

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 260**

**Representatives Seitz, Robb Blasdel**

**Cosponsor: Representative Plummer**



**A BILL**

To amend sections 4903.082, 4903.083, 4903.10, 1  
4903.11, 4903.13, 4903.15, 4903.221, 4909.04, 2  
4909.05, 4909.052, 4909.06, 4909.07, 4909.08, 3  
4909.15, 4909.156, 4909.18, 4909.19, 4909.42, 4  
and 4909.43 and to enact sections 4905.131, 5  
4905.221, 4905.321, 4905.331, 4909.041, 6  
4909.042, 4909.043, 4909.157, 4909.173, 7  
4909.174, 4909.175, 4909.176, 4909.178, 8  
4909.181, and 4909.46 of the Revised Code 9  
regarding public utilities and competitive 10  
retail electric service. 11

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

**Section 1.** That sections 4903.082, 4903.083, 4903.10, 12  
4903.11, 4903.13, 4903.15, 4903.221, 4909.04, 4909.05, 4909.052, 13  
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.18, 4909.19, 14  
4909.42, and 4909.43 be amended and sections 4905.131, 4905.221, 15  
4905.321, 4905.331, 4909.041, 4909.042, 4909.043, 4909.157, 16  
4909.173, 4909.174, 4909.175, 4909.176, 4909.178, 4909.181, and 17  
4909.46 of the Revised Code be enacted to read as follows: 18

**Sec. 4903.082.** All parties and intervenors shall be 19  
granted ample rights of discovery of any nonprivileged matter 20  
that is relevant and proportional to the needs of the 21  
proceeding. The present rules of the public utilities commission 22  
should be reviewed regularly by the commission to aid full and 23  
reasonable discovery by all parties. Without limiting the 24  
commission's discretion the Rules of Civil Procedure should be 25  
used wherever practicable. 26

**Sec. 4903.083.** (A) For all cases involving applications 27  
for an increase in rates pursuant to section 4909.18 of the 28  
Revised Code the public utilities commission shall hold public 29  
hearings in each municipal corporation in the affected service 30  
area having a population in excess of one hundred thousand 31  
persons, provided that, at least one public hearing shall be 32  
held in each affected service area. At least one such hearing 33  
shall be held after 5:00 p.m. Notice of such hearing shall be 34  
published by the commission ~~once each week for two consecutive~~ 35  
~~weeks in on the web site of a newspaper of general circulation~~ 36  
in the service area. ~~Said notice shall state prominently the~~ 37  
~~total amount of the revenue increase requested in the~~ 38  
~~application for the increase. The first publication of the~~ 39  
~~notice shall be made in its entirety and may be made in a~~ 40  
~~preprinted insert in the newspaper. The second publication may~~ 41  
~~be abbreviated if all of the following apply:~~ 42

~~(1) The abbreviated notice is at least half the size of~~ 43  
~~the notice in the first publication.~~ 44

~~(2) At the same time the abbreviated notice is published,~~ 45  
~~the notice in the first publication is posted in its entirety on~~ 46  
~~the newspaper's web site, if the newspaper has a web site, and~~ 47  
~~the commission's web site.~~ 48

~~(3) The abbreviated notice contains a statement of the web- 49  
site posting or postings, as applicable, and instructions for 50  
accessing the posting or postings. 51~~

(B) The commission shall determine a format for the 52  
content of ~~all notices~~ the notice required under this section, 53  
and shall consider costs and technological efficiencies in 54  
making that determination. Defects in the publication of said 55  
notice shall not affect the legality or sufficiency of notices 56  
published under this section provided that the commission has 57  
substantially complied with this section, as described in 58  
section 4905.09 of the Revised Code. 59

**Sec. 4903.10.** After any order has been made by the public 60  
utilities commission, any party who has entered an appearance in 61  
person or by counsel in the proceeding may apply for a rehearing 62  
in respect to any matters determined in the proceeding. Such 63  
application shall be filed within thirty days after the entry of 64  
the order upon the journal of the commission. 65

Notwithstanding the preceding paragraph, in any 66  
uncontested proceeding or, in any other proceeding, by leave of 67  
the commission ~~first had in any other proceeding,~~ any affected 68  
person, firm, or corporation may make an application for a 69  
rehearing within thirty days after the entry of any final order 70  
upon the journal of the commission. Leave to file an application 71  
for rehearing shall not be granted to any person, firm, or 72  
corporation who did not enter an appearance in the proceeding 73  
unless the commission first finds: 74

(A) The applicant's failure to enter an appearance prior 75  
to the entry upon the journal of the commission of the order 76  
complained of was due to just cause; and, 77

(B) The interests of the applicant were not adequately 78  
considered in the proceeding. 79

Every applicant for rehearing or for leave to file an 80  
application for rehearing shall give due notice of the filing of 81  
such application to all parties who have entered an appearance 82  
in the proceeding in the manner and form prescribed by the 83  
commission. 84

Such application shall be in writing and shall set forth 85  
specifically the ground or grounds on which the applicant 86  
considers the order to be unreasonable or unlawful. No party 87  
shall in any court urge or rely on any ground for reversal, 88  
vacation, or modification not so set forth in the application. 89

Where such application for rehearing has been filed before 90  
the effective date of the order as to which a rehearing is 91  
sought, the effective date of such order, unless otherwise 92  
ordered by the commission, shall be postponed or stayed pending 93  
disposition of the matter by the commission or by operation of 94  
law. In all other cases the making of such an application shall 95  
not excuse any person from complying with the order, or operate 96  
to stay or postpone the enforcement thereof, without a special 97  
order of the commission. 98

Where such application for rehearing has been filed, the 99  
commission may grant and hold such rehearing on the matter 100  
specified in such application, if in its judgment sufficient 101  
reason therefor is made to appear. ~~Notice of such rehearing~~ 102  
~~shall be given by regular mail.~~ The commission shall provide 103  
notice of such rehearing to all parties who have entered an 104  
appearance in the proceeding. 105

If the commission does not grant or deny such application 106

for rehearing within thirty days from the date of filing 107  
thereof, it is denied by operation of law. 108

If the commission grants such rehearing, it shall specify 109  
in the notice of such granting the purpose for which it is 110  
granted. The commission shall also specify the scope of the 111  
additional evidence, if any, that will be taken, but it shall 112  
not upon such rehearing take any evidence that, with reasonable 113  
diligence, could have been offered upon the original hearing. 114

If, after such rehearing, the commission is of the opinion 115  
that the original order or any part thereof is in any respect 116  
unjust or unwarranted, or should be changed, the commission may 117  
abrogate or modify the same; otherwise such order shall be 118  
affirmed. An order made after such rehearing, abrogating or 119  
modifying the original order, shall have the same effect as an 120  
original order, but shall not affect any right or the 121  
enforcement of any right arising from or by virtue of the 122  
original order prior to the receipt of notice by the affected 123  
party of the filing of the application for rehearing. 124

If the commission does not affirm, abrogate, or modify the 125  
original order within one hundred fifty days from the date 126  
granting such rehearing, the order is affirmed by operation of 127  
law. 128

No cause of action arising out of any order of the 129  
commission, other than in support of the order, shall accrue in 130  
any court to any person, firm, or corporation unless such 131  
person, firm, or corporation has made a proper application to 132  
the commission for a rehearing. 133

**Sec. 4903.11.** No proceeding to reverse, vacate, or modify 134  
a final order of the public utilities commission is commenced 135

unless the notice of appeal is filed within sixty days after the 136  
date of denial of the application for rehearing by operation of 137  
law or of the entry upon the journal of the commission of the 138  
order denying an application for rehearing or, if a rehearing is 139  
had, of the order made after such rehearing. ~~An~~ The commission 140  
shall provide notice of an order denying an application for 141  
rehearing or an order made after a rehearing ~~shall be served~~ 142  
~~forthwith by regular mail upon to~~ all parties who have entered 143  
an appearance in the proceeding. 144

**Sec. 4903.13.** A final order made by the public utilities 145  
commission shall be reversed, vacated, or modified by the 146  
supreme court on appeal, if, upon consideration of the record, 147  
such court is of the opinion that such order was unlawful or 148  
unreasonable. 149

The proceeding to obtain such reversal, vacation, or 150  
modification shall be by notice of appeal, filed with the public 151  
utilities commission by any party to the proceeding before it, 152  
against the commission, setting forth the order appealed from 153  
and the errors complained of. ~~The notice of appeal shall be~~ 154  
~~served, unless waived, upon the chairman of the commission, or,~~ 155  
~~in the event of his absence, upon any public utilities~~ 156  
~~commissioner, or by leaving a copy at the office of the~~ 157  
~~commission at Columbus. The court may permit any interested~~ 158  
~~party to intervene by cross appeal.~~ 159

**Sec. 4903.15.** Unless a different time is specified therein 160  
or by law, every order made by the public utilities commission 161  
shall become effective immediately upon entry thereof upon the 162  
journal of the public utilities commission. Every order shall be 163  
served ~~by United States mail~~ in the manner prescribed by the 164  
commission. No utility or railroad shall be found in violation 165

of any order of the commission until notice of said order has 166  
been received by an officer of said utility or railroad, or an 167  
agent duly designated by said utility or railroad to accept 168  
service of said order. 169

**Sec. 4903.221.** Any other person who may be adversely and 170  
directly affected by a public utilities commission proceeding 171  
may intervene in such proceeding, provided: 172

(A) That such other person files a motion to intervene 173  
with the commission no later than: 174

(1) Any specific deadline established by order of the 175  
commission for purposes of a particular proceeding; or, if no 176  
such deadline is established; 177

(2) Five days prior to the scheduled date of hearing. 178

The public utilities commission may, in its discretion, 179  
grant motions to intervene which are filed after the deadlines 180  
set forth in divisions (A) (1) and (2) of this section for good 181  
cause shown. 182

(B) That the commission, in ruling upon applications to 183  
intervene in its proceedings, shall consider the following 184  
criteria: 185

(1) The nature and extent of the prospective intervenor's 186  
interest, including any interest as a consumer, customer, or 187  
competitor; 188

(2) The legal position advanced by the prospective 189  
intervenor and its probable relation to the merits of the case; 190

(3) Whether the intervention by the prospective intervenor 191  
will unduly prolong or delay the proceedings; 192

(4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

Sec. 4905.131. (A) If the public utilities commission authorizes a deferral of operations and maintenance expenses as a regulatory asset on a public utility's books and records, 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, provided that the utility files an application for such authorization within one year of beginning to incur such expenses. If the commission allows recovery of all or a portion of the regulatory asset, 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 under section 4909.18 of the Revised Code. The carrying charges shall accrue until the entire regulatory asset and all carrying costs have been recovered.

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



(C) A utility is required to seek commission authorization 224  
before a regulatory asset is recovered from customers or a 225  
regulatory liability is credited to customers. 226

**Sec. 4905.221.** (A) Not later than twelve months after the 227  
effective date of this section and every five years thereafter, 228  
unless otherwise ordered by the public utilities commission, the 229  
commission shall set annual reliability performance standards 230  
for each electric utility. The reliability performance standards 231  
shall be measured by the system average interruption duration 232  
index and the system average interruption frequency index, which 233  
are calculated as follows: 234

(1) The system average interruption duration index equals 235  
the sum of all customer interruption durations divided by the 236  
total number of customers served by the electric utility; 237

(2) The system average interruption frequency index equals 238  
the sum of all customer interruptions divided by the total 239  
number of customers served by the electric utility. 240

(B) In setting reliability performance standards, the 241  
commission shall consider the electric utility's average actual 242  
performance for the five years preceding the commencement of a 243  
proceeding to set the standards, system design, technological 244  
advancements, service area geography, and customer perception 245  
surveys designed to measure customer expectations of reliable 246  
service in terms of the system average interruption duration 247  
index and the system average interruption frequency index. The 248  
commission shall also incorporate a reasonable variance to 249  
reflect projected annual changes in performance. In establishing 250  
the reasonable variance, the commission shall consider factors 251  
such as projected variations in annual outages caused by weather 252  
variation, events beyond the utility's control, and planned 253

deployment of distribution infrastructure technology affecting 254  
the performance. 255

(C) (1) The commission shall develop rules regarding the 256  
reporting by electric utilities of performance under these 257  
standards, the exclusion of any outages from the reliability 258  
indices, and remedial measures for electric utilities that do 259  
not achieve the same performance standard for two consecutive 260  
years. 261

(2) Notwithstanding any provision of section 121.95 of the 262  
Revised Code to the contrary, a regulatory restriction contained 263  
in a rule developed under this section is not subject to 264  
sections 121.95 to 121.953 of the Revised Code. 265

**Sec. 4905.321.** (A) Notwithstanding section 4905.32 of the 266  
Revised Code, all revenues collected from customers by a public 267  
utility as part of a rider or rate mechanism rather than through 268  
base rates, that are later found to be unreasonable, unlawful, 269  
or improper by the supreme court shall be subject to refund from 270  
the date of the issuance of the supreme court's decision until 271  
the date when, on remand, the public utilities commission makes 272  
changes to the rider or mechanism to implement new rates to 273  
implement the supreme court's decision. 274

(B) The commission shall order the payment of the refunds 275  
described in division (A) of this section in a manner designed 276  
to allocate the refunds to customer classes in the same 277  
proportion as the charges were originally collected. 278

(C) The commission shall determine how to allocate any 279  
remaining funds described in division (A) of this section that 280  
cannot be refunded for whatever reason. 281

**Sec. 4905.331.** (A) As used in this section: 282

<u>(1) "Electric distribution utility" has the same meaning</u>	283
<u>as in section 4928.01 of the Revised Code.</u>	284
<u>(2) "Retail electric service" has the same meaning as in</u>	285
<u>section 4928.01 of the Revised Code.</u>	286
<u>(3) "Proceeding" includes a proceeding relating to retail</u>	287
<u>electric service under Chapters 4909. and 4928. of the Revised</u>	288
<u>Code.</u>	289
<u>(B) No electric distribution utility or its affiliate may</u>	290
<u>do either of the following to induce any party to a public</u>	291
<u>utilities commission proceeding to enter into a settlement of a</u>	292
<u>matter pending before the commission:</u>	293
<u>(1) Make a cash payment to that party without the</u>	294
<u>commission finding that the expenditure of those funds by that</u>	295
<u>party is in the public interest;</u>	296
<u>(2) Enter into any agreement or any financial or private</u>	297
<u>arrangement with that party relating to the proceeding that is</u>	298
<u>not made part of the public case record.</u>	299
<u>(C) Notwithstanding division (B) of this section, the</u>	300
<u>commission may do any of the following:</u>	301
<u>(1) Reasonably allocate costs among rate schedules;</u>	302
<u>(2) Reasonably design rates within a rate schedule;</u>	303
<u>(3) Approve reasonable rates designed for particular</u>	304
<u>customers or classes of customers;</u>	305
<u>(4) Approve a resolution of a proceeding under section</u>	306
<u>4905.26 of the Revised Code;</u>	307
<u>(5) Approve a reasonable arrangement under section 4905.31</u>	308
<u>of the Revised Code.</u>	309

**Sec. 4909.04.** (A) The public utilities commission, for the 310  
purpose of ascertaining the reasonableness and justice of rates 311  
and charges for the service rendered by public utilities or 312  
railroads, or for any other purpose authorized by law, may 313  
investigate and ascertain the value of the property of any 314  
public utility or railroad in this state used or useful for the 315  
service and convenience of the public, using the same criteria 316  
that are set forth in ~~section~~ sections 4909.042 and 4909.05 of 317  
the Revised Code. At the request of the legislative authority of 318  
any municipal corporation, the commission, after hearing and 319  
determining that such a valuation is necessary, may also 320  
investigate and ascertain the value of the property of any 321  
public utility used and useful for the service and convenience 322  
of the public where the whole or major portion of such public 323  
utility is situated in such municipal corporation. 324

(B) To assist the commission in preparing such a 325  
valuation, every public utility or railroad shall: 326

(1) Furnish to the commission, or to its agents, as the 327  
commission requires, maps, profiles, schedules of rates and 328  
tariffs, contracts, reports of engineers, and other documents, 329  
records, and papers, or copies of any of them, in aid of any 330  
investigation and ascertainment of the value of its property; 331

(2) Grant to the commission or its agents free access to 332  
all of its premises and property and its accounts, records, and 333  
memoranda whenever and wherever requested by any such authorized 334  
agent; 335

(3) Cooperate with and aid the commission and its agents 336  
in the work of the valuation of its property in such further 337  
particulars and to such extent as the commission requires and 338  
directs. 339

(C) The commission may make all rules which seem necessary 340  
to ascertain the value of the property and plant of each public 341  
utility or railroad. 342

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 343  
4909.05 of the Revised Code: 344

(A) A "lease purchase agreement" is an agreement pursuant 345  
to which a public utility leasing property is required to make 346  
rental payments for the term of the agreement and either the 347  
utility is granted the right to purchase the property upon the 348  
completion of the term of the agreement and upon the payment of 349  
an additional fixed sum of money or title to the property vests 350  
in the utility upon the making of the final rental payment. 351

(B) A "leaseback" is the sale or transfer of property by a 352  
public utility to another person contemporaneously followed by 353  
the leasing of the property to the public utility on a long-term 354  
basis. 355

Sec. 4909.042. (A) With respect to an electric light 356  
company that chooses to file a fully forecasted test period 357  
under section 4909.18 of the Revised Code, the public utilities 358  
commission shall prescribe the form and details of the valuation 359  
report of the property of the utility. Such report shall include 360  
all the kinds and classes of property, with the value of each, 361  
owned, held, or projected to be owned or held during the test 362  
period, by the utility for the service and convenience of the 363  
public. 364

(B) Such report shall contain the following facts in 365  
detail: 366

(1) The original cost of each parcel of land owned in fee 367  
and projected to be owned in fee and in use during the test 368

period, determined by the commission; and also a statement of 369  
the conditions of acquisition, whether by direct purchase, by 370  
donation, by exercise of the power of eminent domain, or 371  
otherwise; 372

(2) The actual acquisition cost, not including periodic 373  
rental fees, of rights-of-way, trailways, or other land rights 374  
projected to be held during the test period, by virtue of 375  
easements, leases, or other forms of grants of rights as to 376  
usage; 377

(3) The original cost of all other kinds and classes of 378  
property projected to be used and useful during the test period, 379  
in the rendition of service to the public. Such original costs 380  
of property, other than land owned in fee, shall be the cost, as 381  
determined to be reasonable by the commission, to the person 382  
that first dedicated or dedicates the property to the public use 383  
and shall be set forth in property accounts and subaccounts as 384  
prescribed by the commission; 385

(4) The cost of property constituting all or part of a 386  
project projected to be leased to or used by the utility during 387  
the test period, under Chapter 165., 3706., 6121., or 6123. of 388  
the Revised Code and not included under division (B)(3) of this 389  
section exclusive of any interest directly or indirectly paid by 390  
the utility with respect thereto whether or not capitalized; 391

(5) In the discretion of the commission, the cost to a 392  
utility, in an amount determined to be reasonable by the 393  
commission, of property constituting all or part of a project 394  
projected to be leased to the utility during the test period, 395  
under a lease purchase agreement or a leaseback and not included 396  
under division (B)(3) of this section exclusive of any interest 397  
directly or indirectly paid by the utility with respect thereto 398

whether or not capitalized; 399

(6) The proper and adequate reserve for depreciation, as 400  
determined to be reasonable by the commission; 401

(7) Any sums of money or property that the utility is 402  
projected to receive during the test period, as total or partial 403  
defrayal of the cost of its property; 404

(8) The valuation of the property of the utility, which 405  
shall be the sum of the amounts contained in the report pursuant 406  
to divisions (B)(1) to (5) of this section, less the sum of the 407  
amounts contained in the report pursuant to divisions (B)(6) and 408  
(7) of this section. 409

(C) The report shall show separately the property 410  
projected to be used and useful to or held by the utility during 411  
the test period, and such other items as the commission 412  
considers proper. The commission may require an additional 413  
report showing the extent to which the property is projected to 414  
be used and useful during the test period. Such reports shall be 415  
filed in the office of the commission for the information of the 416  
governor and the general assembly. 417

**Sec. 4909.043.** In determining the original cost of 418  
property of the electric light company under division (B)(3) of 419  
section 4909.042 of the Revised Code and division (B)(3) of 420  
section 4909.05 of the Revised Code, the public utilities 421  
commission shall include the cost to the utility of software as 422  
a service. 423

**Sec. 4909.05.** As used in this section: 424

(A) A "lease purchase agreement" is an agreement pursuant 425  
to which a public utility leasing property is required to make 426  
rental payments for the term of the agreement and either the 427

~~utility is granted the right to purchase the property upon the 428  
completion of the term of the agreement and upon the payment of 429  
an additional fixed sum of money or title to the property vests 430  
in the utility upon the making of the final rental payment. 431~~

~~(B) A "leaseback" is the sale or transfer of property by a 432  
public utility to another person contemporaneously followed by 433  
the leasing of the property to the public utility on a long-term 434  
basis. 435~~

~~(C) The With respect to every public utility, other than 436  
an electric light company that chooses to file a fully 437  
forecasted test period under section 4909.18 of the Revised 438  
Code, the public utilities commission shall prescribe the form 439  
and details of the valuation report of the property of each 440  
public utility or railroad in the state. Such report shall 441  
include all the kinds and classes of property, with the value of 442  
each, owned, held, or, with respect to a natural gas, water- 443  
works, or sewage disposal system company, projected to be owned 444  
or held as of the date certain, by each public utility or 445  
railroad used and useful, or, with respect to a natural gas, 446  
water-works, or sewage disposal system company, projected to be 447  
used and useful as of the date certain, for the service and 448  
convenience of the public. 449~~

~~(B) Such report shall contain the following facts in 450  
detail: 451~~

~~(1) The original cost of each parcel of land owned in fee 452  
and in use, or, with respect to a natural gas, water-works, or 453  
sewage disposal system company, projected to be owned in fee and 454  
in use as of the date certain, determined by the commission; and 455  
also a statement of the conditions of acquisition, whether by 456  
direct purchase, by donation, by exercise of the power of 457~~



eminent domain, or otherwise; 458

(2) The actual acquisition cost, not including periodic 459  
rental fees, of rights-of-way, trailways, or other land rights 460  
held, or, with respect to a natural gas, water-works, or sewage 461  
disposal system company, projected to be held as of the date 462  
certain, by virtue of easements, leases, or other forms of 463  
grants of rights as to usage; 464

(3) The original cost of all other kinds and classes of 465  
property used and useful, or, with respect to a natural gas, 466  
water-works, or sewage disposal system company, projected to be 467  
used and useful as of the date certain, in the rendition of 468  
service to the public. Subject to section 4909.052 of the 469  
Revised Code, such original costs of property, other than land 470  
owned in fee, shall be the cost, as determined to be reasonable 471  
by the commission, to the person that first dedicated or 472  
dedicates the property to the public use and shall be set forth 473  
in property accounts and subaccounts as prescribed by the 474  
commission. To the extent that the costs of property comprising 475  
a coal research and development facility, as defined in section 476  
1555.01 of the Revised Code, or a coal development project, as 477  
defined in section 1551.30 of the Revised Code, have been 478  
allowed for recovery as Ohio coal research and development costs 479  
under section 4905.304 of the Revised Code, none of those costs 480  
shall be included as a cost of property under this division. 481

(4) The cost of property constituting all or part of a 482  
project leased to or used by the utility, or, with respect to a 483  
natural gas, water-works, or sewage disposal system company, 484  
projected to be leased to or used by the utility as of the date 485  
certain, under Chapter 165., 3706., 6121., or 6123. of the 486  
Revised Code and not included under division ~~(C) (3)~~ (B) (3) of 487

this section exclusive of any interest directly or indirectly 488  
paid by the utility with respect thereto whether or not 489  
capitalized; 490

(5) In the discretion of the commission, the cost to a 491  
utility, in an amount determined to be reasonable by the 492  
commission, of property constituting all or part of a project 493  
leased to the utility, or, with respect to a natural gas, water- 494  
works, or sewage disposal system company, projected to be leased 495  
to the utility as of the date certain, under a lease purchase 496  
agreement or a leaseback and not included under division ~~(C) (3)~~ 497  
(B) (3) of this section exclusive of any interest directly or 498  
indirectly paid by the utility with respect thereto whether or 499  
not capitalized; 500

(6) The proper and adequate reserve for depreciation, as 501  
determined to be reasonable by the commission; 502

(7) Any sums of money or property that the company may 503  
have received, or, with respect to a natural gas, water-works, 504  
or sewage disposal system company, is projected to receive as of 505  
the date certain, as total or partial defrayal of the cost of 506  
its property; 507

(8) The valuation of the property of the company, which 508  
shall be the sum of the amounts contained in the report pursuant 509  
to divisions ~~(C) (1)~~ (B) (1) to (5) of this section, less the sum 510  
of the amounts contained in the report pursuant to divisions ~~(C)~~ 511  
~~(6)~~ (B) (6) and (7) of this section. 512

(C) The report shall show separately the property used and 513  
useful to such public utility or railroad in the furnishing of 514  
the service to the public, the property held by such public 515  
utility or railroad for other purposes, and the property 516

projected to be used and useful to or held by a natural gas, 517  
water-works, or sewage disposal system company as of the date 518  
certain, and such other items as the commission considers 519  
proper. The commission may require an additional report showing 520  
the extent to which the property is used and useful, or, with 521  
respect to a natural gas, water-works, or sewage disposal system 522  
company, projected to be used and useful as of the date certain. 523  
Such reports shall be filed in the office of the commission for 524  
the information of the governor and the general assembly. 525

**Sec. 4909.052.** Subject to a finding that such costs are 526  
just and reasonable, the public utilities commission in 527  
evaluating a petition submitted under section 4905.481 of the 528  
Revised Code shall accept the original cost, reported under 529  
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 530  
of the acquisition of a municipal water-works or sewage disposal 531  
system company that is acquired by a large water-works or sewage 532  
disposal system company, provided that the original cost is 533  
determined according to all of the following requirements: 534

(A) The acquiring company has three appraisals performed 535  
on the property of the company being acquired. 536

(B) The three appraisals are performed by three 537  
independent utility-valuation experts mutually selected by the 538  
acquiring company and the company being acquired from the list 539  
maintained under section 4909.054 of the Revised Code. 540

(C) The average of the three appraisals is used as the 541  
fair market value of the company being acquired. 542

(D) Each utility-valuation expert does all of the 543  
following: 544

(1) Determines the fair market value of the company to be 545

acquired by establishing the amount for which the company would 546  
be sold in a voluntary transaction between a willing buyer and a 547  
willing seller under no obligation to buy or sell; 548

(2) Determines the fair market value in compliance with 549  
the uniform standards of professional appraisal practice; 550

(3) Employs the cost, market, and income approach to 551  
independently quantify the future benefits of the company to be 552  
acquired; 553

(4) Incorporates the assessment described in division (D) 554  
(5) of this section into the appraisal under the cost, market, 555  
and income approach; 556

(5) Engages one engineer who is licensed to prepare an 557  
assessment of the tangible assets of the company to be acquired. 558  
The original source of funding for any part of the tangible 559  
assets shall not be relevant to the determination of the value 560  
of those assets. 561

(E) The lesser of the purchase price or the fair market 562  
value, described in division (C) of this section, is reported as 563  
the original cost under division ~~(C) (3)~~ (B) (3) of section 564  
4909.05 of the Revised Code of the company to be acquired. 565

**Sec. 4909.06.** The investigation and report required by 566  
section 4909.042 or 4909.05 of the Revised Code shall show, when 567  
the public utilities commission deems it necessary, the amounts, 568  
dates, and rates of interest of all bonds outstanding against 569  
each public utility or railroad, the property upon which such 570  
bonds are a lien, the amounts paid for them, and, the original 571  
capital stock and the moneys received by any such public utility 572  
or railroad by reason of any issue of stock, bonds, or other 573  
securities. Such report shall also show the net and gross 574

receipts of such public utility or railroad and the method by 575  
which moneys were expended or paid out and the purpose of such 576  
payments. The commission may prescribe the procedure to be 577  
followed in making the investigation and valuation, the form in 578  
which the results of the ascertainment of the value of each 579  
public utility or railroad shall be submitted, and the 580  
classifications of the elements that constitute the ascertained 581  
value. Such investigation shall also show the value of the 582  
property of every public utility or railroad as a whole, and if 583  
such property is in more than one county, the value of its 584  
property in each of such counties. 585

"Valuation" and "value," as used in this section, may 586  
include, ~~with~~ : 587

(A) With respect to a public utility that is a natural 588  
gas, water-works, or sewage disposal system company, or that is 589  
an electric light company that chooses not to file a fully 590  
forecasted test period under section 4909.18 of the Revised 591  
Code, projected valuation and value as of the date certain, if 592  
applicable because of a future date certain under section 593  
4909.15 of the Revised Code; 594

(B) With respect to an electric light company that chooses 595  
to file a fully forecasted test period under section 4909.18 of 596  
the Revised Code, the valuation and value during the fully 597  
forecasted test period. 598

**Sec. 4909.07.** The public utilities commission, during the 599  
making of the valuation provided for in sections 4909.04 to 600  
4909.13 of the Revised Code, and after its completion, shall in 601  
like manner keep itself informed through its engineers, experts, 602  
and other assistants of all extensions, improvements, or other 603  
changes in the condition and value of the property of all public 604

utilities or railroads and shall ascertain the value of such 605  
extensions, improvements, and changes. The commission shall, as 606  
is required for the proper regulation of such public utilities 607  
or railroads, revise and correct its valuations of property, 608  
showing such revisions and corrections as a whole and as to each 609  
county. Such revisions and corrections shall be filed in the 610  
same manner as original reports. 611

"Valuation" and "value," as used in this section, may 612  
include, ~~with~~ : 613

(A) With respect to a public utility that is a natural 614  
gas, water-works, or sewage disposal system company, or that is 615  
an electric light company that chooses not to file a fully 616  
forecasted test period under section 4909.18 of the Revised 617  
Code, projected valuation and value as of the date certain, if 618  
applicable because of a future date certain under section 619  
4909.15 of the Revised Code; 620

(B) With respect to an electric light company that chooses 621  
to file a fully forecasted test period under section 4909.18 of 622  
the Revised Code, the valuation and value during the fully 623  
forecasted test period. 624

**Sec. 4909.08.** When the public utilities commission has 625  
completed the valuation of the property of any public utility or 626  
railroad and before such valuation becomes final, it shall give 627  
notice by registered letter to such public utility or railroad, 628  
and if a substantial portion of said public utility or railroad 629  
is situated in a municipal corporation, then to the mayor of 630  
such municipal corporation, stating the valuations placed upon 631  
the several kinds and classes of property of such public utility 632  
or railroad and upon the property as a whole and give such 633  
further notice by publication or otherwise as it shall deem 634

necessary to apprise the public of such valuation. If, within 635  
thirty days after such notification, no protest has been filed 636  
with the commission, such valuation becomes final. If notice of 637  
protest has been filed by any public utility or railroad, the 638  
commission shall fix a time for hearing such protest and shall 639  
consider at such hearing any matter material thereto presented 640  
by such public utility, railroad, or municipal corporation, in 641  
support of its protest or by any representative of the public 642  
against such protest. If, after the hearing of any protest of 643  
any valuation so fixed, the commission is of the opinion that 644  
its inventory is incomplete or inaccurate or that its valuation 645  
is incorrect, it shall make such changes as are necessary and 646  
shall issue an order making such corrected valuations final. A 647  
final valuation by the commission and all classifications made 648  
for the ascertainment of such valuations shall be public and are 649  
prima-facie evidence relative to the value of the property. 650

"Valuation" and "value," as used in this section, may 651  
include, ~~with:~~ 652

(A) With respect to a public utility that is a natural 653  
gas, water-works, or sewage disposal system company, or that is 654  
an electric light company that chooses not to file a fully 655  
forecasted test period under section 4909.18 of the Revised 656  
Code, projected valuation and value as of the date certain, if 657  
applicable because of a future date certain under section 658  
4909.15 of the Revised Code. 659

(B) With respect to an electric light company that chooses 660  
to file a fully forecasted test period under section 4909.18 of 661  
the Revised Code, the valuation and value during the fully 662  
forecasted test period. 663

**Sec. 4909.15.** (A) The public utilities commission, when 664

fixing and determining just and reasonable rates, trackers, 665  
fares, tolls, rentals, and charges, shall determine: 666

~~(1) The~~ (1) (a) With respect to a public utility that is a 667  
natural gas, water-works, or sewage disposal system company, or 668  
that is an electric light company that chooses not to file a 669  
fully forecasted test period under section 4909.18 of the 670  
Revised Code, the valuation as of the date certain of the 671  
property of the public utility that is used and useful or, ~~with-~~ 672  
~~respect to a natural gas, water works, or sewage disposal system-~~ 673  
~~company, is projected to be used and useful as of the date~~ 674  
certain, in rendering the public utility service for which rates 675  
are to be fixed and determined. 676

(b) With respect to an electric light company that chooses 677  
to file a fully forecasted test period under section 4909.18 of 678  
the Revised Code, the valuation of the property of the utility 679  
that is projected to be used and useful during the fully 680  
forecasted test period in rendering the public utility service 681  
for which rates are to be fixed and determined. 682

(c) The valuation so determined under division (A) (1) of 683  
this section for any public utility shall be the total value as 684  
set forth in division ~~(C) (8)~~ (B) (8) of section 4909.042 of the 685  
Revised Code and division (B) (8) of section 4909.05 of the 686  
Revised Code, and a reasonable allowance for materials and 687  
supplies and a reasonable allowance for cash working capital as 688  
determined by the commission. 689

~~The commission, in its discretion, may include in the~~ 690  
~~valuation a reasonable allowance for construction work in~~ 691  
~~progress but, in no event, may such an allowance be made by the~~ 692  
~~commission until it has determined that the particular~~ 693  
~~construction project is at least seventy five per cent complete.~~ 694



~~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.~~ 695  
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~~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.~~ 704  
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~~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 period for purposes of division (C) (8) of section 4909.05 of the Revised Code.~~ 708  
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~~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-~~ 722  
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~~exceeding forty eight consecutive months commencing on the date~~ 725  
~~the initial rates reflecting such allowance become effective,~~ 726  
~~except as otherwise provided in this division.~~ 727

~~The applicable maximum period in rates for an allowance~~ 728  
~~for construction work in progress as it relates to a particular~~ 729  
~~construction project shall be tolled if, and to the extent, a~~ 730  
~~delay in the in-service date of the project is caused by the~~ 731  
~~action or inaction of any federal, state, county, or municipal~~ 732  
~~agency having jurisdiction, where such action or inaction~~ 733  
~~relates to a change in a rule, standard, or approval of such~~ 734  
~~agency, and where such action or inaction is not the result of~~ 735  
~~the failure of the utility to reasonably endeavor to comply with~~ 736  
~~any rule, standard, or approval prior to such change.~~ 737

~~In the event that such period expires before the project~~ 738  
~~goes into service, the commission shall exclude, from the date~~ 739  
~~of expiration, the allowance for the project as construction~~ 740  
~~work in progress from rates, except that the commission may~~ 741  
~~extend the expiration date up to twelve months for good cause~~ 742  
~~shown.~~ 743

~~In the event that a utility has permanently canceled,~~ 744  
~~abandoned, or terminated construction of a project for which it~~ 745  
~~was previously permitted a construction work in progress~~ 746  
~~allowance, the commission immediately shall exclude the~~ 747  
~~allowance for the project from the valuation.~~ 748

~~In the event that a construction work in progress project~~ 749  
~~previously included in the valuation is removed from the~~ 750  
~~valuation pursuant to this division, any revenues collected by~~ 751  
~~the utility from its customers after April 10, 1985, that~~ 752  
~~resulted from such prior inclusion shall be offset against~~ 753  
~~future revenues over the same period of time as the project was~~ 754

~~included in the valuation as construction work in progress. The~~ 755  
~~total revenue effect of such offset shall not exceed the total~~ 756  
~~revenues previously collected.~~ 757

~~In no event shall the total revenue effect of any offset~~ 758  
~~or offsets provided under division (A)(1) of this section exceed~~ 759  
~~the total revenue effect of any construction work in progress~~ 760  
~~allowance.~~ 761

(2) A fair and reasonable rate of return to the utility on 762  
the valuation as determined in division (A)(1) of this section; 763

(3) The dollar annual return to which the utility is 764  
entitled by applying the fair and reasonable rate of return as 765  
determined under division (A)(2) of this section to the 766  
valuation of the utility determined under division (A)(1) of 767  
this section; 768

(4) The cost to the utility of rendering the public 769  
utility service for the test period used for the determination 770  
under division (C)(1) of this section, less the total of any 771  
interest on cash or credit refunds paid, pursuant to section 772  
4909.42 of the Revised Code, by the utility during the test 773  
period. 774

~~(a)~~ Federal, state, and local taxes imposed on or measured 775  
by net income may, in the discretion of the commission, be 776  
computed by the normalization method of accounting, provided the 777  
utility maintains accounting reserves that reflect differences 778  
between taxes actually payable and taxes on a normalized basis, 779  
provided that no determination as to the treatment in the rate- 780  
making process of such taxes shall be made that will result in 781  
loss of any tax depreciation or other tax benefit to which the 782  
utility would otherwise be entitled, and further provided that 783

such tax benefit as redounds to the utility as a result of such 784  
a computation may not be retained by the company, used to fund 785  
any dividend or distribution, or utilized for any purpose other 786  
than the defrayal of the operating expenses of the utility and 787  
the defrayal of the expenses of the utility in connection with 788  
construction work. 789

~~(b) The amount of any tax credits granted to an electric 790  
light company under section 5727.391 of the Revised Code for 791  
Ohio coal burned prior to January 1, 2000, shall not be retained 792  
by the company, used to fund any dividend or distribution, or 793  
utilized for any purposes other than the defrayal of the 794  
allowable operating expenses of the company and the defrayal of 795  
the allowable expenses of the company in connection with the 796  
installation, acquisition, construction, or use of a compliance 797  
facility. The amount of the tax credits granted to an electric 798  
light company under that section for Ohio coal burned prior to 799  
January 1, 2000, shall be returned to its customers within three 800  
years after initially claiming the credit through an offset to 801  
the company's rates or fuel component, as determined by the 802  
commission, as set forth in schedules filed by the company under 803  
section 4905.30 of the Revised Code. As used in division (A)(4) 804  
(b) of this section, "compliance facility" has the same meaning 805  
as in section 5727.391 of the Revised Code. 806~~

(B) The commission shall compute the gross annual revenues 807  
to which the utility is entitled by adding the dollar amount of 808  
return under division (A)(3) of this section to the cost, for 809  
the test period used for the determination under division (C)(1) 810  
of this section, of rendering the public utility service under 811  
division (A)(4) of this section. 812

(C)(1) Except as provided in division (D) of this section, 813

the revenues and expenses of the utility shall be determined 814  
during a test period. ~~The utility may as follows:~~ 815

(a) Electric light companies may propose a fully 816  
forecasted test period utilizing reasonably forecasted rate 817  
base, revenues, and expenses for the first twelve months that 818  
new rates will be in effect. Initially, rates shall be set using 819  
the thirteen-month average rate base ending in the last month of 820  
the test period, based on the end-of-month balance for the 821  
twelve consecutive calendar months of the test period plus the 822  
end-of-month balance for the month immediately prior to the 823  
beginning of the forecasted test period. Final rates shall use 824  
the lower of forecasted plant investment or actual plant 825  
investment for the same thirteen-month average test period. 826  
Forecasted plant investment versus actual investment shall be 827  
trued up via a rate mechanism approved by the commission. The 828  
fully forecasted test period shall commence not later than three 829  
hundred sixty-five days after the application's filing date. 830

(b) All utilities, except for electric light companies 831  
that choose to file under division (C) (1) (a) of this section, 832  
shall propose a test period for this determination that is any 833  
twelve-month period beginning not more than six months prior to 834  
the date the application is filed and ending not more than nine 835  
months subsequent to that date. ~~The test period for determining~~ 836  
~~revenues and expenses of the utility shall be the test period~~ 837  
~~proposed by the utility, unless otherwise ordered by the~~ 838  
~~commission.~~ 839

(2) The date certain for an electric light company filing 840  
under division (C) (1) (a) of this section shall be not later than 841  
the date of filing, ~~except that it shall be,~~ . The date certain 842  
for a natural gas, water-works, or sewage disposal system 843

company, shall be not later than the end of the test period. 844

(D) ~~A natural gas, water works, or sewage disposal system~~ 845  
~~company~~ Utilities filing under division (C) (1) (b) of this 846  
section may propose adjustments to the revenues and expenses ~~to~~ 847  
~~be determined under division (C) (1) of this section~~ for any 848  
changes that are, during the test period or the twelve-month 849  
period immediately following the test period, reasonably 850  
expected to occur. ~~The natural gas, water works, or sewage~~ 851  
~~disposal system company utility~~ shall identify and quantify, 852  
individually, any proposed adjustments. The commission shall 853  
incorporate the proposed adjustments into the determination if 854  
the adjustments are just and reasonable. 855

(E) When the commission is of the opinion, after hearing 856  
and after making the determinations under divisions (A) and (B) 857  
of this section, that any rate, tracker, fare, charge, toll, 858  
rental, schedule, classification, or service, or any joint rate, 859  
fare, charge, toll, rental, schedule, classification, or service 860  
rendered, charged, demanded, exacted, or proposed to be 861  
rendered, charged, demanded, or exacted, is, or will be, unjust, 862  
unreasonable, unjustly discriminatory, unjustly preferential, or 863  
in violation of law, that the service is, or will be, 864  
inadequate, or that the maximum rates, charges, tolls, or 865  
rentals chargeable by any such public utility are insufficient 866  
to yield reasonable compensation for the service rendered, and 867  
are unjust and unreasonable, the commission shall: 868

(1) With due regard among other things to the value of all 869  
property of the public utility ~~actually used and useful for the~~ 870  
~~convenience of the public~~ as determined under division (A) (1) of 871  
this section, excluding from such value the value of any 872  
franchise or right to own, operate, or enjoy the same in excess 873

of the amount, exclusive of any tax or annual charge, actually 874  
paid to any political subdivision of the state or county, as the 875  
consideration for the grant of such franchise or right, and 876  
excluding any value added to such property by reason of a 877  
monopoly or merger, with due regard in determining the dollar 878  
annual return under division (A) (3) of this section to the 879  
necessity of making reservation out of the income for surplus, 880  
depreciation, and contingencies, and; 881

(2) With due regard to all such other matters as are 882  
proper, according to the facts in each case, 883

(a) Including a fair and reasonable rate of return 884  
determined by the commission with reference to a cost of debt 885  
equal to the actual embedded cost of debt of such public 886  
utility, 887

(b) But not including the portion of any periodic rental 888  
or use payments representing that cost of property that is 889  
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 890  
and (5) of section 4909.042 of the Revised Code and divisions 891  
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 892  
determine the just and reasonable rate, tracker, fare, charge, 893  
toll, rental, or service to be rendered, charged, demanded, 894  
exactd, or collected for the performance or rendition of the 895  
service that will provide the public utility the allowable gross 896  
annual revenues under division (B) of this section, and order 897  
such just and reasonable rate, tracker, fare, charge, toll, 898  
rental, or service to be substituted for the existing one. After 899  
such determination and order no change in the rate, tracker, 900  
fare, toll, charge, rental, schedule, classification, or service 901  
shall be made, rendered, charged, demanded, exactd, or changed 902  
by such public utility without the order of the commission, and 903

any other rate, tracker, fare, toll, charge, rental, 904  
classification, or service is prohibited. 905

(F) Upon application of any person or any public utility, 906  
and after notice to the parties in interest and opportunity to 907  
be heard as provided in Chapters 4901., 4903., 4905., 4907., 908  
4909., 4921., and 4923. of the Revised Code for other hearings, 909  
has been given, the commission may rescind, alter, or amend an 910  
order fixing any rate, tracker, fare, toll, charge, rental, 911  
classification, or service, or any other order made by the 912  
commission. Certified copies of such orders shall be served and 913  
take effect as provided for original orders. 914

**Sec. 4909.156.** In fixing the just, reasonable, and 915  
compensatory rates, trackers, joint rates, tolls, 916  
classifications, charges, or rentals to be observed and charged 917  
for service by any public utility, the public utilities 918  
commission shall, in action upon an application filed pursuant 919  
to section 4909.18 of the Revised Code, require a public utility 920  
to file a report showing the proportionate amounts of the 921  
valuation of the property of the utility, as determined under 922  
section 4909.042 or 4909.05 of the Revised Code, and the 923  
proportionate amounts of the revenues and expenses of the 924  
utility that are proposed to be considered as attributable to 925  
the service area involved in the application. 926

"Valuation," as used in this section, may include, ~~with:~~ 927

(A) With respect to a public utility that is a natural 928  
gas, water-works, or sewage disposal system company or that is 929  
an electric light company that chooses not to file a fully 930  
forecasted test period under section 4909.18 of the Revised 931  
Code, projected valuation as of the date certain, if applicable 932  
because of a future date certain under section 4909.15 of the 933



Revised Code;	934
<u>(B) With respect to an electric light company that chooses</u>	935
<u>to file a fully forecasted test period under section 4909.18 of</u>	936
<u>the Revised Code, the valuation and value during the fully</u>	937
<u>forecasted test period.</u>	938
<u>Sec. 4909.157. The public utilities commission, when</u>	939
<u>fixing and determining just and reasonable rates, fares, tolls,</u>	940
<u>rentals, charges, and trackers, shall, when determining the cost</u>	941
<u>to the utility of rendering public utility service under</u>	942
<u>division (A) (4) of section 4909.15 of the Revised Code,</u>	943
<u>determine payroll costs, including labor, employee benefits,</u>	944
<u>payroll taxes, and incentive compensation, and whether such</u>	945
<u>costs together are reasonable when compared to market rates.</u>	946
<u>Sec. 4909.173. (A) An electric light company may include</u>	947
<u>in an application to increase rates under section 4909.18 of the</u>	948
<u>Revised Code a request for approval to establish a distribution</u>	949
<u>investment tracker to collect the revenue requirement relating</u>	950
<u>to distribution infrastructure investments designed to maintain</u>	951
<u>or improve safety, reliability, system efficiency, security, or</u>	952
<u>grid resiliency, that either:</u>	953
<u>(1) With respect to an electric light company that chooses</u>	954
<u>not to file a fully forecasted test period under section 4909.18</u>	955
<u>of the Revised Code, become used and useful after the date</u>	956
<u>certain;</u>	957
<u>(2) With respect to an electric light company that chooses</u>	958
<u>to file a fully forecasted test period under section 4909.18 of</u>	959
<u>the Revised Code, become used and useful and are not included in</u>	960
<u>the plant investment used in final rates under section 4909.15</u>	961
<u>of the Revised Code.</u>	962

(B) Distribution infrastructure investments eligible for 963  
recovery through a tracker described in division (A) of this 964  
section shall include distribution capital investments and, to 965  
the extent they support the maintenance or improvement of 966  
reliable electric service, common, general, and intangible 967  
assets allocable to distribution service under the federal 968  
energy regulatory commission uniform system of accounts. 969

(C) The revenue requirement collected by the distribution 970  
investment tracker shall include the following: 971

(1) Depreciation; 972

(2) Property taxes, commercial activity taxes, and other 973  
applicable taxes; 974

(3) A fair and reasonable rate of return on the current 975  
period actual distribution rate base equivalent to the rate of 976  
return authorized for base distribution rates in the rate 977  
proceeding described in division (A) of this section. 978

(D) The revenue requirement to be collected by the 979  
distribution investment tracker shall be the difference in the 980  
revenue requirement on the current period distribution-related 981  
rate base and the revenue requirement on the distribution- 982  
related rate base included in the existing base rates. 983

(E) The revenue requirement collected by the distribution 984  
investment tracker shall be allocated to base distribution rate 985  
classes consistent with the allocation of base distribution 986  
rates approved in the rate proceeding described in division (A) 987  
of this section. 988

(F) The distribution investment tracker shall not collect 989  
on an annual basis more than an incremental four per cent of the 990  
base distribution revenue requirement approved in the rate 991

<u>proceeding described in division (A) of this section.</u>	992
<u>(G) The company shall file a report with the public</u>	993
<u>utilities commission on a quarterly basis regarding the revenue</u>	994
<u>requirement eligible for collection under the distribution</u>	995
<u>investment tracker.</u>	996
<u>(H) The commission shall allow recovery of the revenue</u>	997
<u>requirement collected, subject to annual review and</u>	998
<u>reconciliation. In its annual review, the commission shall</u>	999
<u>determine whether the distribution infrastructure investments</u>	1000
<u>made by the company during the year under review were used and</u>	1001
<u>useful and prudent. The commission shall offset the revenue</u>	1002
<u>requirement to be collected under the distribution investment</u>	1003
<u>tracker by any reasonably certain cost savings realized from the</u>	1004
<u>related distribution infrastructure investments.</u>	1005
<u>(I) When considering a subsequent application by the</u>	1006
<u>company for an increase in rates under section 4909.18 of the</u>	1007
<u>Revised Code, the commission shall include the date certain</u>	1008
<u>plant in service balance of used and useful distribution</u>	1009
<u>infrastructure investments being recovered through the</u>	1010
<u>distribution investment tracker in the new base distribution</u>	1011
<u>rates approved under section 4909.15 of the Revised Code.</u>	1012
<u>(J) If the commission approves new base distribution rates</u>	1013
<u>in a proceeding described in division (I) of this section that</u>	1014
<u>reflects investments recovered up to that point through a</u>	1015
<u>tracker, the existing distribution investment tracker shall be</u>	1016
<u>adjusted accordingly in order to avoid any double recovery of</u>	1017
<u>the same investment.</u>	1018
<b>Sec. 4909.174.</b> <u>(A) An electric light company may include</u>	1019
<u>in an application to increase rates under section 4909.18 of the</u>	1020

Revised Code a request for approval to establish a storm 1021  
response tracker to collect the revenue requirement relating to 1022  
distribution infrastructure investments and distribution 1023  
operations and maintenance expenses necessitated by weather 1024  
events not reflected in base distribution rates that constitute 1025  
major events, as determined by the commission. Such distribution 1026  
infrastructure investments shall: 1027

(1) With respect to an electric light company that chooses 1028  
not to file a fully forecasted test period under section 4909.18 1029  
of the Revised Code, be used and useful after the date certain; 1030

(2) With respect to an electric light company that chooses 1031  
to file a fully forecasted test period under section 4909.18 of 1032  
the Revised Code, be used and useful and not included in plant 1033  
investments used in final rates under section 4909.15 of the 1034  
Revised Code. 1035

(B) Distribution infrastructure investments eligible for 1036  
recovery through this tracker shall include distribution capital 1037  
investments and common, general, and intangible assets allocable 1038  
to distribution service under the federal energy regulatory 1039  
commission uniform system of accounts. 1040

(C) (1) The revenue requirement collected by the storm 1041  
response tracker for eligible distribution infrastructure 1042  
investments shall include: 1043

(a) Depreciation; 1044

(b) Property taxes, commercial activity taxes, and other 1045  
applicable taxes; 1046

(c) A fair and reasonable rate of return equivalent to the 1047  
rate of return authorized for base distribution rates in the 1048  
rate proceeding described in division (A) of this section; 1049

<u>(d) Eligible distribution operations and maintenance</u>	1050
<u>expenses.</u>	1051
<u>(2) The revenue requirement shall not include any amounts</u>	1052
<u>otherwise collected in the distribution investment tracker under</u>	1053
<u>section 4909.173 of the Revised Code, another tracker, or base</u>	1054
<u>rates.</u>	1055
<u>(D) The revenue requirement collected by the storm</u>	1056
<u>response tracker shall be allocated to base distribution rate</u>	1057
<u>classes consistent with the allocation of base distribution</u>	1058
<u>rates approved in the rate proceeding described in division (A)</u>	1059
<u>of this section.</u>	1060
<u>(E) The company shall file a report with the public</u>	1061
<u>utilities commission on a semi-annual basis regarding the</u>	1062
<u>revenue requirement eligible for collection under the storm</u>	1063
<u>response tracker.</u>	1064
<u>(F) The commission shall allow recovery of the revenue</u>	1065
<u>requirement, subject to annual review and reconciliation. In its</u>	1066
<u>annual review, the commission shall determine whether the</u>	1067
<u>eligible distribution infrastructure investments made by the</u>	1068
<u>company were used and useful and whether such investments and</u>	1069
<u>eligible distribution operations and maintenance expenses were</u>	1070
<u>prudently made and incurred.</u>	1071
<u>(G) When considering a subsequent application by the</u>	1072
<u>company for an increase in rates under section 4909.18 of the</u>	1073
<u>Revised Code, the commission shall include the date certain</u>	1074
<u>plant in service balance of used and useful distribution</u>	1075
<u>infrastructure investments being recovered through the storm</u>	1076
<u>response tracker in the new base distribution rates approved</u>	1077
<u>under section 4909.15 of the Revised Code.</u>	1078

(H) (1) If the commission approves new base distribution rates in a proceeding described in division (G) of this section that reflects investments recovered up to that point through a tracker, the existing storm response tracker shall be adjusted accordingly in order to avoid any double recovery of the same investment or expenses. 1079  
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(a) Any amounts that remain to be collected and are not incorporated into base distribution rates at the time a storm response tracker is terminated shall be deferred as a regulatory asset. 1085  
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(b) Any amounts that remain to be credited and are not incorporated into base distribution rates at the time a storm response tracker is terminated shall be a regulatory liability. 1089  
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(2) Regulatory assets and regulatory liabilities described in division (H) (1) may be recovered or credited to customers through a new storm response tracker, base distribution rates, or another mechanism authorized by the commission. 1092  
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**Sec. 4909.175.** (A) An electric light company may include in an application to increase rates under section 4909.18 of the Revised Code a request for approval to establish up to two cyber security and regulatory trackers in addition to those authorized by section 4909.173 and section 4909.174 of the Revised Code to collect the revenue requirement relating to distribution infrastructure investments or distribution operations and maintenance expenses relating to single issues consistent with state policy. Such distribution infrastructure investments shall: 1096  
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(1) With respect to an electric light company that chooses not to file a fully forecasted test period under section 4909.18 1106  
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of the Revised Code, be used and useful after the date certain; 1108

(2) With respect to an electric light company that chooses 1109  
to file a fully forecasted test period under section 4909.18 of 1110  
the Revised Code, be used and useful and not included in plant 1111  
investments used in final rates under section 4909.15 of the 1112  
Revised Code. 1113

(B) Distribution infrastructure investments eligible for 1114  
recovery through this tracker shall include distribution capital 1115  
investments and common, general, and intangible assets allocable 1116  
to distribution service under the federal energy regulatory 1117  
commission uniform system of accounts. 1118

(C) (1) The revenue requirement collected by a tracker 1119  
approved under this section for eligible distribution 1120  
infrastructure investments shall include: 1121

(a) Depreciation; 1122

(b) Property taxes, commercial activity taxes, and other 1123  
applicable taxes; 1124

(c) A fair and reasonable rate of return, equivalent to 1125  
the rate of return authorized for base distribution rates in the 1126  
rate proceeding described in division (A) of this section; 1127

(d) Eligible distribution operations and maintenance 1128  
expenses. 1129

(2) The revenue requirement shall not include any amounts 1130  
otherwise collected in the distribution investment tracker under 1131  
section 4909.173 of the Revised Code, another tracker, or base 1132  
rates. 1133

(D) Any tracker authorized by this section shall not 1134  
collect on an annual basis more than an incremental two per cent 1135

of the base distribution revenue requirement approved in the 1136  
rate proceeding described in division (A) of this section. 1137

(E) The company shall file a report with the public 1138  
utilities commission on a semi-annual basis regarding the 1139  
revenue requirement eligible for collection under any tracker 1140  
authorized by this section. 1141

(F) The commission shall allow such recovery, subject to 1142  
annual review and reconciliation. In its annual review, the 1143  
commission shall determine whether the eligible distribution 1144  
infrastructure investments made by the company were used and 1145  
useful and whether such investments and eligible distribution 1146  
operations and maintenance expenses were prudently made and 1147  
incurred. The commission shall offset the revenue requirement to 1148  
be collected under any tracker authorized under this section by 1149  
any reasonably certain cost savings realized from the related 1150  
distribution infrastructure investments or distribution 1151  
operations and maintenance expenses. 1152

(G) When considering a subsequent application by the 1153  
company for an increase in rates under section 4909.18 of the 1154  
Revised Code, the commission shall include the date certain 1155  
plant in service balance of used and useful distribution 1156  
infrastructure investments being recovered through any tracker 1157  
authorized under this section in new base distribution rates 1158  
approved under section 4909.15 of the Revised Code. 1159

(H) (1) If the commission approves an increase in rates as 1160  
described in division (G) of this section that reflects 1161  
investments recovered up to that point through a tracker, the 1162  
existing tracker authorized under this section shall be adjusted 1163  
accordingly in order to avoid any double recovery of the same 1164  
investment or expenses. 1165



(a) Any amounts that remain to be collected and are not 1166  
incorporated into base distribution rates at the time a tracker 1167  
authorized under this section is terminated shall be deferred as 1168  
a regulatory asset. 1169

(b) Any amounts that remain to be credited and are not 1170  
incorporated into base distribution rates at the time a tracker 1171  
authorized under this section is terminated shall be a 1172  
regulatory liability. 1173

(2) Regulatory assets and regulatory liabilities described 1174  
in division (H) (1) of this section may be recovered or credited 1175  
to customers through a new tracker authorized under this 1176  
section, base distribution rates, or another mechanism 1177  
authorized by the commission. 1178

**Sec. 4909.176.** During the period that a tracker is 1179  
authorized by the public utilities commission under sections 1180  
4909.173 to 4909.175 of the Revised Code, the commission, by 1181  
order and on its own motion or upon good cause shown, may reduce 1182  
the amount of, or terminate, any such tracker, if it determines 1183  
that the tracker, on a normalized basis, has caused the company 1184  
to earn a rate of return on equity on distribution rate base 1185  
that is greater than two hundred fifty basis points in excess of 1186  
the rate of return on equity most recently authorized for the 1187  
company in an application to increase rates under section 1188  
4909.18 of the Revised Code. 1189

**Sec. 4909.178.** Not later than ninety days after the 1190  
effective date this section, the public utilities commission 1191  
shall adopt such rules and public notice requirements as it 1192  
considers necessary to carry out sections 4909.173 to 4909.178 1193  
of the Revised Code. 1194

Notwithstanding any provision of section 121.95 of the 1195  
Revised Code to the contrary, a regulatory restriction contained 1196  
in a rule adopted under sections 4909.173 to 4903.175 of the 1197  
Revised Code is not subject to sections 121.95 to 121.953 of the 1198  
Revised Code. 1199

**Sec. 4909.18.** Any public utility desiring to establish any 1200  
rate, tracker, joint rate, toll, classification, charge, or 1201  
rental, or to modify, amend, change, increase, or reduce any 1202  
existing rate, tracker, joint rate, toll, classification, 1203  
charge, or rental, or any regulation or practice affecting the 1204  
same, shall file a written application with the public utilities 1205  
commission. Except for actions under section 4909.16 of the 1206  
Revised Code, no public utility may issue the notice of intent 1207  
to file an application pursuant to division (B) of section 1208  
4909.43 of the Revised Code to increase any existing rate, 1209  
tracker, joint rate, toll, classification, charge, or rental, 1210  
until a final order under this section has been issued by the 1211  
commission on any pending prior application to increase the same 1212  
rate, tracker, joint rate, toll, classification, charge, or 1213  
rental or until two hundred seventy-five days after filing such 1214  
application, whichever is sooner. Such application shall be 1215  
verified by the president or a vice-president and the secretary 1216  
or treasurer of the applicant. Such application shall contain a 1217  
schedule of the existing rate, tracker, joint rate, toll, 1218  
classification, charge, or rental, or regulation or practice 1219  
affecting the same, a schedule of the modification amendment, 1220  
change, increase, or reduction sought to be established, and a 1221  
statement of the facts and grounds upon which such application 1222  
is based. If such application proposes a new service or the use 1223  
of new equipment, or proposes the establishment or amendment of 1224  
a regulation, the application shall fully describe the new 1225

service or equipment, or the regulation proposed to be 1226  
established or amended, and shall explain how the proposed 1227  
service or equipment differs from services or equipment 1228  
presently offered or in use, or how the regulation proposed to 1229  
be established or amended differs from regulations presently in 1230  
effect. The application shall provide such additional 1231  
information as the commission may require in its discretion. If 1232  
the commission determines that such application is not for an 1233  
increase in any rate, tracker, joint rate, toll, classification, 1234  
charge, or rental, the commission may permit the filing of the 1235  
schedule proposed in the application and fix the time when such 1236  
schedule shall take effect. If it appears to the commission that 1237  
the proposals in the application may be unjust or unreasonable, 1238  
the commission shall set the matter for hearing ~~and shall give~~ 1239  
~~notice of such hearing by sending written notice of the date set~~ 1240  
~~for the hearing to the public utility and publishing notice of~~ 1241  
~~the hearing one time in a newspaper of general circulation in~~ 1242  
~~each county in the service area affected by the application.~~ At 1243  
such hearing, the burden of proof to show that the proposals in 1244  
the application are just and reasonable shall be upon the public 1245  
utility. ~~After such hearing, the commission shall, where~~ 1246  
~~practicable, issue an appropriate order within six months from~~ 1247  
~~the date the application was filed.~~ 1248

If the commission determines that said application is for 1249  
an increase in any rate, tracker, joint rate, toll, 1250  
classification, charge, or rental there shall also, unless 1251  
otherwise ordered by the commission, be filed with the 1252  
application in duplicate the following exhibits: 1253

(A) A report of its property used and useful, or, with 1254  
respect to a natural gas, electric light company, water-works, 1255  
or sewage disposal system company, projected to be used and 1256

useful as of the date certain or during the test period, if the 1257  
application is filed under division (C) (1) (a) of section 4909.15 1258  
of the Revised Code, in rendering the service referred to in 1259  
such application, as provided in ~~section~~ sections 4909.042 and 1260  
4909.05 of the Revised Code; 1261

(B) A complete operating statement of its last fiscal 1262  
year, showing in detail all its receipts, revenues, and incomes 1263  
from all sources, all of its operating costs and other 1264  
expenditures, and any analysis such public utility deems 1265  
applicable to the matter referred to in said application; 1266

(C) A statement of the income and expense anticipated 1267  
under the application filed; 1268

(D) A statement of financial condition summarizing assets, 1269  
liabilities, and net worth; 1270

(E) Such other information as the commission may require 1271  
in its discretion. 1272

**Sec. 4909.181.** Not later than five years after the 1273  
effective date of this section and at least every five years 1274  
thereafter, an electric light company shall file a rate case 1275  
application regarding distribution service under section 4909.18 1276  
of the Revised Code. 1277

**Sec. 4909.19.** (A) Upon the filing of any application for 1278  
increase in any rate, tracker, joint rate, toll, classification, 1279  
charge, or rental provided for by section 4909.18 of the Revised 1280  
Code the public utility shall ~~forthwith~~ publish notice of such 1281  
application, ~~in a form approved by the public utilities~~ 1282  
~~commission, once a week for two consecutive weeks in on the web~~ 1283  
site of a newspaper published and in general circulation 1284  
throughout the territory in which such public utility operates 1285

and directly affected by the matters referred to in said 1286  
application. ~~The notice shall include instructions for direct-~~ 1287  
~~electronic access to the application or other documents on file-~~ 1288  
~~with the public utilities commission. The first publication of-~~ 1289  
~~the notice shall be made in its entirety and may be made in a-~~ 1290  
~~preprinted insert in the newspaper. The second publication may-~~ 1291  
~~be abbreviated if all of the following apply:-~~ 1292

~~(1) The abbreviated notice is at least one fourth of the-~~ 1293  
~~size of the notice in the first publication.~~ 1294

~~(2) At the same time the abbreviated notice is published,~~ 1295  
~~the notice in the first publication is posted in its entirety on-~~ 1296  
~~the newspaper's web site, if the newspaper has a web site, and-~~ 1297  
~~the commission's web site.~~ 1298

~~(3) The abbreviated notice contains a statement of the web-~~ 1299  
~~site posting or postings, as applicable, and instructions for-~~ 1300  
~~accessing the posting or postings.~~ 1301

~~(B)~~ The commission shall determine a format for the 1302  
content of ~~all notices~~ the notice required under this section, 1303  
and shall consider costs and technological efficiencies in 1304  
making that determination. Defects in the publication of said 1305  
notice shall not affect the legality or sufficiency of notices 1306  
published under this section provided that the commission has 1307  
substantially complied with this section, as described in 1308  
section 4905.09 of the Revised Code. 1309

~~(C)~~ (B) The commission shall at once cause an 1310  
investigation to be made of the facts set forth in said 1311  
application and the exhibits attached thereto, and of the 1312  
matters connected therewith. No investments made by the 1313  
applicant that have previously been deemed prudent shall be 1314

included in such investigation for the purpose of establishing 1315  
prudency. Within ~~Not later than a reasonable time as determined~~ 1316  
by the commission ~~one hundred fifty days~~ after the filing of 1317  
such application, the commission staff shall make and file in 1318  
the case a written report shall be made and filed with the 1319  
commission, a copy of which shall be sent by certified mail to  
the applicant, the mayor of any municipal corporation affected  
by the application, and to such other persons as the commission  
deems interested of recommendations, including all work papers in 1322  
electronic format with all formulas intact. 1323  
1324

(C) (1) If no objection to such report is made by any party 1325  
interested within thirty days after such filing ~~and the mailing~~ 1326  
~~of copies thereof~~, the commission shall fix a date within ten 1327  
days for the final hearing upon said application, giving notice 1328  
thereof to all parties interested. At such hearing the 1329  
commission shall consider the matters set forth in said 1330  
application and make such order respecting the prayer thereof as 1331  
~~to~~ it seems just and reasonable. 1332

~~If objections are filed with the commission, the~~ 1333  
~~commission shall cause a pre-hearing conference to be held~~ 1334  
~~between all parties, intervenors, and the commission staff in~~ 1335  
~~all cases involving more than one hundred thousand customers.~~ 1336

~~If objections are filed with the commission within thirty~~ 1337  
~~days after the filing of such report, the application shall be~~ 1338  
~~promptly set down for hearing of testimony before the commission~~ 1339  
~~or be forthwith referred to an attorney examiner designated by~~ 1340  
~~the commission to take all the testimony with respect to the~~ 1341  
~~application and objections which may be offered by any~~ 1342  
~~interested party.~~ 1343

(2) If objections are filed not later than thirty days 1344

after the filing of the report required under division (B) of 1345  
this section, any party that filed objections also shall file 1346  
testimony in support of those objections not later than forty- 1347  
five days after the filing date of the report. Not later than 1348  
seventy-five days after the filing of the report, the commission 1349  
staff shall file testimony supporting their recommendations 1350  
regarding the application and may file testimony addressing 1351  
objections filed. The utility may file any rebuttal testimony 1352  
not later than ninety days after the filing date of the report. 1353

(D) The commission shall also fix the time and place to 1354  
take testimony giving ten days' written notice of such time and 1355  
place to all parties, set the matter for hearing not later than 1356  
one hundred twenty days after the filing date of the report 1357  
required under division (B) of this section. The taking of 1358  
testimony shall commence on the date fixed in said notice and 1359  
shall continue from day to day until completed. The attorney 1360  
examiner may, upon good cause shown, grant continuances for not 1361  
more than three days, excluding Saturdays, Sundays, and 1362  
holidays. The commission may grant continuances for a longer 1363  
period than three days upon its order for good cause shown. At 1364  
any hearing involving rates or charges sought to be increased, 1365  
the burden of proof to show that the increased rates or charges 1366  
are just and reasonable shall be on the public utility. 1367

~~When the taking of testimony is completed, a full and~~ 1368  
~~complete record of such testimony noting all objections made and~~ 1369  
~~exceptions taken by any party or counsel, shall be made, signed~~ 1370  
~~by the attorney examiner, and filed with the commission. Prior~~ 1371  
~~to the formal consideration of the application by the commission~~ 1372  
~~and the rendition of any order respecting the prayer of the~~ 1373  
~~application, a quorum of the commission shall consider the~~ 1374  
~~recommended opinion and order of the attorney examiner, in an~~ 1375

~~open, formal, public proceeding in which an overview and~~ 1376  
~~explanation is presented orally. Thereafter, the commission~~ 1377  
~~shall make such order respecting the prayer of such application~~ 1378  
~~as seems just and reasonable to it.~~ 1379

(E) In all proceedings before the commission in which the 1380  
taking of testimony is required, except when heard by the 1381  
commission, attorney examiners shall be assigned by the 1382  
commission to take such testimony and fix the time and place 1383  
therefor, and such testimony shall be taken in the manner 1384  
prescribed in this section. All testimony shall be under oath or 1385  
affirmation and taken down and transcribed by a reporter and 1386  
made a part of the record in the case. The commission may hear 1387  
the testimony or any part thereof in any case without having the 1388  
same referred to an attorney examiner and may take additional 1389  
testimony. Testimony shall be taken and a record made in 1390  
accordance with such general rules as the commission prescribes 1391  
and subject to such special instructions in any proceedings as 1392  
it, by order, directs. 1393

**Sec. 4909.42.** If the proceeding on an application filed 1394  
with the public utilities commission under section 4909.18 of 1395  
the Revised Code by any public utility requesting an increase on 1396  
any rate, tracker, joint rate, toll, classification, charge, or 1397  
rental or requesting a change in a regulation or practice 1398  
affecting the same has not been concluded and an opinion and 1399  
order entered pursuant to section 4909.19 of the Revised Code at 1400  
the expiration of ~~two~~ three hundred ~~seventy-five~~ sixty-five days 1401  
from the date of filing the application, ~~an increase not to~~ 1402  
~~exceed the proposed increase shall go into effect upon the~~ 1403  
~~filing of a bond or a letter of credit by the public utility.~~ 1404  
~~The bond or letter of credit shall be filed with the commission~~ 1405  
~~and shall be payable to the state for the use and benefit of the~~ 1406



~~customers affected by the proposed increase or change.~~ 1407

~~An affidavit attached to the bond or letter of credit must~~ 1408  
~~be signed by two of the officers of the utility, under oath, and~~ 1409  
~~must contain a promise on behalf of the utility to refund any~~ 1410  
~~amounts collected by the utility over the rate, joint rate,~~ 1411  
~~toll, classification, charge, or rental, as determined in the~~ 1412  
~~final order of the commission. All refunds shall include~~ 1413  
~~interest at the rate stated in section 1343.03 of the Revised~~ 1414  
~~Code. The refund shall be in the form of a temporary reduction~~ 1415  
~~in rates following the final order of the commission, and shall~~ 1416  
~~be accomplished in such manner as shall be prescribed by the~~ 1417  
~~commission in its final order. The commission shall exercise~~ 1418  
~~continuing and exclusive jurisdiction over such refunds~~ 1419  
the rates 1419  
proposed by the public utility shall go into effect temporarily 1420  
without refund and shall remain in effect until modified by the 1421  
commission by a decision on the merits of the application, which 1422  
modified rates shall apply prospectively. 1423

If the public utilities commission has not entered ~~a final~~ 1424  
an opinion and order within five hundred forty-five days from 1425  
the date of the filing of an application for an increase in 1426  
rates under section 4909.18 of the Revised Code, ~~a public~~ 1427  
~~utility shall have no obligation to make a refund of amounts~~ 1428  
~~collected after the five hundred forty fifth day which exceed~~ 1429  
~~the amounts authorized by the commission's final order~~ 1430  
the 1430  
application shall be considered approved by operation of law. 1431

Nothing in this section shall be construed to mitigate any 1432  
duty of the commission to issue a final order under section 1433  
4909.19 of the Revised Code. 1434

**Sec. 4909.43.** (A) No public utility shall file a rate 1435  
increase application covering a municipal corporation pursuant 1436

to section 4909.18 or 4909.35 of the Revised Code at any time 1437  
prior to six months before the expiration of an ordinance of 1438  
that municipal corporation enacted for the purpose of 1439  
establishing the rates of that public utility. 1440

(B) Not later than thirty days prior to the filing of an 1441  
application pursuant to section 4909.18 or 4909.35 of the 1442  
Revised Code, a public utility shall notify, in writing, the 1443  
mayor and legislative authority of each municipality included in 1444  
such application of the intent of the public utility to file an 1445  
application, and of the proposed rates to be contained therein. 1446

(C) Not later than thirty days prior to the filing of an 1447  
application pursuant to section 4909.18 or 4909.35 of the 1448  
Revised Code, a public utility that has more than one hundred 1449  
thousand customers shall notify the public utilities commission 1450  
of the utility's intent to file an application. The notice of 1451  
intent shall include the number of customers of the utility, the 1452  
proposed valuation of the utility's property, the proposed date 1453  
certain, the proposed rate of return for the utility, the 1454  
proposed cost to the utility of rendering public utility 1455  
service, and the proposed test period to be included in the 1456  
application. 1457

Sec. 4909.46. The following apply to a company's 1458  
application under section 4909.18 of the Revised Code: 1459

(A) All work papers supporting a company's application 1460  
shall be filed with the application in electronic format, with 1461  
formulas intact. 1462

(B) Prefiled testimony shall be filed under oath or, for 1463  
representatives of a corporation, other association, or 1464  
governmental agency, shall be accompanied by a signed 1465

certification of the preparer that the response is true and 1466  
accurate to the best of that person's knowledge, information, 1467  
and belief formed after a reasonable inquiry, and become 1468  
automatically part of the record in the proceeding. 1469

(C) Except for the staff of the public utilities 1470  
commission, each party in the case, including the company, shall 1471  
be limited to issuing not more than three rounds of written 1472  
discovery prior to the filing of the staff report of 1473  
recommendations required under section 4909.19 of the Revised 1474  
Code and not more than three rounds of written discovery after 1475  
the filing of the report. Each party shall be limited to not 1476  
more than fifty questions, including subparts, during each 1477  
round. Each response to a discovery request shall include the 1478  
name of the person responsible for responding to the questions 1479  
and shall be answered under oath or, for representatives of a 1480  
corporation, other association, or governmental agency, shall be 1481  
accompanied by a signed certification of the preparer that the 1482  
response is true and accurate to the best of that person's 1483  
knowledge, information, and belief formed after a reasonable 1484  
inquiry. 1485

(D) The staff of the commission shall not be subject to 1486  
discovery. 1487

(E) Any party and the staff of the commission shall be 1488  
entitled to file testimony. 1489

(F) The commission shall hold a single hearing, at which 1490  
all witnesses who filed direct or rebuttal testimony are subject 1491  
to cross-examination. 1492

**Section 2.** That existing sections 4903.082, 4903.083, 1493  
4903.10, 4903.11, 4903.13, 4903.15, 4903.221, 4909.04, 4909.05, 1494

4909.052, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.18,	1495
4909.19, 4909.42, and 4909.43 of the Revised Code are hereby	1496
repealed.	1497