

As Introduced

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S. B. No. 297

Senators Craig, Smith

To amend sections 4905.02 and 4928.53 and to enact
sections 4933.51, 4933.52, 4933.53, 4933.54,
4933.55, 4933.57, and 4933.58 of the Revised
Code to exempt electric submetering companies
from classification as a public utility, to
impose various requirements on such companies,
and to extend eligibility for the percentage of
income payment plan program to certain electric
submetering company customers.

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

Section 1. That sections 4905.02 and 4928.53 be amended
and sections 4933.51, 4933.52, 4933.53, 4933.54, 4933.55,
4933.57, and 4933.58 of the Revised Code be enacted to read as
follows:

Sec. 4905.02. (A) As used in this chapter, "public
utility" includes every corporation, company, copartnership,
person, or association, the lessees, trustees, or receivers of
the foregoing, defined in section 4905.03 of the Revised Code,
including any public utility that operates its utility not for
profit, except the following:

(1) An electric light company that operates its utility

not for profit; 21

(2) A public utility, other than a telephone company, that 22
is owned and operated exclusively by and solely for the 23
utility's customers, including any consumer or group of 24
consumers purchasing, delivering, storing, or transporting, or 25
seeking to purchase, deliver, store, or transport, natural gas 26
exclusively by and solely for the consumer's or consumers' own 27
intended use as the end user or end users and not for profit; 28

(3) A public utility that is owned or operated by any 29
municipal corporation; 30

(4) A railroad as defined in sections 4907.02 and 4907.03 31
of the Revised Code; 32

(5) Any provider, including a telephone company, with 33
respect to its provision of any of the following: 34

(a) Advanced services as defined in 47 C.F.R. 51.5; 35

(b) Broadband service, however defined or classified by 36
the federal communications commission; 37

(c) Information service as defined in the 38
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 39
153(20); 40

(d) Subject to division (A) of section 4927.03 of the 41
Revised Code, internet protocol-enabled services as defined in 42
section 4927.01 of the Revised Code; 43

(e) Subject to division (A) of section 4927.03 of the 44
Revised Code, any telecommunications service as defined in 45
section 4927.01 of the Revised Code to which both of the 46
following apply: 47

(i) The service was not commercially available on 48
September 13, 2010, the effective date of the amendment of this 49
section by S.B. 162 of the 128th general assembly. 50

(ii) The service employs technology that became available 51
for commercial use only after September 13, 2010, the effective 52
date of the amendment of this section by S.B. 162 of the 128th 53
general assembly. 54

(6) (a) An electric submetering company. 55

(b) As used in this division, "electric submetering 56
company" means a person, business, or other entity that, either 57
on its own behalf or under a contract with a property owner, 58
provides, constructs, or installs facilities for the resale of 59
electricity to a tenant's dwelling unit by a landlord or the 60
landlord's agent that is based on metered consumption at a point 61
after services provided by an electric light company under 62
section 4905.03 of the Revised Code that is a public utility are 63
delivered to the company's metered points of delivery at the 64
customers' locations. 65

(B) (1) "Public utility" includes a for-hire motor carrier 66
even if the carrier is operated in connection with an entity 67
described in division (A) (1), (2), (4), or (5) of this section. 68

(2) Division (A) of this section shall not be construed to 69
relieve a private motor carrier, operated in connection with an 70
entity described in division (A) (1), (2), (4), or (5) of this 71
section, from compliance with either of the following: 72

(a) Chapter 4923. of the Revised Code; 73

(b) Rules governing unified carrier registration adopted 74
under section 4921.11 of the Revised Code. 75

(C) As used in division (A) (6) of this section, "dwelling 76
unit," "landlord," and "tenant" have the same meanings as in 77
section 5321.01 of the Revised Code. 78

Sec. 4928.53. (A) Beginning July 1, 2000, the director of 79
development is hereby authorized to administer the low-income 80
customer assistance programs. For that purpose, the public 81
utilities commission shall cooperate with and provide such 82
assistance as the director requires for administration of the 83
low-income customer assistance programs. The director shall 84
consolidate the administration of and redesign and coordinate 85
the operations of those programs within the department to 86
provide, to the maximum extent possible, for efficient program 87
administration and a one-stop application and eligibility 88
determination process at the local level for consumers. 89

(B) (1) Not later than March 1, 2000, the director, in 90
accordance with Chapter 119. of the Revised Code, shall adopt 91
rules to carry out sections 4928.51 to 4928.58 of the Revised 92
Code and ensure the effective and efficient administration and 93
operation of the low-income customer assistance programs. The 94
rules shall take effect on July 1, 2000. 95

(2) The director's authority to adopt rules under this 96
division for the Ohio energy credit program shall be subject to 97
such rule-making authority as is conferred on the director by 98
sections 5117.01 to 5117.12 of the Revised Code, as amended by 99
Sub. S.B. No. 3 of the 123rd general assembly, except that rules 100
initially adopted by the director for the Ohio energy credit 101
program shall incorporate the substance of those sections as 102
they exist on the effective date of this section. 103

(3) The director's authority to adopt rules under this 104
division for the percentage of income payment plan program shall 105

include authority to adopt rules prescribing criteria for 106
customer eligibility and policies regarding payment and 107
crediting arrangements and responsibilities, procedures for 108
verifying customer eligibility, procedures for disbursing public 109
funds to suppliers and otherwise administering funds under the 110
director's jurisdiction, and requirements as to timely 111
remittances of revenues described in division (B) of section 112
4928.51 of the Revised Code. The rules shall prohibit the 113
imposition of a waiting period before enrolling an eligible 114
customer in the percentage of income payment plan. The 115
director's authority in division (B) (3) of this section excludes 116
authority to prescribe service disconnection and customer 117
billing policies and procedures and to address complaints 118
against suppliers under the percentage of payment plan program, 119
which excluded authority shall be exercised by the public 120
utilities commission, in coordination with the director. Rules 121
adopted by the director under this division for the percentage 122
of income payment plan program shall specify a level of payment 123
responsibility to be borne by an eligible customer based on a 124
percentage of the customer's income. Rules initially adopted by 125
the director for the percentage of income payment plan program 126
shall incorporate the eligibility criteria and payment 127
arrangement and responsibility policies set forth in rule 128
4901:1-18-04(B) of the Ohio Administrative Code in effect on the 129
effective date of this section. 130

Rules adopted by the director under this division shall 131
extend eligibility for the percentage of income plan program to 132
residential customers of an electric submetering company, as 133
defined in section 4905.02 of the Revised Code, who meet other 134
generally applicable customer eligibility criteria. 135

Sec. 4933.51. As used in sections 4933.51 to 4933.58 of 136

<u>the Revised Code:</u>	137
<u>(A) "Competitive retail electric service" has the same</u>	138
<u>meaning as in section 4928.01 of the Revised Code.</u>	139
<u>(B) "Dwelling unit" and "tenant" have the same meanings as</u>	140
<u>in section 5321.01 of the Revised Code.</u>	141
<u>(C) "Electric light company" means an electric light</u>	142
<u>company under section 4905.03 of the Revised Code that is a</u>	143
<u>public utility under section 4905.02 of the Revised Code.</u>	144
<u>(D) "Electric submetering company" has the same meaning as</u>	145
<u>in section 4905.02 of the Revised Code.</u>	146
<u>Sec. 4933.52. No electric submetering company shall charge</u>	147
<u>a tenant more than the bill for the standard service offer and</u>	148
<u>all riders that the electric light company, in whose certified</u>	149
<u>territory the dwelling unit is located, would charge its</u>	150
<u>residential customers for electric service.</u>	151
<u>Sec. 4933.53. An electric submetering company shall do the</u>	152
<u>following:</u>	153
<u>(A) Register with the public utilities commission every</u>	154
<u>two years and comply with the rules adopted pursuant to section</u>	155
<u>4933.54 of the Revised Code;</u>	156
<u>(B) At a minimum, comply with the requirements for the</u>	157
<u>disconnection of electric service established in sections</u>	158
<u>4933.121 to 4933.123 of the Revised Code and the rules adopted</u>	159
<u>pursuant to those sections, as applicable;</u>	160
<u>(C) Provide a separate disclosure and a report of pricing</u>	161
<u>to its tenants solely for purposes of compliance with the</u>	162
<u>pricing requirement for resale of electricity under section</u>	163
<u>4933.52 of the Revised Code;</u>	164

(D) Disclose its process and procedures for the 165
disconnection of electric service. 166

Sec. 4933.54. (A) The public utilities commission shall 167
adopt rules to implement the requirements of section 4933.53 of 168
the Revised Code. The rules shall require the electric 169
submetering company to disclose the company's name, business 170
address, telephone number, and regulatory contact. The rules 171
also shall include other disclosure requirements as prescribed 172
by the commission. 173

(B) Rules under this section, including any requirements 174
regarding classifications, procedures, terms, and conditions, 175
shall be reasonable and shall not confer any undue economic, 176
competitive, or market advantage or preference upon any electric 177
light company, electric submetering company, or competitive 178
retail electric service provider. 179

(C) The commission may charge electric submetering 180
companies a registration processing fee of not more than two 181
hundred dollars per biennial registration. 182

(D) Notwithstanding any provision of section 121.95 of the 183
Revised Code to the contrary, a regulatory restriction contained 184
in rules adopted under sections 4933.51 to 4933.58 of the 185
Revised Code is not subject to sections 121.95 to 121.953 of the 186
Revised Code. 187

Sec. 4933.55. No electric submetering company shall 188
operate in this state without first being registered with the 189
public utilities commission. 190

Sec. 4933.57. (A) Any person, firm, or corporation, or the 191
public utilities commission upon its initiative, may file a 192
written complaint against any electric submetering company for a 193

failure to comply with, or a violation of, any requirements 194
under sections 4933.52 to 4933.55 of the Revised Code. 195

If it appears that reasonable grounds for complaint are 196
stated, the commission shall provide notice of probable 197
noncompliance to the electric submetering company and grant the 198
company sixty days to cure the noncompliance. If such 199
noncompliance is not cured during the sixty-day cure period, the 200
commission may open an investigation of the company's compliance 201
with the requirements under sections 4933.52 to 4933.55 of the 202
Revised Code. 203

(B) The parties to a complaint investigation under this 204
section shall be entitled to be heard, represented by counsel, 205
and to have a process to enforce the attendance of witnesses. 206

Sec. 4933.58. Any electric submetering company that the 207
public utilities commission determines, after reasonable notice 208
and a hearing, and by a preponderance of the evidence, has 209
violated, or failed to comply with, the requirements under 210
sections 4933.52 to 4933.55 of the Revised Code, is liable to 211
the state for a forfeiture of not more than one hundred dollars 212
for each violation or compliance failure, unless the violation 213
or failure is cured within sixty days after the date of the 214
determination. If the violation or compliance failure is cured 215
within that time period, the commission shall issue an order 216
relieving the company from that liability. 217

Forfeitures shall be recovered by action prosecuted in the 218
name of the state and may be brought in the court of common 219
pleas of any county in which the company who committed the 220
violation or failed to comply is located. The action shall be 221
commenced and prosecuted by the attorney general when directed 222
by the public utilities commission. All forfeitures are 223

cumulative, and an action for recovery of one does not bar the 224
recovery of another. Forfeitures collected under this section 225
shall be credited to the general revenue fund. 226

Section 2. That existing sections 4905.02 and 4928.53 of 227
the Revised Code are hereby repealed. 228