon findings that the plan reasonably complies with the 3185  
requirements of division (A) of this section and will provide 3186  
for ongoing compliance with the policy specified in section 3187  
4928.02 of the Revised Code. However, for good cause shown, the 3188  
commission may issue an order approving or modifying and 3189  
approving a corporate separation plan under this section that 3190  
does not comply with division (A) (1) of this section but 3191  
complies with such functional separation requirements as the 3192

commission authorizes to apply for an interim period prescribed 3193  
in the order, upon a finding that such alternative plan will 3194  
provide for ongoing compliance with the policy specified in 3195  
section 4928.02 of the Revised Code. 3196

(D) Any party may seek an amendment to a corporate 3197  
separation plan approved under this section, and the commission, 3198  
pursuant to a request from any party or on its own initiative, 3199  
may order as it considers necessary the filing of an amended 3200  
corporate separation plan to reflect changed circumstances. 3201

~~(E) No electric distribution utility shall sell or 3202  
transfer any generating asset it wholly or partly owns at any 3203  
time without obtaining prior commission approval. 3204~~

**Sec. 4928.20.** (A) The legislative authority of a municipal 3205  
corporation may adopt an ordinance, or the board of township 3206  
trustees of a township or the board of county commissioners of a 3207  
county may adopt a resolution, under which, ~~on or after the~~ 3208  
~~starting date of competitive retail electric service,~~ it may 3209  
aggregate in accordance with this section the retail electrical 3210  
loads located, respectively, within the municipal corporation, 3211  
township, or unincorporated area of the county and, for that 3212  
purpose, may enter into service agreements to facilitate for 3213  
those loads the sale and purchase of electricity. The 3214  
legislative authority or board also may exercise such authority 3215  
jointly with any other such legislative authority or board. For 3216  
customers that are not mercantile customers, an ordinance or 3217  
resolution under this division shall specify whether the 3218  
aggregation will occur only with the prior, affirmative consent 3219  
of each person owning, occupying, controlling, or using an 3220  
electric load center proposed to be aggregated or will occur 3221  
automatically for all such persons pursuant to the opt-out 3222

requirements of division (D) of this section. The aggregation of 3223  
mercantile customers shall occur only with the prior, 3224  
affirmative consent of each such person owning, occupying, 3225  
controlling, or using an electric load center proposed to be 3226  
aggregated. Nothing in this division, however, authorizes the 3227  
aggregation of the retail electric loads of an electric load 3228  
center, as defined in section 4933.81 of the Revised Code, that 3229  
is located in the certified territory of a nonprofit electric 3230  
supplier under sections 4933.81 to 4933.90 of the Revised Code 3231  
or an electric load center served by transmission or 3232  
distribution facilities of a municipal electric utility. 3233

(B) If an ordinance or resolution adopted under division 3234  
(A) of this section specifies that aggregation of customers that 3235  
are not mercantile customers will occur automatically as 3236  
described in that division, the ordinance or resolution shall 3237  
direct the board of elections to submit the question of the 3238  
authority to aggregate to the electors of the respective 3239  
municipal corporation, township, or unincorporated area of a 3240  
county at a special election on the day of the next primary or 3241  
general election in the municipal corporation, township, or 3242  
county. The legislative authority or board shall certify a copy 3243  
of the ordinance or resolution to the board of elections not 3244  
less than ninety days before the day of the special election. No 3245  
ordinance or resolution adopted under division (A) of this 3246  
section that provides for an election under this division shall 3247  
take effect unless approved by a majority of the electors voting 3248  
upon the ordinance or resolution at the election held pursuant 3249  
to this division. 3250

(C) Upon the applicable requisite authority under 3251  
divisions (A) and (B) of this section, the legislative authority 3252  
or board shall develop a plan of operation and governance for 3253

the aggregation program so authorized. Before adopting a plan 3254  
under this division, the legislative authority or board shall 3255  
hold at least two public hearings on the plan. Before the first 3256  
hearing, the legislative authority or board shall publish notice 3257  
of the hearings once a week for two consecutive weeks in a 3258  
newspaper of general circulation in the jurisdiction or as 3259  
provided in section 7.16 of the Revised Code. The notice shall 3260  
summarize the plan and state the date, time, and location of 3261  
each hearing. 3262

(D) No legislative authority or board, pursuant to an 3263  
ordinance or resolution under divisions (A) and (B) of this 3264  
section that provides for automatic aggregation of customers 3265  
that are not mercantile customers as described in division (A) 3266  
of this section, shall aggregate the electrical load of any 3267  
electric load center located within its jurisdiction unless it 3268  
in advance clearly discloses to the person owning, occupying, 3269  
controlling, or using the load center that the person will be 3270  
enrolled automatically in the aggregation program and will 3271  
remain so enrolled unless the person affirmatively elects by a 3272  
stated procedure not to be so enrolled. The disclosure shall 3273  
state prominently the rates, charges, and other terms and 3274  
conditions of enrollment. The stated procedure shall allow any 3275  
person enrolled in the aggregation program the opportunity to 3276  
opt out of the program every three years, without paying a 3277  
switching fee. Any such person that opts out before the 3278  
commencement of the aggregation program pursuant to the stated 3279  
procedure shall default to the standard service offer provided 3280  
under section 4928.14 or division (D) of section 4928.35 of the 3281  
Revised Code until the person chooses an alternative supplier. 3282

(E) (1) With respect to a governmental aggregation for a 3283  
municipal corporation that is authorized pursuant to divisions 3284

(A) to (D) of this section, resolutions may be proposed by 3285  
initiative or referendum petitions in accordance with sections 3286  
731.28 to 731.41 of the Revised Code. 3287

(2) With respect to a governmental aggregation for a 3288  
township or the unincorporated area of a county, which 3289  
aggregation is authorized pursuant to divisions (A) to (D) of 3290  
this section, resolutions may be proposed by initiative or 3291  
referendum petitions in accordance with sections 731.28 to 3292  
731.40 of the Revised Code, except that: 3293

(a) The petitions shall be filed, respectively, with the 3294  
township fiscal officer or the board of county commissioners, 3295  
who shall perform those duties imposed under those sections upon 3296  
the city auditor or village clerk. 3297

(b) The petitions shall contain the signatures of not less 3298  
than ten per cent of the total number of electors in, 3299  
respectively, the township or the unincorporated area of the 3300  
county who voted for the office of governor at the preceding 3301  
general election for that office in that area. 3302

(F) A governmental aggregator under division (A) of this 3303  
section is not a public utility engaging in the wholesale 3304  
purchase and resale of electricity, and provision of the 3305  
aggregated service is not a wholesale utility transaction. A 3306  
governmental aggregator shall be subject to supervision and 3307  
regulation by the public utilities commission only to the extent 3308  
of any competitive retail electric service it provides and 3309  
commission authority under this chapter. 3310

(G) This section does not apply in the case of a municipal 3311  
corporation that supplies such aggregated service to electric 3312  
load centers to which its municipal electric utility also 3313

supplies a noncompetitive retail electric service through 3314  
transmission or distribution facilities the utility singly or 3315  
jointly owns or operates. 3316

(H) A governmental aggregator shall not include in its 3317  
aggregation the accounts of any of the following: 3318

(1) A customer that has opted out of the aggregation; 3319

(2) A customer in contract with a certified electric 3320  
services company; 3321

(3) A customer that has a special contract with an 3322  
electric distribution utility; 3323

(4) A customer that is not located within the governmental 3324  
aggregator's governmental boundaries; 3325

(5) Subject to division (C) of section 4928.21 of the 3326  
Revised Code, a customer who appears on the "do not aggregate" 3327  
list maintained under that section. 3328

(I) Customers that are part of a governmental aggregation 3329  
under this section shall be responsible only for such portion of 3330  
a surcharge under section 4928.144 of the Revised Code that is 3331  
proportionate to the benefits, as determined by the commission, 3332  
that electric load centers within the jurisdiction of the 3333  
governmental aggregation as a group receive. The proportionate 3334  
surcharge so established shall apply to each customer of the 3335  
governmental aggregation while the customer is part of that 3336  
aggregation. If a customer ceases being such a customer, the 3337  
otherwise applicable surcharge shall apply. Nothing in this 3338  
section shall result in less than full recovery by an electric 3339  
distribution utility of any surcharge authorized under section 3340  
4928.144 of the Revised Code. Nothing in this section shall 3341  
result in less than the full and timely imposition, charging, 3342

collection, and adjustment by an electric distribution utility, 3343  
its assignee, or any collection agent, of the phase-in-recovery 3344  
charges authorized pursuant to a final financing order issued 3345  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3346

~~(J) On behalf of the customers that are part of a 3347  
governmental aggregation under this section and by filing 3348  
written notice with the public utilities commission, the 3349  
legislative authority that formed or is forming that 3350  
governmental aggregation may elect not to receive standby 3351  
service within the meaning of division (B) (2) (d) of section 3352  
4928.143 of the Revised Code from an electric distribution 3353  
utility in whose certified territory the governmental 3354  
aggregation is located and that operates under an approved 3355  
electric security plan under that section. Upon the filing of 3356  
that notice, the electric distribution utility shall not charge 3357  
any such customer to whom competitive retail electric generation 3358  
service is provided by another supplier under the governmental 3359  
aggregation for the standby service. Any such consumer that 3360  
returns to the utility for competitive retail electric service 3361  
shall pay the market price of power incurred by the utility to 3362  
serve that consumer plus any amount attributable to the 3363  
utility's cost of compliance with the renewable energy resource 3364  
provisions of section 4928.64 of the Revised Code to serve the 3365  
consumer. Such market price shall include, but not be limited 3366  
to, capacity and energy charges; all charges associated with the 3367  
provision of that power supply through the regional transmission 3368  
organization, including, but not limited to, transmission, 3369  
ancillary services, congestion, and settlement and 3370  
administrative charges; and all other costs incurred by the 3371  
utility that are associated with the procurement, provision, and 3372  
administration of that power supply, as such costs may be 3373~~

~~approved by the commission. The period of time during which the market price and renewable energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.~~

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

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

(A) "Ancillary agreement" means any bond insurance policy, 3404  
letter of credit, reserve account, surety bond, swap 3405  
arrangement, hedging arrangement, liquidity or credit support 3406  
arrangement, or other similar agreement or arrangement entered 3407  
into in connection with the issuance of phase-in-recovery bonds 3408  
that is designed to promote the credit quality and marketability 3409  
of the bonds or to mitigate the risk of an increase in interest 3410  
rates. 3411

(B) "Assignee" means any person or entity to which an 3412  
interest in phase-in-recovery property is sold, assigned, 3413  
transferred, or conveyed, other than as security, and any 3414  
successor to or subsequent assignee of such a person or entity. 3415

(C) "Bond" includes debentures, notes, certificates of 3416  
participation, certificates of beneficial interest, certificates 3417  
of ownership or other evidences of indebtedness or ownership 3418  
that are issued by an electric distribution utility or an 3419  
assignee under a final financing order, the proceeds of which 3420  
are used directly or indirectly to recover, finance, or 3421  
refinance phase-in costs and financing costs, and that are 3422  
secured by or payable from revenues from phase-in-recovery 3423  
charges. 3424

(D) "Bondholder" means any holder or owner of a phase-in- 3425  
recovery bond. 3426

(E) "Financing costs" means any of the following: 3427

(1) Principal, interest, and redemption premiums that are 3428  
payable on phase-in-recovery bonds; 3429

(2) Any payment required under an ancillary agreement; 3430

(3) Any amount required to fund or replenish a reserve 3431  
account or another account established under any indenture, 3432

ancillary agreement, or other financing document relating to 3433  
phase-in-recovery bonds; 3434

(4) Any costs of retiring or refunding any existing debt 3435  
and equity securities of an electric distribution utility in 3436  
connection with either the issuance of, or the use of proceeds 3437  
from, phase-in-recovery bonds; 3438

(5) Any costs incurred by an electric distribution utility 3439  
to obtain modifications of or amendments to any indenture, 3440  
financing agreement, security agreement, or similar agreement or 3441  
instrument relating to any existing secured or unsecured 3442  
obligation of the electric distribution utility in connection 3443  
with the issuance of phase-in-recovery bonds; 3444

(6) Any costs incurred by an electric distribution utility 3445  
to obtain any consent, release, waiver, or approval from any 3446  
holder of an obligation described in division (E) (5) of this 3447  
section that are necessary to be incurred for the electric 3448  
distribution utility to issue or cause the issuance of phase-in- 3449  
recovery bonds; 3450

(7) Any taxes, franchise fees, or license fees imposed on 3451  
phase-in-recovery revenues; 3452

(8) Any costs related to issuing or servicing phase-in- 3453  
recovery bonds or related to obtaining a financing order, 3454  
including servicing fees and expenses, trustee fees and 3455  
expenses, legal, accounting, or other professional fees and 3456  
expenses, administrative fees, placement fees, underwriting 3457  
fees, capitalized interest and equity, and rating-agency fees; 3458

(9) Any other similar costs that the public utilities 3459  
commission finds appropriate. 3460

(F) "Financing order" means an order issued by the public 3461

utilities commission under section 4928.232 of the Revised Code 3462  
that authorizes an electric distribution utility or an assignee 3463  
to issue phase-in-recovery bonds and recover phase-in-recovery 3464  
charges. 3465

(G) "Final financing order" means a financing order that 3466  
has become final and has taken effect as provided in section 3467  
4928.233 of the Revised Code. 3468

(H) "Financing party" means either of the following: 3469

(1) Any trustee, collateral agent, or other person acting 3470  
for the benefit of any bondholder; 3471

(2) Any party to an ancillary agreement, the rights and 3472  
obligations of which relate to or depend upon the existence of 3473  
phase-in-recovery property, the enforcement and priority of a 3474  
security interest in phase-in-recovery property, the timely 3475  
collection and payment of phase-in-recovery revenues, or a 3476  
combination of these factors. 3477

(I) "Financing statement" has the same meaning as in 3478  
section 1309.102 of the Revised Code. 3479

(J) "Phase-in costs" means costs, inclusive of carrying 3480  
charges incurred before, on, or after ~~the effective date of this~~ 3481  
~~section~~ March 22, 2012, authorized by the commission before, on, 3482  
or after ~~the effective date of this section~~ March 22, 2012, to 3483  
be securitized or deferred as regulatory assets in proceedings 3484  
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 3485  
~~4928.143, 4928.142, or 4928.144~~ of the Revised Code, ~~or~~ section 3486  
4928.14 of the Revised Code as it existed prior to July 31, 3487  
2008, or section 4928.143 of the Revised Code as it existed 3488  
prior to the effective date of the amendments to this section by 3489  
this act pursuant to a final order for which appeals have been 3490

exhausted. "Phase-in costs" excludes the following: 3491

(1) With respect to any electric generating facility that, 3492  
on and after ~~the effective date of this section~~ March 22, 2012, 3493  
is owned, in whole or in part, by an electric distribution 3494  
utility applying for a financing order under section 4928.231 of 3495  
the Revised Code, costs that are authorized under division (B) 3496  
(2) (b) or (c) of section 4928.143 of the Revised Code as that 3497  
section existed prior to the effective date of the amendments to 3498  
this section by this act; 3499

(2) Costs incurred after ~~the effective date of this~~ 3500  
~~section~~ March 22, 2012, related to the ongoing operation of an 3501  
electric generating facility, but not environmental clean-up or 3502  
remediation costs incurred by an electric distribution utility 3503  
because of its ownership or operation of an electric generating 3504  
facility prior to ~~the effective date of this section~~ March 22, 3505  
2012, which such clean-up or remediation costs are imposed or 3506  
incurred pursuant to federal or state law, rules, or regulations 3507  
and for which the commission approves or approved recovery in 3508  
accordance with section 4909.18 ~~of the Revised Code, sections~~ 3509  
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 3510  
~~or~~ ~~section~~ 4928.14 of the Revised Code as it existed prior to 3511  
July 31, 2008, or section 4928.143 of the Revised Code as it 3512  
existed prior to the effective date of the amendments to this 3513  
section by this act. 3514

(K) "Phase-in-recovery property" means the property, 3515  
rights, and interests of an electric distribution utility or an 3516  
assignee under a final financing order, including the right to 3517  
impose, charge, and collect the phase-in-recovery charges that 3518  
shall be used to pay and secure the payment of phase-in-recovery 3519  
bonds and financing costs, and including the right to obtain 3520

adjustments to those charges, and any revenues, receipts, 3521  
collections, rights to payment, payments, moneys, claims, or 3522  
other proceeds arising from the rights and interests created 3523  
under the final financing order. 3524

(L) "Phase-in-recovery revenues" means all revenues, 3525  
receipts, collections, payments, moneys, claims, or other 3526  
proceeds arising from phase-in-recovery property. 3527

(M) "Successor" means, with respect to any entity, another 3528  
entity that succeeds by operation of law to the rights and 3529  
obligations of the first legal entity pursuant to any 3530  
bankruptcy, reorganization, restructuring, or other insolvency 3531  
proceeding, any merger, acquisition, or consolidation, or any 3532  
sale or transfer of assets, regardless of whether any of these 3533  
occur as a result of a restructuring of the electric power 3534  
industry or otherwise. 3535

**Sec. 4928.231.** (A) An electric distribution utility may 3536  
apply to the public utilities commission for a financing order 3537  
that authorizes the following: 3538

(1) The issuance of phase-in-recovery bonds, in one or 3539  
more series, to recover uncollected phase-in costs; 3540

(2) The imposition, charging, and collection of phase-in- 3541  
recovery charges, in accordance with the adjustment mechanism 3542  
approved by the commission under section 4928.232 of the Revised 3543  
Code, and consistent with the commission's authority regarding 3544  
governmental aggregation as provided in division (I) of section 3545  
4928.20 of the Revised Code, to recover both of the following: 3546

(a) Uncollected phase-in costs; 3547

(b) Financing costs. 3548

(3) The creation of phase-in-recovery property under the financing order.	3549 3550
(B) The application shall include all of the following:	3551
(1) A description of the uncollected phase-in costs that the electric distribution utility seeks to recover through the issuance of phase-in-recovery bonds;	3552 3553 3554
(2) An estimate of the date each series of phase-in-recovery bonds are expected to be issued;	3555 3556
(3) The expected term during which the phase-in costs associated with the issuance of each series of phase-in-recovery bonds are expected to be recovered;	3557 3558 3559
(4) An estimate of the financing costs, as described in section 4928.23 of the Revised Code, associated with the issuance of each series of phase-in-recovery bonds;	3560 3561 3562
(5) An estimate of the amount of phase-in-recovery charges necessary to recover the phase-in costs and financing costs set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of phase-in-recovery bonds;	3563 3564 3565 3566 3567 3568
(6) For phase-in-recovery charges not subject to allocation according to an existing order, a proposed methodology for allocating phase-in-recovery charges among customer classes, including a proposed methodology for allocating such charges to governmental aggregation customers based upon the proportionate benefit determination made under division (I) of section 4928.20 of the Revised Code;	3569 3570 3571 3572 3573 3574 3575
(7) A description of a proposed adjustment mechanism for	3576

use as described in division (A) (2) of this section; 3577

(8) A description and valuation of how the issuance of the 3578  
phase-in-recovery bonds, including financing costs, will both 3579  
result in cost savings to customers and mitigate rate impacts to 3580  
customers when compared to the use of other financing mechanisms 3581  
or cost-recovery methods available to the electric distribution 3582  
utility; 3583

(9) Any other information required by the commission. 3584

(C) The electric distribution utility may restate or 3585  
incorporate by reference in the application any information 3586  
required under division (B) (9) of this section that the electric 3587  
distribution utility filed with the commission under section 3588  
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3589  
, section 4928.14 of the Revised Code as it existed prior to 3590  
July 31, 2008, or section 4928.143 of the Revised Code as it 3591  
existed prior to the amendments to this section by this act. 3592

**Sec. 4928.232.** (A) Proceedings before the public utilities 3593  
commission on an application submitted by an electric 3594  
distribution utility under section 4928.231 of the Revised Code 3595  
shall be governed by Chapter 4903. of the Revised Code, but only 3596  
to the extent that chapter is not inconsistent with this section 3597  
or section 4928.233 of the Revised Code. Any party that 3598  
participated in the proceeding in which phase-in costs were 3599  
approved under section 4909.18 or sections 4928.141 to 4928.144 3600  
of the Revised Code ~~or~~, section 4928.14 of the Revised Code as 3601  
it existed prior to July 31, 2008, or section 4928.143 of the 3602  
Revised Code as it existed prior to the amendments to this 3603  
section by this act shall have standing to participate in 3604  
proceedings under sections 4928.23 to 4928.2318 of the Revised 3605  
Code. 3606

(B) When reviewing an application for a financing order 3607  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3608  
the commission may hold such hearings, make such inquiries or 3609  
investigations, and examine such witnesses, books, papers, 3610  
documents, and contracts as the commission considers proper to 3611  
carry out these sections. Within thirty days after the filing of 3612  
an application under section 4928.231 of the Revised Code, the 3613  
commission shall publish a schedule of the proceeding. 3614

(C) (1) Not later than one hundred thirty-five days after 3615  
the date the application is filed, the commission shall issue 3616  
either a financing order, granting the application in whole or 3617  
with modifications, or an order suspending or rejecting the 3618  
application. 3619

(2) If the commission suspends an application for a 3620  
financing order, the commission shall notify the electric 3621  
distribution utility of the suspension and may direct the 3622  
electric distribution utility to provide additional information 3623  
as the commission considers necessary to evaluate the 3624  
application. Not later than ninety days after the suspension, 3625  
the commission shall issue either a financing order, granting 3626  
the application in whole or with modifications, or an order 3627  
rejecting the application. 3628

(D) (1) The commission shall not issue a financing order 3629  
under division (C) of this section unless the commission 3630  
determines that the financing order is consistent with section 3631  
4928.02 of the Revised Code. 3632

(2) Except as provided in division (D) (1) of this section, 3633  
the commission shall issue a financing order under division (C) 3634  
of this section if, at the time the financing order is issued, 3635  
the commission finds that the issuance of the phase-in-recovery 3636

bonds and the phase-in-recovery charges authorized by the order 3637  
results in, consistent with market conditions, both measurably 3638  
enhancing cost savings to customers and mitigating rate impacts 3639  
to customers as compared with traditional financing mechanisms 3640  
or traditional cost-recovery methods available to the electric 3641  
distribution utility or, if the commission previously approved a 3642  
recovery method, as compared with that recovery method. 3643

(E) The commission shall include all of the following in a 3644  
financing order issued under division (C) of this section: 3645

(1) A determination of the maximum amount and a 3646  
description of the phase-in costs that may be recovered through 3647  
phase-in-recovery bonds issued under the financing order; 3648

(2) A description of phase-in-recovery property, the 3649  
creation of which is authorized by the financing order; 3650

(3) A description of the financing costs that may be 3651  
recovered through phase-in-recovery charges and the period over 3652  
which those costs may be recovered; 3653

(4) For phase-in-recovery charges not subject to 3654  
allocation according to an existing order, a description of the 3655  
methodology and calculation for allocating phase-in-recovery 3656  
charges among customer classes, including the allocation of such 3657  
charges, if any, to governmental aggregation customers based 3658  
upon the proportionate benefit determination made under division 3659  
(I) of section 4928.20 of the Revised Code; 3660

(5) A description of the adjustment mechanism for use in 3661  
the imposition, charging, and collection of the phase-in- 3662  
recovery charges; 3663

(6) The maximum term of the phase-in-recovery bonds; 3664

(7) Any other provision the commission considers 3665  
appropriate to ensure the full and timely imposition, charging, 3666  
collection, and adjustment, pursuant to an approved adjustment 3667  
mechanism, of the phase-in-recovery charges described in 3668  
divisions (E) (3) to (5) of this section. 3669

(F) The commission may, in a financing order, afford the 3670  
electric distribution utility flexibility in establishing the 3671  
terms and conditions for the phase-in-recovery bonds to 3672  
accommodate changes in market conditions, including repayment 3673  
schedules, interest rates, financing costs, collateral 3674  
requirements, required debt service and other reserves, and the 3675  
ability of the electric distribution utility, at its option, to 3676  
effect a series of issuances of phase-in-recovery bonds and 3677  
correlated assignments, sales, pledges, or other transfers of 3678  
phase-in-recovery property. Any changes made under this section 3679  
to terms and conditions for the phase-in-recovery bonds shall be 3680  
in conformance with the financing order. 3681

(G) A financing order may provide that the creation of 3682  
phase-in-recovery property shall be simultaneous with the sale 3683  
of that property to an assignee as provided in the application 3684  
and the pledge of the property to secure phase-in-recovery 3685  
bonds. 3686

(H) The commission shall, in a financing order, require 3687  
that after the final terms of each issuance of phase-in-recovery 3688  
bonds have been established, and prior to the issuance of those 3689  
bonds, the electric distribution utility shall determine the 3690  
resulting phase-in-recovery charges in accordance with the 3691  
adjustment mechanism described in the financing order. These 3692  
phase-in-recovery charges shall be final and effective upon the 3693  
issuance of the phase-in-recovery bonds, without further 3694

commission action. 3695

**Sec. 4928.34.** (A) The public utilities commission shall 3696  
not approve or prescribe a transition plan under division (A) or 3697  
(B) of section 4928.33 of the Revised Code unless the commission 3698  
first makes all of the following determinations: 3699

(1) The unbundled components for the electric transmission 3700  
component of retail electric service, as specified in the 3701  
utility's rate unbundling plan required by division (A)(1) of 3702  
section 4928.31 of the Revised Code, equal the tariff rates 3703  
determined by the federal energy regulatory commission that are 3704  
in effect on the date of the approval of the transition plan 3705  
under sections 4928.31 to 4928.40 of the Revised Code, as each 3706  
such rate is determined applicable to each particular customer 3707  
class and rate schedule by the commission. The unbundled 3708  
transmission component shall include a sliding scale of charges 3709  
under division (B) of section 4905.31 of the Revised Code to 3710  
ensure that refunds determined or approved by the federal energy 3711  
regulatory commission are flowed through to retail electric 3712  
customers. 3713

(2) The unbundled components for retail electric 3714  
distribution service in the rate unbundling plan equal the 3715  
difference between the costs attributable to the utility's 3716  
transmission and distribution rates and charges under its 3717  
schedule of rates and charges in effect on the effective date of 3718  
this section, based upon the record in the most recent rate 3719  
proceeding of the utility for which the utility's schedule was 3720  
established, and the tariff rates for electric transmission 3721  
service determined by the federal energy regulatory commission 3722  
as described in division (A)(1) of this section. 3723

(3) All other unbundled components required by the 3724

commission in the rate unbundling plan equal the costs 3725  
attributable to the particular service as reflected in the 3726  
utility's schedule of rates and charges in effect on the 3727  
effective date of this section. 3728

(4) The unbundled components for retail electric 3729  
generation service in the rate unbundling plan equal the 3730  
residual amount remaining after the determination of the 3731  
transmission, distribution, and other unbundled components, and 3732  
after any adjustments necessary to reflect the effects of the 3733  
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3734  
No. 3 of the 123rd general assembly. 3735

(5) All unbundled components in the rate unbundling plan 3736  
have been adjusted to reflect any base rate reductions on file 3737  
with the commission and as scheduled to be in effect by December 3738  
31, 2005, under rate settlements in effect on the effective date 3739  
of this section. However, all earnings obligations, 3740  
restrictions, or caps imposed on an electric utility in a 3741  
commission order prior to the effective date of this section are 3742  
void. 3743

(6) Subject to division (A)(5) of this section, the total 3744  
of all unbundled components in the rate unbundling plan are 3745  
capped and shall equal during the market development period, 3746  
except as specifically provided in this chapter, the total of 3747  
all rates and charges in effect under the applicable bundled 3748  
schedule of the electric utility pursuant to section 4905.30 of 3749  
the Revised Code in effect on the day before the effective date 3750  
of this section, including the transition charge determined 3751  
under section 4928.40 of the Revised Code, adjusted for any 3752  
changes in the taxation of electric utilities and retail 3753  
electric service under Sub. S.B. No. 3 of the 123rd General 3754

Assembly, the universal service rider authorized by section 3755  
4928.51 of the Revised Code, and the temporary rider authorized 3756  
by section 4928.61 of the Revised Code. For the purpose of this 3757  
division, the rate cap applicable to a customer receiving 3758  
electric service pursuant to an arrangement approved by the 3759  
commission under section 4905.31 of the Revised Code is, for the 3760  
term of the arrangement, the total of all rates and charges in 3761  
effect under the arrangement. For any rate schedule filed 3762  
pursuant to section 4905.30 of the Revised Code or any 3763  
arrangement subject to approval pursuant to section 4905.31 of 3764  
the Revised Code, the initial tax-related adjustment to the rate 3765  
cap required by this division shall be equal to the rate of 3766  
taxation specified in section 5727.81 of the Revised Code and 3767  
applicable to the schedule or arrangement. To the extent such 3768  
total annual amount of the tax-related adjustment is greater 3769  
than or less than the comparable amount of the total annual tax 3770  
reduction experienced by the electric utility as a result of the 3771  
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3772  
such difference shall be addressed by the commission through 3773  
accounting procedures, refunds, or an annual surcharge or credit 3774  
to customers, or through other appropriate means, to avoid 3775  
placing the financial responsibility for the difference upon the 3776  
electric utility or its shareholders. Any adjustments in the 3777  
rate of taxation specified in section 5727.81 of the Revised 3778  
Code ~~section~~ shall not occur without a corresponding adjustment 3779  
to the rate cap for each such rate schedule or arrangement. The 3780  
department of taxation shall advise the commission and self- 3781  
assessors under section 5727.81 of the Revised Code prior to the 3782  
effective date of any change in the rate of taxation specified 3783  
under that section, and the commission shall modify the rate cap 3784  
to reflect that adjustment so that the rate cap adjustment is 3785  
effective as of the effective date of the change in the rate of 3786

taxation. This division shall be applied, to the extent 3787  
possible, to eliminate any increase in the price of electricity 3788  
for customers that otherwise may occur as a result of 3789  
establishing the taxes contemplated in section 5727.81 of the 3790  
Revised Code. 3791

(7) The rate unbundling plan complies with any rules 3792  
adopted by the commission under division (A) of section 4928.06 3793  
of the Revised Code. 3794

(8) The corporate separation plan required by division (A) 3795  
(2) of section 4928.31 of the Revised Code complies with section 3796  
4928.17 of the Revised Code and any rules adopted by the 3797  
commission under division (A) of section 4928.06 of the Revised 3798  
Code. 3799

(9) Any plan or plans the commission requires to address 3800  
operational support systems and any other technical 3801  
implementation issues pertaining to competitive retail electric 3802  
service comply with any rules adopted by the commission under 3803  
division (A) of section 4928.06 of the Revised Code. 3804

(10) The employee assistance plan required by division (A) 3805  
(4) of section 4928.31 of the Revised Code sufficiently provides 3806  
severance, retraining, early retirement, retention, 3807  
outplacement, and other assistance for the utility's employees 3808  
whose employment is affected by electric industry restructuring 3809  
under this chapter. 3810

(11) The consumer education plan required under division 3811  
(A) (5) of section 4928.31 of the Revised Code complies with 3812  
former section 4928.42 of the Revised Code and any rules adopted 3813  
by the commission under division (A) of section 4928.06 of the 3814  
Revised Code. 3815

(12) The transition revenues for which an electric utility 3816  
is authorized a revenue opportunity under sections 4928.31 to 3817  
4928.40 of the Revised Code are the allowable transition costs 3818  
of the utility as such costs are determined by the commission 3819  
pursuant to section 4928.39 of the Revised Code, and the 3820  
transition charges for the customer classes and rate schedules 3821  
of the utility are the charges determined pursuant to section 3822  
4928.40 of the Revised Code. 3823

(13) Any independent transmission plan included in the 3824  
transition plan filed under section 4928.31 of the Revised Code 3825  
reasonably complies with section 4928.12 of the Revised Code and 3826  
any rules adopted by the commission under division (A) of 3827  
section 4928.06 of the Revised Code, unless the commission, for 3828  
good cause shown, authorizes the utility to defer compliance 3829  
until an order is issued under division (G) of section 4928.35 3830  
of the Revised Code. 3831

(14) The utility is in compliance with sections 4928.01 to 3832  
4928.11 of the Revised Code and any rules or orders of the 3833  
commission adopted or issued under those sections. 3834

(15) All unbundled components in the rate unbundling plan 3835  
have been adjusted to reflect the elimination of the tax on 3836  
gross receipts imposed by section 5727.30 of the Revised Code. 3837

In addition, a transition plan approved by the commission 3838  
under section 4928.33 of the Revised Code but not containing an 3839  
approved independent transmission plan shall contain the express 3840  
conditions that the utility will comply with an order issued 3841  
under division (G) of section 4928.35 of the Revised Code. 3842

~~(B) Subject to division (E) of section 4928.17 of the~~ 3843  
~~Revised Code, if~~If the commission finds that any part of the 3844

transition plan would constitute an abandonment under sections 3845  
4905.20 and 4905.21 of the Revised Code, the commission shall 3846  
not approve that part of the transition plan unless it makes the 3847  
finding required for approval of an abandonment application 3848  
under section 4905.21 of the Revised Code. Sections 4905.20 and 3849  
4905.21 of the Revised Code otherwise shall not apply to a 3850  
transition plan under sections 4928.31 to 4928.40 of the Revised 3851  
Code. 3852

**Sec. 4928.542.** The winning bid or bids selected through 3853  
the competitive procurement process established under section 3854  
4928.54 of the Revised Code shall meet all of the following 3855  
requirements: 3856

(A) Be designed to provide reliable competitive retail 3857  
electric service to percentage of income payment plan program 3858  
customers; 3859

(B) Reduce the cost of the percentage of income payment 3860  
plan program relative to the otherwise applicable standard 3861  
service offer established under sections 4928.141, ~~and~~ 4928.142, ~~and~~ 3862  
~~and 4928.143~~ of the Revised Code; 3863

(C) Result in the best value for persons paying the 3864  
universal service rider under section 4928.52 of the Revised 3865  
Code. 3866

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 3867  
renewable energy resource" means a renewable energy resource, as 3868  
defined in section 4928.01 of the Revised Code that: 3869

(a) Has a placed-in-service date on or after January 1, 3870  
1998; 3871

(b) Is any run-of-the-river hydroelectric facility that 3872  
has an in-service date on or after January 1, 1980; 3873

(c) Is a small hydroelectric facility;	3874
(d) Is created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or	3875 3876 3877
(e) Is a mercantile customer-sited renewable energy resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A) (2) (c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:	3878 3879 3880 3881 3882 3883 3884
(i) A resource that has the effect of improving the relationship between real and reactive power;	3885 3886
(ii) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	3887 3888 3889
(iii) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	3890 3891 3892
(iv) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource.	3893 3894
(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such a qualifying renewable energy resource.	3895 3896 3897
(B) (1) By the end of 2026, an electric distribution utility shall have provided from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply	3898 3899 3900 3901

contract, a portion of the electricity supply required for its 3902  
standard service offer under ~~section~~sections 4928.141 and 3903  
4928.142 of the Revised Code, and an electric services company 3904  
shall have provided a portion of its electricity supply for 3905  
retail consumers in this state from qualifying renewable energy 3906  
resources, including, at its discretion, qualifying renewable 3907  
energy resources obtained pursuant to an electricity supply 3908  
contract. That portion shall equal eight and one-half per cent 3909  
of the total number of kilowatt hours of electricity sold by the 3910  
subject utility or company to any and all retail electric 3911  
consumers whose electric load centers are served by that utility 3912  
and are located within the utility's certified territory or, in 3913  
the case of an electric services company, are served by the 3914  
company and are located within this state. However, nothing in 3915  
this section precludes a utility or company from providing a 3916  
greater percentage. 3917

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 3918  
The portion required under division (B) (1) of this section shall 3919  
be generated from renewable energy resources in accordance with 3920  
the following benchmarks: 3921

	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 3923  
by the utility or company shall be met either: 3924

(a) Through facilities located in this state; or 3925

(b) With resources that can be shown to be deliverable 3926  
into this state. 3927

(C) (1) The commission annually shall review an electric 3928

distribution utility's or electric services company's compliance 3929  
with the most recent applicable benchmark under division (B) (2) 3930  
of this section and, in the course of that review, shall 3931  
identify any undercompliance or noncompliance of the utility or 3932  
company that it determines is weather-related, related to 3933  
equipment or resource shortages for qualifying renewable energy 3934  
resources as applicable, or is otherwise outside the utility's 3935  
or company's control. 3936

(2) Subject to the cost cap provisions of division (C) (3) 3937  
of this section, if the commission determines, after notice and 3938  
opportunity for hearing, and based upon its findings in that 3939  
review regarding avoidable undercompliance or noncompliance, but 3940  
subject to division (C) (4) of this section, that the utility or 3941  
company has failed to comply with any such benchmark, the 3942  
commission shall impose a renewable energy compliance payment on 3943  
the utility or company. 3944

(a) The compliance payment pertaining to the solar energy 3945  
resource benchmarks under division (B) (2) of this section shall 3946  
be an amount per megawatt hour of undercompliance or 3947  
noncompliance in the period under review, as follows: 3948

(i) Three hundred dollars for 2014, 2015, and 2016; 3949

(ii) Two hundred fifty dollars for 2017 and 2018; 3950

(iii) Two hundred dollars for 2019. 3951

(b) The compliance payment pertaining to the renewable 3952  
energy resource benchmarks under division (B) (2) of this section 3953  
shall equal the number of additional renewable energy credits 3954  
that the electric distribution utility or electric services 3955  
company would have needed to comply with the applicable 3956  
benchmark in the period under review times an amount that shall 3957

begin at forty-five dollars and shall be adjusted annually by 3958  
the commission to reflect any change in the consumer price index 3959  
~~as defined in section 101.27 of the Revised Code~~, but shall not 3960  
be less than forty-five dollars. As used in this division, 3961  
"consumer price index" means the consumer price index prepared 3962  
by the United States bureau of labor statistics (U.S. city 3963  
average for urban wage earners and clerical workers: all items, 3964  
1982-1984=100), or, if that index is no longer published, a 3965  
generally available comparable index. 3966

(c) The compliance payment shall not be passed through by 3967  
the electric distribution utility or electric services company 3968  
to consumers. The compliance payment shall be remitted to the 3969  
commission, for deposit to the credit of the advanced energy 3970  
fund created under section 4928.61 of the Revised Code. Payment 3971  
of the compliance payment shall be subject to such collection 3972  
and enforcement procedures as apply to the collection of a 3973  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3974  
Revised Code. 3975

(3) An electric distribution utility or an electric 3976  
services company need not comply with a benchmark under division 3977  
(B) (2) of this section to the extent that its reasonably 3978  
expected cost of that compliance exceeds its reasonably expected 3979  
cost of otherwise producing or acquiring the requisite 3980  
electricity by three per cent or more. The cost of compliance 3981  
shall be calculated as though any exemption from taxes and 3982  
assessments had not been granted under section 5727.75 of the 3983  
Revised Code. 3984

(4) (a) An electric distribution utility or electric 3985  
services company may request the commission to make a force 3986  
majeure determination pursuant to this division regarding all or 3987

part of the utility's or company's compliance with any minimum 3988  
benchmark under division (B) (2) of this section during the 3989  
period of review occurring pursuant to division (C) (2) of this 3990  
section. The commission may require the electric distribution 3991  
utility or electric services company to make solicitations for 3992  
renewable energy resource credits as part of its default service 3993  
before the utility's or company's request of force majeure under 3994  
this division can be made. 3995

(b) Within ninety days after the filing of a request by an 3996  
electric distribution utility or electric services company under 3997  
division (C) (4) (a) of this section, the commission shall 3998  
determine if qualifying renewable energy resources are 3999  
reasonably available in the marketplace in sufficient quantities 4000  
for the utility or company to comply with the subject minimum 4001  
benchmark during the review period. In making this 4002  
determination, the commission shall consider whether the 4003  
electric distribution utility or electric services company has 4004  
made a good faith effort to acquire sufficient qualifying 4005  
renewable energy or, as applicable, solar energy resources to so 4006  
comply, including, but not limited to, by banking or seeking 4007  
renewable energy resource credits or by seeking the resources 4008  
through long-term contracts. Additionally, the commission shall 4009  
consider the availability of qualifying renewable energy or 4010  
solar energy resources in this state and other jurisdictions in 4011  
the PJM interconnection regional transmission organization, 4012  
L.L.C., or its successor and the midcontinent independent system 4013  
operator or its successor. 4014

(c) If, pursuant to division (C) (4) (b) of this section, 4015  
the commission determines that qualifying renewable energy or 4016  
solar energy resources are not reasonably available to permit 4017  
the electric distribution utility or electric services company 4018

to comply, during the period of review, with the subject minimum 4019  
benchmark prescribed under division (B) (2) of this section, the 4020  
commission shall modify that compliance obligation of the 4021  
utility or company as it determines appropriate to accommodate 4022  
the finding. Commission modification shall not automatically 4023  
reduce the obligation for the electric distribution utility's or 4024  
electric services company's compliance in subsequent years. If 4025  
it modifies the electric distribution utility or electric 4026  
services company obligation under division (C) (4) (c) of this 4027  
section, the commission may require the utility or company, if 4028  
sufficient renewable energy resource credits exist in the 4029  
marketplace, to acquire additional renewable energy resource 4030  
credits in subsequent years equivalent to the utility's or 4031  
company's modified obligation under division (C) (4) (c) of this 4032  
section. 4033

(5) The commission shall establish a process to provide 4034  
for at least an annual review of the renewable energy resource 4035  
market in this state and in the service territories of the 4036  
regional transmission organizations that manage transmission 4037  
systems located in this state. The commission shall use the 4038  
results of this study to identify any needed changes to the 4039  
amount of the renewable energy compliance payment specified 4040  
under divisions (C) (2) (a) and (b) of this section. Specifically, 4041  
the commission may increase the amount to ensure that payment of 4042  
compliance payments is not used to achieve compliance with this 4043  
section in lieu of actually acquiring or realizing energy 4044  
derived from qualifying renewable energy resources. However, if 4045  
the commission finds that the amount of the compliance payment 4046  
should be otherwise changed, the commission shall present this 4047  
finding to the general assembly for legislative enactment. 4048

(D) The commission annually shall submit to the general 4049

assembly in accordance with section 101.68 of the Revised Code a 4050  
report describing all of the following: 4051

(1) The compliance of electric distribution utilities and 4052  
electric services companies with division (B) of this section; 4053

(2) The average annual cost of renewable energy credits 4054  
purchased by utilities and companies for the year covered in the 4055  
report; 4056

(3) Any strategy for utility and company compliance or for 4057  
encouraging the use of qualifying renewable energy resources in 4058  
supplying this state's electricity needs in a manner that 4059  
considers available technology, costs, job creation, and 4060  
economic impacts. 4061

The commission shall begin providing the information 4062  
described in division (D) (2) of this section in each report 4063  
submitted after September 10, 2012. The commission shall allow 4064  
and consider public comments on the report prior to its 4065  
submission to the general assembly. Nothing in the report shall 4066  
be binding on any person, including any utility or company for 4067  
the purpose of its compliance with any benchmark under division 4068  
(B) of this section, or the enforcement of that provision under 4069  
division (C) of this section. 4070

(E) All costs incurred by an electric distribution utility 4071  
in complying with the requirements of this section shall be 4072  
bypassable by any consumer that has exercised choice of supplier 4073  
under section 4928.03 of the Revised Code. 4074

**Sec. 4928.645.** (A) An electric distribution utility or 4075  
electric services company may use, for the purpose of complying 4076  
with the requirements under divisions (B) (1) and (2) of section 4077  
4928.64 of the Revised Code, renewable energy credits any time 4078

in the five calendar years following the date of their purchase 4079  
or acquisition from any entity, including, but not limited to, 4080  
the following: 4081

(1) A mercantile customer; 4082

(2) An owner or operator of a hydroelectric generating 4083  
facility that is located at a dam on a river, or on any water 4084  
discharged to a river, that is within or bordering this state or 4085  
within or bordering an adjoining state, or that produces power 4086  
that can be shown to be deliverable into this state; 4087

(3) A seller of compressed natural gas that has been 4088  
produced from biologically derived methane gas, provided that 4089  
the seller may only provide renewable energy credits for metered 4090  
amounts of gas. 4091

(B) (1) The public utilities commission shall adopt rules 4092  
specifying that one unit of credit shall equal one megawatt hour 4093  
of electricity derived from renewable energy resources, except 4094  
that, for a generating facility of seventy-five megawatts or 4095  
greater that is situated within this state and has committed by 4096  
December 31, 2009, to modify or retrofit its generating unit or 4097  
units to enable the facility to generate principally from 4098  
biomass energy by June 30, 2013, each megawatt hour of 4099  
electricity generated principally from that biomass energy shall 4100  
equal, in units of credit, the product obtained by multiplying 4101  
the actual percentage of biomass feedstock heat input used to 4102  
generate such megawatt hour by the quotient obtained by dividing 4103  
the then existing unit dollar amount used to determine a 4104  
renewable energy compliance payment as provided under division 4105  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 4106  
existing market value of one renewable energy credit, but such 4107  
megawatt hour shall not equal less than one unit of credit. 4108

Renewable energy resources do not have to be converted to 4109  
electricity in order to be eligible to receive renewable energy 4110  
credits. The rules shall specify that, for purposes of 4111  
converting the quantity of energy derived from biologically 4112  
derived methane gas to an electricity equivalent, one megawatt 4113  
hour equals 3,412,142 British thermal units. 4114

(2) The rules also shall provide for this state a system 4115  
of registering renewable energy credits by specifying which of 4116  
any generally available registries shall be used for that 4117  
purpose and not by creating a registry. That selected system of 4118  
registering renewable energy credits shall allow a hydroelectric 4119  
generating facility to be eligible for obtaining renewable 4120  
energy credits and shall allow customer-sited projects or 4121  
actions the broadest opportunities to be eligible for obtaining 4122  
renewable energy credits. 4123

~~(C) Beginning January 1, 2020, a qualifying solar resource 4124  
as defined in section 3706.40 of the Revised Code is not 4125  
eligible to obtain a renewable energy credit under this section 4126  
for any megawatt hour for which the resource has been issued a 4127  
solar energy credit under section 3706.45 of the Revised Code. 4128~~

~~(D) Except for compressed natural gas that has been 4129  
produced from biologically derived methane gas, energy generated 4130  
by using natural gas as a resource is not eligible to obtain a 4131  
renewable energy credit under this section. 4132~~

**Sec. 4928.73.** (A) As used in this section: 4133

(1) "Mercantile customer member" means a mercantile 4134  
customer connected to a mercantile customer self-power system. 4135

(2) "Mercantile customer self-power system" means one or 4136  
more electric generation facilities, electric storage 4137

facilities, or both, along with any associated facilities, that 4138  
meet all of the following: 4139

(a) Produce electricity primarily for the consumption of a 4140  
mercantile customer member or a group of mercantile customer 4141  
members; 4142

(b) Connect directly to the mercantile customer member's 4143  
side of the electric meter; 4144

(c) Deliver electricity to the mercantile customer 4145  
member's side of the electric meter without the use of an 4146  
electric distribution utility's or an electric cooperative's 4147  
distribution system or transmission system; 4148

(d) Is located on either of the following: 4149

(i) A property owned or controlled by a mercantile 4150  
customer member or the entity that owns or operates the 4151  
mercantile customer self-power system, provided that the 4152  
property is not located more than one mile from the customer or 4153  
group of customers that consume the electricity produced by the 4154  
facilities; 4155

(ii) Land adjacent to a mercantile customer member if the 4156  
facilities connect directly with the customer. 4157

(B) The mercantile customer self-power system may be owned 4158  
or operated by a mercantile customer member, group of mercantile 4159  
customer members, or an entity that is not a mercantile customer 4160  
member. 4161

(C) A mercantile customer self-power system may provide 4162  
electric generation service to one or more mercantile customers. 4163

(D) The public utilities commission shall adopt rules to 4164  
implement this section that are applicable to electric 4165

distribution utilities. 4166

(E) Nothing in this section prohibits an electric 4167  
distribution utility or an electric cooperative from charging a 4168  
mercantile customer for distribution or transmission service 4169  
used by a mercantile customer. 4170

**Sec. 4929.20.** ~~(A)~~ (A) (1) No governmental aggregator as 4171  
defined in division (K) (1) of section 4929.01 of the Revised 4172  
Code or no retail natural gas supplier shall provide a 4173  
competitive retail natural gas service on or after thirteen 4174  
months following ~~the effective date of this section~~ June 26, 4175  
2001, to a consumer in this state without first being certified 4176  
by the public utilities commission regarding its managerial, 4177  
technical, and financial capability to provide that service and 4178  
providing reasonable financial assurances sufficient to protect 4179  
customers and natural gas companies from default. ~~In addition, a~~ 4180  
~~retail natural gas supplier may be required to provide a~~ 4181  
~~performance bond sufficient to protect customers and natural gas~~ 4182  
~~companies from default.~~ Certification shall be granted pursuant 4183  
to procedures and standards the commission shall prescribe in 4184  
accordance with rules adopted under section 4929.10 of the 4185  
Revised Code. However, certification or certification renewal 4186  
shall be deemed approved thirty days after the filing of an 4187  
application with the commission unless the commission suspends 4188  
that approval for good cause shown. In the case of such a 4189  
suspension, the commission shall act to approve or deny 4190  
certification or certification renewal to the applicant not 4191  
later than ninety days after the date of the suspension. 4192

(2) The commission shall establish rules to require a 4193  
competitive retail natural gas supplier to maintain financial 4194  
assurances sufficient to protect customers and natural gas 4195

companies from default. Such rules also shall specifically allow 4196  
a natural gas company to set reasonable standards for its 4197  
security and the security of its customers through financial 4198  
requirements set in its tariffs. 4199

(3) As used in division (A) (2) of this section, "retail 4200  
natural gas supplier" has the same meaning as in section 4929.01 4201  
of the Revised Code, but excludes a broker or aggregator. 4202

(B) Capability standards adopted in rules pursuant to 4203  
division (A) of this section shall be sufficient to ensure 4204  
compliance with section 4929.22 of the Revised Code and with the 4205  
minimum service requirements established under section 4929.23 4206  
of the Revised Code. The standards shall allow flexibility for 4207  
voluntary aggregation, to encourage market creativity in 4208  
responding to consumer needs and demands. The rules shall 4209  
include procedures for biennially renewing certification. 4210

(C) (1) The commission may suspend, rescind, or 4211  
conditionally rescind the certification of any retail natural 4212  
gas supplier or governmental aggregator issued under this 4213  
section if the commission determines, after reasonable notice 4214  
and opportunity for hearing, that the retail natural gas 4215  
supplier or governmental aggregator has failed to comply with 4216  
any applicable certification standards prescribed in rules 4217  
adopted pursuant to this section or section 4929.22 of the 4218  
Revised Code. 4219

(2) An affected natural gas company may file an 4220  
application with the commission for approval of authority to 4221  
recover in accordance with division (C) (2) of this section 4222  
incremental costs reasonably and prudently incurred by the 4223  
company in connection with the commission's continuation, 4224  
suspension, rescission, or conditional rescission of a 4225

particular retail natural gas supplier's certification under 4226  
division (C) (1) of this section. Upon the filing of such an 4227  
application, the commission shall conduct an audit of such 4228  
incremental costs as are specified in the application. Cost 4229  
recovery shall be through a rider on the base rates of customers 4230  
of the company for which there is a choice of supplier of 4231  
commodity sales service as a result of revised schedules 4232  
approved under division (C) of section 4929.29 of the Revised 4233  
Code, a rule or order adopted or issued by the commission under 4234  
Chapter 4905. of the Revised Code, or an exemption granted by 4235  
the commission under sections 4929.04 to 4929.08 of the Revised 4236  
Code. The rider shall take effect ninety days after the date of 4237  
the application's filing unless the commission, based on the 4238  
audit results and for good cause shown, sets the matter for 4239  
hearing. After the hearing, the commission shall approve the 4240  
application, and authorize such cost recovery rider effective on 4241  
the date specified in the order, only for such incremental costs 4242  
as the commission determines were reasonably and prudently 4243  
incurred by the company in connection with the continuation, 4244  
suspension, rescission, or conditional rescission of a retail 4245  
natural gas supplier's certification under division (C) (1) of 4246  
this section. Any proceeding under division (C) (2) of this 4247  
section shall be governed by Chapter 4903. of the Revised Code. 4248

(D) No natural gas company, on and after thirteen months 4249  
following ~~the effective date of this section~~ June 26, 2001, 4250  
shall knowingly distribute natural gas, to a retail consumer in 4251  
this state, for any governmental aggregator, as defined in 4252  
division (K) (1) of section 4929.01 of the Revised Code, or 4253  
retail natural gas supplier, that has not been certified by the 4254  
commission pursuant to this section. 4255

(E) Notwithstanding any provision of section 121.95 of the 4256

Revised Code to the contrary, a regulatory restriction contained 4257  
in a rule adopted under section 4929.20 of the Revised Code is 4258  
not subject to sections 121.95 to 121.953 of the Revised Code. 4259

**Sec. 4929.221.** (A) If a competitive retail natural gas 4260  
service supplier offers a residential customer or non-mercantile 4261  
commercial customer a contract for a fixed introductory rate 4262  
that converts to a variable rate upon the expiration of the 4263  
fixed rate, the supplier shall send two notices to each 4264  
residential customer and non-mercantile commercial customer that 4265  
enters into such a contract. Each notice shall provide all of 4266  
the following information to the customer: 4267

(1) The fixed rate that is expiring under the contract; 4268

(2) The expiration date of the contract's fixed rate; 4269

(3) The rate to be charged upon the contract's conversion 4270  
to a variable rate; 4271

(4) The public utilities commission web site that, as a 4272  
comparison tool, lists rates offered by competitive retail 4273  
natural gas service suppliers; 4274

(5) A statement explaining that appearing on each 4275  
customer's bill is a price-to-compare notice that lists the 4276  
natural gas company's default rate for natural gas charged to 4277  
customers who decide not to shop for a competitive supplier. 4278

(B) The notices shall be sent by standard United States 4279  
mail as follows: 4280

(1) The supplier shall send the first notice not earlier 4281  
than ninety days and not later than sixty days prior to the 4282  
expiration of the fixed rate. 4283

(2) The supplier shall send the second notice not earlier 4284

than forty-five days and not later than thirty days prior to the 4285  
expiration of the fixed rate. 4286

(C) A competitive retail natural gas service supplier 4287  
shall provide an annual notice, by standard United States mail, 4288  
to each residential customer and non-mercantile commercial 4289  
customer that has entered into a contract with the supplier that 4290  
has converted to a variable rate upon the expiration of the 4291  
contract's fixed introductory rate. The notice shall inform the 4292  
customer that the customer is currently subject to a variable 4293  
rate and that other fixed rate contracts are available. 4294

(D) Not later than one hundred fifty days after the 4295  
effective date of this section, the commission shall adopt rules 4296  
in order to implement divisions (A) to (C) of this section. The 4297  
rules, at a minimum, shall include the following requirements 4298  
regarding the notices required under divisions (A) to (C) of 4299  
this section: 4300

(1) To use clear and unambiguous language in order to 4301  
enable the customer to make an informed decision; 4302

(2) To design the notices in a way to ensure that they 4303  
cannot be confused with marketing materials. 4304

(E) Notwithstanding any provision of section 121.95 of the 4305  
Revised Code to the contrary, a regulatory restriction contained 4306  
in a rule adopted under section 4929.221 of the Revised Code is 4307  
not subject to sections 121.95 to 121.953 of the Revised Code. 4308

**Sec. 4929.222.** (A) As used in this section, "customer 4309  
account information" means a unique natural gas company number 4310  
or other customer identification number used by the company to 4311  
identify a customer and the customer's account record. 4312

(B) The public utilities commission shall adopt rules to 4313

ensure that a natural gas company processes a customer's change 4314  
in competitive retail natural gas supplier by using customer 4315  
account information. A customer who consents to a change of 4316  
supplier shall not be required to provide customer account 4317  
information to the supplier if the customer provides a valid 4318  
form of government-issued identification issued to the customer 4319  
or a sufficient alternative form of identification that allows 4320  
the supplier to establish the customer's identity accurately. 4321

(C) Notwithstanding any provision of section 121.95 of the 4322  
Revised Code to the contrary, a regulatory restriction contained 4323  
in a rule adopted under this section is not subject to sections 4324  
121.95 to 121.953 of the Revised Code. 4325

**Sec. 4933.81.** As used in sections 4933.81 to 4933.90 of 4326  
the Revised Code: 4327

(A) "Electric supplier" means any electric light company 4328  
as defined in section 4905.03 of the Revised Code, including 4329  
electric light companies organized as nonprofit corporations, 4330  
but not including municipal corporations or other units of local 4331  
government that provide electric service. 4332

(B) "Adequate facilities" means distribution lines or 4333  
facilities having sufficient capacity to meet the maximum 4334  
estimated electric service requirements of its existing 4335  
customers and of any new customer occurring during the year 4336  
following the commencement of permanent electric service, and to 4337  
assure all such customers of reasonable continuity and quality 4338  
of service. Distribution facilities and lines of an electric 4339  
supplier shall be considered "adequate facilities" if such 4340  
supplier offers to undertake to make its distribution facilities 4341  
and lines meet such service requirements and, in the 4342  
determination of the public utilities commission, can do so 4343

within a reasonable time. 4344

(C) "Distribution line" means any electric line that is 4345  
being or has been used primarily to provide electric service 4346  
directly to electric load centers by the owner of such line. 4347

(D) "Existing distribution line" means any distribution 4348  
line of an electric supplier which was in existence on January 4349  
1, 1977, or under construction on that date. 4350

(E) "Electric load center" means all the electric- 4351  
consuming facilities of any type or character owned, occupied, 4352  
controlled, or used by a person at a single location, which 4353  
facilities have been, are, or will be connected to and served at 4354  
a metered point of delivery and to which electric service has 4355  
been, is, or will be rendered. 4356

(F) "Electric service" means retail electric service 4357  
furnished to an electric load center for ultimate consumption, 4358  
but excludes furnishing electric power or energy at wholesale 4359  
for resale. In the case of a for-profit electric supplier and 4360  
beginning on the starting date of competitive retail electric 4361  
service as defined in section 4928.01 of the Revised Code, 4362  
"electric service" also excludes a competitive retail electric 4363  
service.—, and, starting after the effective date of amendments 4364  
to this section by this act, excludes: 4365

(1) Retail electric service provided to a mercantile 4366  
customer member by its own mercantile customer self-power system 4367  
as those terms are defined in section 4928.73 of the Revised 4368  
Code; 4369

(2) Retail electric service provided to an electric load 4370  
center to the extent the center is acting as a self-generator as 4371  
defined in section 4928.01 of the Revised Code. 4372

In the case of a not-for-profit electric supplier and 4373  
beginning on that competitive retail electric service starting 4374  
date, "electric service" also excludes any service component of 4375  
competitive retail electric service that is specified in an 4376  
irrevocable filing the electric supplier makes with the public 4377  
utilities commission for informational purposes only to 4378  
eliminate permanently its certified territory under sections 4379  
4933.81 to 4933.90 of the Revised Code as to that service 4380  
component and further excludes any new electric load centers 4381  
going into service after the effective date of amendments to 4382  
this section by this act that use retail electric service 4383  
described in division (F) (1) or (2) of this section. The filing 4384  
shall specify the date on which such territory is so eliminated. 4385  
Notwithstanding division (B) of section 4928.01 of the Revised 4386  
Code, such a service component may include retail ancillary, 4387  
metering, or billing and collection service irrespective of 4388  
whether that service component has or has not been declared 4389  
competitive under section 4928.04 of the Revised Code. Upon 4390  
receipt of the filing by the commission, the not-for-profit 4391  
electric supplier's certified territory shall be eliminated 4392  
permanently as to the service component specified in the filing 4393  
as of the date specified in the filing. As used in this 4394  
division, "competitive retail electric service" and "retail 4395  
electric service" have the same meanings as in section 4928.01 4396  
of the Revised Code. 4397

(G) "Certified territory" means a geographical area the 4398  
boundaries of which have been established pursuant to sections 4399  
4933.81 to 4933.90 of the Revised Code within which an electric 4400  
supplier is authorized and required to provide electric service. 4401

(H) "Other unit of local government" means any 4402  
governmental unit or body that may come into existence after 4403

July 12, 1978, with powers and authority similar to those of a 4404  
municipal corporation, or that is created to replace or exercise 4405  
the relevant powers of any one or more municipal corporations. 4406

**Sec. 5711.01.** As used in this chapter: 4407

(A) (1) "Taxable property" includes all the kinds of 4408  
property mentioned in division (B) of section 5709.01 and 4409  
section 5709.02 of the Revised Code, and also the amount or 4410  
value as of the date of conversion of all taxable property 4411  
converted into bonds or other securities not taxed on or after 4412  
the first day of November in the year preceding the date of 4413  
listing, and of all other taxable property converted into 4414  
deposits after the date as of which deposits are required to be 4415  
listed in such year, except in the usual course of the 4416  
taxpayer's business, to the extent the taxpayer may hold or 4417  
control such bonds, securities, or deposits on such day, without 4418  
deduction for indebtedness created in the purchase of such bonds 4419  
or securities from the taxpayer's credits. "Taxable property" 4420  
does not include such investments and deposits as are taxable at 4421  
the source as provided in sections 5725.01 to 5725.26 of the 4422  
Revised Code, surrender values under policies of insurance, or 4423  
any tangible personal property acquired from a public utility or 4424  
interexchange telecommunications company as defined in section 4425  
5727.01 of the Revised Code and leased back to the public 4426  
utility or interexchange telecommunications company pursuant to 4427  
a sale and leaseback transaction as defined in division (I) of 4428  
section 5727.01 of the Revised Code. For tax year 2007 and 4429  
thereafter, "taxable property" of a telephone, telegraph, or 4430  
interexchange telecommunications company, as defined in section 4431  
5727.01 of the Revised Code, includes property subject to such a 4432  
sale and leaseback transaction. 4433

(2) For tax year 2007 and thereafter, taxable property 4434  
leased to a telephone, telegraph, or interexchange 4435  
telecommunications company, as defined in section 5727.01 of the 4436  
Revised Code, other than pursuant to a sale and leaseback 4437  
transaction, shall be listed and assessed by the owner of the 4438  
property as follows: 4439

(a) If the property leased to such a company is not 4440  
governed by division (C) of section 5711.22 of the Revised Code 4441  
in tax years 2007 and 2008, it shall be listed and assessed at 4442  
the percentage of true value in money required under division 4443  
(G) of section 5711.22 of the Revised Code. 4444

(b) All property leased to such a company in tax years 4445  
2009 and 2010 shall be listed and assessed at the percentage of 4446  
true value in money required under division (H) of section 4447  
5711.22 of the Revised Code. 4448

(3) For tax years 2009 and 2010, the lessor of property 4449  
subject to division (A) (2) of this section shall have the true 4450  
value of the property the lessor leases to a telephone, 4451  
telegraph, or interexchange telecommunications company 4452  
determined under divisions ~~(A) (5)~~ (A) (6) and (E) of section 4453  
5727.06 of the Revised Code. 4454

(B) "Taxpayer" means any owner of taxable property, 4455  
including property exempt under division (C) of section 5709.01 4456  
of the Revised Code, and includes every person residing in, or 4457  
incorporated or organized by or under the laws of this state, or 4458  
doing business in this state, or owning or having a beneficial 4459  
interest in taxable personal property in this state and every 4460  
fiduciary required by sections 5711.01 to 5711.36 of the Revised 4461  
Code, to make a return for or on behalf of another. For tax year 4462  
2007 and thereafter, "taxpayer" includes telephone companies, 4463

telegraph companies, and interexchange telecommunications 4464  
company as defined in section 5727.01 of the Revised Code. The 4465  
tax commissioner may by rule define and designate the taxpayer, 4466  
as to any taxable property which would not otherwise be required 4467  
by this section to be returned; and any such rule shall be 4468  
considered supplementary to the enumeration of kinds of 4469  
taxpayers following: 4470

(1) Individuals of full age and sound mind residing in 4471  
this state; 4472

(2) Partnerships, corporations, associations, and joint- 4473  
stock companies, under whatever laws organized or existing, 4474  
doing business or having taxable property in this state; and 4475  
corporations incorporated by or organized under the laws of this 4476  
state, wherever their actual business is conducted; 4477

(3) Fiduciaries appointed by any court in this state or 4478  
having title, possession, or custody of taxable personal 4479  
property in this state or engaged in business in this state; 4480

(4) Unincorporated mutual funds. 4481

"Taxpayer" excludes all individuals, partnerships, 4482  
corporations, associations, and joint-stock companies, their 4483  
executors, administrators, and receivers who are defined in 4484  
Title LVII of the Revised Code as financial institutions, 4485  
dealers in intangibles, domestic insurance companies, or public 4486  
utilities, except to the extent they may be required by sections 4487  
5711.01 to 5711.36 of the Revised Code, to make returns as 4488  
fiduciaries, or by section 5725.26 of the Revised Code, to make 4489  
returns of property leased, or held for the purpose of leasing, 4490  
to others if the owner or lessor of the property acquired it for 4491  
the sole purpose of leasing it to others or to the extent that 4492

property is taxable under section 5725.25 of the Revised Code.	4493
(C) "Return" means the taxpayer's annual report of taxable property.	4494 4495
(D) "List" means the designation, in a return, of the description of taxable property, the valuation or amount thereof, the name of the owner, and the taxing district where assessable.	4496 4497 4498 4499
(E) "Taxing district" means, in the case of property assessable on the classified tax list and duplicate, a municipal corporation or the territory in a county outside the limits of all municipal corporations therein; in the case of property assessable on the general tax list and duplicate, a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform.	4500 4501 4502 4503 4504 4505 4506
(F) "Assessor" includes the tax commissioner and the county auditor as deputy of the commissioner.	4507 4508
(G) "Fiduciary" includes executors, administrators, parents, guardians, receivers, assignees, official custodians, factors, bailees, lessees, agents, attorneys, and employees, but does not include trustees unless the sense so requires.	4509 4510 4511 4512
(H) "General tax list and duplicate" means the books or records containing the assessments of property subject to local tax levies.	4513 4514 4515
(I) "Classified tax list and duplicate" means the books or records containing the assessments of property not subject to local tax levies.	4516 4517 4518
(J) "Investment company" means any corporation, the shares of which are regularly offered for sale to the public, engaged	4519 4520

solely in the business of investing and reinvesting funds in 4521  
real property or investments, or holding or selling real 4522  
property or investments for the purpose of realizing income or 4523  
profit which is distributed to its shareholders. Investment 4524  
company does not include any dealer in intangibles, as defined 4525  
in section 5725.01 of the Revised Code. 4526

(K) "Unincorporated mutual fund" means any partnership, 4527  
each partner of which is a corporation, engaged solely in the 4528  
business of investing and reinvesting funds in investments, or 4529  
holding or selling investments for the purpose of realizing 4530  
income or profit which is distributed to its partners and which 4531  
is subject to Chapter 1707. of the Revised Code. An 4532  
unincorporated mutual fund does not include any dealer in 4533  
intangibles as defined in section 5725.01 of the Revised Code. 4534

**Sec. 5727.01.** As used in this chapter: 4535

(A) "Public utility" means each person referred to as a 4536  
telephone company, telegraph company, electric company, natural 4537  
gas company, pipe-line company, water-works company, water 4538  
transportation company, heating company, rural electric company, 4539  
railroad company, combined company, or energy company. 4540

(B) "Gross receipts" means the entire receipts for 4541  
business done by any person from operations as a public utility, 4542  
or incidental thereto, or in connection therewith, including any 4543  
receipts received under Chapter 4928. of the Revised Code. The 4544  
gross receipts for business done by an incorporated company 4545  
engaged in operation as a public utility includes the entire 4546  
receipts for business done by such company under the exercise of 4547  
its corporate powers, whether from the operation as a public 4548  
utility or from any other business. 4549

(C) "Rural electric company" means any nonprofit 4550  
corporation, organization, association, or cooperative engaged 4551  
in the business of supplying electricity to its members or 4552  
persons owning an interest therein in an area the major portion 4553  
of which is rural. "Rural electric company" excludes an energy 4554  
company. 4555

(D) Any person: 4556

(1) Is a telegraph company when engaged in the business of 4557  
transmitting telegraphic messages to, from, through, or in this 4558  
state; 4559

(2) Is a telephone company when primarily engaged in the 4560  
business of providing local exchange telephone service, 4561  
excluding cellular radio service, in this state; 4562

(3) Is an electric company when engaged in the business of 4563  
generating, transmitting, or distributing electricity within 4564  
this state for use by others, but excludes a rural electric 4565  
company or an energy company; 4566

(4) Is a natural gas company when engaged in the business 4567  
of supplying or distributing natural gas for lighting, power, or 4568  
heating purposes to consumers within this state, excluding a 4569  
person that is a governmental aggregator or retail natural gas 4570  
supplier as defined in section 4929.01 of the Revised Code; 4571

(5) Is a pipe-line company when engaged in the business of 4572  
transporting natural gas, oil, or coal or its derivatives 4573  
through pipes or tubing, either wholly or partially within this 4574  
state; 4575

(6) Is a water-works company when engaged in the business 4576  
of supplying water through pipes or tubing, or in a similar 4577  
manner, to consumers within this state; 4578

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

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

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

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

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

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

(1) An item of tangible personal property that for the 4608  
period subsequent to the effective date of an air, water, or 4609  
noise pollution control certificate and continuing so long as 4610  
the certificate is in force, has been certified as part of the 4611  
pollution control facility with respect to which the certificate 4612  
has been issued; 4613

(2) An item of tangible personal property that during the 4614  
construction of a plant or facility and until the item is first 4615  
capable of operation, whether actually used in operation or not, 4616  
is incorporated in or being held exclusively for incorporation 4617  
in that plant or facility. 4618

Notwithstanding section 5701.03 of the Revised Code, for 4619  
tax year 2006 and thereafter, "taxable property" includes 4620  
patterns, jigs, dies, and drawings of an electric company or a 4621  
combined company for use in the activity of an electric company. 4622

(F) "Taxing district" means a municipal corporation or 4623  
township, or part thereof, in which the aggregate rate of 4624  
taxation is uniform. 4625

(G) "Telecommunications service" has the same meaning as 4626  
in division (AA) of section 5739.01 of the Revised Code. 4627

(H) "Interexchange telecommunications company" means a 4628  
person that is engaged in the business of transmitting 4629  
telephonic messages to, from, through, or in this state, but 4630  
that is not a telephone company. 4631

(I) "Sale and leaseback transaction" means a transaction 4632  
in which a public utility or interexchange telecommunications 4633  
company sells any tangible personal property to a person other 4634  
than a public utility or interexchange telecommunications 4635  
company and leases that property back from the buyer. 4636

(J) "Production equipment" means all taxable steam, 4637  
nuclear, hydraulic, renewable resource, clean coal technology, 4638  
and other production plant equipment used to generate or store 4639  
and release electricity. For tax years prior to 2001, 4640  
"production equipment" includes taxable station equipment that 4641  
is located at a production plant. 4642

(K) "Tax year" means the year for which property or gross 4643  
receipts are subject to assessment under this chapter. This 4644  
division does not limit the tax commissioner's ability to assess 4645  
and value property or gross receipts outside the tax year. 4646

(L) "Combined company" means any person engaged in the 4647  
activity of an electric company or rural electric company that 4648  
is also engaged in the activity of a heating company or a 4649  
natural gas company, or any combination thereof. 4650

(M) "Public utility property lessor" means any person, 4651  
other than a public utility or an interexchange 4652  
telecommunications company, that leases personal property, other 4653  
than in a sale and leaseback transaction, to a public utility, 4654  
other than a railroad, water transportation, telephone, or 4655  
telegraph company if the property would be taxable property if 4656  
owned by the public utility. A public utility property lessor is 4657  
subject to this chapter only for the purposes of reporting and 4658  
paying tax on taxable property it leases to a public utility 4659  
other than a telephone or telegraph company. A public utility 4660  
property lessor that leases property to a public utility other 4661  
than a telephone or telegraph company is not a public utility, 4662  
but it shall report its property and be assessed in the same 4663  
manner as the utility to which it leases the property. 4664

(N) "Energy resource" means any of the following: 4665

- (1) "Renewable energy resource" as defined in section 4666  
4928.01 of the Revised Code; 4667
- (2) "Clean coal technology" as described in division (A) 4668  
(34) (c) of section 4928.01 of the Revised Code; 4669
- (3) "Advanced nuclear technology" as described in division 4670  
(A) (34) (d) of section 4928.01 of the Revised Code; 4671
- (4) "Cogeneration technology" as described in division (A) 4672  
(34) (b) of section 4928.01 of the Revised Code; 4673
- (5) Energy storage system. 4674
- (O) "Energy conversion equipment" means tangible personal 4675  
property connected to a wind turbine tower, connected to and 4676  
behind solar radiation collector areas and designed to convert 4677  
the radiant energy of the sun into electricity or heat, or 4678  
connected to any other property used to generate or store and 4679  
release electricity from an energy resource, through which 4680  
electricity is transferred to controls, transformers, or power 4681  
electronics and to the transmission interconnection point. 4682
- "Energy conversion equipment" includes, but is not limited 4683  
to, inverters, batteries, switch gears, wiring, collection 4684  
lines, substations, ancillary tangible personal property, or any 4685  
lines and associated tangible personal property located between 4686  
substations and the transmission interconnection point. 4687
- (P) "Energy facility" means one or more interconnected 4688  
wind turbines, solar panels, energy storage systems, or other 4689  
tangible personal property used to generate or store and release 4690  
electricity from an energy resource owned by the same person, 4691  
including: 4692
- (1) All interconnection equipment, devices, and related 4693

apparatus connected to such tangible personal property; 4694

(2) All cables, equipment, devices, and related apparatus 4695  
that connect the generators to an electricity grid or to a 4696  
building or facility that directly consumes the electricity 4697  
produced, that facilitate the transmission of electrical energy 4698  
from the generators to the grid, building, or facility, and, 4699  
where applicable, that transform voltage before ultimate 4700  
delivery of electricity to the grid, building, or facility. 4701

"Energy facility" includes buildings, structures, 4702  
improvements, or fixtures exclusively used to house, support, or 4703  
stabilize tangible personal property constituting the facility 4704  
or that are otherwise necessary for the operation of that 4705  
property; and so much of the land on which such tangible 4706  
personal property is situated as is required for operation of 4707  
the facility and is not devoted to some other use, not to 4708  
exceed, in the case of wind turbines, one-half acre for each 4709  
wind turbine, and regardless of whether the land is owned by the 4710  
owner or lessee of the tangible personal property or by another 4711  
person. 4712

(Q) "Nameplate capacity" means the original interconnected 4713  
maximum rated alternating current output of a generator or other 4714  
electric production equipment under specific conditions 4715  
designated by the manufacturer, expressed in the number of 4716  
kilowatts or megawatts. 4717

(R) "Qualifying production equipment" means production 4718  
equipment and energy conversion equipment that is first used in 4719  
business in this state beginning in calendar year 2026 and 4720  
thereafter. 4721

(S) "Energy storage system" means tangible personal 4722

property that is capable of storing and releasing energy. 4723

**Sec. 5727.031.** (A) A person that is engaged in some other 4724  
primary business to which the supplying of electricity to others 4725  
is incidental shall file a report under section 5727.08 of the 4726  
Revised Code as an electric company but shall only report 4727  
therein as taxable property the amounts required in divisions 4728  
(B) and (C) of this section. All time limits and other 4729  
procedural requirements of this chapter for the reporting and 4730  
assessment of property of electric companies apply to persons 4731  
required to file a report under this section. For the purposes 4732  
of this section, "the supplying of electricity to others" shall 4733  
not include donating all of the electricity a person generates 4734  
to a political subdivision of the state. 4735

(B) A person subject to this section shall report the true 4736  
value of the boilers, machinery, equipment, and any personal 4737  
property used to supply electricity to others, which shall be 4738  
the sum of the following: 4739

(1) The true value of the property that is taxable 4740  
production equipment, as such true value ~~it~~ would be determined 4741  
for an electric company under section 5727.11 of the Revised 4742  
Code, multiplied by the per cent of the electricity generated in 4743  
the preceding calendar year that was not used by the person who 4744  
generated it; plus 4745

(2) The true value of the property that is not production 4746  
equipment, as ~~it~~ such true value would be determined for an 4747  
electric company under section 5727.11 of the Revised Code, 4748  
multiplied by the per cent of the electricity generated in the 4749  
preceding calendar year that was not used by the person who 4750  
generated it. 4751

(C) The property reported under division (B) of this 4752  
section shall be listed and assessed at an amount equal to the 4753  
sum of the products determined under divisions (C) (1) and (2) of 4754  
this section. 4755

(1) Multiply the portion of the true value determined 4756  
under division (B) (1) of this section by the assessment rate in 4757  
section 5727.111 of the Revised Code that is applicable to the\_ 4758  
taxable production equipment of an electric company; 4759

(2) Multiply the portion of the true value determined 4760  
under division (B) (2) of this section by the assessment rate in 4761  
section 5727.111 of the Revised Code that is applicable to the 4762  
taxable property of an electric company that is not production 4763  
equipment. 4764

**Sec. 5727.06.** (A) Except as otherwise provided by law, the 4765  
following constitutes the taxable property of a public utility, 4766  
interexchange telecommunications company, or public utility 4767  
property lessor that shall be assessed by the tax commissioner: 4768

(1) For tax years before tax year 2006: 4769

(a) In the case of a railroad company, all real property 4770  
and tangible personal property owned or operated by the railroad 4771  
company in this state on the thirty-first day of December of the 4772  
preceding year; 4773

(b) In the case of a water transportation company, all 4774  
tangible personal property, except watercraft, owned or operated 4775  
by the water transportation company in this state on the thirty- 4776  
first day of December of the preceding year and all watercraft 4777  
owned or operated by the water transportation company in this 4778  
state during the preceding calendar year; 4779

(c) In the case of all other public utilities and 4780

interexchange telecommunications companies, all tangible 4781  
personal property that on the thirty-first day of December of 4782  
the preceding year was both located in this state and: 4783

(i) Owned by the public utility or interexchange 4784  
telecommunications company; or 4785

(ii) Leased by the public utility or interexchange 4786  
telecommunications company under a sale and leaseback 4787  
transaction. 4788

(2) For tax years 2006, 2007, and 2008: 4789

(a) In the case of a railroad company, all real property 4790  
used in railroad operations and tangible personal property owned 4791  
or operated by the railroad company in this state on the thirty- 4792  
first day of December of the preceding year; 4793

(b) In the case of a water transportation company, all 4794  
tangible personal property, except watercraft, owned or operated 4795  
by the water transportation company in this state on the thirty- 4796  
first day of December of the preceding year and all watercraft 4797  
owned or operated by the water transportation company in this 4798  
state during the preceding calendar year; 4799

(c) In the case of all other public utilities except 4800  
telephone and telegraph companies, all tangible personal 4801  
property that on the thirty-first day of December of the 4802  
preceding year was both located in this state and either owned 4803  
by the public utility or leased by the public utility under a 4804  
sale and leaseback transaction. 4805

(3) For tax ~~year~~ years 2009 ~~and each tax year thereafter to~~ 4806  
2026: 4807

(a) In the case of a railroad company, all real property 4808

used in railroad operations and tangible personal property owned 4809  
or operated by the railroad company in this state on the thirty- 4810  
first day of December of the preceding year; 4811

(b) In the case of a water transportation company, all 4812  
tangible personal property, except watercraft, owned or operated 4813  
by the water transportation company in this state on the thirty- 4814  
first day of December of the preceding year and all watercraft 4815  
owned or operated by the water transportation company in this 4816  
state during the preceding calendar year; 4817

(c) In the case of all other public utilities except 4818  
telephone and telegraph companies, all tangible personal 4819  
property that on the thirty-first day of December of the 4820  
preceding year was both located in this state and either owned 4821  
by the public utility or leased by the public utility under a 4822  
sale and leaseback transaction, and that is not exempted from 4823  
taxation under section 5727.75 of the Revised Code; 4824

(d) In the case of a public utility property lessor, all 4825  
personal property that on the thirty-first day of December of 4826  
the preceding year was both located in this state and leased, in 4827  
other than a sale and leaseback transaction, to a public utility 4828  
other than a railroad, telephone, telegraph, or water 4829  
transportation company. The assessment rate used under section 4830  
5727.111 of the Revised Code shall be based on the assessment 4831  
rate that would apply if the public utility owned the property, 4832  
and that is not exempted from taxation under section 5727.75 of 4833  
the Revised Code. 4834

(4) For tax year 2027 and each tax year thereafter: 4835

(a) In the case of a railroad company, all real property 4836  
used in railroad operations and tangible personal property owned 4837

or operated by the railroad company in this state on the thirty- 4838  
first day of December of the preceding year; 4839

(b) In the case of a water transportation company, all 4840  
tangible personal property, except watercraft, owned or operated 4841  
by the water transportation company in this state on the thirty- 4842  
first day of December of the preceding year and all watercraft 4843  
owned or operated by the water transportation company in this 4844  
state during the preceding calendar year; 4845

(c) In the case of all other public utilities except 4846  
telephone and telegraph companies, all tangible personal 4847  
property except qualifying production equipment that on the 4848  
thirty-first day of December of the preceding year was both 4849  
located in this state and either owned by the public utility or 4850  
leased by the public utility under a sale and leaseback 4851  
transaction, and that is not exempted from taxation under 4852  
section 5727.75 of the Revised Code; 4853

(d) In the case of a public utility property lessor, all 4854  
personal property except qualifying production equipment that on 4855  
the thirty-first day of December of the preceding year was both 4856  
located in this state and leased, in other than a sale and 4857  
leaseback transaction, to a public utility other than a 4858  
railroad, telephone, telegraph, or water transportation company. 4859  
The assessment rate used under section 5727.111 of the Revised 4860  
Code shall be based on the assessment rate that would apply if 4861  
the public utility owned the property, and that is not exempted 4862  
from taxation under section 5727.75 of the Revised Code. 4863

(5) For tax years 2005 and 2006, in the case of telephone, 4864  
telegraph, or interexchange telecommunications companies, all 4865  
tangible personal property that on the thirty-first day of 4866  
December of the preceding year was both located in this state 4867

and either owned by the telephone, telegraph, or interexchange 4868  
telecommunications company or leased by the telephone, 4869  
telegraph, or interexchange telecommunications company under a 4870  
sale and leaseback transaction. 4871

~~(5)~~ (6) (a) For tax year 2007 and thereafter, in the case 4872  
of telephone, telegraph, or interexchange telecommunications 4873  
companies, all tangible personal property shall be listed and 4874  
assessed for taxation under Chapter 5711. of the Revised Code, 4875  
but the tangible personal property shall be valued in accordance 4876  
with this chapter using the composite annual allowances and 4877  
other valuation procedures prescribed under section 5727.11 of 4878  
the Revised Code by the tax commissioner for such property for 4879  
tax year 2006, notwithstanding any section of Chapter 5711. of 4880  
the Revised Code to the contrary. 4881

(b) A telephone, telegraph, or interexchange 4882  
telecommunications company subject to division ~~(A) (5) (a)~~ (A) (6) 4883  
(a) of this section shall file a combined return with the tax 4884  
commissioner in accordance with section 5711.13 of the Revised 4885  
Code even if the company has tangible personal property in only 4886  
one county. Such a company also is subject to the issuance of a 4887  
preliminary assessment certificate by the tax commissioner under 4888  
section 5711.25 of the Revised Code. Such a company is not 4889  
required to file a county supplemental return under section 4890  
5711.131 of the Revised Code. 4891

~~(6)~~ (7) In the case of an energy company, ~~for~~ : 4892

(a) For tax year ~~years~~ 2011 and each tax year thereafter to 4893  
2026, all tangible personal property that on the thirty-first 4894  
day of December of the preceding year was both located in this 4895  
state and either owned by the company or leased by the company 4896  
under a sale and leaseback transaction, and that is not exempted 4897

from taxation under section 5727.75 of the Revised Code. 4898

(b) For tax year 2027 and each tax year thereafter, all 4899  
tangible personal property except qualifying production 4900  
equipment that on the thirty-first day of December of the 4901  
preceding year was both located in this state and either owned 4902  
by the company or leased by the company under a sale and 4903  
leaseback transaction, and that is not exempted from taxation 4904  
under section 5727.75 of the Revised Code. 4905

(B) This division applies to tax years before tax year 4906  
2007. 4907

In the case of an interexchange telecommunications 4908  
company, all taxable property shall be subject to the provisions 4909  
of this chapter and shall be valued by the commissioner in 4910  
accordance with division (A) of section 5727.11 of the Revised 4911  
Code. A person described by this division shall file the report 4912  
required by section 5727.08 of the Revised Code. Persons 4913  
described in this division shall not be considered taxpayers, as 4914  
defined in division (B) of section 5711.01 of the Revised Code, 4915  
and shall not be required to file a return and list their 4916  
taxable property under any provision of Chapter 5711. of the 4917  
Revised Code. 4918

(C) The lien of the state for taxes levied each year on 4919  
the real and personal property of public utilities and 4920  
interexchange telecommunications companies and on the personal 4921  
property of public utility property lessors shall attach thereto 4922  
on the thirty-first day of December of the preceding year. 4923

(D) Property that is required by division (A) (3) (b) of 4924  
this section to be assessed by the tax commissioner under this 4925  
chapter shall not be listed by the owner of the property under 4926

Chapter 5711. of the Revised Code.	4927
(E) The ten-thousand-dollar exemption provided for in	4928
division (C) (3) of section 5709.01 of the Revised Code does not	4929
apply to any personal property that is valued under this	4930
chapter.	4931
(F) The tax commissioner may adopt rules governing the	4932
listing of the taxable property of public utilities and	4933
interexchange telecommunications companies and the determination	4934
of true value.	4935
<b>Sec. 5727.11.</b> (A) Except as otherwise provided in this	4936
section, the true value of all taxable property, except property	4937
of a railroad company, required by section 5727.06 of the	4938
Revised Code to be assessed by the tax commissioner shall be	4939
determined by a method of valuation using cost as capitalized on	4940
the public utility's books and records less composite annual	4941
allowances as prescribed by the commissioner. If the	4942
commissioner finds that application of this method will not	4943
result in the determination of true value of the public	4944
utility's taxable property, the commissioner may use another	4945
method of valuation.	4946
(B) (1) Except as provided in division (B) (2) of this	4947
section, the true value of current gas stored underground is the	4948
cost of that gas shown on the books and records of the public	4949
utility on the thirty-first day of December of the preceding	4950
year.	4951
(2) For tax year 2001 and thereafter, the true value of	4952
current gas stored underground is the quotient obtained by	4953
dividing (a) the average value of the current gas stored	4954
underground, which shall be determined by adding the value of	4955

the gas on hand at the end of each calendar month in the 4956  
calendar year preceding the tax year, or, if applicable, the 4957  
last day of business of each month for a partial month, divided 4958  
by (b) the total number of months the natural gas company was in 4959  
business during the calendar year prior to the beginning of the 4960  
tax year. With the approval of the tax commissioner, a natural 4961  
gas company may use a date other than the end of a calendar 4962  
month to value its current gas stored underground. 4963

(C) The true value of noncurrent gas stored underground is 4964  
thirty-five per cent of the cost of that gas shown on the books 4965  
and records of the public utility on the thirty-first day of 4966  
December of the preceding year. 4967

(D) (1) Except as provided in division (D) (2) of this 4968  
section, the true value of the taxable production equipment of 4969  
an electric company and the true value of all taxable property 4970  
of a rural electric company is the equipment's or property's 4971  
cost as capitalized on the company's books and records less 4972  
fifty per cent of that cost as an allowance for depreciation and 4973  
obsolescence. 4974

(2) The true value of the taxable production equipment or 4975  
energy conversion equipment of an electric company, rural 4976  
electric company, or energy company purchased, transferred, or 4977  
placed into service after October 5, 1999, is the purchase price 4978  
of the equipment as capitalized on the company's books and 4979  
records less composite annual allowances as prescribed by the 4980  
tax commissioner. 4981

(E) The true value of taxable property, except property of 4982  
a railroad company, required by section 5727.06 of the Revised 4983  
Code to be assessed by the tax commissioner shall not include 4984  
the allowance for funds used during construction or interest 4985

during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

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

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

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions

of any taxpayer obtained by the commissioner for the purpose of 5016  
adopting or modifying the composite annual allowances shall not 5017  
be subject to discovery or disclosure. 5018

**Sec. 5727.111.** The taxable property of each public 5019  
utility, except a railroad company, and of each interexchange 5020  
telecommunications company shall be assessed at the following 5021  
percentages of true value: 5022

(A) In the case of a rural electric company, fifty per 5023  
cent in the case of its taxable transmission and distribution 5024  
property first subject to taxation in this state before tax year 5025  
2027 and its energy conversion equipment, and twenty-five per 5026  
cent for all its other taxable property; 5027

(B) In the case of a telephone or telegraph company, 5028  
twenty-five per cent for taxable property first subject to 5029  
taxation in this state for tax year 1995 or thereafter for tax 5030  
years before tax year 2007, and pursuant to division (H) of 5031  
section 5711.22 of the Revised Code for tax year 2007 and 5032  
thereafter, and the following for all other taxable property: 5033

(1) For tax years prior to 2005, eighty-eight per cent; 5034

(2) For tax year 2005, sixty-seven per cent; 5035

(3) For tax year 2006, forty-six per cent; 5036

(4) For tax year 2007 and thereafter, pursuant to division 5037  
(H) of section 5711.22 of the Revised Code. 5038

(C) Twenty-five per cent in the case of (1) a natural gas 5039  
company or (2) a water-works company for taxable property first 5040  
subject to taxation in this state for tax year 2017 and 5041  
thereafter; 5042

(D) Eighty-eight per cent in the case of taxable property 5043

of a pipe-line company first subject to taxation in this state 5044  
before tax year 2027, a water-works company for taxable property 5045  
first subject to taxation in this state before tax year 2017, or 5046  
a heating company; 5047

(E) (1) For tax year 2005, eighty-eight per cent in the 5048  
case of the taxable transmission and distribution property of an 5049  
electric company, and twenty-five per cent for all its other 5050  
taxable property; 5051

(2) For tax ~~year~~ years 2006 and each tax year thereafter ~~to~~ 5052  
2026, in the case of an electric company, eighty-five per cent 5053  
in the case of its taxable transmission and distribution 5054  
property and its energy conversion equipment, and twenty-four 5055  
per cent for all its other taxable property. 5056

(3) For tax year 2027 and each tax year thereafter, in the 5057  
case of an electric company, eighty-five per cent of its taxable 5058  
transmission and distribution property first subject to taxation 5059  
in this state before tax year 2027 and its energy conversion 5060  
equipment, twenty-five per cent in the case of its other taxable 5061  
transmission and distribution property, and twenty-four per cent 5062  
for all its other taxable property. 5063

(F) (1) Twenty-five per cent in the case of an 5064  
interexchange telecommunications company for tax years before 5065  
tax year 2007; 5066

(2) Pursuant to division (H) of section 5711.22 of the 5067  
Revised Code for tax year 2007 and thereafter. 5068

(G) Twenty-five per cent in the case of a water 5069  
transportation company; 5070

~~(H)~~ (H) (1) For tax ~~year~~ years 2011 and each tax year 5071  
~~thereafter~~ to 2026, in the case of an energy company, twenty- 5072

four per cent in the case of its taxable production equipment, 5073  
and eighty-five per cent for all its other taxable property. 5074

(2) For tax year 2027 and each tax year thereafter, in the 5075  
case of an energy company, twenty-four per cent in the case of 5076  
its taxable production equipment, twenty-five per cent for its 5077  
taxable transmission and distribution property first subject to 5078  
taxation in this state for tax year 2027 and thereafter, and 5079  
eighty-five per cent for all its other taxable property. 5080

(I) Twenty-five per cent in the case of taxable property 5081  
of a pipe-line company first subject to taxation in this state 5082  
for tax year 2027 and thereafter. 5083

**Sec. 5727.75.** (A) For purposes of this section: 5084

(1) "Qualified energy project" means an energy project 5085  
certified by the director of development pursuant to this 5086  
section. 5087

(2) "Energy project" means a project to provide electric 5088  
power through the construction, installation, and use of an 5089  
energy facility. 5090

(3) "Alternative energy zone" means a county declared as 5091  
such by the board of county commissioners under division (E) (1) 5092  
(b) or (c) of this section. 5093

(4) "Full-time equivalent employee" means the total number 5094  
of employee-hours for which compensation was paid to individuals 5095  
employed at a qualified energy project for services performed at 5096  
the project during the calendar year divided by two thousand 5097  
eighty hours. For the purpose of this calculation, "performed at 5098  
the project" includes only hours worked at the qualified energy 5099  
project and devoted to site preparation or protection, 5100  
construction and installation, and the unloading and 5101

distribution of materials at the project site, but does not 5102  
include hours worked by superintendents, owners, manufacturers' 5103  
representatives, persons employed in a bona fide executive, 5104  
management, supervisory, or administrative capacity, or persons 5105  
whose sole employment on the project is transporting materials 5106  
or persons to the project site. 5107

(5) "Solar energy project" means an energy project 5108  
composed of an energy facility using solar panels to generate 5109  
electricity. 5110

(6) "Internet identifier of record" has the same meaning 5111  
as in section 9.312 of the Revised Code. 5112

(7) "Applicable year" means the later of the following: 5113

(a) The tax year in which the secretary of the treasury of 5114  
the United States, or the secretary's delegate, determines, in 5115  
accordance with section 45Y of the Internal Revenue Code, that 5116  
the annual greenhouse gas emissions from the production of 5117  
electricity in the United States are equal to or less than 5118  
twenty-five per cent of the annual greenhouse gas emissions from 5119  
the production of electricity in the United States for calendar 5120  
year 2022; 5121

(b) Tax year 2029. 5122

(8) "Internal Revenue Code" means the Internal Revenue 5123  
Code as of ~~the effective date of this amendment~~ October 3, 2023. 5124

(B) (1) Tangible personal property of a qualified energy 5125  
project using renewable energy resources is exempt from taxation 5126  
for tax years 2011 through the applicable year if all of the 5127  
following conditions are satisfied: 5128

(a) On or before the last day of the tax year preceding 5129

the applicable year, the owner or a lessee pursuant to a sale 5130  
and leaseback transaction of the project submits an application 5131  
to the power siting board for a certificate under section 5132  
4906.20 of the Revised Code, or if that section does not apply, 5133  
submits an application for any approval, consent, permit, or 5134  
certificate or satisfies any condition required by a public 5135  
agency or political subdivision of this state for the 5136  
construction or initial operation of an energy project. 5137

(b) Construction or installation of the energy facility 5138  
begins on or after January 1, 2009, and before the first day of 5139  
the applicable year. For the purposes of this division, 5140  
construction begins on the earlier of the date of application 5141  
for a certificate or other approval or permit described in 5142  
division (B)(1)(a) of this section, or the date the contract for 5143  
the construction or installation of the energy facility is 5144  
entered into. 5145

(c) For a qualified energy project with a nameplate 5146  
capacity of twenty megawatts or greater, a board of county 5147  
commissioners of a county in which property of the project is 5148  
located has adopted a resolution under division (E)(1)(b) or (c) 5149  
of this section to approve the application submitted under 5150  
division (E) of this section to exempt the property located in 5151  
that county from taxation. A board's adoption of a resolution 5152  
rejecting an application or its failure to adopt a resolution 5153  
approving the application does not affect the tax-exempt status 5154  
of the qualified energy project's property that is located in 5155  
another county. 5156

(2) If tangible personal property of a qualified energy 5157  
project using renewable energy resources was exempt from 5158  
taxation under this section beginning in any of tax years 2011 5159

through the applicable year, and the certification under 5160  
division (E) (2) of this section has not been revoked, the 5161  
tangible personal property of the qualified energy project is 5162  
exempt from taxation for the tax year following the applicable 5163  
year and all ensuing tax years if the property was placed into 5164  
service before the first day of the tax year following the 5165  
applicable year, as certified in the construction progress 5166  
report required under division (F) (2) of this section. Tangible 5167  
personal property that has not been placed into service before 5168  
that date is taxable property subject to taxation. An energy 5169  
project for which certification has been revoked is ineligible 5170  
for further exemption under this section. Revocation does not 5171  
affect the tax-exempt status of the project's tangible personal 5172  
property for the tax year in which revocation occurs or any 5173  
prior tax year. 5174

(C) Tangible personal property of a qualified energy 5175  
project using clean coal technology, advanced nuclear 5176  
technology, or cogeneration technology is exempt from taxation 5177  
for the first tax year that the property would be listed for 5178  
taxation and all subsequent years if all of the following 5179  
circumstances are met: 5180

(1) The property was placed into service before January 1, 5181  
2021. Tangible personal property that has not been placed into 5182  
service before that date is taxable property subject to 5183  
taxation. 5184

(2) For such a qualified energy project with a nameplate 5185  
capacity of twenty megawatts or greater, a board of county 5186  
commissioners of a county in which property of the qualified 5187  
energy project is located has adopted a resolution under 5188  
division (E) (1) (b) or (c) of this section to approve the 5189

application submitted under division (E) of this section to 5190  
exempt the property located in that county from taxation. A 5191  
board's adoption of a resolution rejecting the application or 5192  
its failure to adopt a resolution approving the application does 5193  
not affect the tax-exempt status of the qualified energy 5194  
project's property that is located in another county. 5195

(3) The certification for the qualified energy project 5196  
issued under division (E) (2) of this section has not been 5197  
revoked. An energy project for which certification has been 5198  
revoked is ineligible for exemption under this section. 5199  
Revocation does not affect the tax-exempt status of the 5200  
project's tangible personal property for the tax year in which 5201  
revocation occurs or any prior tax year. 5202

(D) Except as otherwise provided in this section, real 5203  
property of a qualified energy project is exempt from taxation 5204  
for any tax year for which the tangible personal property of the 5205  
qualified energy project is exempted under this section. 5206

(E) (1) (a) A person may apply to the director of 5207  
development for certification of an energy project as a 5208  
qualified energy project on or before the following dates: 5209

(i) The last day of the tax year preceding the applicable 5210  
year, for an energy project using renewable energy resources; 5211

(ii) December 31, 2017, for an energy project using clean 5212  
coal technology, advanced nuclear technology, or cogeneration 5213  
technology. 5214

(b) The director shall forward a copy of each application 5215  
for certification of an energy project with a nameplate capacity 5216  
of twenty megawatts or greater to the board of county 5217  
commissioners of each county in which the project is located and 5218

to each taxing unit with territory located in each of the 5219  
affected counties. Any board that receives from the director a 5220  
copy of an application submitted under this division shall adopt 5221  
a resolution approving or rejecting the application unless it 5222  
has adopted a resolution under division (E) (1) (c) of this 5223  
section. A resolution adopted under division (E) (1) (b) or (c) of 5224  
this section may require an annual service payment to be made in 5225  
addition to the service payment required under division (G) of 5226  
this section. The sum of the service payment required in the 5227  
resolution and the service payment required under division (G) 5228  
of this section shall not exceed nine thousand dollars per 5229  
megawatt of nameplate capacity located in the county. The 5230  
resolution shall specify the time and manner in which the 5231  
payments required by the resolution shall be paid to the county 5232  
treasurer. The county treasurer shall deposit the payment to the 5233  
credit of the county's general fund to be used for any purpose 5234  
for which money credited to that fund may be used. 5235

The board shall send copies of the resolution to the owner 5236  
of the facility and the director by certified mail or, if the 5237  
board has record of an internet identifier of record associated 5238  
with the owner or director, by ordinary mail and by that 5239  
internet identifier of record. The board shall send such notice 5240  
within thirty days after receipt of the application, or a longer 5241  
period of time if authorized by the director. 5242

(c) A board of county commissioners may adopt a resolution 5243  
declaring the county to be an alternative energy zone and 5244  
declaring all applications submitted to the director of 5245  
development under this division after the adoption of the 5246  
resolution, and prior to its repeal, to be approved by the 5247  
board. 5248

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

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

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E) (1) (b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(d) For construction or installation of a qualified energy project described in division (B) (1) (b) of this section, that the project is subject to wage requirements described in section 45(b) (7) (A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b) (8) (A) (i) of the Internal Revenue Code, provided both of the following apply:

(i) The person applies for such certificate after ~~the effective date of this amendment~~ October 3, 2023.

(ii) A board of commissioners of at least one county in which the project is located is required to adopt a resolution approving the application under division (E) (1) (b) or (c) of this section.

(3) The director shall deny a certification application if 5278  
the director determines the person has failed to comply with any 5279  
requirement under this section. The director may revoke a 5280  
certification if the director determines the person, or 5281  
subsequent owner or lessee pursuant to a sale and leaseback 5282  
transaction of the qualified energy project, has failed to 5283  
comply with any requirement under this section. Upon 5284  
certification or revocation, the director shall notify the 5285  
person, owner, or lessee, the tax commissioner, and the county 5286  
auditor of a county in which the project is located of the 5287  
certification or revocation. Notice shall be provided in a 5288  
manner convenient to the director. 5289

(F) The owner or a lessee pursuant to a sale and leaseback 5290  
transaction of a qualified energy project shall do each of the 5291  
following: 5292

(1) Comply with all applicable regulations; 5293

(2) File with the director of development a certified 5294  
construction progress report before the first day of March of 5295  
each year during the energy facility's construction or 5296  
installation indicating the percentage of the project completed, 5297  
and the project's nameplate capacity, as of the preceding 5298  
thirty-first day of December. Unless otherwise instructed by the 5299  
director of development, the owner or lessee of an energy 5300  
project shall file a report with the director on or before the 5301  
first day of March each year after completion of the energy 5302  
facility's construction or installation indicating the project's 5303  
nameplate capacity as of the preceding thirty-first day of 5304  
December. Not later than sixty days after June 17, 2010, the 5305  
owner or lessee of an energy project, the construction of which 5306  
was completed before June 17, 2010, shall file a certificate 5307

indicating the project's nameplate capacity. 5308

(3) File with the director of development, in a manner 5309  
prescribed by the director, a report of the total number of 5310  
full-time equivalent employees, and the total number of full- 5311  
time equivalent employees domiciled in Ohio, who are employed in 5312  
the construction or installation of the energy facility; 5313

(4) For energy projects with a nameplate capacity of 5314  
twenty megawatts or greater, repair all roads, bridges, and 5315  
culverts affected by construction as reasonably required to 5316  
restore them to their preconstruction condition, as determined 5317  
by the county engineer in consultation with the local 5318  
jurisdiction responsible for the roads, bridges, and culverts. 5319  
In the event that the county engineer deems any road, bridge, or 5320  
culvert to be inadequate to support the construction or 5321  
decommissioning of the energy facility, the road, bridge, or 5322  
culvert shall be rebuilt or reinforced to the specifications 5323  
established by the county engineer prior to the construction or 5324  
decommissioning of the facility. The owner or lessee of the 5325  
facility shall post a bond in an amount established by the 5326  
county engineer and to be held by the board of county 5327  
commissioners to ensure funding for repairs of roads, bridges, 5328  
and culverts affected during the construction. The bond shall be 5329  
released by the board not later than one year after the date the 5330  
repairs are completed. The energy facility owner or lessee 5331  
pursuant to a sale and leaseback transaction shall post a bond, 5332  
as may be required by the Ohio power siting board in the 5333  
certificate authorizing commencement of construction issued 5334  
pursuant to section 4906.10 of the Revised Code, to ensure 5335  
funding for repairs to roads, bridges, and culverts resulting 5336  
from decommissioning of the facility. The energy facility owner 5337  
or lessee and the county engineer may enter into an agreement 5338

regarding specific transportation plans, reinforcements, 5339  
modifications, use and repair of roads, financial security to be 5340  
provided, and any other relevant issue. 5341

(5) Provide or facilitate training for fire and emergency 5342  
responders for response to emergency situations related to the 5343  
energy project and, for energy projects with a nameplate 5344  
capacity of twenty megawatts or greater, at the person's 5345  
expense, equip the fire and emergency responders with proper 5346  
equipment as reasonably required to enable them to respond to 5347  
such emergency situations; 5348

(6) (a) Except as otherwise provided in this division, for 5349  
projects for which certification as a qualified energy project 5350  
was applied for, under division (E) of this section, ~~before the~~ 5351  
~~effective date of this amendment~~ October 3, 2023, maintain a 5352  
ratio of Ohio-domiciled full-time equivalent employees employed 5353  
in the construction or installation of the energy project to 5354  
total full-time equivalent employees employed in the 5355  
construction or installation of the energy project of not less 5356  
than eighty per cent in the case of a solar energy project, and 5357  
not less than fifty per cent in the case of any other energy 5358  
project. A person applying for such a qualified energy project 5359  
may certify to the director of development that the project will 5360  
be voluntarily subject to the wage requirements described in 5361  
section 45(b)(7)(A) of the Internal Revenue Code and 5362  
apprenticeship requirements described in section 45(b)(8)(A)(i) 5363  
of the Internal Revenue Code as authorized in division (F)(6)(b) 5364  
of this section. Upon receipt of that certification, the project 5365  
shall comply with division (F)(6)(b) of this section rather than 5366  
division (F)(6)(a) of this section. 5367

(b) For projects for which certification as a qualified 5368

energy project was applied for, under division (E) of this 5369  
section, on or after ~~the effective date of this amendment~~ 5370  
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 5371  
equivalent employees employed in the construction or 5372  
installation of the energy project to total full-time equivalent 5373  
employees employed in the construction or installation of the 5374  
energy project of not less than seventy per cent in the case of 5375  
a solar energy project, and not less than fifty per cent in the 5376  
case of any other energy project. 5377

(c) For purposes of divisions (F) (6) (a) and (b) of this 5378  
section, in the case of an energy project for which 5379  
certification from the power siting board is required under 5380  
section 4906.20 of the Revised Code, the number of full-time 5381  
equivalent employees employed in the construction or 5382  
installation of the energy project equals the number actually 5383  
employed or the number projected to be employed in the 5384  
certificate application, if such projection is required under 5385  
regulations adopted pursuant to section 4906.03 of the Revised 5386  
Code, whichever is greater. For all other energy projects, the 5387  
number of full-time equivalent employees employed in the 5388  
construction or installation of the energy project equals the 5389  
number actually employed or the number projected to be employed 5390  
by the director of development, whichever is greater. To 5391  
estimate the number of employees to be employed in the 5392  
construction or installation of an energy project, the director 5393  
shall use a generally accepted job-estimating model in use for 5394  
renewable energy projects, including but not limited to the job 5395  
and economic development impact model. The director may adjust 5396  
an estimate produced by a model to account for variables not 5397  
accounted for by the model. 5398

(7) For energy projects with a nameplate capacity in 5399

excess of twenty megawatts, establish a relationship with any of 5400  
the following to educate and train individuals for careers in 5401  
the wind or solar energy industry: 5402

(a) A member of the university system of Ohio as defined 5403  
in section 3345.011 of the Revised Code; 5404

(b) A person offering an apprenticeship program registered 5405  
with the employment and training administration within the 5406  
United States department of labor or with the apprenticeship 5407  
council created by section 4139.02 of the Revised Code; 5408

(c) A career-technical center, joint vocational school 5409  
district, comprehensive career-technical center, or compact 5410  
career-technical center; 5411

(d) A training center operated by a labor organization, or 5412  
with a training center operated by a for-profit or nonprofit 5413  
organization. 5414

The relationship may include endowments, cooperative 5415  
programs, internships, apprenticeships, research and development 5416  
projects, and curriculum development. 5417

(8) Offer to sell power or renewable energy credits from 5418  
the energy project to electric distribution utilities or 5419  
electric service companies subject to renewable energy resource 5420  
requirements under section 4928.64 of the Revised Code that have 5421  
issued requests for proposal for such power or renewable energy 5422  
credits. If no electric distribution utility or electric service 5423  
company issues a request for proposal on or before December 31, 5424  
2010, or accepts an offer for power or renewable energy credits 5425  
within forty-five days after the offer is submitted, power or 5426  
renewable energy credits from the energy project may be sold to 5427  
other persons. Division (F)(8) of this section does not apply 5428

if: 5429

(a) The owner or lessee is a rural electric company or a 5430  
municipal power agency as defined in section 3734.058 of the 5431  
Revised Code. 5432

(b) The owner or lessee is a person that, before 5433  
completion of the energy project, contracted for the sale of 5434  
power or renewable energy credits with a rural electric company 5435  
or a municipal power agency. 5436

(c) The owner or lessee contracts for the sale of power or 5437  
renewable energy credits from the energy project before June 17, 5438  
2010. 5439

(9) Make annual service payments as required by division 5440  
(G) of this section and as may be required in a resolution 5441  
adopted by a board of county commissioners under division (E) of 5442  
this section. 5443

(G) The owner or a lessee pursuant to a sale and leaseback 5444  
transaction of a qualified energy project shall make annual 5445  
service payments in lieu of taxes to the county treasurer on or 5446  
before the final dates for payments of taxes on public utility 5447  
personal property on the real and public utility personal 5448  
property tax list for each tax year for which property of the 5449  
energy project is exempt from taxation under this section. The 5450  
county treasurer shall allocate the payment on the basis of the 5451  
project's physical location. Upon receipt of a payment, or if 5452  
timely payment has not been received, the county treasurer shall 5453  
certify such receipt or non-receipt to the director of 5454  
development and tax commissioner in a form determined by the 5455  
director and commissioner, respectively. Each payment shall be 5456  
in the following amount: 5457

- (1) In the case of a solar energy project, seven thousand 5458  
dollars per megawatt of nameplate capacity located in the county 5459  
as of the thirty-first-day of December of the preceding tax 5460  
year; 5461
- (2) In the case of any other energy project using 5462  
renewable energy resources, the following: 5463
- (a) If the project maintains during the construction or 5464  
installation of the energy facility a ratio of Ohio-domiciled 5465  
full-time equivalent employees to total full-time equivalent 5466  
employees of not less than seventy-five per cent, six thousand 5467  
dollars per megawatt of nameplate capacity located in the county 5468  
as of the thirty-first day of December of the preceding tax 5469  
year; 5470
- (b) If the project maintains during the construction or 5471  
installation of the energy facility a ratio of Ohio-domiciled 5472  
full-time equivalent employees to total full-time equivalent 5473  
employees of less than seventy-five per cent but not less than 5474  
sixty per cent, seven thousand dollars per megawatt of nameplate 5475  
capacity located in the county as of the thirty-first day of 5476  
December of the preceding tax year; 5477
- (c) If the project maintains during the construction or 5478  
installation of the energy facility a ratio of Ohio-domiciled 5479  
full-time equivalent employees to total full-time equivalent 5480  
employees of less than sixty per cent but not less than fifty 5481  
per cent, eight thousand dollars per megawatt of nameplate 5482  
capacity located in the county as of the thirty-first day of 5483  
December of the preceding tax year. 5484
- (3) In the case of an energy project using clean coal 5485  
technology, advanced nuclear technology, or cogeneration 5486

technology, the following: 5487

(a) If the project maintains during the construction or 5488  
installation of the energy facility a ratio of Ohio-domiciled 5489  
full-time equivalent employees to total full-time equivalent 5490  
employees of not less than seventy-five per cent, six thousand 5491  
dollars per megawatt of nameplate capacity located in the county 5492  
as of the thirty-first day of December of the preceding tax 5493  
year; 5494

(b) If the project maintains during the construction or 5495  
installation of the energy facility a ratio of Ohio-domiciled 5496  
full-time equivalent employees to total full-time equivalent 5497  
employees of less than seventy-five per cent but not less than 5498  
sixty per cent, seven thousand dollars per megawatt of nameplate 5499  
capacity located in the county as of the thirty-first day of 5500  
December of the preceding tax year; 5501

(c) If the project maintains during the construction or 5502  
installation of the energy facility a ratio of Ohio-domiciled 5503  
full-time equivalent employees to total full-time equivalent 5504  
employees of less than sixty per cent but not less than fifty 5505  
per cent, eight thousand dollars per megawatt of nameplate 5506  
capacity located in the county as of the thirty-first day of 5507  
December of the preceding tax year. 5508

(H) The director of development in consultation with the 5509  
tax commissioner shall adopt rules pursuant to Chapter 119. of 5510  
the Revised Code to implement and enforce this section. 5511

(I) This section and any payments in lieu of taxes made as 5512  
required under this section continue to apply and be required 5513  
notwithstanding the enactment of S.B. 2 of the 136th general 5514  
assembly. 5515

Sec. 5727.76. (A) As used in this section, "qualifying property" means tangible personal property that is dedicated to transporting or transmitting electricity or natural gas and that is placed into service in a priority investment area designated under section 122.161 of the Revised Code during a time when that designation is in effect. 5516  
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(B) Qualifying property shall be exempt from taxation for the tax year following the year in which the property is placed into service and for the ensuing four tax years. 5522  
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**Section 2.** That existing sections 303.213, 519.213, 5525  
713.081, 3313.372, 3313.373, 4905.03, 4906.01, 4906.03, 4906.06, 5526  
4906.07, 4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 5527  
4909.08, 4909.15, 4909.156, 4909.173, 4909.174, 4909.18, 5528  
4909.19, 4909.191, 4909.42, 4928.01, 4928.05, 4928.08, 4928.14, 5529  
4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 5530  
4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 4928.645, 5531  
4929.20, 4933.81, 5711.01, 5727.01, 5727.031, 5727.06, 5727.11, 5532  
5727.111, and 5727.75 of the Revised Code are hereby repealed. 5533

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 5534  
3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 5535  
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 5536  
4928.642 of the Revised Code are hereby repealed. 5537

**Section 4.** (A) Beginning on the effective date of this 5538  
section, no electric distribution utility shall collect from its 5539  
retail customers in this state any charge that was authorized 5540  
under section 4928.148 of the Revised Code prior to the repeal 5541  
of that section by this act for retail recovery of prudently 5542  
incurred costs related to a legacy generation resource. 5543  
Beginning on the effective date of this section, the electric 5544  
distribution utility shall not apply for, and the public 5545

utilities commission shall not authorize, any rider or cost 5546  
recovery mechanism for a legacy generation resource. 5547

The public utilities commission shall continue any 5548  
investigation commenced pursuant to section 4928.148 of the 5549  
Revised Code prior to the repeal of that section by this act for 5550  
purposes of determining the prudence and reasonableness of the 5551  
actions of electric distribution utilities with ownership 5552  
interests in the legacy generation resource, including their 5553  
decisions related to offering the contractual commitment into 5554  
the wholesale markets, and excluding from recovery those costs 5555  
that the commission determines imprudent and unreasonable. 5556

(B) Beginning on the effective date of this section, no 5557  
electric distribution utility shall collect from its retail 5558  
customers in the state any charge that was authorized under 5559  
section 3706.46 of the Revised Code to meet the revenue 5560  
requirement for disbursements from the Solar Generation Fund to 5561  
owners or operators of qualifying solar resources that was 5562  
required under section 3706.55 of the Revised Code before the 5563  
repeal of these sections by this act. 5564

Beginning on the effective date of this section, the Ohio 5565  
Air Quality Development Authority is prohibited from directing 5566  
the Treasurer of State to remit, and the Treasurer of State is 5567  
prohibited from remitting, any money from the Solar Generation 5568  
Fund to owners or operators of qualifying solar resources, which 5569  
remittance was permitted under section 3706.55 of the Revised 5570  
Code prior to the repeal of that section by this act. 5571

**Section 5.** Section 4909.193 as enacted by this act and the 5572  
amendments to sections 4909.19 and 4909.42 of the Revised Code 5573  
by this act apply to applications filed under section 4909.18 of 5574  
the Revised Code on or after the effective date of this section. 5575

**Section 6.** On the effective date of this section, or as 5576  
soon as possible thereafter, the Treasurer of State shall 5577  
transfer the cash balance of amounts remaining in the solar 5578  
generation fund to the school energy performance contracting 5579  
loan fund created in section 3313.378 of the Revised Code. 5580

**Section 7.** Section 4928.01 of the Revised Code is 5581  
presented in this act as a composite of the section as amended 5582  
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 5583  
General Assembly, applying the principle stated in division (B) 5584  
of section 1.52 of the Revised Code that amendments are to be 5585  
harmonized if reasonably capable of simultaneous operation, 5586  
finds that the composite is the resulting version of the section 5587  
in effect prior to the effective date of the section as 5588  
presented in this act. 5589