

I_135_0815-2

135th General Assembly
Regular Session
2023-2024

Sub. S. B. No. 102

A BILL

To amend sections 4903.083, 4909.04, 4909.05, 1
4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 2
4909.156, 4909.18, 4909.19, 4909.42, 4909.43, 3
4928.01, 4928.08, 4928.14, 4928.141, 4928.144, 4
4928.148, 4928.17, 4928.20, 4928.23, 4928.231, 5
4928.232, 4928.54, 4928.542, 4928.64, and 6
4929.20; to enact new sections 4928.142 and 7
4928.143 and sections 4903.101, 4905.131, 8
4905.321, 4905.331, 4909.041, 4909.042, 9
4909.173, 4909.174, 4909.175, 4909.177, 10
4909.178, 4909.181, 4909.182, 4909.46, 4928.101, 11
4928.102, 4928.147, 4928.1410, 4928.171, and 12
4929.221; and to repeal sections 4928.142, 13
4928.143, 4928.581, 4928.582, and 4928.583 of 14
the Revised Code regarding public utilities and 15
competitive retail electric and natural gas 16
services. 17

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

Section 1. That sections 4903.083, 4909.04, 4909.05, 18



shmpajtgnjzxmrganhnaqw

4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.18, 19
4909.19, 4909.42, 4909.43, 4928.01, 4928.08, 4928.14, 4928.141, 20
4928.144, 4928.148, 4928.17, 4928.20, 4928.23, 4928.231, 21
4928.232, 4928.54, 4928.542, 4928.64, and 4929.20 be amended and 22
new sections 4928.142 and 4928.143 and sections 4903.101, 23
4905.131, 4905.321, 4905.331, 4909.041, 4909.042, 4909.173, 24
4909.174, 4909.175, 4909.177, 4909.178, 4909.181, 4909.182, 25
4909.46, 4928.101, 4928.102, 4928.147, 4928.1410, 4928.171, and 26
4929.221 of the Revised Code be enacted to read as follows: 27

Sec. 4903.083. (A) For all cases involving applications 28
for an increase in rates pursuant to section 4909.18 of the 29
Revised Code the public utilities commission shall hold public 30
hearings in each municipal corporation in the affected service 31
area having a population in excess of one hundred thousand 32
persons, provided that, at least one public hearing shall be 33
held in each affected service area. At least one such hearing 34
shall be held after 5:00 p.m. Notice of such hearing shall be 35
published by the commission ~~once each week for two consecutive~~ 36
~~weeks in~~ on the web site of a newspaper of general circulation 37
in the service area. ~~Said notice shall state prominently the~~ 38
~~total amount of the revenue increase requested in the~~ 39
~~application for the increase. The first publication of the~~ 40
~~notice shall be made in its entirety and may be made in a~~ 41
~~preprinted insert in the newspaper. The second publication may~~ 42
~~be abbreviated if all of the following apply:~~ 43

~~(1) The abbreviated notice is at least half the size of~~ 44
~~the notice in the first publication.~~ 45

~~(2) At the same time the abbreviated notice is published,~~ 46
~~the notice in the first publication is posted in its entirety on~~ 47
~~the newspaper's web site, if the newspaper has a web site, and~~ 48

~~the commission's web site.~~

49

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

50

51

52

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

53

54

55

56

57

58

59

60

Sec. 4903.101. The public utilities commission shall
render a final decision on the merits of the issue not later
than one hundred fifty days after the date of granting a
rehearing under section 4903.10 of the Revised Code. If the
commission fails to render a final decision in the time required
under this section, the rehearing on the issue shall be
considered denied by operation of law. This section does not
apply during a state of emergency declared by the governor.

61

62

63

64

65

66

67

68

Sec. 4905.131. (A) If the public utilities commission
authorizes a deferral as a regulatory asset on a public
utility's books and records, then the commission also shall
allow the utility to accrue carrying costs at the utility's
long-term cost of debt, as most recently approved under section
4909.18 of the Revised Code. If the commission allows recovery
of all or a portion of the regulatory asset, then the commission
also shall allow the continued accrual and collection of
carrying charges on the unrecovered balance at the utility's
long-term cost of debt, as most recently approved in a base rate

69

70

71

72

73

74

75

76

77

78

case under section 4909.18 of the Revised Code. The carrying 79
charges shall accrue until the entire regulatory asset and all 80
carrying costs have been recovered. 81

(B) If the commission requires a public utility to create 82
a regulatory liability on the utility's books and records, then 83
the commission also shall require the utility to accrue carrying 84
costs at the utility's long-term cost of debt as most recently 85
approved under section 4909.18 of the Revised Code. If the 86
commission requires all or a portion of the regulatory liability 87
to be credited to customers, then the commission also shall 88
require, on the balance that has not yet been credited, the 89
continued accrual of carrying charges at the utility's long-term 90
cost of debt as most recently approved under section 4909.18 of 91
the Revised Code. The carrying charges shall accrue until the 92
entirety of the regulatory liability and all carrying costs have 93
been credited to customers. 94

Sec. 4905.321. (A) Notwithstanding section 4905.32 of the 95
Revised Code, all revenues collected from customers by a public 96
utility as part of a rider or rate mechanism, rather than 97
through base rates, that are later found to be unreasonable, 98
unlawful, or otherwise improper by the supreme court shall be 99
subject to refund from the date of the issuance of the supreme 100
court's decision until the date when, on remand, the public 101
utilities commission makes changes to the rider or mechanism to 102
implement new rates to implement the supreme court's decision. 103

(B) The commission shall order the payment of the refunds 104
described in division (A) of this section in a manner designed 105
to allocate the refunds to customer classes in the same 106
proportion as the charges were originally collected. 107

(C) The commission shall determine how to allocate any 108

remaining funds described in division (A) of this section that 109
cannot be refunded for whatever reason. 110

Sec. 4905.331. (A) As used in this section: 111

(1) "Electric distribution utility" has the same meaning 112
as in section 4928.01 of the Revised Code. 113

(2) "Electric service" means any service involved in 114
supplying or arranging for the supply of electricity to ultimate 115
consumers in this state. "Electric service" includes "retail 116
electric service" as defined in section 4928.01 of the Revised 117
Code. 118

(3) "Proceeding" includes a proceeding relating to 119
electric service under Chapters 4909. and 4928. of the Revised 120
Code. 121

(B) No electric distribution utility or its affiliate may 122
do either of the following to induce any party to a public 123
utilities commission proceeding to enter into a settlement of a 124
matter pending before the commission: 125

(1) Make a cash payment to that party; 126

(2) Enter into any agreement or any financial or private 127
arrangement with that party that is not made part of the public 128
case record. 129

(C) Notwithstanding division (B) of this section, the 130
commission may do any of the following: 131

(1) Reasonably allocate costs among rate schedules; 132

(2) Reasonably design rates within a rate schedule; 133

(3) Approve reasonable rates designed for particular 134
customers or classes of customers; 135

<u>(4) Approve a resolution of a proceeding under section</u>	136
<u>4905.26 of the Revised Code;</u>	137
<u>(5) Approve payments to any governmental entity, nonprofit</u>	138
<u>organization, or other association for implementing low-income</u>	139
<u>weatherization programs under the low-income customer assistance</u>	140
<u>program administered by the department of development under</u>	141
<u>section 4928.54 of the Revised Code, subject to the following</u>	142
<u>conditions:</u>	143
<u>(a) The payments are at a rate that is reasonably tailored</u>	144
<u>to the costs of providing the programs.</u>	145
<u>(b) The payments are for programs that are subject to an</u>	146
<u>existing or new audit procedure.</u>	147
<u>(c) The payments are not for low-income weatherization</u>	148
<u>education programs.</u>	149
Sec. 4909.04. (A) The public utilities commission, for the	150
purpose of ascertaining the reasonableness and justice of rates	151
and charges for the service rendered by public utilities or	152
railroads, or for any other purpose authorized by law, may	153
investigate and ascertain the value of the property of any	154
public utility or railroad in this state used or useful for the	155
service and convenience of the public, using the same criteria	156
that are set forth in section <u>sections 4909.042 and 4909.05</u> of	157
the Revised Code. At the request of the legislative authority of	158
any municipal corporation, the commission, after hearing and	159
determining that such a valuation is necessary, may also	160
investigate and ascertain the value of the property of any	161
public utility used and useful for the service and convenience	162
of the public where the whole or major portion of such public	163
utility is situated in such municipal corporation.	164

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

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

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

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

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

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

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

(B) A "leaseback" is the sale or transfer of property by a public utility to another person contemporaneously followed by

the leasing of the property to the public utility on a long-term 194
basis. 195

Sec. 4909.042. (A) With respect to an electric light 196
company that chooses to file a fully forecasted test period 197
under section 4909.18 of the Revised Code, the public utilities 198
commission shall prescribe the form and details of the valuation 199
report of the property of the utility. Such report shall include 200
all the kinds and classes of property, with the value of each, 201
owned, held, or projected to be owned or held during the test 202
period, by the utility for the service and convenience of the 203
public. 204

(B) Such report shall contain the following facts in 205
detail: 206

(1) The original cost of each parcel of land owned in fee 207
and projected to be owned in fee and in use during the test 208
period, determined by the commission; and also a statement of 209
the conditions of acquisition, whether by direct purchase, by 210
donation, by exercise of the power of eminent domain, or 211
otherwise; 212

(2) The actual acquisition cost, not including periodic 213
rental fees, of rights-of-way, trailways, or other land rights 214
projected to be held during the test period, by virtue of 215
easements, leases, or other forms of grants of rights as to 216
usage; 217

(3) The original cost of all other kinds and classes of 218
property projected to be used and useful during the test period, 219
in the rendition of service to the public. Such original costs 220
of property, other than land owned in fee, shall be the cost, as 221
determined to be reasonable by the commission, to the person 222

that first dedicated or dedicates the property to the public use 223
and shall be set forth in property accounts and subaccounts as 224
prescribed by the commission; 225

(4) The cost of property constituting all or part of a 226
project projected to be leased to or used by the utility during 227
the test period, under Chapter 165., 3706., 6121., or 6123. of 228
the Revised Code and not included under division (B) (3) of this 229
section exclusive of any interest directly or indirectly paid by 230
the utility with respect thereto whether or not capitalized; 231

(5) In the discretion of the commission, the cost to a 232
utility, in an amount determined to be reasonable by the 233
commission, of property constituting all or part of a project 234
projected to be leased to the utility during the test period, 235
under a lease purchase agreement or a leaseback and not included 236
under division (B) (3) of this section exclusive of any interest 237
directly or indirectly paid by the utility with respect thereto 238
whether or not capitalized; 239

(6) The proper and adequate reserve for depreciation, as 240
determined to be reasonable by the commission; 241

(7) Any sums of money or property that the utility is 242
projected to receive as of the date certain, as total or partial 243
defrayal of the cost of its property; 244

(8) The valuation of the property of the utility, which 245
shall be the sum of the amounts contained in the report pursuant 246
to divisions (B) (1) to (5) of this section, less the sum of the 247
amounts contained in the report pursuant to divisions (B) (6) and 248
(7) of this section. 249

(C) The report shall show separately the property 250
projected to be used and useful to or held by the utility during 251

the test period, and such other items as the commission 252
considers proper. The commission may require an additional 253
report showing the extent to which the property is projected to 254
be used and useful as of the date certain. Such reports shall be 255
filed in the office of the commission for the information of the 256
governor and the general assembly. 257

Sec. 4909.05. As used in this section: 258

~~(A) A "lease purchase agreement" is an agreement pursuant~~ 259
~~to which a public utility leasing property is required to make~~ 260
~~rental payments for the term of the agreement and either the~~ 261
~~utility is granted the right to purchase the property upon the~~ 262
~~completion of the term of the agreement and upon the payment of~~ 263
~~an additional fixed sum of money or title to the property vests~~ 264
~~in the utility upon the making of the final rental payment.~~ 265

~~(B) A "leaseback" is the sale or transfer of property by a~~ 266
~~public utility to another person contemporaneously followed by~~ 267
~~the leasing of the property to the public utility on a long term~~ 268
~~basis.~~ 269

~~(C) The~~ With respect to every public utility, other than 270
an electric light company that chooses to file a fully 271
forecasted test period under section 4909.18 of the Revised 272
Code, the public utilities commission shall prescribe the form 273
and details of the valuation report of the property of each 274
public utility or railroad in the state. Such report shall 275
include all the kinds and classes of property, with the value of 276
each, owned, held, or, with respect to a natural gas, water- 277
works, or sewage disposal system company, projected to be owned 278
or held as of the date certain, by each public utility or 279
railroad used and useful, or, with respect to a natural gas, 280
water-works, or sewage disposal system company, projected to be 281

used and useful as of the date certain, for the service and	282
convenience of the public.	283
<u>(B)</u> Such report shall contain the following facts in	284
detail:	285
(1) The original cost of each parcel of land owned in fee	286
and in use, or, with respect to a natural gas, water-works, or	287
sewage disposal system company, projected to be owned in fee and	288
in use as of the date certain, determined by the commission; and	289
also a statement of the conditions of acquisition, whether by	290
direct purchase, by donation, by exercise of the power of	291
eminent domain, or otherwise;	292
(2) The actual acquisition cost, not including periodic	293
rental fees, of rights-of-way, trailways, or other land rights	294
held, or, with respect to a natural gas, water-works, or sewage	295
disposal system company, projected to be held as of the date	296
certain, by virtue of easements, leases, or other forms of	297
grants of rights as to usage;	298
(3) The original cost of all other kinds and classes of	299
property used and useful, or, with respect to a natural gas,	300
water-works, or sewage disposal system company, projected to be	301
used and useful as of the date certain, in the rendition of	302
service to the public. Subject to section 4909.052 of the	303
Revised Code, such original costs of property, other than land	304
owned in fee, shall be the cost, as determined to be reasonable	305
by the commission, to the person that first dedicated or	306
dedicates the property to the public use and shall be set forth	307
in property accounts and subaccounts as prescribed by the	308
commission. To the extent that the costs of property comprising	309
a coal research and development facility, as defined in section	310
1555.01 of the Revised Code, or a coal development project, as	311

defined in section 1551.30 of the Revised Code, have been 312
allowed for recovery as Ohio coal research and development costs 313
under section 4905.304 of the Revised Code, none of those costs 314
shall be included as a cost of property under this division. 315

(4) The cost of property constituting all or part of a 316
project leased to or used by the utility, or, with respect to a 317
natural gas, water-works, or sewage disposal system company, 318
projected to be leased to or used by the utility as of the date 319
certain, under Chapter 165., 3706., 6121., or 6123. of the 320
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 321
this section exclusive of any interest directly or indirectly 322
paid by the utility with respect thereto whether or not 323
capitalized; 324

(5) In the discretion of the commission, the cost to a 325
utility, in an amount determined to be reasonable by the 326
commission, of property constituting all or part of a project 327
leased to the utility, or, with respect to a natural gas, water- 328
works, or sewage disposal system company, projected to be leased 329
to the utility as of the date certain, under a lease purchase 330
agreement or a leaseback and not included under division ~~(C) (3)~~ 331
(B) (3) of this section exclusive of any interest directly or 332
indirectly paid by the utility with respect thereto whether or 333
not capitalized; 334

(6) The proper and adequate reserve for depreciation, as 335
determined to be reasonable by the commission; 336

(7) Any sums of money or property that the company may 337
have received, or, with respect to a natural gas, water-works, 338
or sewage disposal system company, is projected to receive as of 339
the date certain, as total or partial defrayal of the cost of 340
its property; 341

(8) The valuation of the property of the company, which 342
shall be the sum of the amounts contained in the report pursuant 343
to divisions ~~(C) (1)~~ (B) (1) to (5) of this section, less the sum 344
of the amounts contained in the report pursuant to divisions ~~(C)~~ 345
~~(6)~~ (B) (6) and (7) of this section. 346

(C) The report shall show separately the property used and 347
useful to such public utility or railroad in the furnishing of 348
the service to the public, the property held by such public 349
utility or railroad for other purposes, and the property 350
projected to be used and useful to or held by a natural gas, 351
water-works, or sewage disposal system company as of the date 352
certain, and such other items as the commission considers 353
proper. The commission may require an additional report showing 354
the extent to which the property is used and useful, or, with 355
respect to a natural gas, water-works, or sewage disposal system 356
company, projected to be used and useful as of the date certain. 357
Such reports shall be filed in the office of the commission for 358
the information of the governor and the general assembly. 359

Sec. 4909.052. Subject to a finding that such costs are 360
just and reasonable, the public utilities commission in 361
evaluating a petition submitted under section 4905.481 of the 362
Revised Code shall accept the original cost, reported under 363
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 364
of the acquisition of a municipal water-works or sewage disposal 365
system company that is acquired by a large water-works or sewage 366
disposal system company, provided that the original cost is 367
determined according to all of the following requirements: 368

(A) The acquiring company has three appraisals performed 369
on the property of the company being acquired. 370

(B) The three appraisals are performed by three 371

independent utility-valuation experts mutually selected by the 372
acquiring company and the company being acquired from the list 373
maintained under section 4909.054 of the Revised Code. 374

(C) The average of the three appraisals is used as the 375
fair market value of the company being acquired. 376

(D) Each utility-valuation expert does all of the 377
following: 378

(1) Determines the fair market value of the company to be 379
acquired by establishing the amount for which the company would 380
be sold in a voluntary transaction between a willing buyer and a 381
willing seller under no obligation to buy or sell; 382

(2) Determines the fair market value in compliance with 383
the uniform standards of professional appraisal practice; 384

(3) Employs the cost, market, and income approach to 385
independently quantify the future benefits of the company to be 386
acquired; 387

(4) Incorporates the assessment described in division (D) 388
(5) of this section into the appraisal under the cost, market, 389
and income approach; 390

(5) Engages one engineer who is licensed to prepare an 391
assessment of the tangible assets of the company to be acquired. 392
The original source of funding for any part of the tangible 393
assets shall not be relevant to the determination of the value 394
of those assets. 395

(E) The lesser of the purchase price or the fair market 396
value, described in division (C) of this section, is reported as 397
the original cost under division ~~(C) (3)~~ (B) (3) of section 398
4909.05 of the Revised Code of the company to be acquired. 399

Sec. 4909.06. The investigation and report required by 400
~~section~~ section 4909.042 or 4909.05 of the Revised Code shall 401
show, when the public utilities commission deems it necessary, 402
the amounts, dates, and rates of interest of all bonds 403
outstanding against each public utility or railroad, the 404
property upon which such bonds are a lien, the amounts paid for 405
them, and, the original capital stock and the moneys received by 406
any such public utility or railroad by reason of any issue of 407
stock, bonds, or other securities. Such report shall also show 408
the net and gross receipts of such public utility or railroad 409
and the method by which moneys were expended or paid out and the 410
purpose of such payments. The commission may prescribe the 411
procedure to be followed in making the investigation and 412
valuation, the form in which the results of the ascertainment of 413
the value of each public utility or railroad shall be submitted, 414
and the classifications of the elements that constitute the 415
ascertained value. Such investigation shall also show the value 416
of the property of every public utility or railroad as a whole, 417
and if such property is in more than one county, the value of 418
its property in each of such counties. 419

"Valuation" and "value," as used in this section, may 420
include, ~~with~~ : 421

(A) With respect to a public utility that is a natural 422
gas, water-works, or sewage disposal system company, projected 423
valuation and value as of the date certain, if applicable 424
because of a future date certain under section 4909.15 of the 425
Revised Code; 426

(B) With respect to an electric light company that chooses 427
to file a fully forecasted test period under section 4909.18 of 428
the Revised Code, the valuation and value during the fully 429

forecasted test period. 430

Sec. 4909.07. The public utilities commission, during the 431
making of the valuation provided for in sections 4909.04 to 432
4909.13 of the Revised Code, and after its completion, shall in 433
like manner keep itself informed through its engineers, experts, 434
and other assistants of all extensions, improvements, or other 435
changes in the condition and value of the property of all public 436
utilities or railroads and shall ascertain the value of such 437
extensions, improvements, and changes. The commission shall, as 438
is required for the proper regulation of such public utilities 439
or railroads, revise and correct its valuations of property, 440
showing such revisions and corrections as a whole and as to each 441
county. Such revisions and corrections shall be filed in the 442
same manner as original reports. 443

"Valuation" and "value," as used in this section, may 444
include, ~~with~~ : 445

(A) With respect to a public utility that is a natural 446
gas, water-works, or sewage disposal system company, projected 447
valuation and value as of the date certain, if applicable 448
because of a future date certain under section 4909.15 of the 449
Revised Code; 450

(B) With respect to an electric light company that chooses 451
to file a fully forecasted test period under section 4909.18 of 452
the Revised Code, the valuation and value during the fully 453
forecasted test period. 454

Sec. 4909.08. When the public utilities commission has 455
completed the valuation of the property of any public utility or 456
railroad and before such valuation becomes final, it shall give 457
notice by registered letter to such public utility or railroad, 458

and if a substantial portion of said public utility or railroad 459
is situated in a municipal corporation, then to the mayor of 460
such municipal corporation, stating the valuations placed upon 461
the several kinds and classes of property of such public utility 462
or railroad and upon the property as a whole and give such 463
further notice by publication or otherwise as it shall deem 464
necessary to apprise the public of such valuation. If, within 465
thirty days after such notification, no protest has been filed 466
with the commission, such valuation becomes final. If notice of 467
protest has been filed by any public utility or railroad, the 468
commission shall fix a time for hearing such protest and shall 469
consider at such hearing any matter material thereto presented 470
by such public utility, railroad, or municipal corporation, in 471
support of its protest or by any representative of the public 472
against such protest. If, after the hearing of any protest of 473
any valuation so fixed, the commission is of the opinion that 474
its inventory is incomplete or inaccurate or that its valuation 475
is incorrect, it shall make such changes as are necessary and 476
shall issue an order making such corrected valuations final. A 477
final valuation by the commission and all classifications made 478
for the ascertainment of such valuations shall be public and are 479
prima-facie evidence relative to the value of the property. 480

"Valuation" and "value," as used in this section, may 481
include, ~~with~~: 482

(A) With respect to a public utility that is a natural 483
gas, water-works, or sewage disposal system company, projected 484
valuation and value as of the date certain, if applicable 485
because of a future date certain under section 4909.15 of the 486
Revised Code; 487

(B) With respect to an electric light company that chooses 488

to file a fully forecasted test period under section 4909.18 of 489
the Revised Code, the valuation and value during the fully 490
forecasted test period. 491

Sec. 4909.15. (A) The public utilities commission, when 492
fixing and determining just and reasonable rates, rate 493
mechanisms, fares, tolls, rentals, and charges, shall determine: 494

~~(1) The~~ (1) (a) With respect to a public utility that is a 495
natural gas, water-works, or sewage disposal system company, or 496
that is an electric light company that chooses not to file a 497
fully forecasted test period under section 4909.18 of the 498
Revised Code, the valuation as of the date certain of the 499
property of the public utility that is used and useful or, 500
with respect to a natural gas, water-works, or sewage disposal system 501
company, is projected to be used and useful as of the date 502
certain, in rendering the public utility service for which rates 503
are to be fixed and determined. 504

(b) With respect to an electric light company that chooses 505
to file a fully forecasted test period under section 4909.18 of 506
the Revised Code, the valuation of the property of the utility 507
that is projected to be used and useful during the fully 508
forecasted test period in rendering the public utility service 509
for which rates are to be fixed and determined. 510

(c) The valuation so determined under division (A) (1) of 511
this section for any public utility shall be the total value as 512
set forth in division ~~(C) (8)~~ (B) (8) of section 4909.042 of the 513
Revised Code and division (B) (8) of section 4909.05 of the 514
Revised Code, and a reasonable allowance for materials and 515
supplies and a reasonable allowance for cash working capital as 516
determined by the commission. 517

~~The commission, in its discretion, may include in the valuation a reasonable allowance for construction work in progress but, in no event, may such an allowance be made by the commission until it has determined that the particular construction project is at least seventy five per cent complete.~~ 518
519
520
521
522

~~In determining the percentage completion of a particular construction project, the commission shall consider, among other relevant criteria, the per cent of time elapsed in construction; the per cent of construction funds, excluding allowance for funds used during construction, expended, or obligated to such construction funds budgeted where all such funds are adjusted to reflect current purchasing power; and any physical inspection performed by or on behalf of any party, including the commission's staff.~~ 523
524
525
526
527
528
529
530
531

~~A reasonable allowance for construction work in progress shall not exceed ten per cent of the total valuation as stated in this division, not including such allowance for construction work in progress.~~ 532
533
534
535

~~Where the commission permits an allowance for construction work in progress, the dollar value of the project or portion thereof included in the valuation as construction work in progress shall not be included in the valuation as plant in service until such time as the total revenue effect of the construction work in progress allowance is offset by the total revenue effect of the plant in service exclusion. Carrying charges calculated in a manner similar to allowance for funds used during construction shall accrue on that portion of the project in service but not reflected in rates as plant in service, and such accrued carrying charges shall be included in the valuation of the property at the conclusion of the offset~~ 536
537
538
539
540
541
542
543
544
545
546
547

~~period for purposes of division (C) (8) of section 4909.05 of the Revised Code.~~ 548
549

~~From and after April 10, 1985, no allowance for construction work in progress as it relates to a particular construction project shall be reflected in rates for a period exceeding forty eight consecutive months commencing on the date the initial rates reflecting such allowance become effective, except as otherwise provided in this division.~~ 550
551
552
553
554
555

~~The applicable maximum period in rates for an allowance for construction work in progress as it relates to a particular construction project shall be tolled if, and to the extent, a delay in the in-service date of the project is caused by the action or inaction of any federal, state, county, or municipal agency having jurisdiction, where such action or inaction relates to a change in a rule, standard, or approval of such agency, and where such action or inaction is not the result of the failure of the utility to reasonably endeavor to comply with any rule, standard, or approval prior to such change.~~ 556
557
558
559
560
561
562
563
564
565

~~In the event that such period expires before the project goes into service, the commission shall exclude, from the date of expiration, the allowance for the project as construction work in progress from rates, except that the commission may extend the expiration date up to twelve months for good cause shown.~~ 566
567
568
569
570
571

~~In the event that a utility has permanently canceled, abandoned, or terminated construction of a project for which it was previously permitted a construction work in progress allowance, the commission immediately shall exclude the allowance for the project from the valuation.~~ 572
573
574
575
576

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

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

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

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

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

~~(a)~~ Federal, state, and local taxes imposed on or measured by net income may, in the discretion of the commission, be computed by the normalization method of accounting, provided the

utility maintains accounting reserves that reflect differences 606
between taxes actually payable and taxes on a normalized basis, 607
provided that no determination as to the treatment in the rate- 608
making process of such taxes shall be made that will result in 609
loss of any tax depreciation or other tax benefit to which the 610
utility would otherwise be entitled, and further provided that 611
such tax benefit as redounds to the utility as a result of such 612
a computation may not be retained by the company, used to fund 613
any dividend or distribution, or utilized for any purpose other 614
than the defrayal of the operating expenses of the utility and 615
the defrayal of the expenses of the utility in connection with 616
construction work. 617

~~(b) The amount of any tax credits granted to an electric 618
light company under section 5727.391 of the Revised Code for 619
Ohio coal burned prior to January 1, 2000, shall not be retained 620
by the company, used to fund any dividend or distribution, or 621
utilized for any purposes other than the defrayal of the 622
allowable operating expenses of the company and the defrayal of 623
the allowable expenses of the company in connection with the 624
installation, acquisition, construction, or use of a compliance 625
facility. The amount of the tax credits granted to an electric 626
light company under that section for Ohio coal burned prior to 627
January 1, 2000, shall be returned to its customers within three 628
years after initially claiming the credit through an offset to 629
the company's rates or fuel component, as determined by the 630
commission, as set forth in schedules filed by the company under 631
section 4905.30 of the Revised Code. As used in division (A) (4) 632
(b) of this section, "compliance facility" has the same meaning 633
as in section 5727.391 of the Revised Code. 634~~

(B) The commission shall compute the gross annual revenues 635
to which the utility is entitled by adding the dollar amount of 636

return under division (A) (3) of this section to the cost, for 637
the test period used for the determination under division (C) (1) 638
of this section, of rendering the public utility service under 639
division (A) (4) of this section. 640

(C) (1) Except as provided in division (D) of this section, 641
the revenues and expenses of the utility shall be determined 642
during a test period. ~~The utility may~~ as follows: 643

(a) Electric light companies may propose a fully 644
forecasted test period utilizing reasonably forecasted rate 645
base, revenues, and expenses for the first twelve months that 646
new rates will be in effect. Initially, rates shall be set using 647
the thirteen-month average rate base ending in the last month of 648
the test period, based on the end-of-month balance for the 649
twelve consecutive calendar months of the test period plus the 650
end-of-month balance for the month immediately prior to the 651
beginning of the forecasted test period. Final rates for this 652
thirteen-month average test period shall use the lower of 653
forecasted plant investment or actual plant investment, actual 654
revenues, and actual expenses. 655

Forecasted plant investment, forecasted revenues, and 656
forecasted expenses versus actual investment, actual revenues, 657
and actual expenses shall be trued up via a rate mechanism 658
approved by the commission. As part of the true-up process, the 659
commission shall exclude any cost components that have not been 660
found by the commission to be used and useful in rendering 661
public utility service. 662

The fully forecasted test period shall commence not later 663
than the application's filing date. 664

(b) All utilities, except for electric light companies 665

that choose to file under division (C) (1) (a) of this section, 666
shall propose a test period for this determination that is any 667
twelve-month period beginning not more than six months prior to 668
the date the application is filed and ending not more than nine 669
months subsequent to that date. ~~The test period for determining~~ 670
~~revenues and expenses of the utility shall be the test period~~ 671
~~proposed by the utility, unless otherwise ordered by the~~ 672
~~commission.~~ 673

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 674
this section, the date certain shall be not later than the date 675
of filing, except that it shall be, for a natural gas, water- 676
works, or sewage disposal system company, not later than the end 677
of the test period. 678

(D) ~~A natural gas, water works, or sewage disposal system~~ 679
~~company~~ Utilities filing under division (C) (1) (b) of this 680
section may propose adjustments to the revenues and expenses ~~to~~ 681
~~be determined under division (C) (1) of this section~~ for any 682
changes that are, during the test period or the twelve-month 683
period immediately following the test period, reasonably 684
expected to occur. ~~The natural gas, water works, or sewage~~ 685
~~disposal system company utility~~ shall identify and quantify, 686
individually, any proposed adjustments. The commission shall 687
incorporate the proposed adjustments into the determination if 688
the adjustments are just and reasonable. 689

(E) When the commission is of the opinion, after hearing 690
and after making the determinations under divisions (A) and (B) 691
of this section, that any rate, rate mechanism, fare, charge, 692
toll, rental, schedule, classification, or service, or any joint 693
rate, fare, charge, toll, rental, schedule, classification, or 694
service rendered, charged, demanded, exacted, or proposed to be 695

rendered, charged, demanded, or exacted, is, or will be, unjust, 696
unreasonable, unjustly discriminatory, unjustly preferential, or 697
in violation of law, that the service is, or will be, 698
inadequate, or that the maximum rates, charges, tolls, or 699
rentals chargeable by any such public utility are insufficient 700
to yield reasonable compensation for the service rendered, and 701
are unjust and unreasonable, the commission shall: 702

(1) With due regard among other things to the value of all 703
property of the public utility ~~actually used and useful for the~~ 704
~~convenience of the public~~ as determined under division (A) (1) of 705
this section, excluding from such value the value of any 706
franchise or right to own, operate, or enjoy the same in excess 707
of the amount, exclusive of any tax or annual charge, actually 708
paid to any political subdivision of the state or county, as the 709
consideration for the grant of such franchise or right, and 710
excluding any value added to such property by reason of a 711
monopoly or merger, with due regard in determining the dollar 712
annual return under division (A) (3) of this section to the 713
necessity of making reservation out of the income for surplus, 714
depreciation, and contingencies, and; 715

(2) With due regard to all such other matters as are 716
proper, according to the facts in each case, 717

(a) Including a fair and reasonable rate of return 718
determined by the commission with reference to a cost of debt 719
equal to the actual embedded cost of debt of such public 720
utility, 721

(b) But not including the portion of any periodic rental 722
or use payments representing that cost of property that is 723
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 724
and (5) of section 4909.042 of the Revised Code and divisions 725

(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 726
determine the just and reasonable rate, rate mechanism, fare, 727
charge, toll, rental, or service to be rendered, charged, 728
demanded, exacted, or collected for the performance or rendition 729
of the service that will provide the public utility the 730
allowable gross annual revenues under division (B) of this 731
section, and order such just and reasonable rate, rate 732
mechanism, fare, charge, toll, rental, or service to be 733
substituted for the existing one. After such determination and 734
order no change in the rate, rate mechanism, fare, toll, charge, 735
rental, schedule, classification, or service shall be made, 736
rendered, charged, demanded, exacted, or changed by such public 737
utility without the order of the commission, and any other rate, 738
rate mechanism, fare, toll, charge, rental, classification, or 739
service is prohibited. 740

(F) Upon application of any person or any public utility, 741
and after notice to the parties in interest and opportunity to 742
be heard as provided in Chapters 4901., 4903., 4905., 4907., 743
4909., 4921., and 4923. of the Revised Code for other hearings, 744
has been given, the commission may rescind, alter, or amend an 745
order fixing any rate, rate mechanism, fare, toll, charge, 746
rental, classification, or service, or any other order made by 747
the commission. Certified copies of such orders shall be served 748
and take effect as provided for original orders. 749

Sec. 4909.156. In fixing the just, reasonable, and 750
compensatory rates, rate mechanisms, joint rates, tolls, 751
classifications, charges, or rentals to be observed and charged 752
for service by any public utility, the public utilities 753
commission shall, in action upon an application filed pursuant 754
to section 4909.18 of the Revised Code, require a public utility 755
to file a report showing the proportionate amounts of the 756

valuation of the property of the utility, as determined under 757
section 4909.042 or 4909.05 of the Revised Code, and the 758
proportionate amounts of the revenues and expenses of the 759
utility that are proposed to be considered as attributable to 760
the service area involved in the application. 761

"Valuation," as used in this section, may include, ~~with~~: 762

(A) With respect to a public utility that is a natural 763
gas, water-works, or sewage disposal system company, projected 764
valuation as of the date certain, if applicable because of a 765
future date certain under section 4909.15 of the Revised Code; 766

(B) With respect to an electric light company that chooses 767
to file a fully forecasted test period under section 4909.18 of 768
the Revised Code, the valuation and value during the fully 769
forecasted test period. 770

Sec. 4909.173. (A) An electric light company may file an 771
application with the public utilities commission for approval to 772
collect the revenue requirement associated with distribution 773
infrastructure investments through an interim distribution 774
mechanism, determined in accordance with this section. The 775
application shall contain such information as the commission 776
prescribes. A single application for an interim distribution 777
mechanism may include any combination of investments described 778
in division (C) of this section. 779

A company for which an interim distribution mechanism is 780
authorized under this section may file an application for 781
another such mechanism not sooner than twelve months after the 782
filing date of its most recent interim distribution mechanism 783
application. The commission shall not authorize a company to 784
have more than three interim distribution mechanisms for any 785

single company tariff in effect at any time. 786

(B) The following apply to the interim distribution application process: 787
788

(1) Not later than fourteen calendar days after the filing of an application under this section, the commission shall establish a procedural schedule with an evidentiary hearing. 789
790
791

(2) The commission may only authorize an interim distribution mechanism for a company under the following circumstances: 792
793
794

(a) The mechanism is just and reasonable. 795

(b) The mechanism does not result in revenues in excess of the requirement to recover infrastructure costs that are: 796
797

(i) Associated with the distribution-related infrastructure investments described in division (C) of this section that are not already reflected in the affected schedules filed by the company under section 4905.32 of the Revised Code; 798
799
800
801

(ii) Either incurred before the date of filing or are projected to be incurred not later than twelve months following the company's application date. 802
803
804

(3) In its review of an application made under this section, the commission shall consider factors, including the following: 805
806
807

(a) Any benefits the company's investments contribute to the company's distribution grid and to customers; 808
809

(b) Any incremental cost savings resulting from such investments. 810
811

(4) The revenue requirement for each interim distribution 812

mechanism shall be allocated to base distribution rate classes 813
consistent with the revenue requirement allocation in the 814
company's most recently approved application under section 815
4909.18 of the Revised Code. 816

(5) To the extent a mechanism is based on expenditures 817
included in division (C) (2) (a) of this section, the mechanism 818
shall not collect in excess of four per cent of the base 819
distribution revenue requirement approved by the commission in 820
the company's most recent application under section 4909.18 of 821
the Revised Code. 822

(6) Each interim distribution mechanism shall be trued up 823
annually, subject to the limitation under division (B) (5) of 824
this section. 825

(C) Distribution-related infrastructure investments that 826
the commission may approve for an interim distribution mechanism 827
include distribution-related capital expenditures that the 828
commission determines meet all of the following criteria: 829

(1) The investments meet the requirement under section 830
4909.15 of the Revised Code to be used and useful in rendering 831
public utility service or projected to be used and useful in 832
rendering public utility service not later than twelve months 833
following the date of application filed under this section; 834

(2) The investments are any of the following: 835

(a) Determined necessary by the commission for maintaining 836
or improving safety, reliability, system efficiency, security, 837
or resiliency purposes; 838

(b) Related to external conditions or circumstances that 839
were not reasonably foreseeable at the time the company filed 840
its most recent notice of intent to file an application for an 841

increase in rates under section 4909.18 of the Revised Code, 842
including the following: 843

(i) Capital expenditures for the installation of 844
replacement plant that, as determined by the commission, are 845
necessitated by weather or other factors outside of the 846
company's control that cause damage to existing infrastructure; 847

(ii) Unreimbursed capital expenditures made by the company 848
for facility relocation required by a governmental entity due to 849
a street or highway project; 850

(iii) Capital expenditures made by the company to comply 851
with any consent decree, final order, or final rule of any 852
local, state, or federal agency or legislative body. 853

(D) An application made under this section shall not be 854
considered an application to increase rates under section 855
4909.18 of the Revised Code. 856

(E) An order issued by the commission regarding an 857
application by an electric light company for an increase in 858
rates under section 4909.18 of the Revised Code shall provide 859
for the termination, as of the effective date of the rate 860
increase, of any interim distribution mechanisms authorized for 861
the company under this section, to the extent the underlying 862
investments are then being recovered through base rates. 863

(F) As used in division (B) of this section, 864
infrastructure costs shall include depreciation, property taxes, 865
debt service, and a fair and reasonable rate of return on 866
equity, equivalent to the rate of return on equity most recently 867
authorized for the company in an application filed under section 868
4909.18 of the Revised Code, on the filing date valuation of 869
that particular infrastructure. 870

Sec. 4909.174. (A) If the public utilities commission 871
fails to issue a final order not later than one hundred eighty 872
days after the date an application is filed under section 873
4909.173 of the Revised Code, an application submitted pursuant 874
to that section shall go into effect immediately subject to 875
refund including interest at the rate stated in section 1343.03 876
of the Revised Code. The refund shall be accomplished in a 877
manner as prescribed by the commission. 878

(B) If the commission fails to issue a final order not 879
later than two hundred seventy-five days after the date the 880
application is filed, an electric light company is not obligated 881
to refund amounts that exceed the amounts authorized by the 882
commission's final order and are collected during the period 883
beginning after the two hundred seventy-fifth day and ending on 884
the date of the commission's final order. 885

(C) The commission may extend the deadlines established 886
for commission orders in division (A) or (B) of this section, if 887
the commission finds that the electric light company that filed 888
the application has caused a delay in the application 889
proceeding. The commission may extend the deadline in division 890
(A) or (B) of this section commensurate with the delay caused by 891
the company. 892

Sec. 4909.175. During the period that an interim 893
distribution mechanism authorized by the public utilities 894
commission under section 4909.173 of the Revised Code is in 895
effect, the commission, by order and on its own motion or upon 896
good cause shown, may reduce the amount of, or terminate, the 897
mechanism, if it determines that the mechanism, on a normalized 898
basis, has caused the company to earn a rate of return on equity 899
on distribution rate base that is greater than two hundred fifty 900

basis points in excess of the rate of return on equity most 901
recently authorized for the company in an application filed 902
under section 4909.18 of the Revised Code. 903

Sec. 4909.177. An electric light company shall provide 904
notice of any interim distribution mechanism authorized under 905
section 4909.173 of the Revised Code to each affected customer 906
with, or on, the customer's first bill containing the mechanism. 907
The company also shall list, on all customer bills sent by the 908
company, the individual customer cost of the company's interim 909
distribution mechanism under section 4909.173 of the Revised 910
Code for the applicable billing period. 911

Sec. 4909.178. Not later than ninety days after the 912
effective date this section, the public utilities commission 913
shall adopt such rules and public notice requirements as it 914
considers necessary to carry out sections 4909.173 to 4909.178 915
of the Revised Code. 916

Notwithstanding any provision of section 121.95 of the 917
Revised Code to the contrary, a regulatory restriction contained 918
in a rule adopted under section 4909.178 of the Revised Code is 919
not subject to sections 121.95 to 121.953 of the Revised Code. 920

Sec. 4909.18. Any public utility desiring to establish any 921
rate, rate mechanism, joint rate, toll, classification, charge, 922
or rental, or to modify, amend, change, increase, or reduce any 923
existing rate, rate mechanism, joint rate, toll, classification, 924
charge, or rental, or any regulation or practice affecting the 925
same, shall file a written application with the public utilities 926
commission. Except for actions under section 4909.16 of the 927
Revised Code, no public utility may issue the notice of intent 928
to file an application pursuant to division (B) of section 929
4909.43 of the Revised Code to increase any existing rate, rate 930

mechanism, joint rate, toll, classification, charge, or rental, 931
until a final order under this section has been issued by the 932
commission on any pending prior application to increase the same 933
rate, rate mechanism, joint rate, toll, classification, charge, 934
or rental or until two hundred seventy-five days after filing 935
such application, whichever is sooner. Such application shall be 936
verified by the president or a vice-president and the secretary 937
or treasurer of the applicant. Such application shall contain a 938
schedule of the existing rate, rate mechanism, joint rate, toll, 939
classification, charge, or rental, or regulation or practice 940
affecting the same, a schedule of the modification amendment, 941
change, increase, or reduction sought to be established, and a 942
statement of the facts and grounds upon which such application 943
is based. If such application proposes a new service or the use 944
of new equipment, or proposes the establishment or amendment of 945
a regulation, the application shall fully describe the new 946
service or equipment, or the regulation proposed to be 947
established or amended, and shall explain how the proposed 948
service or equipment differs from services or equipment 949
presently offered or in use, or how the regulation proposed to 950
be established or amended differs from regulations presently in 951
effect. The application shall provide such additional 952
information as the commission may require in its discretion. If 953
the commission determines that such application is not for an 954
increase in any rate, rate mechanism, joint rate, toll, 955
classification, charge, or rental, the commission may permit the 956
filing of the schedule proposed in the application and fix the 957
time when such schedule shall take effect. If it appears to the 958
commission that the proposals in the application may be unjust 959
or unreasonable, the commission shall set the matter for hearing 960
~~and shall give notice of such hearing by sending written notice~~ 961
~~of the date set for the hearing to the public utility and~~ 962

~~publishing notice of the hearing one time in a newspaper of~~ 963
~~general circulation in each county in the service area affected~~ 964
~~by the application.~~ At such hearing, the burden of proof to show 965
that the proposals in the application are just and reasonable 966
shall be upon the public utility. ~~After such hearing, the~~ 967
~~commission shall, where practicable, issue an appropriate order~~ 968
~~within six months from the date the application was filed.~~ 969

If the commission determines that said application is for 970
an increase in any rate, rate mechanism, joint rate, toll, 971
classification, charge, or rental there shall also, unless 972
otherwise ordered by the commission, be filed with the 973
application in duplicate the following exhibits: 974

(A) A report of its property used and useful, or, with 975
respect to a natural gas, water-works, or sewage disposal system 976
company, projected to be used and useful, as of the date 977
certain, or during the test period, if the application is filed 978
under division (C) (1) (a) of section 4909.15 of the Revised Code, 979
in rendering the service referred to in such application, as 980
provided in ~~section~~ sections 4909.042 and 4909.05 of the Revised 981
Code; 982

(B) A complete operating statement of its last fiscal 983
year, showing in detail all its receipts, revenues, and incomes 984
from all sources, all of its operating costs and other 985
expenditures, and any analysis such public utility deems 986
applicable to the matter referred to in said application; 987

(C) A statement of the income and expense anticipated 988
under the application filed; 989

(D) A statement of financial condition summarizing assets, 990
liabilities, and net worth; 991

(E) Such other information as the commission may require 992
in its discretion. 993

Sec. 4909.181. (A) Not later than five years after the 994
effective date of this section and at least every five years 995
thereafter, an electric distribution utility shall file a rate 996
case application regarding distribution service under section 997
4909.18 of the Revised Code. 998

(B) Each electric distribution utility that has not filed 999
a rate case application regarding distribution service under 1000
section 4909.18 of the Revised Code during the five-year period 1001
prior to the effective date of this section shall file such a 1002
rate case not later than six months after the effective date of 1003
this section. 1004

Sec. 4909.182. The time period requirements for rate case 1005
proceedings that were in effect prior to the effective date of 1006
this section apply to a rate case application filed by an 1007
electric distribution utility under division (B) of section 1008
4909.181 of the Revised Code. The time period requirements for 1009
rate case proceedings, as amended by S.B. 102 of the 135th 1010
general assembly, apply to all rate cases filed by the electric 1011
distribution utility subsequent to the rate case it files under 1012
division (B) of section 4909.181 of the Revised Code. 1013

Sec. 4909.19. (A) Upon the filing of any application for 1014
increase in any rate, rate mechanism, joint rate, toll, 1015
classification, charge, or rental provided for by section 1016
4909.18 of the Revised Code, the public utility shall forthwith 1017
publish notice of such application, in a form approved by the 1018
public utilities commission, once a week for two consecutive 1019
weeks in on the web site of a newspaper published and in general 1020
circulation throughout the territory in which such public 1021

utility operates and directly affected by the matters referred 1022
to in said application. ~~The notice shall include instructions~~ 1023
~~for direct electronic access to the application or other~~ 1024
~~documents on file with the public utilities commission. The~~ 1025
~~first publication of the notice shall be made in its entirety~~ 1026
~~and may be made in a preprinted insert in the newspaper. The~~ 1027
~~second publication may be abbreviated if all of the following~~ 1028
~~apply:—~~ 1029

~~(1) The abbreviated notice is at least one fourth of the~~ 1030
~~size of the notice in the first publication.~~ 1031

~~(2) At the same time the abbreviated notice is published,~~ 1032
~~the notice in the first publication is posted in its entirety on~~ 1033
~~the newspaper's web site, if the newspaper has a web site, and~~ 1034
~~the commission's web site.~~ 1035

~~(3) The abbreviated notice contains a statement of the web~~ 1036
~~site posting or postings, as applicable, and instructions for~~ 1037
~~accessing the posting or postings.~~ 1038

~~(B)~~ The commission shall determine a format for the 1039
content of ~~all notices~~ the notice required under this section, 1040
and shall consider costs and technological efficiencies in 1041
making that determination. Defects in the publication of said 1042
notice shall not affect the legality or sufficiency of notices 1043
published under this section provided that the commission has 1044
substantially complied with this section, as described in 1045
section 4905.09 of the Revised Code. 1046

~~(C)~~ (B) The commission shall at once cause an 1047
investigation to be made of the facts set forth in said 1048
application and the exhibits attached thereto, and of the 1049
matters connected therewith. ~~Within~~ Not later than a reasonable 1050

~~time as determined by the commission one hundred fifty days~~ 1051
after the filing of such application, the commission staff shall 1052
make and file in the case a written report ~~shall be made and~~ 1053
~~filed with the commission, a copy of which shall be sent by~~ 1054
~~certified mail to the applicant, the mayor of any municipal~~ 1055
~~corporation affected by the application, and to such other~~ 1056
~~persons as the commission deems interested~~of recommendations, 1057
including all work papers in electronic format with all formulas 1058
intact. 1059

(C) If no objection to such report is made by any party 1060
interested within thirty days after such filing ~~and the mailing~~ 1061
~~of copies thereof~~, the commission shall fix a date within ten 1062
days for the final hearing upon said application, giving notice 1063
thereof to all parties interested. At such hearing the 1064
commission shall consider the matters set forth in said 1065
application and make such order respecting the prayer thereof as 1066
~~to~~ it seems just and reasonable. 1067

If objections are filed with the commission, the 1068
commission shall cause a pre-hearing conference to be held 1069
between all parties, intervenors, and the commission staff in 1070
all cases involving more than one hundred thousand customers. 1071

If objections are filed with the commission within thirty 1072
days after the filing of such report, the application shall be 1073
promptly set down for hearing of testimony before the commission 1074
or be forthwith referred to an attorney examiner designated by 1075
the commission to take all the testimony with respect to the 1076
application and objections which may be offered by any 1077
interested party. 1078

The commission shall also fix the time and place to take 1079
testimony giving ten days' written notice of such time and place 1080

to all parties. The taking of testimony shall commence on the 1081
date fixed in said notice and shall continue from day to day 1082
until completed. The attorney examiner may, upon good cause 1083
shown, grant continuances for not more than three days, 1084
excluding Saturdays, Sundays, and holidays. The commission may 1085
grant continuances for a longer period than three days upon its 1086
order for good cause shown. At any hearing involving rates or 1087
charges sought to be increased, the burden of proof to show that 1088
the increased rates or charges are just and reasonable shall be 1089
on the public utility. 1090

When the taking of testimony is completed, a full and 1091
complete record of such testimony noting all objections made and 1092
exceptions taken by any party or counsel, shall be made, signed 1093
by the attorney examiner, and filed with the commission. Prior 1094
to the formal consideration of the application by the commission 1095
and the rendition of any order respecting the prayer of the 1096
application, a quorum of the commission shall consider the 1097
recommended opinion and order of the attorney examiner, in an 1098
open, formal, public proceeding in which an overview and 1099
explanation is presented orally. Thereafter, the commission 1100
shall make such order respecting the prayer of such application 1101
as seems just and reasonable to it. 1102

In all proceedings before the commission in which the 1103
taking of testimony is required, except when heard by the 1104
commission, attorney examiners shall be assigned by the 1105
commission to take such testimony and fix the time and place 1106
therefor, and such testimony shall be taken in the manner 1107
prescribed in this section. All testimony shall be under oath or 1108
affirmation and taken down and transcribed by a reporter and 1109
made a part of the record in the case. The commission may hear 1110
the testimony or any part thereof in any case without having the 1111

same referred to an attorney examiner and may take additional 1112
testimony. Testimony shall be taken and a record made in 1113
accordance with such general rules as the commission prescribes 1114
and subject to such special instructions in any proceedings as 1115
it, by order, directs. 1116

Sec. 4909.42. If the proceeding on an application filed 1117
with the public utilities commission under section 4909.18 of 1118
the Revised Code by any public utility requesting an increase on 1119
any rate, rate mechanism, joint rate, toll, classification, 1120
charge, or rental or requesting a change in a regulation or 1121
practice affecting the same has not been concluded and an 1122
opinion and order entered pursuant to section 4909.19 of the 1123
Revised Code at the expiration of two hundred seventy-five days 1124
from the date of filing the application, the public utility may 1125
request an increase, which shall go into effect temporarily and 1126
shall remain in effect until modified by commission order based 1127
on the merits of the application. Rates modified by the 1128
commission order shall apply retroactively. A temporary increase 1129
under this section shall not to exceed the proposed increase 1130
shall go into effect upon the filing of a bond or a letter of 1131
credit by the public utility. The bond or letter of credit shall 1132
be filed with the commission and shall be payable to the state 1133
for the use and benefit of the customers affected by the 1134
proposed increase or change midpoint of the rates recommended in 1135
the staff report filed pursuant to section 4909.19 of the 1136
Revised Code and shall be subject to refund. A temporary 1137
increase in rates under this section shall not apply to revenue 1138
collections under an interim distribution mechanism authorized 1139
under section 4909.173 of the Revised Code. 1140

~~An affidavit attached to the bond or letter of credit must 1141
be signed by two of the officers of the utility, under oath, and 1142~~

~~must contain a promise on behalf of the utility to refund any~~ 1143
~~amounts collected by the utility over the rate, joint rate,~~ 1144
~~toll, classification, charge, or rental, as determined in the~~ 1145
~~final order of the commission. All refunds shall include~~ 1146
~~interest at the rate stated in section 1343.03 of the Revised~~ 1147
Code. The refund shall be in the form of a temporary reduction 1148
in rates following the final order of the commission, and shall 1149
be accomplished in such manner as shall be prescribed by the 1150
commission in its final order. The commission shall exercise 1151
continuing and exclusive jurisdiction over such refunds. 1152

If the public utilities commission has not entered ~~a final~~ 1153
~~an opinion and order~~ within ~~five three hundred forty five sixty-~~ 1154
~~five~~ days from the date of the filing of an application for an 1155
increase in rates under section 4909.18 of the Revised Code, a 1156
public utility shall have no obligation to make a refund of 1157
amounts collected after the ~~five three hundred forty fifth-~~ 1158
~~sixty-fifth~~ day which exceed the amounts authorized by the 1159
commission's final order. 1160

Nothing in this section shall be construed to mitigate any 1161
duty of the commission to issue a final order under section 1162
4909.19 of the Revised Code. 1163

Sec. 4909.43. (A) No public utility shall file a rate 1164
increase application covering a municipal corporation pursuant 1165
to section 4909.18 or 4909.35 of the Revised Code at any time 1166
prior to six months before the expiration of an ordinance of 1167
that municipal corporation enacted for the purpose of 1168
establishing the rates of that public utility. 1169

(B) Not later than thirty days prior to the filing of an 1170
application pursuant to section 4909.18 or 4909.35 of the 1171
Revised Code, a public utility shall notify, in writing, the 1172

mayor and legislative authority of each municipality included in 1173
such application of the intent of the public utility to file an 1174
application, and of the proposed rates to be contained therein. 1175

(C) Not later than ninety days prior to the filing of an 1176
application pursuant to section 4909.18 or 4909.35 of the 1177
Revised Code, a public utility that has more than one hundred 1178
thousand customers shall notify the public utilities commission 1179
of the utility's intent to file an application. The notice of 1180
intent shall include the number of customers of the utility, the 1181
proposed valuation of the utility's property, the proposed date 1182
certain, the proposed rate of return for the utility, the 1183
proposed cost to the utility of rendering public utility 1184
service, and the proposed test period to be included in the 1185
application. 1186

Sec. 4909.46. The following apply to a company's 1187
application under section 4909.18 of the Revised Code: 1188

(A) All work papers supporting a company's application 1189
shall be filed with the application in electronic format, with 1190
formulas intact. 1191

(B) Except for the staff of the public utilities 1192
commission, each party in the case, including the company, shall 1193
be limited to issuing not more than three rounds of written 1194
discovery prior to the filing of the staff report of 1195
recommendations required under section 4909.19 of the Revised 1196
Code and not more than three rounds of written discovery after 1197
the filing of the report. 1198

Each party shall be limited to not more than fifty 1199
questions, including subparts, during each round. If less than 1200
fifty questions are submitted in a round, the remaining number 1201

of questions allowed may be submitted in a subsequent round 1202
provided that the number of questions per round, including 1203
carryover questions, does not exceed one hundred. 1204

Each response to a discovery request shall include the 1205
name of the person responsible for responding to the questions 1206
and shall be answered under oath or, for representatives of a 1207
corporation, other association, or governmental agency, shall be 1208
accompanied by a signed certification of the preparer that the 1209
response is true and accurate to the best of that person's 1210
knowledge, information, and belief formed after a reasonable 1211
inquiry. Each response shall be filed in the commission's 1212
docketing system. 1213

(C) The staff of the commission are subject to discovery. 1214

(D) Depositions shall be taken only with the authorization 1215
of the commission based on a finding of extraordinary 1216
circumstance or egregious obstruction of the discovery process, 1217
and the scope of any such depositions shall be limited to those 1218
issues found by the commission to be relevant and necessary to 1219
the proceeding. 1220

(E) Any party and the staff of the commission shall be 1221
entitled to file testimony. Any party also shall be entitled to 1222
file rebuttal testimony. 1223

(F) The commission shall hold a single hearing, at which 1224
all witnesses who filed direct or rebuttal testimony are subject 1225
to cross-examination. 1226

(G) Cost increases or decreases outside of the company's 1227
control, such as storm damage or tax law changes, may be 1228
deferred for later recovery or refund outside of the rate case 1229
process through an accounting order. 1230

Sec. 4928.01. (A) As used in this chapter:	1231
(1) "Ancillary service" means any function necessary to	1232
the provision of electric transmission or distribution service	1233
to a retail customer and includes, but is not limited to,	1234
scheduling, system control, and dispatch services; reactive	1235
supply from generation resources and voltage control service;	1236
reactive supply from transmission resources service; regulation	1237
service; frequency response service; energy imbalance service;	1238
operating reserve-spinning reserve service; operating reserve-	1239
supplemental reserve service; load following; back-up supply	1240
service; real-power loss replacement service; dynamic	1241
scheduling; system black start capability; and network stability	1242
service.	1243
(2) "Billing and collection agent" means a fully	1244
independent agent, not affiliated with or otherwise controlled	1245
by an electric utility, electric services company, electric	1246
cooperative, or governmental aggregator subject to certification	1247
under section 4928.08 of the Revised Code, to the extent that	1248
the agent is under contract with such utility, company,	1249
cooperative, or aggregator solely to provide billing and	1250
collection for retail electric service on behalf of the utility	1251
company, cooperative, or aggregator.	1252
(3) "Certified territory" means the certified territory	1253
established for an electric supplier under sections 4933.81 to	1254
4933.90 of the Revised Code.	1255
(4) "Competitive retail electric service" means a	1256
component of retail electric service that is competitive as	1257
provided under division (B) of this section.	1258
(5) "Electric cooperative" means a not-for-profit electric	1259

light company that both is or has been financed in whole or in 1260
part under the "Rural Electrification Act of 1936," 49 Stat. 1261
1363, 7 U.S.C. 901, and owns or operates facilities in this 1262
state to generate, transmit, or distribute electricity, or a 1263
not-for-profit successor of such company. 1264

(6) "Electric distribution utility" means an electric 1265
utility that supplies at least retail electric distribution 1266
service and does not own or operate an electric generating 1267
facility, other than through: 1268

(a) Ownership of a mercantile customer-sited renewable 1269
energy resource under section 4928.47 of the Revised Code; or 1270

(b) Participation in a power agreement approved by the 1271
federal energy regulatory commission that relates to a legacy 1272
generation resource. 1273

(7) "Electric light company" has the same meaning as in 1274
section 4905.03 of the Revised Code and includes an electric 1275
services company, but excludes any self-generator to the extent 1276
that it consumes electricity it so produces, sells that 1277
electricity for resale, or obtains electricity from a generating 1278
facility it hosts on its premises. 1279

(8) "Electric load center" has the same meaning as in 1280
section 4933.81 of the Revised Code. 1281

(9) "Electric services company" means an electric light 1282
company that is engaged on a for-profit or not-for-profit basis 1283
in the business of supplying or arranging for the supply of only 1284
a competitive retail electric service in this state. "Electric 1285
services company" includes a power marketer, power broker, 1286
aggregator, or independent power producer but excludes an 1287
electric cooperative, municipal electric utility, governmental 1288

aggregator, or billing and collection agent.	1289
(10) "Electric supplier" has the same meaning as in	1290
section 4933.81 of the Revised Code.	1291
(11) "Electric utility" means an electric light company	1292
that has a certified territory and is engaged on a for-profit	1293
basis either in the business of supplying a noncompetitive	1294
retail electric service in this state or in the businesses of	1295
supplying both a noncompetitive and a competitive retail	1296
electric service in this state. "Electric utility" excludes a	1297
municipal electric utility or a billing and collection agent.	1298
(12) "Firm electric service" means electric service other	1299
than nonfirm electric service.	1300
(13) "Governmental aggregator" means a legislative	1301
authority of a municipal corporation, a board of township	1302
trustees, or a board of county commissioners acting as an	1303
aggregator for the provision of a competitive retail electric	1304
service under authority conferred under section 4928.20 of the	1305
Revised Code.	1306
(14) A person acts "knowingly," regardless of the person's	1307
purpose, when the person is aware that the person's conduct will	1308
probably cause a certain result or will probably be of a certain	1309
nature. A person has knowledge of circumstances when the person	1310
is aware that such circumstances probably exist.	1311
(15) "Level of funding for low-income customer energy	1312
efficiency programs provided through electric utility rates"	1313
means the level of funds specifically included in an electric	1314
utility's rates on October 5, 1999, pursuant to an order of the	1315
public utilities commission issued under Chapter 4905. or 4909.	1316
of the Revised Code and in effect on October 4, 1999, for the	1317

purpose of improving the energy efficiency of housing for the 1318
utility's low-income customers. The term excludes the level of 1319
any such funds committed to a specific nonprofit organization or 1320
organizations pursuant to a stipulation or contract. 1321

(16) "Low-income customer assistance programs" means the 1322
percentage of income payment plan program, the home energy 1323
assistance program, the home weatherization assistance program, 1324
and the targeted energy efficiency and weatherization program. 1325

(17) "Market development period" for an electric utility 1326
means the period of time beginning on the starting date of 1327
competitive retail electric service and ending on the applicable 1328
date for that utility as specified in section 4928.40 of the 1329
Revised Code, irrespective of whether the utility applies to 1330
receive transition revenues under this chapter. 1331

(18) "Market power" means the ability to impose on 1332
customers a sustained price for a product or service above the 1333
price that would prevail in a competitive market. 1334

(19) "Mercantile customer" means a commercial or 1335
industrial customer if the electricity consumed is for 1336
nonresidential use and the customer consumes more than seven 1337
hundred thousand kilowatt hours per year or is part of a 1338
national account involving multiple facilities in one or more 1339
states. 1340

(20) "Municipal electric utility" means a municipal 1341
corporation that owns or operates facilities to generate, 1342
transmit, or distribute electricity. 1343

(21) "Noncompetitive retail electric service" means a 1344
component of retail electric service that is noncompetitive as 1345
provided under division (B) of this section. 1346

(22) "Nonfirm electric service" means electric service 1347
provided pursuant to a schedule filed under section 4905.30 of 1348
the Revised Code or pursuant to an arrangement under section 1349
4905.31 of the Revised Code, which schedule or arrangement 1350
includes conditions that may require the customer to curtail or 1351
interrupt electric usage during nonemergency circumstances upon 1352
notification by an electric utility. 1353

(23) "Percentage of income payment plan arrears" means 1354
funds eligible for collection through the percentage of income 1355
payment plan rider, but uncollected as of July 1, 2000. 1356

(24) "Person" has the same meaning as in section 1.59 of 1357
the Revised Code. 1358

(25) "Advanced energy project" means any technologies, 1359
products, activities, or management practices or strategies that 1360
facilitate the generation or use of electricity or energy and 1361
that reduce or support the reduction of energy consumption or 1362
support the production of clean, renewable energy for 1363
industrial, distribution, commercial, institutional, 1364
governmental, research, not-for-profit, or residential energy 1365
users, including, but not limited to, advanced energy resources 1366
and renewable energy resources. "Advanced energy project" also 1367
includes any project described in division (A), (B), or (C) of 1368
section 4928.621 of the Revised Code. 1369

(26) "Regulatory assets" means the unamortized net 1370
regulatory assets that are capitalized or deferred on the 1371
regulatory books of the electric utility, pursuant to an order 1372
or practice of the public utilities commission or pursuant to 1373
generally accepted accounting principles as a result of a prior 1374
commission rate-making decision, and that would otherwise have 1375
been charged to expense as incurred or would not have been 1376

capitalized or otherwise deferred for future regulatory 1377
consideration absent commission action. "Regulatory assets" 1378
includes, but is not limited to, all deferred demand-side 1379
management costs; all deferred percentage of income payment plan 1380
arrears; post-in-service capitalized charges and assets 1381
recognized in connection with statement of financial accounting 1382
standards no. 109 (receivables from customers for income taxes); 1383
future nuclear decommissioning costs and fuel disposal costs as 1384
those costs have been determined by the commission in the 1385
electric utility's most recent rate or accounting application 1386
proceeding addressing such costs; the undepreciated costs of 1387
safety and radiation control equipment on nuclear generating 1388
plants owned or leased by an electric utility; and fuel costs 1389
currently deferred pursuant to the terms of one or more 1390
settlement agreements approved by the commission. 1391

(27) "Retail electric service" means any service involved 1392
in supplying or arranging for the supply of electricity to 1393
ultimate consumers in this state, from the point of generation 1394
to the point of consumption. For the purposes of this chapter, 1395
retail electric service includes one or more of the following 1396
"service components": generation service, aggregation service, 1397
power marketing service, power brokerage service, transmission 1398
service, distribution service, ancillary service, metering 1399
service, and billing and collection service. 1400

(28) "Starting date of competitive retail electric 1401
service" means January 1, 2001. 1402

(29) "Customer-generator" means a user of a net metering 1403
system. 1404

(30) "Net metering" means measuring the difference in an 1405
applicable billing period between the electricity supplied by an 1406

electric service provider and the electricity generated by a 1407
customer-generator that is fed back to the electric service 1408
provider. 1409

(31) "Net metering system" means a facility for the 1410
production of electrical energy that does all of the following: 1411

(a) Uses as its fuel either solar, wind, biomass, landfill 1412
gas, or hydropower, or uses a microturbine or a fuel cell; 1413

(b) Is located on a customer-generator's premises; 1414

(c) Operates in parallel with the electric utility's 1415
transmission and distribution facilities; 1416

(d) Is intended primarily to offset part or all of the 1417
customer-generator's requirements for electricity. For an 1418
industrial customer-generator with a net metering system that 1419
has a capacity of less than twenty megawatts and uses wind as 1420
energy, this means the net metering system was sized so as to 1421
not exceed one hundred per cent of the customer-generator's 1422
annual requirements for electric energy at the time of 1423
interconnection. 1424

(32) "Self-generator" means an entity in this state that 1425
owns or hosts on its premises an electric generation facility 1426
that produces electricity primarily for the owner's consumption 1427
and that may provide any such excess electricity to another 1428
entity, whether the facility is installed or operated by the 1429
owner or by an agent under a contract. 1430

(33) "Rate plan" means the standard service offer in 1431
effect on the effective date of the amendment of this section by 1432
S.B. 221 of the 127th general assembly, July 31, 2008. 1433

(34) "Advanced energy resource" means any of the 1434

following: 1435

(a) Any method or any modification or replacement of any 1436
property, process, device, structure, or equipment that 1437
increases the generation output of an electric generating 1438
facility to the extent such efficiency is achieved without 1439
additional carbon dioxide emissions by that facility; 1440

(b) Any distributed generation system consisting of 1441
customer cogeneration technology; 1442

(c) Clean coal technology that includes a carbon-based 1443
product that is chemically altered before combustion to 1444
demonstrate a reduction, as expressed as ash, in emissions of 1445
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1446
sulfur trioxide in accordance with the American society of 1447
testing and materials standard D1757A or a reduction of metal 1448
oxide emissions in accordance with standard D5142 of that 1449
society, or clean coal technology that includes the design 1450
capability to control or prevent the emission of carbon dioxide, 1451
which design capability the commission shall adopt by rule and 1452
shall be based on economically feasible best available 1453
technology or, in the absence of a determined best available 1454
technology, shall be of the highest level of economically 1455
feasible design capability for which there exists generally 1456
accepted scientific opinion; 1457

(d) Advanced nuclear energy technology consisting of 1458
generation III technology as defined by the nuclear regulatory 1459
commission; other, later technology; or significant improvements 1460
to existing facilities; 1461

(e) Any fuel cell used in the generation of electricity, 1462
including, but not limited to, a proton exchange membrane fuel 1463

cell, phosphoric acid fuel cell, molten carbonate fuel cell, or
solid oxide fuel cell; 1464
1465

(f) Advanced solid waste or construction and demolition
debris conversion technology, including, but not limited to,
advanced stoker technology, and advanced fluidized bed
gasification technology, that results in measurable greenhouse
gas emissions reductions as calculated pursuant to the United
States environmental protection agency's waste reduction model
(WARM); 1466
1467
1468
1469
1470
1471
1472

(g) Demand-side management and any energy efficiency
improvement; 1473
1474

(h) Any new, retrofitted, refueled, or repowered
generating facility located in Ohio, including a simple or
combined-cycle natural gas generating facility or a generating
facility that uses biomass, coal, modular nuclear, or any other
fuel as its input; 1475
1476
1477
1478
1479

(i) Any uprated capacity of an existing electric
generating facility if the uprated capacity results from the
deployment of advanced technology. 1480
1481
1482

"Advanced energy resource" does not include a waste energy
recovery system that is, or has been, included in an energy
efficiency program of an electric distribution utility pursuant
to requirements under section 4928.66 of the Revised Code. 1483
1484
1485
1486

(35) "Air contaminant source" has the same meaning as in
section 3704.01 of the Revised Code. 1487
1488

(36) "Cogeneration technology" means technology that
produces electricity and useful thermal output simultaneously. 1489
1490

(37) (a) "Renewable energy resource" means any of the 1491

following:	1492
(i) Solar photovoltaic or solar thermal energy;	1493
(ii) Wind energy;	1494
(iii) Power produced by a hydroelectric facility;	1495
(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;	1496 1497 1498
(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;	1499 1500 1501 1502 1503
(vi) Geothermal energy;	1504
(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;	1505 1506 1507 1508
(viii) Biomass energy;	1509
(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;	1510 1511 1512 1513 1514 1515 1516 1517 1518 1519

(x) Biologically derived methane gas;	1520
(xi) Heat captured from a generator of electricity,	1521
boiler, or heat exchanger fueled by biologically derived methane	1522
gas;	1523
(xii) Energy derived from nontreated by-products of the	1524
pulping process or wood manufacturing process, including bark,	1525
wood chips, sawdust, and lignin in spent pulping liquors.	1526
"Renewable energy resource" includes, but is not limited	1527
to, any fuel cell used in the generation of electricity,	1528
including, but not limited to, a proton exchange membrane fuel	1529
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	1530
solid oxide fuel cell; wind turbine located in the state's	1531
territorial waters of Lake Erie; methane gas emitted from an	1532
abandoned coal mine; waste energy recovery system placed into	1533
service or retrofitted on or after the effective date of the	1534
amendment of this section by S.B. 315 of the 129th general	1535
assembly, September 10, 2012, except that a waste energy	1536
recovery system described in division (A) (38) (b) of this section	1537
may be included only if it was placed into service between	1538
January 1, 2002, and December 31, 2004; storage facility that	1539
will promote the better utilization of a renewable energy	1540
resource; or distributed generation system used by a customer to	1541
generate electricity from any such energy.	1542
"Renewable energy resource" does not include a waste	1543
energy recovery system that is, or was, on or after January 1,	1544
2012, included in an energy efficiency program of an electric	1545
distribution utility pursuant to requirements under section	1546
4928.66 of the Revised Code.	1547
(b) As used in division (A) (37) of this section,	1548

"hydroelectric facility" means a hydroelectric generating 1549
facility that is located at a dam on a river, or on any water 1550
discharged to a river, that is within or bordering this state or 1551
within or bordering an adjoining state and meets all of the 1552
following standards: 1553

(i) The facility provides for river flows that are not 1554
detrimental for fish, wildlife, and water quality, including 1555
seasonal flow fluctuations as defined by the applicable 1556
licensing agency for the facility. 1557

(ii) The facility demonstrates that it complies with the 1558
water quality standards of this state, which compliance may 1559
consist of certification under Section 401 of the "Clean Water 1560
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 1561
demonstrates that it has not contributed to a finding by this 1562
state that the river has impaired water quality under Section 1563
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 1564
U.S.C. 1313. 1565

(iii) The facility complies with mandatory prescriptions 1566
regarding fish passage as required by the federal energy 1567
regulatory commission license issued for the project, regarding 1568
fish protection for riverine, anadromous, and catadromous fish. 1569

(iv) The facility complies with the recommendations of the 1570
Ohio environmental protection agency and with the terms of its 1571
federal energy regulatory commission license regarding watershed 1572
protection, mitigation, or enhancement, to the extent of each 1573
agency's respective jurisdiction over the facility. 1574

(v) The facility complies with provisions of the 1575
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 1576
to 1544, as amended. 1577

(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 either 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 1607
of energy to electricity is achieved without using additional 1608
fossil fuels. 1609

(b) A facility at a state institution of higher education 1610
as defined in section 3345.011 of the Revised Code that recovers 1611
waste heat from electricity-producing engines or combustion 1612
turbines and that simultaneously uses the recovered heat to 1613
produce steam, provided that the facility was placed into 1614
service between January 1, 2002, and December 31, 2004. 1615

(39) "Smart grid" means capital improvements to an 1616
electric distribution utility's distribution infrastructure that 1617
improve reliability, efficiency, resiliency, or reduce energy 1618
demand or use, including, but not limited to, advanced metering 1619
and automation of system functions. 1620

(40) "Combined heat and power system" means the 1621
coproduction of electricity and useful thermal energy from the 1622
same fuel source designed to achieve thermal-efficiency levels 1623
of at least sixty per cent, with at least twenty per cent of the 1624
system's total useful energy in the form of thermal energy. 1625

(41) "Legacy generation resource" means all generating 1626
facilities owned directly or indirectly by a corporation that 1627
was formed prior to 1960 by investor-owned utilities for the 1628
original purpose of providing power to the federal government 1629
for use in the nation's defense or in furtherance of national 1630
interests, including the Ohio valley electric corporation. 1631

(42) "Prudently incurred costs related to a legacy 1632
generation resource" means costs, including deferred costs, 1633
allocated pursuant to a power agreement approved by the federal 1634
energy regulatory commission that relates to a legacy generation 1635

resource, less any revenues realized from offering the 1636
contractual commitment for the power agreement into the 1637
wholesale markets, provided that where the net revenues exceed 1638
net costs, those excess revenues shall be credited to customers. 1639
Such costs shall exclude any return on investment in common 1640
equity and, in the event of a premature retirement of a legacy 1641
generation resource, shall exclude any recovery of remaining 1642
debt. Such costs shall include any incremental costs resulting 1643
from the bankruptcy of a current or former sponsor under such 1644
power agreement or co-owner of the legacy generation resource if 1645
not otherwise recovered through a utility rate cost recovery 1646
mechanism. 1647

(43) "Green energy" means any energy generated by using an 1648
energy resource that does one or more of the following: 1649

(a) Releases reduced air pollutants, thereby reducing 1650
cumulative air emissions; 1651

(b) Is more sustainable and reliable relative to some 1652
fossil fuels. 1653

"Green energy" includes energy generated by using natural 1654
gas as a resource. 1655

(44) "Standard service offer" means the provision of 1656
competitive retail electric service to consumers as required 1657
under section 4928.141 of the Revised Code. 1658

(B) For the purposes of this chapter, a retail electric 1659
service component shall be deemed a competitive retail electric 1660
service if the service component is competitive pursuant to a 1661
declaration by a provision of the Revised Code or pursuant to an 1662
order of the public utilities commission authorized under 1663
division (A) of section 4928.04 of the Revised Code. Otherwise, 1664

the service component shall be deemed a noncompetitive retail 1665
electric service. 1666

Sec. 4928.08. (A) This section applies to an electric 1667
cooperative, or to a governmental aggregator that is a municipal 1668
electric utility, only to the extent of a competitive retail 1669
electric service it provides to a customer to whom it does not 1670
provide a noncompetitive retail electric service through 1671
transmission or distribution facilities it singly or jointly 1672
owns or operates. 1673

~~(B)~~ (B) (1) No electric utility, electric services company, 1674
electric cooperative, or governmental aggregator shall provide a 1675
competitive retail electric service to a consumer in this state 1676
on and after the starting date of competitive retail electric 1677
service without first being certified by the public utilities 1678
commission regarding its managerial, technical, and financial 1679
capability to provide that service and providing a financial 1680
guarantee sufficient to protect customers and electric 1681
distribution utilities from default. Certification shall be 1682
granted pursuant to procedures and standards the commission 1683
shall prescribe in accordance with division (C) of this section, 1684
except that certification or certification renewal shall be 1685
deemed approved thirty days after the filing of an application 1686
with the commission unless the commission suspends that approval 1687
for good cause shown. In the case of such a suspension, the 1688
commission shall act to approve or deny certification or 1689
certification renewal to the applicant not later than ninety 1690
days after the date of the suspension. 1691

(2) The public utilities commission shall establish rules 1692
to require an electric services company to maintain financial 1693
assurances sufficient to protect customers and electric 1694

distribution utilities from default. Such rules also shall 1695
specifically allow an electric distribution utility to set 1696
reasonable standards for its security and the security of its 1697
customers through financial requirements set in its tariffs. 1698

(3) As used in division (B)(2) of this section, an 1699
"electric services company" has the same meaning as in section 1700
4928.01 of the Revised Code, but excludes a power broker or 1701
aggregator. 1702

(C) Capability standards adopted in rules under division 1703
(B) of this section shall be sufficient to ensure compliance 1704
with the minimum service requirements established under section 1705
4928.10 of the Revised Code and with section 4928.09 of the 1706
Revised Code. The standards shall allow flexibility for 1707
voluntary aggregation, to encourage market creativity in 1708
responding to consumer needs and demands, and shall allow 1709
flexibility for electric services companies that exclusively 1710
provide installation of small electric generation facilities, to 1711
provide ease of market access. The rules shall include 1712
procedures for biennially renewing certification. 1713

(D) The commission may suspend, rescind, or conditionally 1714
rescind the certification of any electric utility, electric 1715
services company, electric cooperative, or governmental 1716
aggregator issued under this section if the commission 1717
determines, after reasonable notice and opportunity for hearing, 1718
that the utility, company, cooperative, or aggregator has failed 1719
to comply with any applicable certification standards or has 1720
engaged in anticompetitive or unfair, deceptive, or 1721
unconscionable acts or practices in this state. 1722

(E) No electric distribution utility on and after the 1723
starting date of competitive retail electric service shall 1724

knowingly distribute electricity, to a retail consumer in this 1725
state, for any supplier of electricity that has not been 1726
certified by the commission pursuant to this section. 1727

(F) Notwithstanding any provision of section 121.95 of the 1728
Revised Code to the contrary, a regulatory restriction contained 1729
in a rule adopted under section 4928.08 of the Revised Code is 1730
not subject to sections 121.95 to 121.953 of the Revised Code. 1731

Sec. 4928.101. (A) As used in this section and section 1732
4928.102 of the Revised Code: 1733

(1) "Small commercial customer" means any customer that 1734
receives electric service pursuant to a nonresidential tariff if 1735
the customer's demand for electricity does not exceed twenty- 1736
five kilowatts within the last twelve months. 1737

(2) "Small commercial customer" excludes any customer that 1738
does one or both of the following: 1739

(a) Manages multiple electric meters and, within the last 1740
twelve months, the electricity demand for at least one of the 1741
meters is twenty-five kilowatts or more; 1742

(b) Has, at the customer's discretion, aggregated the 1743
demand for the customer-managed meters. 1744

(B) The consumer protections described in section 4928.10 1745
of the Revised Code and the rules adopted pursuant to that 1746
section apply to small commercial customers and to all other 1747
customers as set forth in the rules. 1748

Sec. 4928.102. (A) If a competitive retail electric 1749
service provider offers a residential or small commercial 1750
customer a contract for a fixed introductory rate that converts 1751
to a variable rate upon the expiration of the fixed rate, the 1752

provider shall send two notices to each residential and small 1753
commercial customer that enters into such a contract. Each 1754
notice shall provide all of the following information to the 1755
customer: 1756

(1) The fixed rate that is expiring under the contract; 1757

(2) The expiration date of the contract's fixed rate; 1758

(3) The rate to be charged upon the contract's conversion 1759
to a variable rate; 1760

(4) The public utilities commission web site that, as a 1761
comparison tool, lists rates offered by competitive retail 1762
electric service providers; 1763

(5) A statement explaining that appearing on each 1764
customer's bill is a price-to-compare notice that lists the 1765
utility's standard service offer price. 1766

(B) The notices shall be sent by standard United States 1767
mail as follows: 1768

(1) The provider shall send the first notice not earlier 1769
than ninety days, and not later than sixty days, prior to the 1770
expiration of the fixed rate. 1771

(2) The provider shall send the second notice not earlier 1772
than forty-five days, and not later than thirty days, prior to 1773
the expiration of the fixed rate. 1774

(C) A competitive retail electric service provider shall 1775
provide an annual notice, by standard United States mail, to 1776
each residential and small commercial customer that has entered 1777
into a contract with the provider that has converted to a 1778
variable rate upon the expiration of the contract's fixed 1779
introductory rate. The notice shall inform the customer that the 1780

customer is currently subject to a variable rate and that other 1781
fixed rate contracts are available. 1782

(D) Not later than one hundred fifty days after the 1783
effective date of this section, the commission shall adopt rules 1784
in order to implement divisions (A) to (C) of this section. The 1785
rules, at a minimum, shall include the following requirements 1786
regarding the notices required under divisions (A) to (C) of 1787
this section: 1788

(1) To use clear and unambiguous language in order to 1789
enable the customer to make an informed decision; 1790

(2) To design the notices in a way to ensure that they 1791
cannot be confused with marketing materials. 1792

(E) Notwithstanding any provision of section 121.95 of the 1793
Revised Code to the contrary, a regulatory restriction contained 1794
in a rule adopted under section 4928.102 of the Revised Code is 1795
not subject to sections 121.95 to 121.953 of the Revised Code. 1796

Sec. 4928.14. (A) The failure of a supplier to provide 1797
retail electric generation service to customers within the 1798
certified territory of an electric distribution utility shall 1799
result in the supplier's customers, after reasonable notice, 1800
defaulting to the utility's standard service offer ~~under~~ 1801
~~sections 4928.141, 4928.142, and 4928.143 of the Revised Code~~ 1802
until the customer chooses an alternative supplier. The 1803
utility's standard service offer to which the supplier's 1804
customers default shall be provided under one of the following: 1805

(1) The standard service offer established under section 1806
4928.142 of the Revised Code as enacted by this act; 1807

(2) The standard service offer established under section 1808
4928.143 of the Revised Code, as that section existed prior to 1809

its repeal and reenactment by this act and that is still in 1810
effect. 1811

(B) A supplier is deemed under this section to have failed 1812
to provide such service if the public utilities commission 1813
finds, after reasonable notice and opportunity for hearing, that 1814
any of the following conditions are met: 1815

~~(A)~~ (1) The supplier has defaulted on its contracts with 1816
customers, is in receivership, or has filed for bankruptcy. 1817

~~(B)~~ (2) The supplier is no longer capable of providing the 1818
service. 1819

~~(C)~~ (3) The supplier is unable to provide delivery to 1820
transmission or distribution facilities for such period of time 1821
as may be reasonably specified by commission rule adopted under 1822
division (A) of section 4928.06 of the Revised Code. 1823

~~(D)~~ (4) The supplier's certification has been suspended, 1824
conditionally rescinded, or rescinded under division (D) of 1825
section 4928.08 of the Revised Code. 1826

Sec. 4928.141. ~~(A)~~ Beginning January 1, 2009, an An 1827
electric distribution utility shall provide consumers, on a 1828
comparable and nondiscriminatory basis within its certified 1829
territory, a standard service offer of all competitive retail 1830
electric services necessary to maintain essential electric 1831
service to consumers, including a firm supply of electric 1832
generation service. To that end, the electric distribution 1833
utility shall apply to the public utilities commission to 1834
establish the standard service offer in accordance with section 1835
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 1836
~~may apply simultaneously under both sections, except that the~~ 1837
~~utility's first standard service offer application at minimum~~ 1838

~~shall include a filing under section 4928.143 of the Revised Code. Only a standard service offer authorized in accordance with section 4928.142 or 4928.143 of the Revised Code, shall serve as the utility's standard service offer for the purpose of compliance with this section; and that standard service offer shall serve as the utility's default standard service offer for the purpose of section 4928.14 of the Revised Code.~~

~~Notwithstanding the foregoing provision, the rate plan of an electric distribution utility shall continue for the purpose of the utility's compliance with this division until a standard service offer is first authorized under section 4928.142 or 4928.143 of the Revised Code, and, as applicable, pursuant to division (D) of section 4928.143 of the Revised Code, any rate plan that extends beyond December 31, 2008, shall continue to be in effect for the subject electric distribution utility for the duration of the plan's term. A standard service offer under section 4928.142 or 4928.143 of the Revised Code shall exclude any previously authorized allowances for transition costs, with such exclusion being effective on and after the date that the allowance is scheduled to end under the utility's rate plan.~~

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

Sec. 4928.142. (A) (1) For the purpose of complying with section 4928.141 of the Revised Code, an electric distribution utility shall file an application for public utilities commission approval of a standard service offer plan.

(2) An electric distribution utility with an electric security plan that is in effect on the effective date of this section shall submit an application for a standard service offer plan prior to the expiration of the utility's electric security plan. A standard service offer plan approved under division (A) (2) of this section shall not take effect until the utility's electric security plan expires. 1870
1871
1872
1873
1874
1875
1876

(B) A standard service offer plan shall include provisions relating to the supply and pricing of electric generation service through a standard service offer for customers who do not shop for competitive retail electric generation service. Except as provided in division (C) of this section, the plan's provisions shall incorporate the commission's competitive bidding process, retail cost allocation, and rate design that were implemented by the commission and in effect immediately prior to the effective date of this section. The commission may amend the competitive bidding process, retail cost allocation, or rate design as necessary to result in just and reasonable rates. 1877
1878
1879
1880
1881
1882
1883
1884
1885
1886
1887
1888

(C) Under a standard service offer plan, all direct costs that the utility incurs to support or provide its standard service offer shall be recovered through the standard service offer price. Each utility shall be entitled to full and timely recovery of all costs associated with its standard service offer, including the recovery of the exact cost of the following: 1889
1890
1891
1892
1893
1894
1895

(1) Acquiring energy and capacity; 1896

(2) Costs associated with conducting, administering, and implementing the competitive bidding process; 1897
1898

<u>(3) Costs for independent consultants;</u>	1899
<u>(4) All other direct costs incurred to support or provide the standard service offer.</u>	1900 1901
<u>(D) The commission shall ensure that any direct costs allocated to the standard service offer price are not recovered twice from distribution customers. Under this section, the commission may authorize a credit rider to avoid such double recovery.</u>	1902 1903 1904 1905 1906
<u>(E) The public utilities commission shall initiate a proceeding and shall issue an order to approve or modify and approve an application filed under division (A) of this section not later than one hundred eighty days after the application's filing date.</u>	1907 1908 1909 1910 1911
<u>(F) A plan approved under this section shall have a minimum term of three years and a maximum term of five years.</u>	1912 1913
<u>Sec. 4928.143.</u> <u>As part of a standard service offer plan under section 4928.142 of the Revised Code, the public utilities commission shall authorize:</u>	1914 1915 1916
<u>(A) Through annually reconciled transmission riders, full and timely cost recovery of all nonmarket transmission costs imposed on the utility by the federal energy regulatory commission or a regional transmission organization;</u>	1917 1918 1919 1920
<u>(B) Programs for customers that align retail rate recovery with how transmission and transmission-related costs are imposed on, incurred by, or charged to, the utility or programs that allow such customers to be billed directly for transmission service by a competitive retail electric service provider;</u>	1921 1922 1923 1924 1925
<u>(C) Programs for energy-intensive industrial customers to</u>	1926

implement cost-effective economic development, job retention, 1927
and interruptible rate programs that enhance distribution or 1928
transmission grid reliability, provided that such programs 1929
currently in existence on the effective date of this section may 1930
only be terminated or modified on a gradual basis that avoids 1931
abrupt or significant rate impacts on participating customers 1932
and provided that the programs' costs may be allocated across 1933
all classes of customers and across those of utilities in the 1934
same holding company system; 1935

(D) Lease financing arrangements the utility enters into 1936
with its customers, or potential customers that are mercantile 1937
customers, as follows: 1938

(1) A lease financing arrangement shall be for 1939
distribution or transmission-related equipment, including 1940
transformers and substations and shall not require preapproval 1941
by the commission. Under such financing arrangements, the 1942
mercantile customers participating in the arrangements shall pay 1943
for all direct costs of the utility's capital investment and 1944
related expenses through periodic lease payments to the utility. 1945
The burden of proof shall be on the utility to demonstrate, in 1946
its distribution rate case under section 4909.18 of the Revised 1947
Code, that such financing arrangements are fully paid for by its 1948
mercantile customers. 1949

(2) The utility also may enter into lease financing 1950
arrangements under section 4905.31 of the Revised Code to 1951
promote economic development. Under such economic development 1952
lease financing arrangements, mercantile customers participating 1953
in the arrangements shall not be responsible for paying the full 1954
cost of capital investments under the arrangements, if the 1955
utility is fully and timely reimbursed for the capital 1956

investments through a rate or rider mechanism. 1957

The commission shall approve, approve with conditions, or 1958
deny such an arrangement not later than one hundred twenty days 1959
after the arrangement is filed with the commission pursuant to 1960
section 4905.31 of the Revised Code. If the commission does not 1961
approve, approve with conditions, or deny the arrangement by the 1962
one hundred twentieth day after the arrangement is filed, the 1963
application shall be denied without prejudice. 1964

Nothing in this division prohibits a nonresidential 1965
customer's right to purchase or sell equipment described in this 1966
division or prohibits a bilateral contract between a 1967
nonresidential customer and a utility to purchase or sell such 1968
equipment. 1969

(3) In the event of a mercantile customer's default with 1970
respect to a lease financing arrangement pursuant to division 1971
(D) of this section, ratepayers shall not be responsible for any 1972
costs resulting from the default. 1973

(E) Cost recovery for the utility's economic development 1974
electric transmission infrastructure projects held for future 1975
use as specified under division (E) of this section. 1976

(1) Recovery for such projects may only be authorized for 1977
sites certified by the director of development under section 1978
122.6511 or 122.9511 of the Revised Code and for which the 1979
utility, in its application to the commission, provides 1980
evidence, such as a letter of support, that demonstrates that 1981
the project is supported by JobsOhio and the department of 1982
development. 1983

(2) Project costs eligible for recovery are project 1984
planning and construction costs, contribution-in-aid-of- 1985

construction costs that may be waived as part of these projects 1986
based on the expected system benefits of projected additional 1987
electric load, and the costs associated with obtaining the right 1988
of way for such projects. 1989

(3) Any property installed or constructed by a utility for 1990
a project under this section shall be considered used and useful 1991
for purposes of section 4909.15 of the Revised Code. Cost 1992
recovery for the project shall occur as follows: 1993

(a) Through the utility's economic development cost 1994
recovery rider, or any similar mechanism during the period when 1995
the property for the project is held for future use and before 1996
it starts providing electric service to an end use customer; 1997

(b) Through the utility's standard transmission tariffed 1998
rates, after such property is in use and starts providing 1999
electric service to an end use customer. 2000

(4) The total amount that a utility is authorized to 2001
collect from ratepayers for the revenue requirement for such 2002
projects shall not exceed the greater of five million dollars or 2003
one-half of one per cent of the utility's total revenue 2004
requirement for transmission that has been authorized by the 2005
commission. 2006

Sec. 4928.144. The public utilities commission by order 2007
may authorize any just and reasonable phase-in of any electric 2008
distribution utility rate or price under a standard service 2009
offer established under ~~sections~~ section 4928.141 to 4928.142 of 2010
the Revised Code as enacted by this act, and section 4928.143 of 2011
the Revised Code, as that section existed prior to its repeal 2012
and reenactment by this act, and inclusive of carrying charges, 2013
as the commission considers necessary to ensure rate or price 2014

stability for consumers. If the commission's order includes such 2015
a phase-in, the order also shall provide for the creation of 2016
regulatory assets pursuant to generally accepted accounting 2017
principles, by authorizing the deferral of incurred costs equal 2018
to the amount not collected, plus carrying charges on that 2019
amount. Further, the order shall authorize the collection of 2020
those deferrals through a nonbypassable surcharge on any such 2021
rate or price so established for the electric distribution 2022
utility by the commission. 2023

Sec. 4928.147. Nothing in this act limits the commission's 2024
authority to implement, maintain, or modify riders or rate 2025
mechanisms that recover costs imposed on the utility by a 2026
governmental authority or which recover costs upon which the 2027
utility earns no rate of return. 2028

Sec. 4928.148. (A) On January 1, 2020, any mechanism 2029
authorized by the public utilities commission prior to ~~the~~ 2030
~~effective date of this section October 22, 2019,~~ for retail 2031
recovery of prudently incurred costs related to a legacy 2032
generation resource shall be replaced by a nonbypassable rate 2033
mechanism established by the commission for recovery of those 2034
costs through December 31, 2030, from customers of all electric 2035
distribution utilities in this state. The nonbypassable rate 2036
mechanism shall be established through a process that the 2037
commission shall determine is not for an increase in any rate, 2038
joint rate, toll, classification, charge, or rental, 2039
notwithstanding anything to the contrary in Title XLIX of the 2040
Revised Code. All of the following shall apply to the 2041
nonbypassable rate mechanism established under this section: 2042

(1) The commission shall determine, in the years specified 2043
in this division, the prudence and reasonableness of the actions 2044

of electric distribution utilities with ownership interests in 2045
the legacy generation resource, including their decisions 2046
related to offering the contractual commitment into the 2047
wholesale markets, and exclude from recovery those costs that 2048
the commission determines imprudent and unreasonable. The 2049
initial determination shall be made during 2021 regarding the 2050
prudence and reasonableness of such actions during calendar year 2051
2020. The commission shall again make the determination in 2024, 2052
2027, and 2030 regarding the prudence and reasonableness of such 2053
actions during the three calendar years that preceded the year 2054
in which the determination is made. 2055

(2) The commission shall determine the proper rate design 2056
for recovering or remitting the prudently incurred costs related 2057
to a legacy generation resource, provided, however, that the 2058
monthly charge or credit for those costs, including any 2059
deferrals or credits, shall not exceed one dollar and fifty 2060
cents per customer per month for residential customers. For all 2061
other customer classes, the commission shall establish 2062
comparable monthly caps for each class at or below one thousand 2063
five hundred dollars per customer. Insofar as the prudently 2064
incurred costs related to a legacy generation resource exceed 2065
these monthly limits, the electric distribution utility shall 2066
defer the remaining prudently incurred costs as a regulatory 2067
asset or liability that shall be recovered as determined by the 2068
commission subject to the monthly caps set forth in this 2069
division. 2070

(3) The commission shall provide for discontinuation, 2071
subject to final reconciliation, of the nonbypassable rate 2072
mechanism on December 31, 2030, including recovery of any 2073
deferrals that exist at that time. 2074

(4) The commission shall determine the manner in which 2075
charges collected under this section by a utility with no 2076
ownership interest in a legacy generation resource shall be 2077
remitted to the utilities with such ownership interests, in 2078
direct proportion to each utility's sponsorship interest. 2079

(B) An electric distribution utility, including all 2080
electric distribution utilities in the same holding company, 2081
shall bid all output from a legacy generation resource into the 2082
wholesale market and shall not use the output in supplying its 2083
standard service offer provided under section ~~4928.142~~ 4928.142 2084
of the Revised Code, as enacted by this act, or section 4928.143 2085
of the Revised Code, as that section existed prior to its repeal 2086
and reenactment by this act. 2087

Sec. 4928.1410. If an electric distribution utility has an 2088
existing electric security plan under which the commission had 2089
authorized the creation or continuation of riders, then, to the 2090
extent those riders will cease to exist after termination of the 2091
electric security plan, the electric distribution utility is 2092
authorized to create necessary regulatory assets or liabilities, 2093
along with carrying costs at the utility's weighted average cost 2094
of debt, for the resolution of any outstanding under-collection 2095
or over-collection of funds under such riders. The resolution of 2096
such regulatory assets or liabilities shall be addressed in the 2097
first distribution rate case under section 4909.18 of the 2098
Revised Code that occurs after the plan's expiration. 2099

Sec. 4928.17. (A) Except as otherwise provided in ~~sections~~ 2100
~~section 4928.142 or 4928.143 or 4928.31 to 4928.40~~ of the 2101
Revised Code and beginning on the starting date of competitive 2102
retail electric service, no electric utility shall engage in 2103
this state, either directly or through an affiliate, in the 2104

businesses of supplying a noncompetitive retail electric service 2105
and supplying a competitive retail electric service, or in the 2106
businesses of supplying a noncompetitive retail electric service 2107
and supplying a product or service other than retail electric 2108
service, unless the utility implements and operates under a 2109
corporate separation plan that is approved by the public 2110
utilities commission under this section, is consistent with the 2111
policy specified in section 4928.02 of the Revised Code, and 2112
achieves all of the following: 2113

(1) The plan provides, at minimum, for the provision of 2114
the competitive retail electric service or the nonelectric 2115
product or service through a fully separated affiliate of the 2116
utility, and the plan includes separate accounting requirements, 2117
the code of conduct as ordered by the commission pursuant to a 2118
rule it shall adopt under division (A) of section 4928.06 of the 2119
Revised Code, and such other measures as are necessary to 2120
effectuate the policy specified in section 4928.02 of the 2121
Revised Code. 2122

(2) The plan satisfies the public interest in preventing 2123
unfair competitive advantage and preventing the abuse of market 2124
power. 2125

(3) The plan is sufficient to ensure that the utility will 2126
not extend any undue preference or advantage to any affiliate, 2127
division, or part of its own business engaged in the business of 2128
supplying the competitive retail electric service or nonelectric 2129
product or service, including, but not limited to, utility 2130
resources such as trucks, tools, office equipment, office space, 2131
supplies, customer and marketing information, advertising, 2132
billing and mailing systems, personnel, and training, without 2133
compensation based upon fully loaded embedded costs charged to 2134

the affiliate; and to ensure that any such affiliate, division, 2135
or part will not receive undue preference or advantage from any 2136
affiliate, division, or part of the business engaged in business 2137
of supplying the noncompetitive retail electric service. No such 2138
utility, affiliate, division, or part shall extend such undue 2139
preference. Notwithstanding any other division of this section, 2140
a utility's obligation under division (A) (3) of this section 2141
shall be effective January 1, 2000. 2142

(B) The commission may approve, modify and approve, or 2143
disapprove a corporate separation plan filed with the commission 2144
under division (A) of this section. As part of the code of 2145
conduct required under division (A) (1) of this section, the 2146
commission shall adopt rules pursuant to division (A) of section 2147
4928.06 of the Revised Code regarding corporate separation and 2148
procedures for plan filing and approval. The rules shall include 2149
limitations on affiliate practices solely for the purpose of 2150
maintaining a separation of the affiliate's business from the 2151
business of the utility to prevent unfair competitive advantage 2152
by virtue of that relationship. The rules also shall include an 2153
opportunity for any person having a real and substantial 2154
interest in the corporate separation plan to file specific 2155
objections to the plan and propose specific responses to issues 2156
raised in the objections, which objections and responses the 2157
commission shall address in its final order. Prior to commission 2158
approval of the plan, the commission shall afford a hearing upon 2159
those aspects of the plan that the commission determines 2160
reasonably require a hearing. The commission may reject and 2161
require refiling of a substantially inadequate plan under this 2162
section. 2163

(C) The commission shall issue an order approving or 2164
modifying and approving a corporate separation plan under this 2165

section, to be effective on the date specified in the order, 2166
only upon findings that the plan reasonably complies with the 2167
requirements of division (A) of this section and will provide 2168
for ongoing compliance with the policy specified in section 2169
4928.02 of the Revised Code. However, for good cause shown, the 2170
commission may issue an order approving or modifying and 2171
approving a corporate separation plan under this section that 2172
does not comply with division (A)(1) of this section but 2173
complies with such functional separation requirements as the 2174
commission authorizes to apply for an interim period prescribed 2175
in the order, upon a finding that such alternative plan will 2176
provide for ongoing compliance with the policy specified in 2177
section 4928.02 of the Revised Code. 2178

(D) Any party may seek an amendment to a corporate 2179
separation plan approved under this section, and the commission, 2180
pursuant to a request from any party or on its own initiative, 2181
may order as it considers necessary the filing of an amended 2182
corporate separation plan to reflect changed circumstances. 2183

(E) No electric distribution utility shall sell or 2184
transfer any generating asset it wholly or partly owns at any 2185
time without obtaining prior commission approval. 2186

Sec. 4928.171. (A) Notwithstanding section 4928.17 of the 2187
Revised Code, a competitive affiliate of an electric 2188
distribution utility may own or operate an electric generating 2189
facility. 2190

(B) An electric distribution utility shall not subsidize 2191
either of the following: 2192

(1) An electric generating facility owned by a competitive 2193
affiliate of the electric distribution utility; 2194

(2) A competitive affiliate of the electric distribution utility. 2195
2196

Sec. 4928.20. (A) The legislative authority of a municipal 2197
corporation may adopt an ordinance, or the board of township 2198
trustees of a township or the board of county commissioners of a 2199
county may adopt a resolution, under which, on or after the 2200
starting date of competitive retail electric service, it may 2201
aggregate in accordance with this section the retail electrical 2202
loads located, respectively, within the municipal corporation, 2203
township, or unincorporated area of the county and, for that 2204
purpose, may enter into service agreements to facilitate for 2205
those loads the sale and purchase of electricity. The 2206
legislative authority or board also may exercise such authority 2207
jointly with any other such legislative authority or board. For 2208
customers that are not mercantile customers, an ordinance or 2209
resolution under this division shall specify whether the 2210
aggregation will occur only with the prior, affirmative consent 2211
of each person owning, occupying, controlling, or using an 2212
electric load center proposed to be aggregated or will occur 2213
automatically for all such persons pursuant to the opt-out 2214
requirements of division (D) of this section. The aggregation of 2215
mercantile customers shall occur only with the prior, 2216
affirmative consent of each such person owning, occupying, 2217
controlling, or using an electric load center proposed to be 2218
aggregated. Nothing in this division, however, authorizes the 2219
aggregation of the retail electric loads of an electric load 2220
center, as defined in section 4933.81 of the Revised Code, that 2221
is located in the certified territory of a nonprofit electric 2222
supplier under sections 4933.81 to 4933.90 of the Revised Code 2223
or an electric load center served by transmission or 2224
distribution facilities of a municipal electric utility. 2225

(B) If an ordinance or resolution adopted under division 2226
(A) of this section specifies that aggregation of customers that 2227
are not mercantile customers will occur automatically as 2228
described in that division, the ordinance or resolution shall 2229
direct the board of elections to submit the question of the 2230
authority to aggregate to the electors of the respective 2231
municipal corporation, township, or unincorporated area of a 2232
county at a special election on the day of the next primary or 2233
general election in the municipal corporation, township, or 2234
county. The legislative authority or board shall certify a copy 2235
of the ordinance or resolution to the board of elections not 2236
less than ninety days before the day of the special election. No 2237
ordinance or resolution adopted under division (A) of this 2238
section that provides for an election under this division shall 2239
take effect unless approved by a majority of the electors voting 2240
upon the ordinance or resolution at the election held pursuant 2241
to this division. 2242

(C) Upon the applicable requisite authority under 2243
divisions (A) and (B) of this section, the legislative authority 2244
or board shall develop a plan of operation and governance for 2245
the aggregation program so authorized. Before adopting a plan 2246
under this division, the legislative authority or board shall 2247
hold at least two public hearings on the plan. Before the first 2248
hearing, the legislative authority or board shall publish notice 2249
of the hearings once a week for two consecutive weeks in a 2250
newspaper of general circulation in the jurisdiction or as 2251
provided in section 7.16 of the Revised Code. The notice shall 2252
summarize the plan and state the date, time, and location of 2253
each hearing. 2254

(D) No legislative authority or board, pursuant to an 2255
ordinance or resolution under divisions (A) and (B) of this 2256

section that provides for automatic aggregation of customers 2257
that are not mercantile customers as described in division (A) 2258
of this section, shall aggregate the electrical load of any 2259
electric load center located within its jurisdiction unless it 2260
in advance clearly discloses to the person owning, occupying, 2261
controlling, or using the load center that the person will be 2262
enrolled automatically in the aggregation program and will 2263
remain so enrolled unless the person affirmatively elects by a 2264
stated procedure not to be so enrolled. The disclosure shall 2265
state prominently the rates, charges, and other terms and 2266
conditions of enrollment. The stated procedure shall allow any 2267
person enrolled in the aggregation program the opportunity to 2268
opt out of the program every three years, without paying a 2269
switching fee. Any such person that opts out before the 2270
commencement of the aggregation program pursuant to the stated 2271
procedure shall default to the standard service offer provided 2272
under section 4928.14 or division (D) of section 4928.35 of the 2273
Revised Code until the person chooses an alternative supplier. 2274

(E) (1) With respect to a governmental aggregation for a 2275
municipal corporation that is authorized pursuant to divisions 2276
(A) to (D) of this section, resolutions may be proposed by 2277
initiative or referendum petitions in accordance with sections 2278
731.28 to 731.41 of the Revised Code. 2279

(2) With respect to a governmental aggregation for a 2280
township or the unincorporated area of a county, which 2281
aggregation is authorized pursuant to divisions (A) to (D) of 2282
this section, resolutions may be proposed by initiative or 2283
referendum petitions in accordance with sections 731.28 to 2284
731.40 of the Revised Code, except that: 2285

(a) The petitions shall be filed, respectively, with the 2286

township fiscal officer or the board of county commissioners, 2287
who shall perform those duties imposed under those sections upon 2288
the city auditor or village clerk. 2289

(b) The petitions shall contain the signatures of not less 2290
than ten per cent of the total number of electors in, 2291
respectively, the township or the unincorporated area of the 2292
county who voted for the office of governor at the preceding 2293
general election for that office in that area. 2294

(F) A governmental aggregator under division (A) of this 2295
section is not a public utility engaging in the wholesale 2296
purchase and resale of electricity, and provision of the 2297
aggregated service is not a wholesale utility transaction. A 2298
governmental aggregator shall be subject to supervision and 2299
regulation by the public utilities commission only to the extent 2300
of any competitive retail electric service it provides and 2301
commission authority under this chapter. 2302

(G) This section does not apply in the case of a municipal 2303
corporation that supplies such aggregated service to electric 2304
load centers to which its municipal electric utility also 2305
supplies a noncompetitive retail electric service through 2306
transmission or distribution facilities the utility singly or 2307
jointly owns or operates. 2308

(H) A governmental aggregator shall not include in its 2309
aggregation the accounts of any of the following: 2310

(1) A customer that has opted out of the aggregation; 2311

(2) A customer in contract with a certified electric 2312
services company; 2313

(3) A customer that has a special contract with an 2314
electric distribution utility; 2315

(4) A customer that is not located within the governmental 2316
aggregator's governmental boundaries; 2317

(5) Subject to division (C) of section 4928.21 of the 2318
Revised Code, a customer who appears on the "do not aggregate" 2319
list maintained under that section. 2320

(I) Customers that are part of a governmental aggregation 2321
under this section shall be responsible only for such portion of 2322
a surcharge under section 4928.144 of the Revised Code that is 2323
proportionate to the benefits, as determined by the commission, 2324
that electric load centers within the jurisdiction of the 2325
governmental aggregation as a group receive. The proportionate 2326
surcharge so established shall apply to each customer of the 2327
governmental aggregation while the customer is part of that 2328
aggregation. If a customer ceases being such a customer, the 2329
otherwise applicable surcharge shall apply. Nothing in this 2330
section shall result in less than full recovery by an electric 2331
distribution utility of any surcharge authorized under section 2332
4928.144 of the Revised Code. Nothing in this section shall 2333
result in less than the full and timely imposition, charging, 2334
collection, and adjustment by an electric distribution utility, 2335
its assignee, or any collection agent, of the phase-in-recovery 2336
charges authorized pursuant to a final financing order issued 2337
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 2338

~~(J) On behalf of the customers that are part of a 2339
governmental aggregation under this section and by filing 2340
written notice with the public utilities commission, the 2341
legislative authority that formed or is forming that 2342
governmental aggregation may elect not to receive standby 2343
service within the meaning of division (B) (2) (d) of section 2344
4928.143 of the Revised Code from an electric distribution 2345~~

~~utility in whose certified territory the governmental-~~ 2346
~~aggregation is located and that operates under an approved-~~ 2347
~~electric security plan under that section. Upon the filing of-~~ 2348
~~that notice, the electric distribution utility shall not charge-~~ 2349
~~any such customer to whom competitive retail electric generation~~ 2350
~~service is provided by another supplier under the governmental-~~ 2351
~~aggregation for the standby service. Any such aggregation~~ 2352
consumer that returns to the utility for competitive retail 2353
electric service shall pay the market price of power incurred by 2354
the utility to serve that consumer plus any amount attributable 2355
to the utility's cost of compliance with the renewable energy 2356
resource provisions of section 4928.64 of the Revised Code to 2357
serve the consumer. Such market price shall include, but not be 2358
limited to, capacity and energy charges; all charges associated 2359
with the provision of that power supply through the regional 2360
transmission organization, including, but not limited to, 2361
transmission, ancillary services, congestion, and settlement and 2362
administrative charges; and all other costs incurred by the 2363
utility that are associated with the procurement, provision, and 2364
administration of that power supply, as such costs may be 2365
approved by the commission. The period of time during which the 2366
market price and renewable energy resource amount shall be so 2367
assessed on the consumer shall be from the time the consumer so 2368
returns to the electric distribution utility until the 2369
expiration of the electric security plan. However, if that 2370
period of time is expected to be more than two years, the 2371
commission may reduce the time period to a period of not less 2372
than two years. 2373

(K) The commission shall adopt rules to encourage and 2374
promote large-scale governmental aggregation in this state. For 2375
that purpose, ~~the commission shall conduct an immediate review-~~ 2376

~~of any rules it has adopted for the purpose of this section that~~ 2377
~~are in effect on the effective date of the amendment of this~~ 2378
~~section by S.B. 221 of the 127th general assembly, July 31,~~ 2379
~~2008. Further, within the context of an electric security plan~~ 2380
~~under section 4928.143 of the Revised Code, the commission shall~~ 2381
consider the effect on large-scale governmental aggregation of 2382
any nonbypassable generation charges, however collected, ~~that~~ 2383
~~would be established under that plan, except any nonbypassable~~ 2384
generation charges that relate to any cost incurred by the 2385
electric distribution utility, the deferral of which has been 2386
authorized by the commission prior to ~~the effective date of the~~ 2387
~~amendment of this section by S.B. 221 of the 127th general~~ 2388
~~assembly, July 31, 2008.~~ 2389

(L) Notwithstanding any provision of section 121.95 of the 2390
Revised Code to the contrary, a regulatory restriction contained 2391
in a rule adopted under section 4928.20 of the Revised Code is 2392
not subject to sections 121.95 to 121.953 of the Revised Code. 2393

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of 2394
the Revised Code: 2395

(A) "Ancillary agreement" means any bond insurance policy, 2396
letter of credit, reserve account, surety bond, swap 2397
arrangement, hedging arrangement, liquidity or credit support 2398
arrangement, or other similar agreement or arrangement entered 2399
into in connection with the issuance of phase-in-recovery bonds 2400
that is designed to promote the credit quality and marketability 2401
of the bonds or to mitigate the risk of an increase in interest 2402
rates. 2403

(B) "Assignee" means any person or entity to which an 2404
interest in phase-in-recovery property is sold, assigned, 2405
transferred, or conveyed, other than as security, and any 2406

successor to or subsequent assignee of such a person or entity. 2407

(C) "Bond" includes debentures, notes, certificates of 2408
participation, certificates of beneficial interest, certificates 2409
of ownership or other evidences of indebtedness or ownership 2410
that are issued by an electric distribution utility or an 2411
assignee under a final financing order, the proceeds of which 2412
are used directly or indirectly to recover, finance, or 2413
refinance phase-in costs and financing costs, and that are 2414
secured by or payable from revenues from phase-in-recovery 2415
charges. 2416

(D) "Bondholder" means any holder or owner of a phase-in- 2417
recovery bond. 2418

(E) "Financing costs" means any of the following: 2419

(1) Principal, interest, and redemption premiums that are 2420
payable on phase-in-recovery bonds; 2421

(2) Any payment required under an ancillary agreement; 2422

(3) Any amount required to fund or replenish a reserve 2423
account or another account established under any indenture, 2424
ancillary agreement, or other financing document relating to 2425
phase-in-recovery bonds; 2426

(4) Any costs of retiring or refunding any existing debt 2427
and equity securities of an electric distribution utility in 2428
connection with either the issuance of, or the use of proceeds 2429
from, phase-in-recovery bonds; 2430

(5) Any costs incurred by an electric distribution utility 2431
to obtain modifications of or amendments to any indenture, 2432
financing agreement, security agreement, or similar agreement or 2433
instrument relating to any existing secured or unsecured 2434

obligation of the electric distribution utility in connection	2435
with the issuance of phase-in-recovery bonds;	2436
(6) Any costs incurred by an electric distribution utility	2437
to obtain any consent, release, waiver, or approval from any	2438
holder of an obligation described in division (E) (5) of this	2439
section that are necessary to be incurred for the electric	2440
distribution utility to issue or cause the issuance of phase-in-	2441
recovery bonds;	2442
(7) Any taxes, franchise fees, or license fees imposed on	2443
phase-in-recovery revenues;	2444
(8) Any costs related to issuing or servicing phase-in-	2445
recovery bonds or related to obtaining a financing order,	2446
including servicing fees and expenses, trustee fees and	2447
expenses, legal, accounting, or other professional fees and	2448
expenses, administrative fees, placement fees, underwriting	2449
fees, capitalized interest and equity, and rating-agency fees;	2450
(9) Any other similar costs that the public utilities	2451
commission finds appropriate.	2452
(F) "Financing order" means an order issued by the public	2453
utilities commission under section 4928.232 of the Revised Code	2454
that authorizes an electric distribution utility or an assignee	2455
to issue phase-in-recovery bonds and recover phase-in-recovery	2456
charges.	2457
(G) "Final financing order" means a financing order that	2458
has become final and has taken effect as provided in section	2459
4928.233 of the Revised Code.	2460
(H) "Financing party" means either of the following:	2461
(1) Any trustee, collateral agent, or other person acting	2462

for the benefit of any bondholder; 2463

(2) Any party to an ancillary agreement, the rights and 2464
obligations of which relate to or depend upon the existence of 2465
phase-in-recovery property, the enforcement and priority of a 2466
security interest in phase-in-recovery property, the timely 2467
collection and payment of phase-in-recovery revenues, or a 2468
combination of these factors. 2469

(I) "Financing statement" has the same meaning as in 2470
section 1309.102 of the Revised Code. 2471

(J) "Phase-in costs" means costs, inclusive of carrying 2472
charges incurred before, on, or after ~~the effective date of this~~ 2473
~~section~~March 22, 2012, authorized by the commission before, on, 2474
or after ~~the effective date of this section~~March 22, 2012, to be 2475
securitized or deferred as regulatory assets in proceedings 2476
under section 4909.18 of the Revised Code, sections 4928.141 to 2477
~~4928.143, or 4928.144~~ of the Revised Code, including proceedings 2478
under those sections as they existed prior to the effective date 2479
of the amendments to this section by this act, or section 2480
4928.14 of the Revised Code as it existed prior to July 31, 2481
2008, pursuant to a final order for which appeals have been 2482
exhausted. "Phase-in costs" excludes the following: 2483

(1) With respect to any electric generating facility that, 2484
on and after ~~the effective date of this section~~March 22, 2012, 2485
is owned, in whole or in part, by an electric distribution 2486
utility applying for a financing order under section 4928.231 of 2487
the Revised Code, costs ~~that are~~ authorized under division (B) 2488
(2) (b) or (c) of section 4928.143 of the Revised Code as those 2489
divisions existed prior to the repeal and reenactment of that 2490
section by this act; 2491

(2) Costs incurred after ~~the effective date of this~~ 2492
~~section~~March 22, 2012, related to the ongoing operation of an 2493
electric generating facility, but not environmental clean-up or 2494
remediation costs incurred by an electric distribution utility 2495
because of its ownership or operation of an electric generating 2496
facility prior to ~~the effective date of this section~~March 22, 2497
2012, which such clean-up or remediation costs are imposed or 2498
incurred pursuant to federal or state law, rules, or regulations 2499
and for which the commission approves recovery in accordance 2500
with section 4909.18 of the Revised Code, sections 4928.141 to 2501
~~4928.143, or 4928.144~~ of the Revised Code, including proceedings 2502
under those sections as they existed prior to the effective date 2503
of the amendments to this section by this act, or section 2504
4928.14 of the Revised Code as it existed prior to July 31, 2505
2008. 2506

(K) "Phase-in-recovery property" means the property, 2507
rights, and interests of an electric distribution utility or an 2508
assignee under a final financing order, including the right to 2509
impose, charge, and collect the phase-in-recovery charges that 2510
shall be used to pay and secure the payment of phase-in-recovery 2511
bonds and financing costs, and including the right to obtain 2512
adjustments to those charges, and any revenues, receipts, 2513
collections, rights to payment, payments, moneys, claims, or 2514
other proceeds arising from the rights and interests created 2515
under the final financing order. 2516

(L) "Phase-in-recovery revenues" means all revenues, 2517
receipts, collections, payments, moneys, claims, or other 2518
proceeds arising from phase-in-recovery property. 2519

(M) "Successor" means, with respect to any entity, another 2520
entity that succeeds by operation of law to the rights and 2521

obligations of the first legal entity pursuant to any 2522
bankruptcy, reorganization, restructuring, or other insolvency 2523
proceeding, any merger, acquisition, or consolidation, or any 2524
sale or transfer of assets, regardless of whether any of these 2525
occur as a result of a restructuring of the electric power 2526
industry or otherwise. 2527

Sec. 4928.231. (A) An electric distribution utility may 2528
apply to the public utilities commission for a financing order 2529
that authorizes the following: 2530

(1) The issuance of phase-in-recovery bonds, in one or 2531
more series, to recover uncollected phase-in costs; 2532

(2) The imposition, charging, and collection of phase-in- 2533
recovery charges, in accordance with the adjustment mechanism 2534
approved by the commission under section 4928.232 of the Revised 2535
Code, and consistent with the commission's authority regarding 2536
governmental aggregation as provided in division (I) of section 2537
4928.20 of the Revised Code, to recover both of the following: 2538

(a) Uncollected phase-in costs; 2539

(b) Financing costs. 2540

(3) The creation of phase-in-recovery property under the 2541
financing order. 2542

(B) The application shall include all of the following: 2543

(1) A description of the uncollected phase-in costs that 2544
the electric distribution utility seeks to recover through the 2545
issuance of phase-in-recovery bonds; 2546

(2) An estimate of the date each series of phase-in- 2547
recovery bonds are expected to be issued; 2548

(3) The expected term during which the phase-in costs 2549
associated with the issuance of each series of phase-in-recovery 2550
bonds are expected to be recovered; 2551

(4) An estimate of the financing costs, as described in 2552
section 4928.23 of the Revised Code, associated with the 2553
issuance of each series of phase-in-recovery bonds; 2554

(5) An estimate of the amount of phase-in-recovery charges 2555
necessary to recover the phase-in costs and financing costs set 2556
forth in the application and the calculation for that estimate, 2557
which calculation shall take into account the estimated date or 2558
dates of issuance and the estimated principal amount of each 2559
series of phase-in-recovery bonds; 2560

(6) For phase-in-recovery charges not subject to 2561
allocation according to an existing order, a proposed 2562
methodology for allocating phase-in-recovery charges among 2563
customer classes, including a proposed methodology for 2564
allocating such charges to governmental aggregation customers 2565
based upon the proportionate benefit determination made under 2566
division (I) of section 4928.20 of the Revised Code; 2567

(7) A description of a proposed adjustment mechanism for 2568
use as described in division (A) (2) of this section; 2569

(8) A description and valuation of how the issuance of the 2570
phase-in-recovery bonds, including financing costs, will both 2571
result in cost savings to customers and mitigate rate impacts to 2572
customers when compared to the use of other financing mechanisms 2573
or cost-recovery methods available to the electric distribution 2574
utility; 2575

(9) Any other information required by the commission. 2576

(C) The electric distribution utility may restate or 2577

incorporate by reference in the application any information 2578
required under division (B) (9) of this section that the electric 2579
distribution utility filed with the commission under section 2580
4909.18 or sections 4928.141 to 4928.144 of the Revised Code, 2581
including filings made under those sections as they existed 2582
prior to the effective date of the amendments to this section by 2583
this act, or section 4928.14 of the Revised Code as it existed 2584
prior to July 31, 2008. 2585

Sec. 4928.232. (A) Proceedings before the public utilities 2586
commission on an application submitted by an electric 2587
distribution utility under section 4928.231 of the Revised Code 2588
shall be governed by Chapter 4903. of the Revised Code, but only 2589
to the extent that chapter is not inconsistent with this section 2590
or section 4928.233 of the Revised Code. Any party that 2591
participated in the proceeding in which phase-in costs were 2592
approved under section 4909.18 ~~or of the Revised Code,~~ sections 2593
4928.141 to 4928.144 of the Revised Code, including in 2594
proceedings under those sections as they existed prior to the 2595
effective date of the amendments to this section by this act, or 2596
section 4928.14 of the Revised Code as it existed prior to July 2597
31, 2008, shall have standing to participate in proceedings 2598
under sections 4928.23 to 4928.2318 of the Revised Code. 2599

(B) When reviewing an application for a financing order 2600
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 2601
the commission may hold such hearings, make such inquiries or 2602
investigations, and examine such witnesses, books, papers, 2603
documents, and contracts as the commission considers proper to 2604
carry out these sections. Within thirty days after the filing of 2605
an application under section 4928.231 of the Revised Code, the 2606
commission shall publish a schedule of the proceeding. 2607

(C) (1) Not later than one hundred thirty-five days after 2608
the date the application is filed, the commission shall issue 2609
either a financing order, granting the application in whole or 2610
with modifications, or an order suspending or rejecting the 2611
application. 2612

(2) If the commission suspends an application for a 2613
financing order, the commission shall notify the electric 2614
distribution utility of the suspension and may direct the 2615
electric distribution utility to provide additional information 2616
as the commission considers necessary to evaluate the 2617
application. Not later than ninety days after the suspension, 2618
the commission shall issue either a financing order, granting 2619
the application in whole or with modifications, or an order 2620
rejecting the application. 2621

(D) (1) The commission shall not issue a financing order 2622
under division (C) of this section unless the commission 2623
determines that the financing order is consistent with section 2624
4928.02 of the Revised Code. 2625

(2) Except as provided in division (D) (1) of this section, 2626
the commission shall issue a financing order under division (C) 2627
of this section if, at the time the financing order is issued, 2628
the commission finds that the issuance of the phase-in-recovery 2629
bonds and the phase-in-recovery charges authorized by the order 2630
results in, consistent with market conditions, both measurably 2631
enhancing cost savings to customers and mitigating rate impacts 2632
to customers as compared with traditional financing mechanisms 2633
or traditional cost-recovery methods available to the electric 2634
distribution utility or, if the commission previously approved a 2635
recovery method, as compared with that recovery method. 2636

(E) The commission shall include all of the following in a 2637

financing order issued under division (C) of this section:	2638
(1) A determination of the maximum amount and a	2639
description of the phase-in costs that may be recovered through	2640
phase-in-recovery bonds issued under the financing order;	2641
(2) A description of phase-in-recovery property, the	2642
creation of which is authorized by the financing order;	2643
(3) A description of the financing costs that may be	2644
recovered through phase-in-recovery charges and the period over	2645
which those costs may be recovered;	2646
(4) For phase-in-recovery charges not subject to	2647
allocation according to an existing order, a description of the	2648
methodology and calculation for allocating phase-in-recovery	2649
charges among customer classes, including the allocation of such	2650
charges, if any, to governmental aggregation customers based	2651
upon the proportionate benefit determination made under division	2652
(I) of section 4928.20 of the Revised Code;	2653
(5) A description of the adjustment mechanism for use in	2654
the imposition, charging, and collection of the phase-in-	2655
recovery charges;	2656
(6) The maximum term of the phase-in-recovery bonds;	2657
(7) Any other provision the commission considers	2658
appropriate to ensure the full and timely imposition, charging,	2659
collection, and adjustment, pursuant to an approved adjustment	2660
mechanism, of the phase-in-recovery charges described in	2661
divisions (E) (3) to (5) of this section.	2662
(F) The commission may, in a financing order, afford the	2663
electric distribution utility flexibility in establishing the	2664
terms and conditions for the phase-in-recovery bonds to	2665

accommodate changes in market conditions, including repayment 2666
schedules, interest rates, financing costs, collateral 2667
requirements, required debt service and other reserves, and the 2668
ability of the electric distribution utility, at its option, to 2669
effect a series of issuances of phase-in-recovery bonds and 2670
correlated assignments, sales, pledges, or other transfers of 2671
phase-in-recovery property. Any changes made under this section 2672
to terms and conditions for the phase-in-recovery bonds shall be 2673
in conformance with the financing order. 2674

(G) A financing order may provide that the creation of 2675
phase-in-recovery property shall be simultaneous with the sale 2676
of that property to an assignee as provided in the application 2677
and the pledge of the property to secure phase-in-recovery 2678
bonds. 2679

(H) The commission shall, in a financing order, require 2680
that after the final terms of each issuance of phase-in-recovery 2681
bonds have been established, and prior to the issuance of those 2682
bonds, the electric distribution utility shall determine the 2683
resulting phase-in-recovery charges in accordance with the 2684
adjustment mechanism described in the financing order. These 2685
phase-in-recovery charges shall be final and effective upon the 2686
issuance of the phase-in-recovery bonds, without further 2687
commission action. 2688

Sec. 4928.54. The director of development ~~services~~ shall 2689
aggregate percentage of income payment plan program customers 2690
for the purpose of establishing a competitive procurement 2691
process for the supply of competitive retail electric service 2692
for those customers. The process shall be an auction. ~~Only~~ 2693
~~bidders certified under section 4928.08 of the Revised Code may~~ 2694
~~participate in the auction.~~ 2695

Sec. 4928.542. The winning bid or bids selected through 2696
the competitive procurement process established under section 2697
4928.54 of the Revised Code shall meet all of the following 2698
requirements: 2699

(A) Be designed to provide reliable competitive retail 2700
electric service to percentage of income payment plan program 2701
customers; 2702

(B) Reduce the cost of the percentage of income payment 2703
plan program relative to the otherwise applicable standard 2704
service offer established under sections 4928.141~~7~~ and 4928.142~~7~~ 2705
and ~~4928.143~~ of the Revised Code; 2706

(C) Result in the best value for persons paying the 2707
universal service rider under section 4928.52 of the Revised 2708
Code. 2709

Sec. 4928.64. (A) (1) As used in this section, "qualifying 2710
renewable energy resource" means a renewable energy resource, as 2711
defined in section 4928.01 of the Revised Code that: 2712

(a) Has a placed-in-service date on or after January 1, 2713
1998; 2714

(b) Is any run-of-the-river hydroelectric facility that 2715
has an in-service date on or after January 1, 1980; 2716

(c) Is a small hydroelectric facility; 2717

(d) Is created on or after January 1, 1998, by the 2718
modification or retrofit of any facility placed in service prior 2719
to January 1, 1998; or 2720

(e) Is a mercantile customer-sited renewable energy 2721
resource, whether new or existing, that the mercantile customer 2722
commits for integration into the electric distribution utility's 2723

demand-response, energy efficiency, or peak demand reduction 2724
programs as provided under division (A) (2) (c) of section 4928.66 2725
of the Revised Code, including, but not limited to, any of the 2726
following: 2727

(i) A resource that has the effect of improving the 2728
relationship between real and reactive power; 2729

(ii) A resource that makes efficient use of waste heat or 2730
other thermal capabilities owned or controlled by a mercantile 2731
customer; 2732

(iii) Storage technology that allows a mercantile customer 2733
more flexibility to modify its demand or load and usage 2734
characteristics; 2735

(iv) Electric generation equipment owned or controlled by 2736
a mercantile customer that uses a renewable energy resource. 2737

(2) For the purpose of this section and as it considers 2738
appropriate, the public utilities commission may classify any 2739
new technology as such a qualifying renewable energy resource. 2740

(B) (1) By the end of 2026, an electric distribution 2741
utility shall have provided from qualifying renewable energy 2742
resources, including, at its discretion, qualifying renewable 2743
energy resources obtained pursuant to an electricity supply 2744
contract, a portion of the electricity supply required for its 2745
standard service offer ~~under section 4928.141 of the Revised~~ 2746
~~Code~~, and an electric services company shall have provided a 2747
portion of its electricity supply for retail consumers in this 2748
state from qualifying renewable energy resources, including, at 2749
its discretion, qualifying renewable energy resources obtained 2750
pursuant to an electricity supply contract. That portion shall 2751
equal eight and one-half per cent of the total number of 2752

kilowatt hours of electricity sold by the subject utility or 2753
company to any and all retail electric consumers whose electric 2754
load centers are served by that utility and are located within 2755
the utility's certified territory or, in the case of an electric 2756
services company, are served by the company and are located 2757
within this state. However, nothing in this section precludes a 2758
utility or company from providing a greater percentage. 2759

(2) Subject to section 4928.642 of the Revised Code, the 2760
portion required under division (B) (1) of this section shall be 2761
generated from renewable energy resources in accordance with the 2762
following benchmarks: 2763

2764

	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 2765
by the utility or company shall be met either: 2766

(a) Through facilities located in this state; or 2767

(b) With resources that can be shown to be deliverable 2768
into this state. 2769

(C) (1) The commission annually shall review an electric 2770
distribution utility's or electric services company's compliance 2771
with the most recent applicable benchmark under division (B) (2) 2772
of this section and, in the course of that review, shall 2773
identify any undercompliance or noncompliance of the utility or 2774
company that it determines is weather-related, related to 2775
equipment or resource shortages for qualifying renewable energy 2776
resources as applicable, or is otherwise outside the utility's 2777

or company's control. 2778

(2) Subject to the cost cap provisions of division (C) (3) 2779
of this section, if the commission determines, after notice and 2780
opportunity for hearing, and based upon its findings in that 2781
review regarding avoidable undercompliance or noncompliance, but 2782
subject to division (C) (4) of this section, that the utility or 2783
company has failed to comply with any such benchmark, the 2784
commission shall impose a renewable energy compliance payment on 2785
the utility or company. 2786

(a) The compliance payment pertaining to the solar energy 2787
resource benchmarks under division (B) (2) of this section shall 2788
be an amount per megawatt hour of undercompliance or 2789
noncompliance in the period under review, as follows: 2790

(i) Three hundred dollars for 2014, 2015, and 2016; 2791

(ii) Two hundred fifty dollars for 2017 and 2018; 2792

(iii) Two hundred dollars for 2019. 2793

(b) The compliance payment pertaining to the renewable 2794
energy resource benchmarks under division (B) (2) of this section 2795
shall equal the number of additional renewable energy credits 2796
that the electric distribution utility or electric services 2797
company would have needed to comply with the applicable 2798
benchmark in the period under review times an amount that shall 2799
begin at forty-five dollars and shall be adjusted annually by 2800
~~the commission to reflect any change in the consumer price index~~ 2801
~~as defined in section 101.27 of the Revised Code, but shall not~~ 2802
be less than forty-five dollars. 2803

(c) The compliance payment shall not be passed through by 2804
the electric distribution utility or electric services company 2805
to consumers. The compliance payment shall be remitted to the 2806

commission, for deposit to the credit of the advanced energy 2807
fund created under section 4928.61 of the Revised Code. Payment 2808
of the compliance payment shall be subject to such collection 2809
and enforcement procedures as apply to the collection of a 2810
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 2811
Revised Code. 2812

(3) An electric distribution utility or an electric 2813
services company need not comply with a benchmark under division 2814
(B) (2) of this section to the extent that its reasonably 2815
expected cost of that compliance exceeds its reasonably expected 2816
cost of otherwise producing or acquiring the requisite 2817
electricity by three per cent or more. The cost of compliance 2818
shall be calculated as though any exemption from taxes and 2819
assessments had not been granted under section 5727.75 of the 2820
Revised Code. 2821

(4) (a) An electric distribution utility or electric 2822
services company may request the commission to make a force 2823
majeure determination pursuant to this division regarding all or 2824
part of the utility's or company's compliance with any minimum 2825
benchmark under division (B) (2) of this section during the 2826
period of review occurring pursuant to division (C) (2) of this 2827
section. The commission may require the electric distribution 2828
utility or electric services company to make solicitations for 2829
renewable energy resource credits as part of its default service 2830
before the utility's or company's request of force majeure under 2831
this division can be made. 2832

(b) Within ninety days after the filing of a request by an 2833
electric distribution utility or electric services company under 2834
division (C) (4) (a) of this section, the commission shall 2835
determine if qualifying renewable energy resources are 2836

reasonably available in the marketplace in sufficient quantities 2837
for the utility or company to comply with the subject minimum 2838
benchmark during the review period. In making this 2839
determination, the commission shall consider whether the 2840
electric distribution utility or electric services company has 2841
made a good faith effort to acquire sufficient qualifying 2842
renewable energy or, as applicable, solar energy resources to so 2843
comply, including, but not limited to, by banking or seeking 2844
renewable energy resource credits or by seeking the resources 2845
through long-term contracts. Additionally, the commission shall 2846
consider the availability of qualifying renewable energy or 2847
solar energy resources in this state and other jurisdictions in 2848
the PJM interconnection regional transmission organization, 2849
L.L.C., or its successor and the midcontinent independent system 2850
operator or its successor. 2851

(c) If, pursuant to division (C)(4)(b) of this section, 2852
the commission determines that qualifying renewable energy or 2853
solar energy resources are not reasonably available to permit 2854
the electric distribution utility or electric services company 2855
to comply, during the period of review, with the subject minimum 2856
benchmark prescribed under division (B)(2) of this section, the 2857
commission shall modify that compliance obligation of the 2858
utility or company as it determines appropriate to accommodate 2859
the finding. Commission modification shall not automatically 2860
reduce the obligation for the electric distribution utility's or 2861
electric services company's compliance in subsequent years. If 2862
it modifies the electric distribution utility or electric 2863
services company obligation under division (C)(4)(c) of this 2864
section, the commission may require the utility or company, if 2865
sufficient renewable energy resource credits exist in the 2866
marketplace, to acquire additional renewable energy resource 2867

credits in subsequent years equivalent to the utility's or 2868
company's modified obligation under division (C) (4) (c) of this 2869
section. 2870

(5) The commission shall establish a process to provide 2871
for at least an annual review of the renewable energy resource 2872
market in this state and in the service territories of the 2873
regional transmission organizations that manage transmission 2874
systems located in this state. The commission shall use the 2875
results of this study to identify any needed changes to the 2876
amount of the renewable energy compliance payment specified 2877
under divisions (C) (2) (a) and (b) of this section. Specifically, 2878
the commission may increase the amount to ensure that payment of 2879
compliance payments is not used to achieve compliance with this 2880
section in lieu of actually acquiring or realizing energy 2881
derived from qualifying renewable energy resources. However, if 2882
the commission finds that the amount of the compliance payment 2883
should be otherwise changed, the commission shall present this 2884
finding to the general assembly for legislative enactment. 2885

(D) The commission annually shall submit to the general 2886
assembly in accordance with section 101.68 of the Revised Code a 2887
report describing all of the following: 2888

(1) The compliance of electric distribution utilities and 2889
electric services companies with division (B) of this section; 2890

(2) The average annual cost of renewable energy credits 2891
purchased by utilities and companies for the year covered in the 2892
report; 2893

(3) Any strategy for utility and company compliance or for 2894
encouraging the use of qualifying renewable energy resources in 2895
supplying this state's electricity needs in a manner that 2896

considers available technology, costs, job creation, and 2897
economic impacts. 2898

The commission shall begin providing the information 2899
described in division (D) (2) of this section in each report 2900
submitted after September 10, 2012. The commission shall allow 2901
and consider public comments on the report prior to its 2902
submission to the general assembly. Nothing in the report shall 2903
be binding on any person, including any utility or company for 2904
the purpose of its compliance with any benchmark under division 2905
(B) of this section, or the enforcement of that provision under 2906
division (C) of this section. 2907

(E) All costs incurred by an electric distribution utility 2908
in complying with the requirements of this section shall be 2909
bypassable by any consumer that has exercised choice of supplier 2910
under section 4928.03 of the Revised Code. 2911

Sec. 4929.20. ~~(A)~~ (A) (1) No governmental aggregator as 2912
defined in division (K) (1) of section 4929.01 of the Revised 2913
Code or no retail natural gas supplier shall provide a 2914
competitive retail natural gas service on or after thirteen 2915
months following ~~the effective date of this section~~ June 26, 2916
2001, to a consumer in this state without first being certified 2917
by the public utilities commission regarding its managerial, 2918
technical, and financial capability to provide that service and 2919
providing reasonable financial assurances sufficient to protect 2920
customers and natural gas companies from default. ~~In addition, a~~ 2921
~~retail natural gas supplier may be required to provide a~~ 2922
~~performance bond sufficient to protect customers and natural gas~~ 2923
~~companies from default.~~ Certification shall be granted pursuant 2924
to procedures and standards the commission shall prescribe in 2925
accordance with rules adopted under section 4929.10 of the 2926

Revised Code. However, certification or certification renewal 2927
shall be deemed approved thirty days after the filing of an 2928
application with the commission unless the commission suspends 2929
that approval for good cause shown. In the case of such a 2930
suspension, the commission shall act to approve or deny 2931
certification or certification renewal to the applicant not 2932
later than ninety days after the date of the suspension. 2933

(2) The commission shall establish rules to require a 2934
competitive retail natural gas supplier to maintain financial 2935
assurances sufficient to protect customers and natural gas 2936
companies from default. Such rules also shall specifically allow 2937
a natural gas company to set reasonable standards for its 2938
security and the security of its customers through financial 2939
requirements set in its tariffs. 2940

(3) As used in division (A)(2) of this section, "retail 2941
natural gas supplier" has the same meaning as in section 4929.01 2942
of the Revised Code, but excludes a broker or aggregator. 2943

(B) Capability standards adopted in rules pursuant to 2944
division (A) of this section shall be sufficient to ensure 2945
compliance with section 4929.22 of the Revised Code and with the 2946
minimum service requirements established under section 4929.23 2947
of the Revised Code. The standards shall allow flexibility for 2948
voluntary aggregation, to encourage market creativity in 2949
responding to consumer needs and demands. The rules shall 2950
include procedures for biennially renewing certification. 2951

(C) (1) The commission may suspend, rescind, or 2952
conditionally rescind the certification of any retail natural 2953
gas supplier or governmental aggregator issued under this 2954
section if the commission determines, after reasonable notice 2955
and opportunity for hearing, that the retail natural gas 2956

supplier or governmental aggregator has failed to comply with 2957
any applicable certification standards prescribed in rules 2958
adopted pursuant to this section or section 4929.22 of the 2959
Revised Code. 2960

(2) An affected natural gas company may file an 2961
application with the commission for approval of authority to 2962
recover in accordance with division (C) (2) of this section 2963
incremental costs reasonably and prudently incurred by the 2964
company in connection with the commission's continuation, 2965
suspension, rescission, or conditional rescission of a 2966
particular retail natural gas supplier's certification under 2967
division (C) (1) of this section. Upon the filing of such an 2968
application, the commission shall conduct an audit of such 2969
incremental costs as are specified in the application. Cost 2970
recovery shall be through a rider on the base rates of customers 2971
of the company for which there is a choice of supplier of 2972
commodity sales service as a result of revised schedules 2973
approved under division (C) of section 4929.29 of the Revised 2974
Code, a rule or order adopted or issued by the commission under 2975
Chapter 4905. of the Revised Code, or an exemption granted by 2976
the commission under sections 4929.04 to 4929.08 of the Revised 2977
Code. The rider shall take effect ninety days after the date of 2978
the application's filing unless the commission, based on the 2979
audit results and for good cause shown, sets the matter for 2980
hearing. After the hearing, the commission shall approve the 2981
application, and authorize such cost recovery rider effective on 2982
the date specified in the order, only for such incremental costs 2983
as the commission determines were reasonably and prudently 2984
incurred by the company in connection with the continuation, 2985
suspension, rescission, or conditional rescission of a retail 2986
natural gas supplier's certification under division (C) (1) of 2987

this section. Any proceeding under division (C) (2) of this 2988
section shall be governed by Chapter 4903. of the Revised Code. 2989

(D) No natural gas company, on and after thirteen months 2990
following ~~the effective date of this section~~ June 26, 2001, 2991
shall knowingly distribute natural gas, to a retail consumer in 2992
this state, for any governmental aggregator, as defined in 2993
division (K) (1) of section 4929.01 of the Revised Code, or 2994
retail natural gas supplier, that has not been certified by the 2995
commission pursuant to this section. 2996

(E) Notwithstanding any provision of section 121.95 of the 2997
Revised Code to the contrary, a regulatory restriction contained 2998
in a rule adopted under section 4929.20 of the Revised Code is 2999
not subject to sections 121.95 to 121.953 of the Revised Code. 3000

Sec. 4929.221. (A) If a competitive retail natural gas 3001
service provider offers a residential customer or non-mercantile 3002
commercial customer a contract for a fixed introductory rate 3003
that converts to a variable rate upon the expiration of the 3004
fixed rate, the provider shall send two notices to each 3005
residential customer and non-mercantile commercial customer that 3006
enters into such a contract. Each notice shall provide all of 3007
the following information to the customer: 3008

(1) The fixed rate that is expiring under the contract; 3009

(2) The expiration date of the contract's fixed rate; 3010

(3) The rate to be charged upon the contract's conversion 3011
to a variable rate; 3012

(4) The public utilities commission web site that, as a 3013
comparison tool, lists rates offered by competitive retail 3014
natural gas service providers; 3015

(5) A statement explaining that appearing on each 3016
customer's bill is a price-to-compare notice that lists the 3017
natural gas company's default rate for natural gas charged to 3018
customers who decide not to shop for a competitive supplier. 3019

(B) The notices shall be sent by standard United States 3020
mail as follows: 3021

(1) The provider shall send the first notice not earlier 3022
than ninety days and not later than sixty days prior to the 3023
expiration of the fixed rate. 3024

(2) The provider shall send the second notice not earlier 3025
than forty-five days and not later than thirty days prior to the 3026
expiration of the fixed rate. 3027

(C) A competitive retail natural gas service provider 3028
shall provide an annual notice, by standard United States mail, 3029
to each residential customer and non-mercantile commercial 3030
customer that has entered into a contract with the provider that 3031
has converted to a variable rate upon the expiration of the 3032
contract's fixed introductory rate. The notice shall inform the 3033
customer that the customer is currently subject to a variable 3034
rate and that other fixed rate contracts are available. 3035

(D) Not later than one hundred fifty days after the 3036
effective date of this section, the commission shall adopt rules 3037
in order to implement divisions (A) to (C) of this section. The 3038
rules, at a minimum, shall include the following requirements 3039
regarding the notices required under divisions (A) to (C) of 3040
this section: 3041

(1) To use clear and unambiguous language in order to 3042
enable the customer to make an informed decision; 3043

(2) To design the notices in a way to ensure that they 3044

cannot be confused with marketing materials. 3045

(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4929.221 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code. 3046
3047
3048
3049

Section 2. That existing sections 4903.083, 4909.04, 3050
4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 3051
4909.18, 4909.19, 4909.42, 4909.43, 4928.01, 4928.08, 4928.14, 3052
4928.141, 4928.144, 4928.148, 4928.17, 4928.20, 4928.23, 3053
4928.231, 4928.232, 4928.54, 4928.542, 4928.64, and 4929.20 of 3054
the Revised Code are hereby repealed. 3055

Section 3. That sections 4928.142, 4928.143, 4928.581, 3056
4928.582, and 4928.583 of the Revised Code are hereby repealed. 3057

Section 4. (A) (1) Notwithstanding the amendments by this 3058
act to section 4928.143 of the Revised Code and any other 3059
section of the Revised Code authorizing and governing electric 3060
security plans, the following shall apply to an electric 3061
distribution utility with an electric security plan in effect on 3062
the effective date of this section: 3063

(a) If an electric distribution utility's electric 3064
security plan has a specific termination date that is before 3065
June 1, 2024, the utility shall continue that plan until the 3066
plan's termination date. If an electric distribution utility's 3067
electric security plan has a termination date that is after June 3068
1, 2024, the utility may continue that plan until the plan's 3069
termination date. 3070

(b) If an electric distribution utility's electric 3071
security plan does not have a specific termination date, the 3072
utility may continue that plan until not later than June 1, 3073

2024. 3074

(2) An electric security plan described in division (A) (1) 3075
of this section shall continue in accordance with all applicable 3076
orders and rules of the Public Utilities Commission and any 3077
provisions of the Revised Code that existed and applied to the 3078
plan prior to the effective date of this section. After an 3079
electric distribution utility's electric security plan 3080
terminates under this section, the electric distribution utility 3081
shall not extend the electric security plan or apply for a new 3082
electric security plan. 3083

(B) The Commission may amend its rules to meet the 3084
requirements of division (A) of this section and the amendments 3085
contained in this act. 3086