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136th General Assembly
Regular Session
2025-2026

Sub. S. B. No. 2

To amend sections 4905.03, 4906.01, 4906.03, 1
4906.07, 4906.10, 4909.04, 4909.05, 4909.052, 2
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 3
4909.17, 4909.173, 4909.174, 4909.18, 4909.191, 4
4909.42, 4911.15, 4928.01, 4928.05, 4928.08, 5
4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 6
4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 7
4928.542, 4928.64, 4928.645, 4929.20, 5727.01, 8
5727.031, 5727.06, 5727.11, 5727.111, and 9
5727.75; to enact sections 122.161, 3706.51, 10
4903.27, 4905.321, 4905.331, 4909.041, 4909.042, 11
4909.181, 4909.192, 4909.47, 4928.041, 4928.101, 12
4928.102, 4928.103, 4928.104, 4928.105, 13
4928.106, 4928.149, 4928.1410, 4928.73, 14
4929.221, 4929.222, and 5727.76; and to repeal 15
sections 3706.40, 3706.41, 3706.43, 3706.431, 16
3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 17
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 18
4928.148, and 4928.642 of the Revised Code 19
regarding public utilities and competitive 20
retail electric and natural gas services, to 21
make changes regarding electric company property 22
taxation, and repeal parts of H.B. 6 of the 23
133rd General Assembly. 24



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

Section 1. That sections 4905.03, 4906.01, 4906.03, 25
4906.07, 4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 4909.07, 26
4909.08, 4909.15, 4909.156, 4909.17, 4909.173, 4909.174, 27
4909.18, 4909.191, 4909.42, 4911.15, 4928.01, 4928.05, 4928.08, 28
4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 29
4928.23, 4928.231, 4928.232, 4928.34, 4928.542, 4928.64, 30
4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 31
5727.111, and 5727.75 be amended and sections 122.161, 3706.51, 32
4903.27, 4905.321, 4905.331, 4909.041, 4909.042, 4909.181, 33
4909.192, 4909.47, 4928.041, 4928.101, 4928.102, 4928.103, 34
4928.104, 4928.105, 4928.106, 4928.149, 4928.1410, 4928.73, 35
4929.221, 4929.222, and 5727.76 of the Revised Code be enacted 36
to read as follows: 37

Sec. 122.161. (A) As used in this section: 38

(1) "Subdivision" means a municipal corporation, township, 39
or county. 40

(2) "Legislative authority" means the legislative 41
authority of a municipal corporation, a board of the township 42
trustees, or a board of county commissioners. 43

(3) "Subdivision's territory" means, in the case of a 44
municipal corporation, the territory of the municipal 45
corporation; in the case of a township, the unincorporated 46
territory of the township; or, in the case of a county, the 47
unincorporated territory of the county. 48

(4) "Brownfield" has the same meaning as in section 49
122.6511 of the Revised Code. 50

(5) "Former coal mine" means a location that was, but is 51
no longer, used in connection with the extraction of coal from 52
its natural deposit in the earth. 53

(6) "Qualifying property" has the same meaning as in 54
section 5727.76 of the Revised Code. 55

(B) A legislative authority may adopt and certify to the 56
director of development an ordinance or resolution requesting 57
that the director designate the site of a brownfield or former 58
coal mine within the subdivision's territory as a priority 59
investment area. The ordinance or resolution shall describe the 60
boundaries of the proposed area and shall specify that 61
qualifying property in the priority investment area shall be 62
exempt from taxation for five years pursuant to section 5727.76 63
of the Revised Code. 64

The director, upon receipt of that certification, shall 65
designate the proposed area as a priority investment area if the 66
director determines that the area meets the designation 67
standards set forth in rules adopted by the director. Those 68
standards shall specify that the director must prioritize the 69
designation of areas negatively impacted by the decline of the 70
coal industry. 71

The director shall notify the legislative authority of the 72
director's decision within ninety days after receiving the 73
certified ordinance or resolution. If the director does not 74
issue a decision within those ninety days, the request for 75
designation shall be considered approved by operation of law. 76

(C) The director of development shall immediately notify 77
the public utilities commission, the power siting board, and the 78
tax commissioner if the director approves the designation of a 79

priority investment area under division (B) of this section or 80
if the designation is approved by operation of law. 81

Sec. 3706.51. (A) As used in this section: 82

(1) "Qualifying solar resource" means an electric 83
generating facility that was a "qualifying solar resource" under 84
section 3706.40 of the Revised Code prior to the repeal of that 85
section by this act. 86

(2) "Qualifying solar resource owner or operator" means 87
the owner or operator of a qualifying solar resource that 88
received remittances from the solar generation fund pursuant to 89
section 3706.55 of the Revised Code prior to the repeal of that 90
section by this act. 91

(3) "Solar generation fund" means the solar generation 92
fund established under section 3706.49 of the Revised Code prior 93
to the repeal of that section by this act. 94

(B) Notwithstanding section 4905.32 of the Revised Code, 95
the following amounts shall be refunded immediately to customers 96
in a manner determined by the Ohio air quality development 97
authority in consultation with the public utilities commission: 98

(1) Any amounts remaining in the solar generation fund as 99
of the effective date of this section, less sixteen million 100
dollars. 101

(2) Any amounts remaining in the solar generation fund 102
after January 21, 2030. 103

(C) The sixteen million dollars remaining in the solar 104
generation fund after the refunds to customers under division 105
(B) (1) of this section shall be remitted, until January 21, 106
2030, to each qualifying resource owner or operator in 107

accordance with requirements consistent with the provisions of 108
sections 3706.40 to 3706.65 of the Revised Code as those 109
sections existed prior to the repeal of those sections by this 110
act. 111

(D) The authority shall adopt rules under Chapter 119. of 112
the Revised Code as necessary to implement this section. 113

Sec. 4903.27. For all cases involving an application 114
pursuant to section 4909.18 of the Revised Code, the public 115
utilities commission shall not permit any new discovery 116
beginning not later than two hundred fifteen days after the 117
application is submitted. 118

Sec. 4905.03. As used in this chapter, any person, firm, 119
copartnership, voluntary association, joint-stock association, 120
company, or corporation, wherever organized or incorporated, is: 121

(A) A telephone company, when engaged in the business of 122
transmitting telephonic messages to, from, through, or in this 123
state; 124

(B) A for-hire motor carrier, when engaged in the business 125
of transporting persons or property by motor vehicle for 126
compensation, except when engaged in any of the operations in 127
intrastate commerce described in divisions (B)(1) to (9) of 128
section 4921.01 of the Revised Code, but including the carrier's 129
agents, officers, and representatives, as well as employees 130
responsible for hiring, supervising, training, assigning, or 131
dispatching drivers and employees concerned with the 132
installation, inspection, and maintenance of motor-vehicle 133
equipment and accessories; 134

(C) An electric light company, when engaged in the 135
business of supplying electricity for light, heat, or power 136

purposes to consumers within this state, including supplying 137
electric transmission service for electricity delivered to 138
consumers in this state, but excluding a regional transmission 139
organization approved by the federal energy regulatory 140
commission; ~~—~~. 141

An electric light company does not include a self- 142
generator or mercantile customer self-power system. 143

(D) A gas company, when engaged in the business of 144
supplying artificial gas for lighting, power, or heating 145
purposes to consumers within this state or when engaged in the 146
business of supplying artificial gas to gas companies or to 147
natural gas companies within this state, but a producer engaged 148
in supplying to one or more gas or natural gas companies, only 149
such artificial gas as is manufactured by that producer as a by- 150
product of some other process in which the producer is primarily 151
engaged within this state is not thereby a gas company. All 152
rates, rentals, tolls, schedules, charges of any kind, or 153
agreements between any gas company and any other gas company or 154
any natural gas company providing for the supplying of 155
artificial gas and for compensation for the same are subject to 156
the jurisdiction of the public utilities commission. 157

(E) A natural gas company, when engaged in the business of 158
supplying natural gas for lighting, power, or heating purposes 159
to consumers within this state. Notwithstanding the above, 160
neither the delivery nor sale of Ohio-produced natural gas or 161
Ohio-produced raw natural gas liquids by a producer or gatherer 162
under a public utilities commission-ordered exemption, adopted 163
before, as to producers, or after, as to producers or gatherers, 164
January 1, 1996, or the delivery or sale of Ohio-produced 165
natural gas or Ohio-produced raw natural gas liquids by a 166

producer or gatherer of Ohio-produced natural gas or Ohio- 167
produced raw natural gas liquids, either to a lessor under an 168
oil and gas lease of the land on which the producer's drilling 169
unit is located, or the grantor incident to a right-of-way or 170
easement to the producer or gatherer, shall cause the producer 171
or gatherer to be a natural gas company for the purposes of this 172
section. 173

All rates, rentals, tolls, schedules, charges of any kind, 174
or agreements between a natural gas company and other natural 175
gas companies or gas companies providing for the supply of 176
natural gas and for compensation for the same are subject to the 177
jurisdiction of the public utilities commission. The commission, 178
upon application made to it, may relieve any producer or 179
gatherer of natural gas, defined in this section as a gas 180
company or a natural gas company, of compliance with the 181
obligations imposed by this chapter and Chapters 4901., 4903., 182
4907., 4909., 4921., and 4923. of the Revised Code, so long as 183
the producer or gatherer is not affiliated with or under the 184
control of a gas company or a natural gas company engaged in the 185
transportation or distribution of natural gas, or so long as the 186
producer or gatherer does not engage in the distribution of 187
natural gas to consumers. 188

Nothing in division (E) of this section limits the 189
authority of the commission to enforce sections 4905.90 to 190
4905.96 of the Revised Code. 191

(F) A pipe-line company, when engaged in the business of 192
transporting natural gas, oil, or coal or its derivatives 193
through pipes or tubing, either wholly or partly within this 194
state, but not when engaged in the business of the transport 195
associated with gathering lines, raw natural gas liquids, or 196

finished product natural gas liquids;	197
(G) A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;	198 199 200
(H) A heating or cooling company, when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating or cooling purposes;	201 202 203 204
(I) A messenger company, when engaged in the business of supplying messengers for any purpose;	205 206
(J) A street railway company, when engaged in the business of operating as a common carrier, a railway, wholly or partly within this state, with one or more tracks upon, along, above, or below any public road, street, alleyway, or ground, within any municipal corporation, operated by any motive power other than steam and not a part of an interurban railroad, whether the railway is termed street, inclined-plane, elevated, or underground railway;	207 208 209 210 211 212 213 214
(K) A suburban railroad company, when engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad;	215 216 217 218 219
(L) An interurban railroad company, when engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of	220 221 222 223 224 225

municipal corporations, using electricity or other motive power 226
than steam power for the transportation of passengers, packages, 227
express matter, United States mail, baggage, and freight. Such 228
an interurban railroad company is included in the term 229
"railroad" as used in section 4907.02 of the Revised Code. 230

(M) A sewage disposal system company, when engaged in the 231
business of sewage disposal services through pipes or tubing, 232
and treatment works, or in a similar manner, within this state. 233

As used in division (E) of this section, "natural gas" 234
includes natural gas that has been processed to enable 235
consumption or to meet gas quality standards or that has been 236
blended with propane, hydrogen, biologically derived methane 237
gas, or any other artificially produced or processed gas. 238

As used in this section, "gathering lines" has the same 239
meaning as in section 4905.90 of the Revised Code, and "raw 240
natural gas liquids" and "finished product natural gas liquids" 241
have the same meanings as in section 4906.01 of the Revised 242
Code. 243

As used in this section, "self-generator" has the same 244
meaning as in section 4928.01 of the Revised Code, and 245
"mercantile customer self-power system" has the same meaning as 246
in section 4928.73 of the Revised Code. 247

Sec. 4905.321. (A) Except as provided in division (B) of 248
this section, notwithstanding any provision of the Revised Code 249
to the contrary, all charges paid by customers to a public 250
utility that are later found to be unreasonable, unlawful, 251
imprudent, or otherwise improper by the public utilities 252
commission or the supreme court shall be promptly refunded to 253
the customers who paid such charges. The commission shall order 254

such refunds in a manner designed to allocate the refunds to 255
customer classes in the same proportion as the charges were 256
originally collected. 257

(B) This section does not require the refund of any charge 258
that was authorized under section 4928.148 of the Revised Code 259
prior to the repeal of that section by this act. 260

Sec. 4905.331. (A) As used in this section: 261

(1) "Electric distribution utility" has the same meaning 262
as in section 4928.01 of the Revised Code. 263

(2) "Electric service" means any service involved in 264
supplying or arranging for the supply of electricity to ultimate 265
consumers in this state. "Electric service" includes "retail 266
electric service" as defined in section 4928.01 of the Revised 267
Code. 268

(3) "Proceeding" includes a proceeding relating to 269
electric service under Chapters 4909. and 4928. of the Revised 270
Code. 271

(B) No electric distribution utility or its affiliate may 272
do either of the following to induce any party to a public 273
utilities commission proceeding to enter into a settlement of a 274
matter pending before the commission: 275

(1) Make a cash payment to that party; 276

(2) Enter into any agreement or any financial or private 277
arrangement with that party that is not made part of the public 278
case record. 279

(C) Notwithstanding division (B) of this section, the 280
commission may do any of the following: 281

<u>(1) Reasonably allocate costs among rate schedules;</u>	282
<u>(2) Reasonably design rates within a rate schedule;</u>	283
<u>(3) Approve reasonable rates designed for particular customers or classes of customers;</u>	284 285
<u>(4) Approve a resolution of a proceeding under section 4905.26 of the Revised Code;</u>	286 287
<u>(5) Approve payments to any governmental entity, nonprofit organization, or other association for implementing low-income weatherization service programs, subject to the following conditions:</u>	288 289 290 291
<u>(a) The payments are at a rate that is reasonably tailored to the costs of providing the programs.</u>	292 293
<u>(b) The payments are for programs that are subject to an existing or new audit procedure.</u>	294 295
<u>(c) The payments are not for low-income weatherization education programs.</u>	296 297
Sec. 4906.01. As used in Chapter 4906. of the Revised Code:	298 299
(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	300 301 302 303 304
(B) (1) "Major utility facility" means:	305
(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	306 307 308

(b) An electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more;	309 310 311
(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.	312 313 314 315 316
(2) "Major utility facility" does not include any of the following:	317 318
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	319 320
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	321 322
(c) Electric distributing lines and associated facilities as defined by the power siting board;	323 324
(d) Any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by the power siting board;	325 326 327
(e) Gathering lines, gas gathering pipelines, and processing plant gas stub pipelines as those terms are defined in section 4905.90 of the Revised Code and associated facilities;	328 329 330 331
(f) Any gas processing plant as defined in section 4905.90 of the Revised Code;	332 333
(g) Natural gas liquids finished product pipelines;	334
(h) Pipelines from a gas processing plant as defined in	335

section 4905.90 of the Revised Code to a natural gas liquids 336
fractionation plant, including a raw natural gas liquids 337
pipeline, or to an interstate or intrastate gas pipeline; 338

(i) Any natural gas liquids fractionation plant; 339

(j) A production operation as defined in section 1509.01 340
of the Revised Code, including all pipelines upstream of any 341
gathering lines; 342

(k) Any compressor stations used by the following: 343

(i) A gathering line, a gas gathering pipeline, a 344
processing plant gas stub pipeline, or a gas processing plant as 345
those terms are defined in section 4905.90 of the Revised Code; 346

(ii) A natural gas liquids finished product pipeline, a 347
natural gas liquids fractionation plant, or any pipeline 348
upstream of a natural gas liquids fractionation plant; or 349

(iii) A production operation as defined in section 1509.01 350
of the Revised Code. 351

(C) "Commence to construct" means any clearing of land, 352
excavation, or other action that would adversely affect the 353
natural environment of the site or route of a major utility 354
facility, but does not include surveying changes needed for 355
temporary use of sites or routes for nonutility purposes, or 356
uses in securing geological data, including necessary borings to 357
ascertain foundation conditions. 358

(D) "Certificate" means a certificate of environmental 359
compatibility and public need issued by the power siting board 360
under section 4906.10 of the Revised Code or a construction 361
certificate issued by the board under rules adopted under 362
~~division divisions~~ (E) ~~or (F)~~ to (H) of section 4906.03 of the 363

Revised Code.	364
(E) "Gas" means natural gas, flammable gas, or gas that is toxic or corrosive.	365 366
(F) "Natural gas liquids finished product pipeline" means a pipeline that carries finished product natural gas liquids to the inlet of an interstate or intrastate finished product natural gas liquid transmission pipeline, rail loading facility, or other petrochemical or refinery facility.	367 368 369 370 371
(G) "Large solar facility" means an electric generating plant that consists of solar panels and associated facilities with a single interconnection to the electrical grid that is a major utility facility.	372 373 374 375
(H) "Large wind farm" means an electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is a major utility facility.	376 377 378 379
(I) "Natural gas liquids fractionation plant" means a facility that takes a feed of raw natural gas liquids and produces finished product natural gas liquids.	380 381 382
(J) "Raw natural gas" means hydrocarbons that are produced in a gaseous state from gas wells and that generally include methane, ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, nonanes, and decanes, plus other naturally occurring impurities like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, and helium.	383 384 385 386 387 388
(K) "Raw natural gas liquids" means naturally occurring hydrocarbons contained in raw natural gas that are extracted in a gas processing plant and liquefied and generally include mixtures of ethane, propane, butanes, and natural gasoline.	389 390 391 392

(L) "Finished product natural gas liquids" means an 393
individual finished product produced by a natural gas liquids 394
fractionation plant as a liquid that meets the specifications 395
for commercial products as defined by the gas processors 396
association. Those products include ethane, propane, iso-butane, 397
normal butane, and natural gasoline. 398

Sec. 4906.03. The power siting board shall: 399

(A) Require such information from persons subject to its 400
jurisdiction as it considers necessary to assist in the conduct 401
of hearings and any investigations or studies it may undertake; 402

(B) Conduct any studies or investigations that it 403
considers necessary or appropriate to carry out its 404
responsibilities under this chapter; 405

(C) Adopt rules establishing criteria for evaluating the 406
effects on environmental values of proposed and alternative 407
sites, and projected needs for electric power, and such other 408
rules as are necessary and convenient to implement this chapter, 409
including rules governing application fees, supplemental 410
application fees, and other reasonable fees to be paid by 411
persons subject to the board's jurisdiction. The board shall 412
make an annual accounting of its collection and use of these 413
fees and shall issue an annual report of its accounting, in the 414
form and manner prescribed by its rules, not later than the last 415
day of June of the year following the calendar year to which the 416
report applies. 417

(D) Approve, disapprove, or modify and approve 418
applications for certificates; 419

(E) Notwithstanding sections 4906.06 to 4906.14 of the 420
Revised Code, the board may adopt rules to provide for an 421

accelerated review of an application for a construction 422
certificate for construction of a major utility facility related 423
to a coal research and development project as defined in section 424
1555.01 of the Revised Code, or to a coal development project as 425
defined in section 1551.30 of the Revised Code, submitted to the 426
Ohio coal development office for review under division (B) (7) of 427
section 1551.33 of the Revised Code. Applications for 428
construction certificates for construction of major utility 429
facilities for Ohio coal research and development shall be filed 430
with the board on the same day as the proposed facility or 431
project is submitted to the Ohio coal development office for 432
review. 433

The board shall render a decision on an application for a 434
construction certificate within ninety days after receipt of the 435
application and all of the data and information it may require 436
from the applicant. In rendering a decision on an application 437
for a construction certificate, the board shall only consider 438
the criteria and make the findings and determinations set forth 439
in divisions (A) (2), (3), (5), and (7) and division (B) of 440
section 4906.10 of the Revised Code. 441

(F) Notwithstanding sections 4906.06 to 4906.14 of the 442
Revised Code, the board shall adopt rules to provide for an 443
accelerated review of an application for a construction 444
certificate for any of the following: 445

(1) An electric transmission line that is: 446

(a) Not more than two miles in length; 447

(b) Primarily needed to attract or meet the requirements 448
of a specific customer or specific customers; 449

(c) Necessary to maintain reliable electric service as a 450

result of the retirement or shutdown of an electric generating 451
facility located within the state; or 452

(d) A rebuilding of an existing transmission line. 453

(2) An electric generating facility that uses waste heat 454
or natural gas and is primarily within the current boundary of 455
an existing industrial or electric generating facility; 456

(3) A gas pipeline that is not more than five miles in 457
length or is primarily needed to meet the requirements of a 458
specific customer or specific customers. 459

The board shall adopt rules that provide for the automatic 460
certification to any entity described in this division when an 461
application by any such entity is not suspended by the board, an 462
administrative law judge, or the chairperson or executive 463
director of the board for good cause shown, within ninety days 464
of submission of the application. If an application is 465
suspended, the board shall approve, disapprove, or modify and 466
approve the application not later than ninety days after the 467
date of the suspension. 468

(G) Notwithstanding sections 4906.06 to 4906.14 of the 469
Revised Code, the board shall adopt rules to provide for the 470
accelerated review of an application for a construction 471
certificate for any of the following that are located in a 472
priority investment area designated and approved under section 473
122.161 of the Revised Code: 474

(1) An electric generating plant and associated 475
facilities; 476

(2) An electric transmission line and associated 477
facilities; 478

(3) Gas Pipeline infrastructure. 479

The board shall render a decision on an application 480
submitted under this division not later than forty-five days 481
after receipt of the application. If the board does not render a 482
decision within forty-five days, the application shall be 483
considered approved by operation of law, and the board shall 484
issue a certificate to the applicant. 485

The board shall adopt rules to implement this division, 486
including rules that prioritize applications for construction on 487
areas negatively impacted by the decline of the coal industry. 488

(H) Notwithstanding sections 4906.06 to 4906.14 of the 489
Revised Code, the board shall adopt rules to provide for the 490
accelerated review of an application for a construction 491
certificate for a major utility facility if at the time the 492
application is filed the construction will be located, in whole, 493
on property owned by the applicant; in whole or in part, on an 494
easement or right-of-way; or on any combination of such 495
property, easement, or right-of-way. 496

No accelerated application shall be granted under the 497
rules adopted under division (H) of this section for 498
construction of a major utility facility, in whole or in part, 499
on an easement or right-of-way, if additional consent for 500
construction on the easement or right-of-way is required by any 501
person or entity other than the power siting board. 502

The board shall render a decision on an application 503
submitted under this division not later than forty-five days 504
after receipt of the application. If the board does not render a 505
decision within forty-five days, the application shall be 506
considered approved by operation of law, and the board shall 507

issue a certificate to the applicant. 508

Sec. 4906.07. (A) Upon the receipt of an application 509
complying with section 4906.06 of the Revised Code, the power 510
siting board shall promptly fix a date for a public hearing 511
thereon, not less than ~~sixty-fourty-five~~ nor more than ~~ninety-~~ 512
sixty days after such receipt, and shall conclude the proceeding 513
as expeditiously as practicable. 514

(B) On an application for an amendment of a certificate, 515
the board shall hold a hearing in the same manner as a hearing 516
is held on an application for a certificate if the proposed 517
change in the facility would result in any material increase in 518
any environmental impact of the facility or a substantial change 519
in the location of all or a portion of such facility other than 520
as provided in the alternates set forth in the application. 521

(C) The chairperson of the power siting board shall cause 522
each application filed with the board to be investigated and 523
shall, not less than fifteen days prior to the date any 524
application is set for hearing submit a written report to the 525
board and to the applicant. A copy of such report shall be made 526
available to any person upon request. Such report shall set 527
forth the nature of the investigation, and shall contain 528
recommended findings with regard to division (A) of section 529
4906.10 of the Revised Code and shall become part of the record 530
and served upon all parties to the proceeding. 531

Sec. 4906.10. (A) The power siting board shall render a 532
decision upon the record either granting or denying the 533
application as filed, or granting it upon such terms, 534
conditions, or modifications of the construction, operation, or 535
maintenance of the major utility facility as the board considers 536
appropriate. The certificate shall be subject to sections 537

4906.101, 4906.102, and 4906.103 of the Revised Code and 538
conditioned upon the facility being in compliance with standards 539
and rules adopted under section 4561.32 and Chapters 3704., 540
3734., and 6111. of the Revised Code. An applicant may withdraw 541
an application if the board grants a certificate on terms, 542
conditions, or modifications other than those proposed by the 543
applicant in the application. 544

The board shall not grant a certificate for the 545
construction, operation, and maintenance of a major utility 546
facility, either as proposed or as modified by the board, unless 547
it finds and determines all of the following: 548

(1) The basis of the need for the facility if the facility 549
is an electric transmission line or gas pipeline; 550

(2) The nature of the probable environmental impact; 551

(3) That the facility represents the minimum adverse 552
environmental impact, considering the state of available 553
technology and the nature and economics of the various 554
alternatives, and other pertinent considerations; 555

(4) In the case of an electric transmission line or 556
generating facility, that the facility is consistent with 557
regional plans for expansion of the electric power grid of the 558
electric systems serving this state and interconnected utility 559
systems and that the facility will serve the interests of 560
electric system economy and reliability; 561

(5) That the facility will comply with Chapters 3704., 562
3734., and 6111. of the Revised Code and all rules and standards 563
adopted under those chapters and under section 4561.32 of the 564
Revised Code. In determining whether the facility will comply 565
with all rules and standards adopted under section 4561.32 of 566

the Revised Code, the board shall consult with the office of 567
aviation of the division of multi-modal planning and programs of 568
the department of transportation under section 4561.341 of the 569
Revised Code. 570

(6) That the facility will serve the public interest, 571
convenience, and necessity; 572

(7) In addition to the provisions contained in divisions 573
(A) (1) to (6) of this section and rules adopted under those 574
divisions, what its impact will be on the viability as 575
agricultural land of any land in an existing agricultural 576
district established under Chapter 929. of the Revised Code that 577
is located within the site and alternative site of the proposed 578
major utility facility. Rules adopted to evaluate impact under 579
division (A) (7) of this section shall not require the 580
compilation, creation, submission, or production of any 581
information, document, or other data pertaining to land not 582
located within the site and alternative site. 583

(8) That the facility incorporates maximum feasible water 584
conservation practices as determined by the board, considering 585
available technology and the nature and economics of the various 586
alternatives. 587

(B) If the board determines that the location of all or a 588
part of the proposed facility should be modified, it may 589
condition its certificate upon that modification, provided that 590
the municipal corporations and counties, and persons residing 591
therein, affected by the modification shall have been given 592
reasonable notice thereof. 593

(C) A copy of the decision and any opinion issued 594
therewith shall be served upon each party. 595

(D) The board shall render a decision under this section 596
not later than one hundred twenty days after the date the 597
application is filed. If the board does not render a decision 598
within the time period required by this division, the 599
application shall be deemed approved by operation of law, and 600
the board shall issue a certificate to the applicant. 601

Sec. 4909.04. (A) The public utilities commission, for the 602
purpose of ascertaining the reasonableness and justice of rates 603
and charges for the service rendered by public utilities or 604
railroads, or for any other purpose authorized by law, may 605
investigate and ascertain the value of the property of any 606
public utility or railroad in this state used or useful for the 607
service and convenience of the public, using the same criteria 608
that are set forth in ~~section~~sections 4909.042 and 4909.05 of 609
the Revised Code. At the request of the legislative authority of 610
any municipal corporation, the commission, after hearing and 611
determining that such a valuation is necessary, may also 612
investigate and ascertain the value of the property of any 613
public utility used and useful for the service and convenience 614
of the public where the whole or major portion of such public 615
utility is situated in such municipal corporation. 616

(B) To assist the commission in preparing such a 617
valuation, every public utility or railroad shall: 618

(1) Furnish to the commission, or to its agents, as the 619
commission requires, maps, profiles, schedules of rates and 620
tariffs, contracts, reports of engineers, and other documents, 621
records, and papers, or copies of any of them, in aid of any 622
investigation and ascertainment of the value of its property; 623

(2) Grant to the commission or its agents free access to 624
all of its premises and property and its accounts, records, and 625

memoranda whenever and wherever requested by any such authorized agent; 626
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(3) Cooperate with and aid the commission and its agents 628
in the work of the valuation of its property in such further 629
particulars and to such extent as the commission requires and 630
directs. 631

(C) The commission may make all rules which seem necessary 632
to ascertain the value of the property and plant of each public 633
utility or railroad. 634

Sec. 4909.041. As used in sections 4909.041, 4909.042, and 635
4909.05 of the Revised Code: 636

(A) A "lease purchase agreement" is an agreement pursuant 637
to which a public utility leasing property is required to make 638
rental payments for the term of the agreement and either the 639
utility is granted the right to purchase the property upon the 640
completion of the term of the agreement and upon the payment of 641
an additional fixed sum of money or title to the property vests 642
in the utility upon the making of the final rental payment. 643

(B) A "leaseback" is the sale or transfer of property by a 644
public utility to another person contemporaneously followed by 645
the leasing of the property to the public utility on a long-term 646
basis. 647

Sec. 4909.042. (A) With respect to an electric light 648
company that chooses to file a fully forecasted test period 649
under section 4909.18 of the Revised Code, the public utilities 650
commission shall prescribe the form and details of the valuation 651
report of the property of the utility. Such report shall include 652
all the kinds and classes of property, with the value of each, 653
owned, held, or projected to be owned or held during the test 654

period, by the utility for the service and convenience of the 655
public. 656

(B) Such report shall contain the following facts in 657
detail: 658

(1) The original cost of each parcel of land owned in fee 659
and projected to be owned in fee and in use during the test 660
period, determined by the commission; and also a statement of 661
the conditions of acquisition, whether by direct purchase, by 662
donation, by exercise of the power of eminent domain, or 663
otherwise; 664

(2) The actual acquisition cost, not including periodic 665
rental fees, of rights-of-way, trailways, or other land rights 666
projected to be held during the test period, by virtue of 667
easements, leases, or other forms of grants of rights as to 668
usage; 669

(3) The original cost of all other kinds and classes of 670
property projected to be used and useful during the test period, 671
in the rendition of service to the public. Such original costs 672
of property, other than land owned in fee, shall be the cost, as 673
determined to be reasonable by the commission, to the person 674
that first dedicated or dedicates the property to the public use 675
and shall be set forth in property accounts and subaccounts as 676
prescribed by the commission; 677

(4) The cost of property constituting all or part of a 678
project projected to be leased to or used by the utility during 679
the test period, under Chapter 165., 3706., 6121., or 6123. of 680
the Revised Code and not included under division (B) (3) of this 681
section exclusive of any interest directly or indirectly paid by 682
the utility with respect thereto whether or not capitalized; 683

(5) In the discretion of the commission, the cost to a utility, in an amount determined to be reasonable by the commission, of property constituting all or part of a project projected to be leased to the utility during the test period, under a lease purchase agreement or a leaseback and not included under division (B) (3) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized; 684
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(6) The proper and adequate reserve for depreciation, as determined to be reasonable by the commission; 692
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(7) Any sums of money or property that the utility is projected to receive during the test period, as total or partial defrayal of the cost of its property; 694
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(8) The valuation of the property of the utility, which shall be the sum of the amounts contained in the report pursuant to divisions (B) (1) to (5) of this section, less the sum of the amounts contained in the report pursuant to divisions (B) (6) and (7) of this section. 697
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(C) The report shall show separately the property projected to be used and useful to or held by the utility during the test period, and such other items as the commission considers proper. The commission may require an additional report showing the extent to which the property is projected to be used and useful during the test period. Such reports shall be filed in the office of the commission for the information of the governor and the general assembly. 702
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Sec. 4909.05. As used in this section: 710

~~(A) A "lease purchase agreement" is an agreement pursuant to which a public utility leasing property is required to make~~ 711
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~~rental payments for the term of the agreement and either the~~ 713
~~utility is granted the right to purchase the property upon the~~ 714
~~completion of the term of the agreement and upon the payment of~~ 715
~~an additional fixed sum of money or title to the property vests~~ 716
~~in the utility upon the making of the final rental payment.~~ 717

~~(B) A "leaseback" is the sale or transfer of property by a~~ 718
~~public utility to another person contemporaneously followed by~~ 719
~~the leasing of the property to the public utility on a long-term~~ 720
~~basis.~~ 721

~~(C) The With respect to every public utility, other than~~ 722
~~an electric light company that chooses to file a fully~~ 723
~~forecasted test period under section 4909.18 of the Revised~~ 724
~~Code, the public utilities commission shall prescribe the form~~ 725
~~and details of the valuation report of the property of each~~ 726
~~public utility or railroad in the state. Such report shall~~ 727
~~include all the kinds and classes of property, with the value of~~ 728
~~each, owned, held, or, with respect to a natural gas, water-~~ 729
~~works, or sewage disposal system company, projected to be owned~~ 730
~~or held as of the date certain, by each public utility or~~ 731
~~railroad used and useful, or, with respect to a natural gas,~~ 732
~~water-works, or sewage disposal system company, projected to be~~ 733
~~used and useful as of the date certain, for the service and~~ 734
~~convenience of the public. ~~Such~~~~ 735

(B) Such report shall contain the following facts in 736
detail: 737

(1) The original cost of each parcel of land owned in fee 738
and in use, or, with respect to a natural gas, water-works, or 739
sewage disposal system company, projected to be owned in fee and 740
in use as of the date certain, determined by the commission; and 741
also a statement of the conditions of acquisition, whether by 742

direct purchase, by donation, by exercise of the power of 743
eminent domain, or otherwise; 744

(2) The actual acquisition cost, not including periodic 745
rental fees, of rights-of-way, trailways, or other land rights 746
held, or, with respect to a natural gas, water-works, or sewage 747
disposal system company, projected to be held as of the date 748
certain, by virtue of easements, leases, or other forms of 749
grants of rights as to usage; 750

(3) The original cost of all other kinds and classes of 751
property used and useful, or, with respect to a natural gas, 752
water-works, or sewage disposal system company, projected to be 753
used and useful as of the date certain, in the rendition of 754
service to the public. Subject to section 4909.052 of the 755
Revised Code, such original costs of property, other than land 756
owned in fee, shall be the cost, as determined to be reasonable 757
by the commission, to the person that first dedicated or 758
dedicates the property to the public use and shall be set forth 759
in property accounts and subaccounts as prescribed by the 760
commission. To the extent that the costs of property comprising 761
a coal research and development facility, as defined in section 762
1555.01 of the Revised Code, or a coal development project, as 763
defined in section 1551.30 of the Revised Code, have been 764
allowed for recovery as Ohio coal research and development costs 765
under section 4905.304 of the Revised Code, none of those costs 766
shall be included as a cost of property under this division. 767

(4) The cost of property constituting all or part of a 768
project leased to or used by the utility, or, with respect to a 769
natural gas, water-works, or sewage disposal system company, 770
projected to be leased to or used by the utility as of the date 771
certain, under Chapter 165., 3706., 6121., or 6123. of the 772

Revised Code and not included under division ~~(C)(3)~~ (B)(3) of 773
this section exclusive of any interest directly or indirectly 774
paid by the utility with respect thereto whether or not 775
capitalized; 776

(5) In the discretion of the commission, the cost to a 777
utility, in an amount determined to be reasonable by the 778
commission, of property constituting all or part of a project 779
leased to the utility, or, with respect to a natural gas, water- 780
works, or sewage disposal system company, projected to be leased 781
to the utility as of the date certain, under a lease purchase 782
agreement or a leaseback and not included under division ~~(C)(3)~~ 783
(B)(3) of this section exclusive of any interest directly or 784
indirectly paid by the utility with respect thereto whether or 785
not capitalized; 786

(6) The cost of the replacement of water service lines 787
incurred by a water-works company under section 4909.173 of the 788
Revised Code and the water service line replacement 789
reimbursement amounts provided to customers under section 790
4909.174 of the Revised Code; 791

(7) The proper and adequate reserve for depreciation, as 792
determined to be reasonable by the commission; 793

(8) Any sums of money or property that the company may 794
have received, or, with respect to a natural gas, water-works, 795
or sewage disposal system company, is projected to receive as of 796
the date certain, as total or partial defrayal of the cost of 797
its property; 798

(9) The valuation of the property of the company, which 799
shall be the sum of the amounts contained in the report pursuant 800
to divisions ~~(C)(1)~~ (B)(1) to (6) of this section, less the sum 801

of the amounts contained in the report pursuant to divisions ~~(C)~~ 802
~~(7)~~ (B) (7) and (8) of this section. 803

(C) The report shall show separately the property used and 804
useful to such public utility or railroad in the furnishing of 805
the service to the public, the property held by such public 806
utility or railroad for other purposes, and the property 807
projected to be used and useful to or held by a natural gas, 808
water-works, or sewage disposal system company as of the date 809
certain, and such other items as the commission considers 810
proper. The commission may require an additional report showing 811
the extent to which the property is used and useful, or, with 812
respect to a natural gas, water-works, or sewage disposal system 813
company, projected to be used and useful as of the date certain. 814
Such reports shall be filed in the office of the commission for 815
the information of the governor and the general assembly. 816

Sec. 4909.052. Subject to a finding that such costs are 817
just and reasonable, the public utilities commission in 818
evaluating a petition submitted under section 4905.481 of the 819
Revised Code shall accept the original cost, reported under 820
division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code, 821
of the acquisition of a municipal water-works or sewage disposal 822
system company that is acquired by a large water-works or sewage 823
disposal system company, provided that the original cost is 824
determined according to all of the following requirements: 825

(A) The acquiring company has three appraisals performed 826
on the property of the company being acquired. 827

(B) The three appraisals are performed by three 828
independent utility-valuation experts mutually selected by the 829
acquiring company and the company being acquired from the list 830
maintained under section 4909.054 of the Revised Code. 831

(C) The average of the three appraisals is used as the fair market value of the company being acquired. 832
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(D) Each utility-valuation expert does all of the following: 834
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(1) Determines the fair market value of the company to be acquired by establishing the amount for which the company would be sold in a voluntary transaction between a willing buyer and a willing seller under no obligation to buy or sell; 836
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(2) Determines the fair market value in compliance with the uniform standards of professional appraisal practice; 840
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(3) Employs the cost, market, and income approach to independently quantify the future benefits of the company to be acquired; 842
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(4) Incorporates the assessment described in division (D) (5) of this section into the appraisal under the cost, market, and income approach; 845
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(5) Engages one engineer who is licensed to prepare an assessment of the tangible assets of the company to be acquired. The original source of funding for any part of the tangible assets shall not be relevant to the determination of the value of those assets. 848
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(E) The lesser of the purchase price or the fair market value, described in division (C) of this section, is reported as the original cost under division ~~(C) (3)~~ (B) (3) of section 4909.05 of the Revised Code of the company to be acquired. 853
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Sec. 4909.06. The investigation and report required by ~~section~~ section 4909.042 or 4909.05 of the Revised Code shall show, when the public utilities commission deems it necessary, 857
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the amounts, dates, and rates of interest of all bonds 860
outstanding against each public utility or railroad, the 861
property upon which such bonds are a lien, the amounts paid for 862
them, and, the original capital stock and the moneys received by 863
any such public utility or railroad by reason of any issue of 864
stock, bonds, or other securities. Such report shall also show 865
the net and gross receipts of such public utility or railroad 866
and the method by which moneys were expended or paid out and the 867
purpose of such payments. The commission may prescribe the 868
procedure to be followed in making the investigation and 869
valuation, the form in which the results of the ascertainment of 870
the value of each public utility or railroad shall be submitted, 871
and the classifications of the elements that constitute the 872
ascertained value. Such investigation shall also show the value 873
of the property of every public utility or railroad as a whole, 874
and if such property is in more than one county, the value of 875
its property in each of such counties. 876

"Valuation" and "value," as used in this section, may 877
include, ~~with~~ : 878

(A) With respect to a public utility that is a natural 879
gas, water-works, or sewage disposal system company, projected 880
valuation and value as of the date certain, if applicable 881
because of a future date certain under section 4909.15 of the 882
Revised Code; 883

(B) With respect to an electric light company that chooses 884
to file a fully forecasted test period under section 4909.18 of 885
the Revised Code, the valuation and value during the fully 886
forecasted test period. 887

Sec. 4909.07. The public utilities commission, during the 888
making of the valuation provided for in sections 4909.04 to 889

4909.13 of the Revised Code, and after its completion, shall in 890
like manner keep itself informed through its engineers, experts, 891
and other assistants of all extensions, improvements, or other 892
changes in the condition and value of the property of all public 893
utilities or railroads and shall ascertain the value of such 894
extensions, improvements, and changes. The commission shall, as 895
is required for the proper regulation of such public utilities 896
or railroads, revise and correct its valuations of property, 897
showing such revisions and corrections as a whole and as to each 898
county. Such revisions and corrections shall be filed in the 899
same manner as original reports. 900

"Valuation" and "value," as used in this section, may 901
include, ~~with~~: 902

(A) With respect to a public utility that is a natural 903
gas, water-works, or sewage disposal system company, projected 904
valuation and value as of the date certain, if applicable 905
because of a future date certain under section 4909.15 of the 906
Revised Code; 907

(B) With respect to an electric light company that chooses 908
to file a fully forecasted test period under section 4909.18 of 909
the Revised Code, the valuation and value during the fully 910
forecasted test period. 911

Sec. 4909.08. When the public utilities commission has 912
completed the valuation of the property of any public utility or 913
railroad and before such valuation becomes final, it shall give 914
notice by registered letter to such public utility or railroad, 915
and if a substantial portion of said public utility or railroad 916
is situated in a municipal corporation, then to the mayor of 917
such municipal corporation, stating the valuations placed upon 918
the several kinds and classes of property of such public utility 919

or railroad and upon the property as a whole and give such 920
further notice by publication or otherwise as it shall deem 921
necessary to apprise the public of such valuation. If, within 922
thirty days after such notification, no protest has been filed 923
with the commission, such valuation becomes final. If notice of 924
protest has been filed by any public utility or railroad, the 925
commission shall fix a time for hearing such protest and shall 926
consider at such hearing any matter material thereto presented 927
by such public utility, railroad, or municipal corporation, in 928
support of its protest or by any representative of the public 929
against such protest. If, after the hearing of any protest of 930
any valuation so fixed, the commission is of the opinion that 931
its inventory is incomplete or inaccurate or that its valuation 932
is incorrect, it shall make such changes as are necessary and 933
shall issue an order making such corrected valuations final. A 934
final valuation by the commission and all classifications made 935
for the ascertainment of such valuations shall be public and are 936
prima-facie evidence relative to the value of the property. 937

"Valuation" and "value," as used in this section, may 938
include, ~~with~~ : 939

(A) With respect to a public utility that is a natural 940
gas, water-works, or sewage disposal system company, projected 941
valuation and value as of the date certain, if applicable 942
because of a future date certain under section 4909.15 of the 943
Revised Code; 944

(B) With respect to an electric light company that chooses 945
to file a fully forecasted test period under section 4909.18 of 946
the Revised Code, the valuation and value during the fully 947
forecasted test period. 948

Sec. 4909.15. (A) The public utilities commission, when 949

fixing and determining just and reasonable rates, cost recovery mechanisms, fares, tolls, rentals, and charges, shall determine: 950
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~~(1) The~~ (1) (a) With respect to a public utility that is a natural gas, water-works, or sewage disposal system company, or that is an electric light company that chooses not to file a fully forecasted test period under section 4909.18 of the Revised Code, the valuation as of the date certain of the property of the public utility that is used and useful or, with respect to a natural gas, water-works, or sewage disposal system company, is projected to be used and useful as of the date certain, in rendering the public utility service for which rates are to be fixed and determined. 952
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(b) With respect to an electric light company that chooses to file a fully forecasted test period under section 4909.18 of the Revised Code, the valuation of the property of the utility that is projected to be used and useful during the fully forecasted test period in rendering the public utility service for which rates are to be fixed and determined. 962
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(c) The valuation so determined under division (A) (1) of this section for any public utility shall be the total value as set forth in division ~~(C) (9)~~ (B) (8) of section 4909.042 of the Revised Code and division (B) (9) of section 4909.05 of the Revised Code, and a reasonable allowance for materials and supplies and a reasonable allowance for cash working capital as determined by the commission. 968
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~~The commission, in its discretion, may include in the valuation a reasonable allowance for construction work in progress but, in no event, may such an allowance be made by the commission until it has determined that the particular construction project is at least seventy-five per cent complete.~~ 975
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~~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.~~ 980
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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.~~ 989
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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) (9) of section 4909.05 of the Revised Code.~~ 993
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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~~ 1007
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~~exceeding forty-eight consecutive months commencing on the date
the initial rates reflecting such allowance become effective,
except as otherwise provided in this division.~~ 1010
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~~The applicable maximum period in rates for an allowance
for construction work in progress as it relates to a particular
construction project shall be tolled if, and to the extent, a
delay in the in-service date of the project is caused by the
action or inaction of any federal, state, county, or municipal
agency having jurisdiction, where such action or inaction
relates to a change in a rule, standard, or approval of such
agency, and where such action or inaction is not the result of
the failure of the utility to reasonably endeavor to comply with
any rule, standard, or approval prior to such change.~~ 1013
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~~In the event that such period expires before the project
goes into service, the commission shall exclude, from the date
of expiration, the allowance for the project as construction
work in progress from rates, except that the commission may
extend the expiration date up to twelve months for good cause
shown.~~ 1023
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~~In the event that a utility has permanently canceled,
abandoned, or terminated construction of a project for which it
was previously permitted a construction work in progress
allowance, the commission immediately shall exclude the
allowance for the project from the valuation.~~ 1029
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~~In the event that a construction work in progress project
previously included in the valuation is removed from the
valuation pursuant to this division, any revenues collected by
the utility from its customers after April 10, 1985, that
resulted from such prior inclusion shall be offset against
future revenues over the same period of time as the project was~~ 1034
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~~included in the valuation as construction work in progress. The~~ 1040
~~total revenue effect of such offset shall not exceed the total~~ 1041
~~revenues previously collected.~~ 1042

~~In no event shall the total revenue effect of any offset~~ 1043
~~or offsets provided under division (A)(1) of this section exceed~~ 1044
~~the total revenue effect of any construction work in progress~~ 1045
~~allowance.~~ 1046

(2) A fair and reasonable rate of return to the utility on 1047
the valuation as determined in division (A)(1) of this section; 1048

(3) The dollar annual return to which the utility is 1049
entitled by applying the fair and reasonable rate of return as 1050
determined under division (A)(2) of this section to the 1051
valuation of the utility determined under division (A)(1) of 1052
this section; 1053

(4) The cost to the utility of rendering the public 1054
utility service for the test period used for the determination 1055
under division (C)(1) of this section, less the total of any 1056
interest on cash or credit refunds paid, pursuant to section 1057
4909.42 of the Revised Code, by the utility during the test 1058
period. 1059

~~(a)~~ Federal, state, and local taxes imposed on or measured 1060
by net income may, in the discretion of the commission, be 1061
computed by the normalization method of accounting, provided the 1062
utility maintains accounting reserves that reflect differences 1063
between taxes actually payable and taxes on a normalized basis, 1064
provided that no determination as to the treatment in the rate- 1065
making process of such taxes shall be made that will result in 1066
loss of any tax depreciation or other tax benefit to which the 1067
utility would otherwise be entitled, and further provided that 1068

such tax benefit as redounds to the utility as a result of such 1069
a computation may not be retained by the company, used to fund 1070
any dividend or distribution, or utilized for any purpose other 1071
than the defrayal of the operating expenses of the utility and 1072
the defrayal of the expenses of the utility in connection with 1073
construction work. 1074

~~(b) The amount of any tax credits granted to an electric 1075
light company under section 5727.391 of the Revised Code for 1076
Ohio coal burned prior to January 1, 2000, shall not be retained 1077
by the company, used to fund any dividend or distribution, or 1078
utilized for any purposes other than the defrayal of the 1079
allowable operating expenses of the company and the defrayal of 1080
the allowable expenses of the company in connection with the 1081
installation, acquisition, construction, or use of a compliance 1082
facility. The amount of the tax credits granted to an electric 1083
light company under that section for Ohio coal burned prior to 1084
January 1, 2000, shall be returned to its customers within three 1085
years after initially claiming the credit through an offset to 1086
the company's rates or fuel component, as determined by the 1087
commission, as set forth in schedules filed by the company under 1088
section 4905.30 of the Revised Code. As used in division (A)(4) 1089
(b) of this section, "compliance facility" has the same meaning 1090
as in section 5727.391 of the Revised Code. 1091~~

(B) The commission shall compute the gross annual revenues 1092
to which the utility is entitled by adding the dollar amount of 1093
return under division (A) (3) of this section to the cost, for 1094
the test period used for the determination under division (C) (1) 1095
of this section, of rendering the public utility service under 1096
division (A) (4) of this section. 1097

(C) (1) Except as provided in division (D) of this section, 1098

the revenues and expenses of the utility shall be determined 1099
during a test period. ~~The utility may~~ as follows: 1100

(a) Electric light companies may propose a fully 1101
forecasted test period utilizing reasonably forecasted rate 1102
base, revenues, and expenses for the first twelve months that 1103
new rates will be in effect. Initially, rates shall be set using 1104
the thirteen-month average rate base ending in the last month of 1105
the test period, based on the end-of-month balance for the 1106
twelve consecutive calendar months of the test period plus the 1107
end-of-month balance for the month immediately prior to the 1108
beginning of the forecasted test period. Final rates for this 1109
thirteen-month average test period shall use the lower of 1110
forecasted plant investment or actual plant investment, actual 1111
revenues, and actual expenses. 1112

Forecasted plant investment, forecasted revenues, and 1113
forecasted expenses versus actual investment, actual revenues, 1114
and actual expenses shall be trued up via a cost recovery 1115
mechanism approved by the commission. As part of the true-up 1116
process, the commission shall exclude any cost components that 1117
have not been found by the commission to be used and useful in 1118
rendering public utility service. 1119

The fully forecasted test period shall commence not later 1120
than the application's filing date. 1121

(b) All utilities, except for electric light companies 1122
that choose to file under division (C) (1) (a) of this section, 1123
shall propose a test period ~~for this determination~~ that is any 1124
twelve-month period beginning not more than six months prior to 1125
the date the application is filed and ending not more than nine 1126
months subsequent to that date. ~~The test period for determining~~ 1127
revenues and expenses of the utility shall be the test period 1128

~~proposed by the utility, unless otherwise ordered by the~~ 1129
~~commission.~~ 1130

(2) ~~The~~ For utilities filing under division (C) (1) (b) of 1131
this section, the date certain shall be not later than the date 1132
of filing, except that it shall be, for a natural gas, water- 1133
works, or sewage disposal system company, not later than the end 1134
of the test period. 1135

(D) ~~A natural gas, water works, or sewage disposal system~~ 1136
~~company~~ Utilities filing under division (C) (1) (b) of this 1137
section may propose adjustments to the revenues and expenses ~~to~~ 1138
~~be determined under division (C) (1) of this section~~ for any 1139
changes that are, during the test period or the twelve-month 1140
period immediately following the test period, reasonably 1141
expected to occur. ~~The natural gas, water works, or sewage~~ 1142
~~disposal system company~~ utility shall identify and quantify, 1143
individually, any proposed adjustments. The commission shall 1144
incorporate the proposed adjustments into the determination if 1145
the adjustments are just and reasonable. 1146

(E) When the commission is of the opinion, after hearing 1147
and after making the determinations under divisions (A) and (B) 1148
of this section, that any rate, cost recovery mechanism, fare, 1149
charge, toll, rental, schedule, classification, or service, or 1150
any joint rate, cost recovery mechanism, fare, charge, toll, 1151
rental, schedule, classification, or service rendered, charged, 1152
demanded, exacted, or proposed to be rendered, charged, 1153
demanded, or exacted, is, or will be, unjust, unreasonable, 1154
unjustly discriminatory, unjustly preferential, or in violation 1155
of law, that the service is, or will be, inadequate, or that the 1156
maximum rates, cost recovery mechanisms, charges, tolls, or 1157
rentals chargeable by any such public utility are insufficient 1158

to yield reasonable compensation for the service rendered, and 1159
are unjust and unreasonable, the commission shall: 1160

(1) With due regard among other things to the value of all 1161
property of the public utility ~~actually used and useful for the~~ 1162
~~convenience of the public~~ as determined under division (A) (1) of 1163
this section, excluding from such value the value of any 1164
franchise or right to own, operate, or enjoy the same in excess 1165
of the amount, exclusive of any tax or annual charge, actually 1166
paid to any political subdivision of the state or county, as the 1167
consideration for the grant of such franchise or right, and 1168
excluding any value added to such property by reason of a 1169
monopoly or merger, with due regard in determining the dollar 1170
annual return under division (A) (3) of this section to the 1171
necessity of making reservation out of the income for surplus, 1172
depreciation, and contingencies, and; 1173

(2) With due regard to all such other matters as are 1174
proper, according to the facts in each case, 1175

(a) Including a fair and reasonable rate of return 1176
determined by the commission with reference to a cost of debt 1177
equal to the actual embedded cost of debt of such public 1178
utility, 1179

(b) But not including the portion of any periodic rental 1180
or use payments representing that cost of property that is 1181
included in the valuation report under divisions ~~(C) (4)~~ (B) (4) 1182
and (5) of section 4909.042 of the Revised Code and divisions 1183
(B) (4) and (5) of section 4909.05 of the Revised Code, fix and 1184
determine the just and reasonable rate, cost recovery mechanism, 1185
fare, charge, toll, rental, or service to be rendered, charged, 1186
demanded, exacted, or collected for the performance or rendition 1187
of the service that will provide the public utility the 1188

allowable gross annual revenues under division (B) of this 1189
section, and order such just and reasonable rate, cost recovery 1190
mechanism, fare, charge, toll, rental, or service to be 1191
substituted for the existing one. After such determination and 1192
order no change in the rate, cost recovery mechanism, fare, 1193
toll, charge, rental, schedule, classification, or service shall 1194
be made, rendered, charged, demanded, exacted, or changed by 1195
such public utility without the order of the commission, and any 1196
other rate, cost recovery mechanism, fare, toll, charge, rental, 1197
classification, or service is prohibited. 1198

(F) Upon application of any person or any public utility, 1199
and after notice to the parties in interest and opportunity to 1200
be heard as provided in Chapters 4901., 4903., 4905., 4907., 1201
4909., 4921., and 4923. of the Revised Code for other hearings, 1202
has been given, the commission may rescind, alter, or amend an 1203
order fixing any rate, cost recovery mechanism, fare, toll, 1204
charge, rental, classification, or service, or any other order 1205
made by the commission. Certified copies of such orders shall be 1206
served and take effect as provided for original orders. 1207

Sec. 4909.156. In fixing the just, reasonable, and 1208
compensatory rates, cost recovery mechanisms, joint rates, 1209
tolls, classifications, charges, or rentals to be observed and 1210
charged for service by any public utility, the public utilities 1211
commission shall, in action upon an application filed pursuant 1212
to section 4909.18 of the Revised Code, require a public utility 1213
to file a report showing the proportionate amounts of the 1214
valuation of the property of the utility, as determined under 1215
section 4909.042 or 4909.05 of the Revised Code, and the 1216
proportionate amounts of the revenues and expenses of the 1217
utility that are proposed to be considered as attributable to 1218
the service area involved in the application. 1219

"Valuation," as used in this section, may include, ~~with~~: 1220

(A) With respect to a public utility that is a natural 1221
gas, water-works, or sewage disposal system company, projected 1222
valuation as of the date certain, if applicable because of a 1223
future date certain under section 4909.15 of the Revised Code; 1224

(B) With respect to an electric light company that chooses 1225
to file a fully forecasted test period under section 4909.18 of 1226
the Revised Code, the valuation and value during the fully 1227
forecasted test period. 1228

Sec. 4909.17. No rate, cost recovery mechanism, joint 1229
rate, toll, classification, charge, or rental, no change in any 1230
rate, cost recovery mechanism, joint rate, toll, classification, 1231
charge, or rental, and no regulation or practice affecting any 1232
rate, cost recovery mechanism, joint rate, toll, classification, 1233
charge, or rental of a public utility shall become effective 1234
until the public utilities commission, by order, determines it 1235
to be just and reasonable, except as provided in this section 1236
and sections 4909.18, 4909.19, and 4909.191 of the Revised Code. 1237
Such sections do not apply to any rate, cost recovery mechanism, 1238
joint rate, toll, classification, charge, or rental, or any 1239
regulation or practice affecting the same, of railroads, street 1240
and electric railways, for-hire motor carriers, and pipe line 1241
companies. 1242

Sec. 4909.173. (A) As used in this section and section 1243
4909.174 of the Revised Code: 1244

(1) "Customer-owned water service line" means the water 1245
service line connected to the water-works company's water 1246
service line at the curb of a customer's property. 1247

(2) "Water-works company" means an entity defined under 1248

division (G) of section 4905.03 of the Revised Code that is a	1249
public utility under section 4905.02 of the Revised Code.	1250
(B) A water-works company may do any of the following:	1251
(1) Replace lead customer-owned water service lines	1252
concurrently with a scheduled utility main replacement project,	1253
an emergency replacement, or company-initiated lead water	1254
service line replacement program;	1255
(2) Replace lead customer-owned water service lines when	1256
mandated or ordered to replace such lines by law or a state or	1257
federal regulatory agency;	1258
(3) Replace customer-owned water service lines of other	1259
composition when mandated or ordered to replace such lines by	1260
law or a state or federal regulatory agency.	1261
(C) If a water-works company replaces customer-owned water	1262
service lines under this section, then the company shall include	1263
the cost of the replacement of the water service lines,	1264
including the cost of replacement of both company side and	1265
customer-owned water service lines and the cost to evaluate	1266
customer-owned water service lines of unknown composition, in	1267
the valuation report of the property of the company as required	1268
under division (C)-(6) <u>(B) (6)</u> of section 4909.05 of the Revised	1269
Code for inclusion in a rate case under this chapter.	1270
(D) The water service customer who is responsible for the	1271
customer-owned water service line that was replaced under this	1272
section shall hold legal title to the replaced water service	1273
line.	1274
Sec. 4909.174. (A) A water-works company shall reimburse a	1275
customer who replaces the customer's customer-owned water	1276
service line, if both of the following occur:	1277

(1) The company confirms that the customer-owned water service line was composed of lead or other composition that was mandated or ordered to be replaced by law or a state or federal regulatory agency;

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

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

Sec. 4909.18. Any public utility desiring to establish any rate, cost recovery mechanism, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, cost recovery mechanism, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, shall file a written application with the public utilities commission. Except for actions under section 4909.16 of the Revised Code, no public utility may issue the notice of intent to file an application pursuant to division (B) of section 4909.43 of the Revised Code to increase any existing rate, cost recovery mechanism, joint rate, toll, classification, charge, or rental, until a final order under this section has been issued by the commission on any pending prior application to increase the same rate, cost recovery mechanism, joint rate, toll, classification, charge, or rental or until two hundred seventy-five days after filing such application, whichever is sooner. Such application shall be verified by the president or a vice-president and the secretary

or treasurer of the applicant. Such application shall contain a 1308
schedule of the existing rate, cost recovery mechanism, joint 1309
rate, toll, classification, charge, or rental, or regulation or 1310
practice affecting the same, a schedule of the modification 1311
amendment, change, increase, or reduction sought to be 1312
established, and a statement of the facts and grounds upon which 1313
such application is based. If such application proposes a new 1314
service or the use of new equipment, or proposes the 1315
establishment or amendment of a regulation, the application 1316
shall fully describe the new service or equipment, or the 1317
regulation proposed to be established or amended, and shall 1318
explain how the proposed service or equipment differs from 1319
services or equipment presently offered or in use, or how the 1320
regulation proposed to be established or amended differs from 1321
regulations presently in effect. The application shall provide 1322
such additional information as the commission may require in its 1323
discretion. If the commission determines that such application 1324
is not for an increase in any rate, cost recovery mechanism, 1325
joint rate, toll, classification, charge, or rental, the 1326
commission may permit the filing of the schedule proposed in the 1327
application and fix the time when such schedule shall take 1328
effect. If it appears to the commission that the proposals in 1329
the application may be unjust or unreasonable, the commission 1330
shall set the matter for hearing and shall give notice of such 1331
hearing by sending written notice of the date set for the 1332
hearing to the public utility and publishing notice of the 1333
hearing one time in a newspaper of general circulation in each 1334
county in the service area affected by the application. At such 1335
hearing, the burden of proof to show that the proposals in the 1336
application are just and reasonable shall be upon the public 1337
utility. After such hearing, the commission shall, where 1338
practicable, issue an appropriate order within six months from 1339

the date the application was filed. 1340

If the commission determines that said application is for 1341
an increase in any rate, cost recovery mechanism, joint rate, 1342
toll, classification, charge, or rental there shall also, unless 1343
otherwise ordered by the commission, be filed with the 1344
application in duplicate the following exhibits: 1345

(A) A report of its property used and useful, or, with 1346
respect to a natural gas, water-works, or sewage disposal system 1347
company, projected to be used and useful, as of the date 1348
certain, or during the test period, if the application is filed 1349
under division (C) (1) (a) of section 4909.15 of the Revised Code, 1350
in rendering the service referred to in such application, as 1351
provided in ~~section~~ sections 4909.042 and 4909.05 of the Revised 1352
Code; 1353

(B) A complete operating statement of its last fiscal 1354
year, showing in detail all its receipts, revenues, and incomes 1355
from all sources, all of its operating costs and other 1356
expenditures, and any analysis such public utility deems 1357
applicable to the matter referred to in said application; 1358

(C) A statement of the income and expense anticipated 1359
under the application filed; 1360

(D) A statement of financial condition summarizing assets, 1361
liabilities, and net worth; 1362

(E) Such other information as the commission may require 1363
in its discretion. 1364

Sec. 4909.181. (A) As used in this section, "electric 1365
distribution utility" has the same meaning as in section 4928.01 1366
of the Revised Code. 1367

(B) Not later than December 31, 2029, and at least every 1368
five years thereafter, each electric distribution utility shall 1369
file a rate case application regarding distribution service 1370
under section 4909.18 of the Revised Code. 1371

Sec. 4909.191. (A) If the public utilities commission, 1372
under division (D) of section 4909.15 of the Revised Code, 1373
incorporated proposed adjustments to revenues and expenses into 1374
the commission's determination under that section, the ~~natural-~~ 1375
~~gas, water-works, or sewage disposal system company~~ public 1376
utility shall, not later than ninety days after actual data for 1377
all of the incorporated adjustments becomes known, submit to the 1378
commission proposed rate or charge adjustments that provide for 1379
the recalculation of rates or charges, reflective of customer- 1380
class responsibility, corresponding to the differences, if any, 1381
between the incorporated adjustments to revenues and expenses 1382
and the actual revenues and expenses associated with the 1383
incorporated adjustments. 1384

(B) If the commission incorporated projected value or 1385
valuation of property into the commission's determination under 1386
division ~~(A)(1)~~ (A)(1)(a) of section 4909.15 of the Revised Code, 1387
the natural gas, water-works, or sewage disposal system company 1388
shall, not later than ninety days after data for the actual 1389
value or valuation as of the date certain becomes known, submit 1390
to the commission proposed rate or charge adjustments that 1391
provide for the recalculation of rates or charges, reflective of 1392
customer-class responsibility, corresponding to the differences, 1393
if any, between the projected value or valuation incorporated 1394
into the commission's determination and the actual value or 1395
valuation as of the date certain. 1396

(C) The commission shall review the proposed rate or 1397

charge adjustments submitted under divisions (A) and (B) of this 1398
section. The review shall not include a hearing unless the 1399
commission finds that the proposed rate or charge adjustments 1400
may be unreasonable, in which case the commission may, in its 1401
discretion, schedule the matter for a hearing. 1402

(D) The commission shall issue, not later than one hundred 1403
fifty days after the date that any proposed rate or charge 1404
adjustments are submitted under division (A) or (B) of this 1405
section, a final order on the proposed rate or charge 1406
adjustments. Any rate or charge adjustments authorized under 1407
this division shall be limited to amounts that are not greater 1408
than those consistent with the proposed adjustments to revenues 1409
and expenses that were incorporated into the commission's 1410
determination under division (D) of section 4909.15 of the 1411
Revised Code, and not greater than those consistent with the 1412
incorporated projected value or valuation. In no event shall 1413
rate or charge adjustments authorized under this division be 1414
upward. 1415

After the commission has issued such a final order, the 1416
~~natural gas, water works, or sewage disposal system~~ 1417
~~company~~ public utility, if applicable, shall submit to the 1418
commission proposed reconciliation adjustments that refund to 1419
customers the difference between the actual revenues collected 1420
by the ~~natural gas, water works, or sewage disposal system~~ 1421
~~company~~, utility under the rates and charges determined by the 1422
commission under section 4909.15 of the Revised Code, and the 1423
rates or charges recalculated under the adjustments authorized 1424
under this division. The reconciliation adjustments shall be 1425
effective for a twelve-month period. 1426

(E) The reconciliation adjustments ordered under division 1427

(D) of this section may be subject to a final reconciliation by 1428
the commission. Any such final reconciliation shall occur after 1429
the twelve-month period described in division (D) of this 1430
section. 1431

Sec. 4909.192. When considering an application to increase 1432
rates under section 4909.18 of the Revised Code, or an 1433
application for a mini rate case under section 4909.47 of the 1434
Revised Code, the public utilities commission may approve the 1435
following: 1436

(A) Programs for energy-intensive customers to implement 1437
economic development, job growth, job retention, or 1438
interruptible rates that enhance distribution and transmission 1439
grid reliability and promote economic development; 1440

(B) Programs for customers that align retail rate recovery 1441
with how transmission costs are incurred by or charged to the 1442
electric distribution utility, as defined in section 4928.01 of 1443
the Revised Code, or programs that allow customers to be billed 1444
directly for transmission service by a competitive retail 1445
electric service provider. 1446

~~Sec. 4909.42. If the proceeding on an application filed 1447
with the The public utilities commission under section 4909.18 1448
of the Revised Code shall issue an order to approve or deny an 1449
application filed under section 4909.18 of the Revised Code by 1450
any public utility requesting an increase on any rate, joint 1451
rate, toll, classification, charge, or rental or requesting a 1452
change in a regulation or practice affecting the same has not 1453
been concluded and an order entered pursuant to section 4909.19 1454
of the Revised Code at the expiration of not later than two 1455
hundred seventy-five days from the date of filing the 1456
application, an increase not to exceed the proposed increase 1457~~

~~shall go into effect upon the filing of a bond or a letter of~~ 1458
~~credit by the public utility. The bond or letter of credit shall~~ 1459
~~be filed with the commission and shall be payable to the state~~ 1460
~~for the use and benefit of the customers affected by the~~ 1461
~~proposed increase or change~~If the commission does not issue an 1462
order within the time period required by this section, the 1463
application shall be deemed approved by operation of law. 1464

~~An affidavit attached to the bond or letter of credit must~~ 1465
~~be signed by two of the officers of the utility, under oath, and~~ 1466
~~must contain a promise on behalf of the utility to refund any~~ 1467
~~amounts collected by the utility over the rate, joint rate,~~ 1468
~~toll, classification, charge, or rental, as determined in the~~ 1469
~~final order of the commission. All refunds shall include~~ 1470
~~interest at the rate stated in section 1343.03 of the Revised~~ 1471
~~Code. The refund shall be in the form of a temporary reduction~~ 1472
~~in rates following the final order of the commission, and shall~~ 1473
~~be accomplished in such manner as shall be prescribed by the~~ 1474
~~commission in its final order. The commission shall exercise~~ 1475
~~continuing and exclusive jurisdiction over such refunds.~~ 1476

~~If the public utilities commission has not entered a final~~ 1477
~~order within five hundred forty-five days from the date of the~~ 1478
~~filing of an application for an increase in rates under section~~ 1479
~~4909.18 of the Revised Code, a public utility shall have no~~ 1480
~~obligation to make a refund of amounts collected after the five~~ 1481
~~hundred forty-fifth day which exceed the amounts authorized by~~ 1482
~~the commission's final order.~~ 1483

~~Nothing in this section shall be construed to mitigate any~~ 1484
~~duty of the commission to issue a final order under section~~ 1485
~~4909.19 of the Revised Code.~~ 1486

Sec. 4909.47. (A) As used in this section, "electric" 1487

distribution utility" has the same meaning as in section 4928.01 1488
of the Revised Code. 1489

(B) An electric distribution utility may file an 1490
application with the public utilities commission for a mini rate 1491
case in accordance with this section if, since the utility's 1492
most recent application for an increase in rates regarding 1493
distribution service under section 4909.18 of the Revised Code 1494
was approved by the commission, the utility has not filed a mini 1495
rate case application and not more than twenty-four months have 1496
elapsed. 1497

(C) Except as provided in section 4909.192 of the Revised 1498
Code, a mini rate case proceeding shall be available solely to 1499
collect capital expenditures of the electric distribution 1500
utility for a single project where the expenditures exceed fifty 1501
million dollars if all of the following are satisfied: 1502

(1) The utility has completed the project. 1503

(2) The capital expenditures were not included in an 1504
approved application for an increase in rates submitted under 1505
section 4909.18 of the Revised Code. 1506

(3) The capital expenditures are any of the following: 1507

(a) Determined necessary by the commission for maintaining 1508
or improving safety, reliability, system efficiency, security, 1509
or resiliency purposes; 1510

(b) Related to external conditions or circumstances that 1511
were not reasonably foreseeable at the time the utility filed 1512
its most recent notice of intent to file an application for an 1513
increase in rates under section 4909.18 of the Revised Code, 1514
including the following: 1515

(i) Capital expenditures for the installation of 1516
replacement plant that, as determined by the commission, are 1517
necessitated by weather or other factors outside of the 1518
utility's control that cause damage to existing infrastructure; 1519

(ii) Unreimbursed capital expenditures made by the utility 1520
for facility relocation required by a governmental entity due to 1521
a street or highway project; 1522

(iii) Capital expenditures made by the utility to comply 1523
with any consent decree, final order, or final rule of any 1524
local, state, or federal agency or legislative body. 1525

(D) The public utilities commission shall adopt rules 1526
consistent with this section to create a mini rate case 1527
proceeding, including prescribing filing requirements. 1528

Sec. 4911.15. The consumers' counsel, at the request of 1529
one or more residential consumers residing in, or municipal 1530
corporations located in, an area served by a public utility or 1531
whenever in ~~his~~ counsel's opinion the public interest is served, 1532
may represent those consumers or corporations whenever an 1533
application is made to the public utilities commission by any 1534
public utility desiring to establish, modify, amend, change, 1535
increase, or reduce any rate, cost recovery mechanism, joint 1536
rate, toll, fare, classification, charge, or rental. 1537

The consumers' counsel may appear before the public 1538
utilities commission as a representative of the residential 1539
consumers of any public utility when a complaint has been filed 1540
with the commission that a rate, cost recovery mechanism, joint 1541
rate, fare, toll, charge, classification, or rental for 1542
commodities or services rendered, charged, demanded, exacted, or 1543
proposed to be rendered, charged, demanded, or exacted by the 1544

utility is in any respect unjust, unreasonable, unjustly 1545
discriminatory, unjustly preferential, or in violation of the 1546
law. 1547

Nothing in Chapter 4911. of the Revised Code shall be 1548
construed to restrict or limit in any manner the right of a 1549
municipal corporation to represent the residential consumers of 1550
such municipal corporation in all proceedings before the public 1551
utilities commission, and in both state and federal courts and 1552
administrative agencies on behalf of such residential consumers 1553
concerning review of decisions rendered by, or failure to act 1554
by, the public utilities commission. 1555

Sec. 4928.01. (A) As used in this chapter: 1556

(1) "Ancillary service" means any function necessary to 1557
the provision of electric transmission or distribution service 1558
to a retail customer and includes, but is not limited to, 1559
scheduling, system control, and dispatch services; reactive 1560
supply from generation resources and voltage control service; 1561
reactive supply from transmission resources service; regulation 1562
service; frequency response service; energy imbalance service; 1563
operating reserve-spinning reserve service; operating reserve- 1564
supplemental reserve service; load following; back-up supply 1565
service; real-power loss replacement service; dynamic 1566
scheduling; system black start capability; and network stability 1567
service. 1568

(2) "Billing and collection agent" means a fully 1569
independent agent, not affiliated with or otherwise controlled 1570
by an electric utility, electric services company, electric 1571
cooperative, or governmental aggregator subject to certification 1572
under section 4928.08 of the Revised Code, to the extent that 1573
the agent is under contract with such utility, company, 1574

cooperative, or aggregator solely to provide billing and 1575
collection for retail electric service on behalf of the utility 1576
company, cooperative, or aggregator. 1577

(3) "Certified territory" means the certified territory 1578
established for an electric supplier under sections 4933.81 to 1579
4933.90 of the Revised Code. 1580

(4) "Competitive retail electric service" means a 1581
component of retail electric service that is competitive as 1582
provided under division (B) of this section. 1583

(5) "Electric cooperative" means a not-for-profit electric 1584
light company that both is or has been financed in whole or in 1585
part under the "Rural Electrification Act of 1936," 49 Stat. 1586
1363, 7 U.S.C. 901, and owns or operates facilities in this 1587
state to generate, transmit, or distribute electricity, or a 1588
not-for-profit successor of such company. 1589

(6) "Electric distribution utility" means an electric 1590
utility that supplies at least retail electric distribution 1591
service and does not own or operate an electric generating 1592
facility. 1593

(7) "Electric light company" has the same meaning as in 1594
section 4905.03 of the Revised Code and includes an electric 1595
services company, ~~but excludes any self-generator to the extent~~ 1596
~~that it consumes electricity it so produces, sells that~~ 1597
~~electricity for resale, or obtains electricity from a generating~~ 1598
~~facility it hosts on its premises.~~ 1599

(8) "Electric load center" has the same meaning as in 1600
section 4933.81 of the Revised Code. 1601

(9) "Electric services company" means an electric light 1602
company that is engaged on a for-profit or not-for-profit basis 1603

in the business of supplying or arranging for the supply of only 1604
a competitive retail electric service in this state. "Electric 1605
services company" includes a power marketer, power broker, 1606
aggregator, or independent power producer but excludes an 1607
electric cooperative, municipal electric utility, governmental 1608
aggregator, or billing and collection agent. 1609

(10) "Electric supplier" has the same meaning as in 1610
section 4933.81 of the Revised Code. 1611

(11) "Electric utility" means an electric light company 1612
that has a certified territory and is engaged on a for-profit 1613
basis ~~either~~ in the business of supplying at least a 1614
noncompetitive retail electric service in this state ~~or in the~~ 1615
~~businesses of supplying both a noncompetitive and a competitive~~ 1616
~~retail electric service in this state.~~ "Electric utility" 1617
excludes a municipal electric utility or a billing and 1618
collection agent. 1619

(12) "Firm electric service" means electric service other 1620
than nonfirm electric service. 1621

(13) "Governmental aggregator" means a legislative 1622
authority of a municipal corporation, a board of township 1623
trustees, or a board of county commissioners acting as an 1624
aggregator for the provision of a competitive retail electric 1625
service under authority conferred under section 4928.20 of the 1626
Revised Code. 1627

(14) A person acts "knowingly," regardless of the person's 1628
purpose, when the person is aware that the person's conduct will 1629
probably cause a certain result or will probably be of a certain 1630
nature. A person has knowledge of circumstances when the person 1631
is aware that such circumstances probably exist. 1632

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

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

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

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

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

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

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

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

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

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

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

(26) "Regulatory assets" means the unamortized net 1691
regulatory assets that are capitalized or deferred on the 1692
regulatory books of the electric utility, pursuant to an order 1693
or practice of the public utilities commission or pursuant to 1694
generally accepted accounting principles as a result of a prior 1695
commission rate-making decision, and that would otherwise have 1696
been charged to expense as incurred or would not have been 1697
capitalized or otherwise deferred for future regulatory 1698
consideration absent commission action. "Regulatory assets" 1699
includes, but is not limited to, all deferred demand-side 1700
management costs; all deferred percentage of income payment plan 1701
arrears; post-in-service capitalized charges and assets 1702
recognized in connection with statement of financial accounting 1703
standards no. 109 (receivables from customers for income taxes); 1704
future nuclear decommissioning costs and fuel disposal costs as 1705
those costs have been determined by the commission in the 1706
electric utility's most recent rate or accounting application 1707
proceeding addressing such costs; the undepreciated costs of 1708
safety and radiation control equipment on nuclear generating 1709
plants owned or leased by an electric utility; and fuel costs 1710
currently deferred pursuant to the terms of one or more 1711
settlement agreements approved by the commission. 1712

(27) "Retail electric service" means any service involved 1713
in supplying or arranging for the supply of electricity to 1714
ultimate consumers in this state, from the point of generation 1715
to the point of consumption. For the purposes of this chapter, 1716
retail electric service includes one or more of the following 1717
"service components": generation service, aggregation service, 1718
power marketing service, power brokerage service, transmission 1719
service, distribution service, ancillary service, metering 1720
service, and billing and collection service. 1721

- (28) "Starting date of competitive retail electric service" means January 1, 2001. 1722
1723
- (29) "Customer-generator" means a user of a net metering system. 1724
1725
- (30) "Net metering" means measuring the difference in an applicable billing period between the electricity supplied by an electric service provider and the electricity generated by a customer-generator that is fed back to the electric service provider. 1726
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- (31) "Net metering system" means a facility for the production of electrical energy that does all of the following: 1731
1732
- (a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell; 1733
1734
- (b) Is located on a customer-generator's premises; 1735
- (c) Operates in parallel with the electric utility's transmission and distribution facilities; 1736
1737
- (d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection. 1738
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- (32) "Self-generator" means an entity in this state that owns or hosts on ~~its premises~~ property the entity controls an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess 1746
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electricity to another entity, whether the facility is installed 1750
or operated by the owner or by ~~an agent~~ a third party under a 1751
contract, including a lease, purchase power agreement, or other 1752
service contract. 1753

(33) "Rate plan" means the standard service offer in 1754
effect on the effective date of the amendment of this section by 1755
S.B. 221 of the 127th general assembly, July 31, 2008. 1756

(34) "Advanced energy resource" means any of the 1757
following: 1758

(a) Any method or any modification or replacement of any 1759
property, process, device, structure, or equipment that 1760
increases the generation output of an electric generating 1761
facility to the extent such efficiency is achieved without 1762
additional carbon dioxide emissions by that facility; 1763

(b) Any distributed generation system consisting of 1764
customer cogeneration technology; 1765

(c) Clean coal technology that includes a carbon-based 1766
product that is chemically altered before combustion to 1767
demonstrate a reduction, as expressed as ash, in emissions of 1768
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1769
sulfur trioxide in accordance with the American society of 1770
testing and materials standard D1757A or a reduction of metal 1771
oxide emissions in accordance with standard D5142 of that 1772
society, or clean coal technology that includes the design 1773
capability to control or prevent the emission of carbon dioxide, 1774
which design capability the commission shall adopt by rule and 1775
shall be based on economically feasible best available 1776
technology or, in the absence of a determined best available 1777
technology, shall be of the highest level of economically 1778

feasible design capability for which there exists generally 1779
accepted scientific opinion; 1780

(d) Advanced nuclear energy technology consisting of 1781
generation III technology as defined by the nuclear regulatory 1782
commission; other, later technology; or significant improvements 1783
to existing facilities; 1784

(e) Any fuel cell used in the generation of electricity, 1785
including, but not limited to, a proton exchange membrane fuel 1786
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1787
solid oxide fuel cell; 1788

(f) Advanced solid waste or construction and demolition 1789
debris conversion technology, including, but not limited to, 1790
advanced stoker technology, and advanced fluidized bed 1791
gasification technology, that results in measurable greenhouse 1792
gas emissions reductions as calculated pursuant to the United 1793
States environmental protection agency's waste reduction model 1794
(WARM); 1795

(g) Demand-side management and any energy efficiency 1796
improvement; 1797

(h) Any new, retrofitted, refueled, or repowered 1798
generating facility located in Ohio, including a simple or 1799
combined-cycle natural gas generating facility or a generating 1800
facility that uses biomass, coal, modular nuclear, or any other 1801
fuel as its input; 1802

(i) Any uprated capacity of an existing electric 1803
generating facility if the uprated capacity results from the 1804
deployment of advanced technology. 1805

"Advanced energy resource" does not include a waste energy 1806
recovery system that is, or has been, included in an energy 1807

efficiency program of an electric distribution utility pursuant 1808
to requirements under section 4928.66 of the Revised Code. 1809

(35) "Air contaminant source" has the same meaning as in 1810
section 3704.01 of the Revised Code. 1811

(36) "Cogeneration technology" means technology that 1812
produces electricity and useful thermal output simultaneously. 1813

(37) (a) "Renewable energy resource" means any of the 1814
following: 1815

(i) Solar photovoltaic or solar thermal energy; 1816

(ii) Wind energy; 1817

(iii) Power produced by a hydroelectric facility; 1818

(iv) Power produced by a small hydroelectric facility, 1819
which is a facility that operates, or is rated to operate, at an 1820
aggregate capacity of less than six megawatts; 1821

(v) Power produced by a run-of-the-river hydroelectric 1822
facility placed in service on or after January 1, 1980, that is 1823
located within this state, relies upon the Ohio river, and 1824
operates, or is rated to operate, at an aggregate capacity of 1825
forty or more megawatts; 1826

(vi) Geothermal energy; 1827

(vii) Fuel derived from solid wastes, as defined in 1828
section 3734.01 of the Revised Code, through fractionation, 1829
biological decomposition, or other process that does not 1830
principally involve combustion; 1831

(viii) Biomass energy; 1832

(ix) Energy produced by cogeneration technology that is 1833
placed into service on or before December 31, 2015, and for 1834

which more than ninety per cent of the total annual energy input 1835
is from combustion of a waste or byproduct gas from an air 1836
contaminant source in this state, which source has been in 1837
operation since on or before January 1, 1985, provided that the 1838
cogeneration technology is a part of a facility located in a 1839
county having a population of more than three hundred sixty-five 1840
thousand but less than three hundred seventy thousand according 1841
to the most recent federal decennial census; 1842

(x) Biologically derived methane gas; 1843

(xi) Heat captured from a generator of electricity, 1844
boiler, or heat exchanger fueled by biologically derived methane 1845
gas; 1846

(xii) Energy derived from nontreated by-products of the 1847
pulping process or wood manufacturing process, including bark, 1848
wood chips, sawdust, and lignin in spent pulping liquors. 1849

"Renewable energy resource" includes, but is not limited 1850
to, any fuel cell used in the generation of electricity, 1851
including, but not limited to, a proton exchange membrane fuel 1852
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1853
solid oxide fuel cell; wind turbine located in the state's 1854
territorial waters of Lake Erie; methane gas emitted from an 1855
abandoned coal mine; waste energy recovery system placed into 1856
service or retrofitted on or after the effective date of the 1857
amendment of this section by S.B. 315 of the 129th general 1858
assembly, September 10, 2012, except that a waste energy 1859
recovery system described in division (A) (38) (b) of this section 1860
may be included only if it was placed into service between 1861
January 1, 2002, and December 31, 2004; storage facility that 1862
will promote the better utilization of a renewable energy 1863
resource; or distributed generation system used by a customer to 1864

generate electricity from any such energy. 1865

"Renewable energy resource" does not include a waste 1866
energy recovery system that is, or was, on or after January 1, 1867
2012, included in an energy efficiency program of an electric 1868
distribution utility pursuant to requirements under section 1869
4928.66 of the Revised Code. 1870

(b) As used in division (A) (37) of this section, 1871
"hydroelectric facility" means a hydroelectric generating 1872
facility that is located at a dam on a river, or on any water 1873
discharged to a river, that is within or bordering this state or 1874
within or bordering an adjoining state and meets all of the 1875
following standards: 1876

(i) The facility provides for river flows that are not 1877
detrimental for fish, wildlife, and water quality, including 1878
seasonal flow fluctuations as defined by the applicable 1879
licensing agency for the facility. 1880

(ii) The facility demonstrates that it complies with the 1881
water quality standards of this state, which compliance may 1882
consist of certification under Section 401 of the "Clean Water 1883
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 1884
demonstrates that it has not contributed to a finding by this 1885
state that the river has impaired water quality under Section 1886
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 1887
U.S.C. 1313. 1888

(iii) The facility complies with mandatory prescriptions 1889
regarding fish passage as required by the federal energy 1890
regulatory commission license issued for the project, regarding 1891
fish protection for riverine, anadromous, and catadromous fish. 1892

(iv) The facility complies with the recommendations of the 1893

Ohio environmental protection agency and with the terms of its 1894
federal energy regulatory commission license regarding watershed 1895
protection, mitigation, or enhancement, to the extent of each 1896
agency's respective jurisdiction over the facility. 1897

(v) The facility complies with provisions of the 1898
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 1899
to 1544, as amended. 1900

(vi) The facility does not harm cultural resources of the 1901
area. This can be shown through compliance with the terms of its 1902
federal energy regulatory commission license or, if the facility 1903
is not regulated by that commission, through development of a 1904
plan approved by the Ohio historic preservation office, to the 1905
extent it has jurisdiction over the facility. 1906

(vii) The facility complies with the terms of its federal 1907
energy regulatory commission license or exemption that are 1908
related to recreational access, accommodation, and facilities 1909
or, if the facility is not regulated by that commission, the 1910
facility complies with similar requirements as are recommended 1911
by resource agencies, to the extent they have jurisdiction over 1912
the facility; and the facility provides access to water to the 1913
public without fee or charge. 1914

(viii) The facility is not recommended for removal by any 1915
federal agency or agency of any state, to the extent the 1916
particular agency has jurisdiction over the facility. 1917

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 1918
this section do not apply to a small hydroelectric facility 1919
under division (A) (37) (a) (iv) of this section. 1920

(38) "Waste energy recovery system" means any of the 1921
following: 1922

(a) A facility that generates electricity through the conversion of energy from either of the following:	1923 1924
(i) Exhaust heat from engines or manufacturing, industrial, commercial, or institutional sites, except for exhaust heat from a facility whose primary purpose is the generation of electricity;	1925 1926 1927 1928
(ii) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels.	1929 1930 1931 1932
(b) A facility at a state institution of higher education as defined in section 3345.011 of the Revised Code that recovers waste heat from electricity-producing engines or combustion turbines and that simultaneously uses the recovered heat to produce steam, provided that the facility was placed into service between January 1, 2002, and December 31, 2004;	1933 1934 1935 1936 1937 1938
(c) A facility that produces steam from recovered waste heat from a manufacturing process and uses that steam, or transfers that steam to another facility, to provide heat to another manufacturing process or to generate electricity.	1939 1940 1941 1942
(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering and automation of system functions.	1943 1944 1945 1946 1947
(40) "Combined heat and power system" means the coproduction of electricity and useful thermal energy from the same fuel source designed to achieve thermal-efficiency levels of at least sixty per cent, with at least twenty per cent of the	1948 1949 1950 1951

system's total useful energy in the form of thermal energy. 1952

~~(41) "Legacy generation resource" means all generating facilities owned directly or indirectly by a corporation that was formed prior to 1960 by investor-owned utilities for the original purpose of providing power to the federal government for use in the nation's defense or in furtherance of national interests, including the Ohio valley electric corporation.~~ 1953
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~~(42) "Prudently incurred costs related to a legacy generation resource" means costs, including deferred costs, allocated pursuant to a power agreement approved by the federal energy regulatory commission that relates to a legacy generation resource, less any revenues realized from offering the contractual commitment for the power agreement into the wholesale markets, provided that where the net revenues exceed net costs, those excess revenues shall be credited to customers. Such costs shall exclude any return on investment in common equity and, in the event of a premature retirement of a legacy generation resource, shall exclude any recovery of remaining debt. Such costs shall include any incremental costs resulting from the bankruptcy of a current or former sponsor under such power agreement or co-owner of the legacy generation resource if not otherwise recovered through a utility rate cost recovery mechanism.~~ 1959
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~~(43) (a) (41) (a) "Green energy" means any energy generated by using an energy resource that does one or more of the following:~~ 1975
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1977

(i) Releases reduced air pollutants, thereby reducing cumulative air emissions; 1978
1979

(ii) Is more sustainable and reliable relative to some 1980

fossil fuels. 1981

(b) "Green energy" includes energy generated using the 1982
following: 1983

(i) Natural gas as a resource; 1984

(ii) Nuclear reaction. 1985

(B) For the purposes of this chapter, a retail electric 1986
service component shall be deemed a competitive retail electric 1987
service if the service component is competitive pursuant to a 1988
declaration by a provision of the Revised Code or pursuant to an 1989
order of the public utilities commission authorized under 1990
division (A) of section 4928.04 of the Revised Code. Otherwise, 1991
the service component shall be deemed a noncompetitive retail 1992
electric service. 1993

Sec. 4928.041. (A) Except as provided in sections 4928.141 1994
and 4928.142 of the Revised Code, no electric utility shall 1995
provide a competitive retail electric service in this state if 1996
that service was deemed competitive or otherwise legally 1997
classified as competitive prior to the effective date of this 1998
section. 1999

(B) The standard service offer under section 4928.141 of 2000
the Revised Code shall continue to be provided to consumers in 2001
this state by electric utilities. 2002

Sec. 4928.05. (A) (1) ~~On and after the starting date of~~ 2003
~~competitive retail electric service, a~~ competitive retail 2004
electric service supplied by an ~~electric utility or~~ electric 2005
services company, or by an electric utility consistent with 2006
section 4928.141 of the Revised Code, shall not be subject to 2007
supervision and regulation by a municipal corporation under 2008
Chapter 743. of the Revised Code or by the public utilities 2009

commission under Chapters 4901. to 4909., 4933., 4935., and 2010
4963. of the Revised Code, except sections 4905.10 and 4905.31, 2011
division (B) of section 4905.33, and sections 4905.35 and 2012
4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, 2013
and 4963.41 of the Revised Code only to the extent related to 2014
service reliability and public safety; and except as otherwise 2015
provided in this chapter. The commission's authority to enforce 2016
those excepted provisions with respect to a competitive retail 2017
electric service shall be such authority as is provided for 2018
their enforcement under Chapters 4901. to 4909., 4933., 4935., 2019
and 4963. of the Revised Code and this chapter. Nothing in this 2020
division shall be construed to limit the commission's authority 2021
under sections 4928.141 ~~to~~, 4928.142, and 4928.144 of the 2022
Revised Code. 2023

~~On and after the starting date of competitive retail~~ 2024
~~electric service, a~~ (2) A competitive retail electric service 2025
supplied by an electric cooperative shall not be subject to 2026
supervision and regulation by the commission under Chapters 2027
4901. to 4909., 4933., 4935., and 4963. of the Revised Code, 2028
except as otherwise expressly provided in sections 4928.01 to 2029
4928.10 and 4928.16 of the Revised Code. 2030

~~(2) On and after the starting date of competitive retail~~ 2031
~~electric service, a~~ (B) (1) A noncompetitive retail electric 2032
service supplied by an electric utility shall be subject to 2033
supervision and regulation by the commission under Chapters 2034
4901. to 4909., 4933., 4935., and 4963. of the Revised Code and 2035
this chapter, to the extent that authority is not preempted by 2036
federal law. The commission's authority to enforce those 2037
provisions with respect to a noncompetitive retail electric 2038
service shall be the authority provided under those chapters and 2039
this chapter, to the extent the authority is not preempted by 2040

federal law. Notwithstanding Chapters 4905. and 4909. of the
Revised Code, commission authority under this chapter shall
include the authority to provide for the recovery, through a
reconcilable rider on an electric distribution utility's
distribution rates, of all transmission and transmission-related
costs, including ancillary and congestion costs, imposed on or
charged to the utility by the federal energy regulatory
commission or a regional transmission organization, independent
transmission operator, or similar organization approved by the
federal energy regulatory commission.

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

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

~~(B) Nothing in this chapter affects the authority of the
commission under Title XLIX of the Revised Code to regulate an
electric light company in this state or an electric service~~

~~supplied in this state prior to the starting date of competitive~~ 2071
~~retail electric service.~~ 2072

Sec. 4928.08. (A) This section applies to an electric 2073
cooperative, or to a governmental aggregator that is a municipal 2074
electric utility, only to the extent of a competitive retail 2075
electric service it provides to a customer to whom it does not 2076
provide a noncompetitive retail electric service through 2077
transmission or distribution facilities it singly or jointly 2078
owns or operates. 2079

~~(B)~~ (B) (1) No electric utility, electric services company, 2080
electric cooperative, or governmental aggregator shall provide a 2081
competitive retail electric service to a consumer in this state 2082
on and after the starting date of competitive retail electric 2083
service without first being certified by the public utilities 2084
commission regarding its managerial, technical, and financial 2085
capability to provide that service and providing a financial 2086
guarantee sufficient to protect customers and electric 2087
distribution utilities from default. Certification shall be 2088
granted pursuant to procedures and standards the commission 2089
shall prescribe in accordance with division (C) of this section, 2090
except that certification or certification renewal shall be 2091
deemed approved thirty days after the filing of an application 2092
with the commission unless the commission suspends that approval 2093
for good cause shown. In the case of such a suspension, the 2094
commission shall act to approve or deny certification or 2095
certification renewal to the applicant not later than ninety 2096
days after the date of the suspension. 2097

(2) The public utilities commission shall establish rules 2098
to require an electric services company to maintain financial 2099
assurances sufficient to protect customers and electric 2100

distribution utilities from default. Such rules also shall 2101
specifically allow an electric distribution utility to set 2102
reasonable standards for its security and the security of its 2103
customers through financial requirements set in its tariffs. 2104

(3) As used in division (B) (2) of this section, an 2105
"electric services company" has the same meaning as in section 2106
4928.01 of the Revised Code, but excludes a power broker or 2107
aggregator. 2108

(C) Capability standards adopted in rules under division 2109
(B) of this section shall be sufficient to ensure compliance 2110
with the minimum service requirements established under section 2111
4928.10 of the Revised Code and with section 4928.09 of the 2112
Revised Code. The standards shall allow flexibility for 2113
voluntary aggregation, to encourage market creativity in 2114
responding to consumer needs and demands, and shall allow 2115
flexibility for electric services companies that exclusively 2116
provide installation of small electric generation facilities, to 2117
provide ease of market access. The rules shall include 2118
procedures for biennially renewing certification. 2119

(D) The commission may suspend, rescind, or conditionally 2120
rescind the certification of any electric utility, electric 2121
services company, electric cooperative, or governmental 2122
aggregator issued under this section if the commission 2123
determines, after reasonable notice and opportunity for hearing, 2124
that the utility, company, cooperative, or aggregator has failed 2125
to comply with any applicable certification standards or has 2126
engaged in anticompetitive or unfair, deceptive, or 2127
unconscionable acts or practices in this state. 2128

(E) No electric distribution utility on and after the 2129
starting date of competitive retail electric service shall 2130

knowingly distribute electricity, to a retail consumer in this 2131
state, for any supplier of electricity that has not been 2132
certified by the commission pursuant to this section. 2133

(F) Notwithstanding any provision of section 121.95 of the 2134
Revised Code to the contrary, a regulatory restriction contained 2135
in a rule adopted under section 4928.08 of the Revised Code is 2136
not subject to sections 121.95 to 121.953 of the Revised Code. 2137

Sec. 4928.101. (A) As used in this section and section 2138
4928.102 of the Revised Code: 2139

(1) "Small commercial customer" means any customer that 2140
receives electric service pursuant to a nonresidential tariff if 2141
the customer's demand for electricity does not exceed twenty- 2142
five kilowatts within the last twelve months. 2143

(2) "Small commercial customer" excludes any customer that 2144
does one or both of the following: 2145

(a) Manages multiple electric meters and, within the last 2146
twelve months, the electricity demand for at least one of the 2147
meters is twenty-five kilowatts or more; 2148

(b) Has, at the customer's discretion, aggregated the 2149
demand for the customer-managed meters. 2150

(B) The consumer protections described in section 4928.10 2151
of the Revised Code and the rules adopted pursuant to that 2152
section apply to small commercial customers and to all other 2153
customers as set forth in the rules. 2154

Sec. 4928.102. (A) If a competitive retail electric 2155
service supplier offers a residential or small commercial 2156
customer a contract for a fixed introductory rate that converts 2157
to a variable rate upon the expiration of the fixed rate, the 2158

supplier shall send two notices to each residential and small 2159
commercial customer that enters into such a contract. Each 2160
notice shall provide all of the following information to the 2161
customer: 2162

(1) The fixed rate that is expiring under the contract; 2163

(2) The expiration date of the contract's fixed rate; 2164

(3) The rate to be charged upon the contract's conversion 2165
to a variable rate; 2166

(4) The public utilities commission web site that, as a 2167
comparison tool, lists rates offered by competitive retail 2168
electric service suppliers; 2169

(5) A statement explaining that appearing on each 2170
customer's bill is a price-to-compare notice that lists the 2171
utility's standard service offer price. 2172

(B) The notices shall be sent by standard United States 2173
mail as follows: 2174

(1) The supplier shall send the first notice not earlier 2175
than ninety days, and not later than sixty days, prior to the 2176
expiration of the fixed rate. 2177

(2) The supplier shall send the second notice not earlier 2178
than forty-five days, and not later than thirty days, prior to 2179
the expiration of the fixed rate. 2180

(C) A competitive retail electric service supplier shall 2181
provide an annual notice, by standard United States mail, to 2182
each residential and small commercial customer that has entered 2183
into a contract with the supplier that has converted to a 2184
variable rate upon the expiration of the contract's fixed 2185
introductory rate. The notice shall inform the customer that the 2186

customer is currently subject to a variable rate and that other 2187
fixed rate contracts are available. 2188

(D) Not later than one hundred fifty days after the 2189
effective date of this section, the commission shall adopt rules 2190
in order to implement divisions (A) to (C) of this section. The 2191
rules, at a minimum, shall include the following requirements 2192
regarding the notices required under divisions (A) to (C) of 2193
this section: 2194

(1) To use clear and unambiguous language in order to 2195
enable the customer to make an informed decision; 2196

(2) To design the notices in a way to ensure that they 2197
cannot be confused with marketing materials. 2198

(E) Notwithstanding any provision of section 121.95 of the 2199
Revised Code to the contrary, a regulatory restriction contained 2200
in a rule adopted under section 4928.102 of the Revised Code is 2201
not subject to sections 121.95 to 121.953 of the Revised Code. 2202

Sec. 4928.103. (A) As used in this section, "customer 2203
account information" means a unique electric distribution 2204
utility number or other customer identification number used by 2205
the utility to identify a customer and the customer's account 2206
record. 2207

(B) The public utilities commission shall adopt rules to 2208
ensure that an electric distribution utility processes a 2209
customer's change in competitive retail electric supplier by 2210
using customer account information. A customer who consents to a 2211
change of supplier shall not be required to provide customer 2212
account information to the supplier if the customer provides a 2213
valid form of government-issued identification issued to the 2214
customer or a sufficient alternative form of identification that 2215

allows the supplier to establish the customer's identity 2216
accurately. 2217

(C) Notwithstanding any provision of section 121.95 of the 2218
Revised Code to the contrary, a regulatory restriction contained 2219
in a rule adopted under this section is not subject to sections 2220
121.95 to 121.953 of the Revised Code. 2221

Sec. 4928.104. (A) A competitive retail electric service 2222
supplier may offer alternative billing and payment structures as 2223
agreed upon in a service contract with a mercantile customer, 2224
without restriction to specific models, provided the supplier 2225
complies with applicable laws and regulations. The alternative 2226
billing and payment structure may include any of the following: 2227

(1) Daily, weekly, or milestone-based payments; 2228

(2) Online-only billing and payment requirements; 2229

(3) Prepayment-based service structures. 2230

(B) The public utilities commission shall not prohibit a 2231
competitive retail electric service provider from requiring 2232
electronic payment methods as a condition of service under a 2233
non-traditional billing agreement. 2234

Sec. 4928.105. (A) Upon receiving a certified 2235
disconnection request from a competitive retail electric service 2236
supplier under a service agreement that explicitly authorizes 2237
expedited disconnection, voluntarily entered into by a 2238
mercantile customer, an electric distribution utility shall 2239
process the request within two business days. 2240

(B) The electric distribution utility shall not be held 2241
liable for any disputes arising from the supplier-initiated 2242
shutoff, provided the utility acts in accordance with the 2243

certification process. 2244

(C) The commission shall establish rules permitting 2245
electric distribution utilities to recover the administrative 2246
costs of processing expedited shutoff requests under this 2247
section through fees assessed to competitive retail electric 2248
service suppliers. 2249

Sec. 4928.106. (A) An electric distribution utility shall 2250
make real-time usage data available to a competitive retail 2251
electric service supplier, or an authorized third party, serving 2252
a mercantile customer upon request. 2253

(B) Data shall be provided at intervals of not longer than 2254
five minutes and in a format consistent with public utilities 2255
commission standards. 2256

(C) The electric distribution utility may assess a cost- 2257
based fee to the competitive retail electric service supplier 2258
for access to real-time usage data. 2259

Sec. 4928.14. ~~The~~ (A) Except as provided in division (C) 2260
of this section, the failure of a supplier to provide retail 2261
electric generation service to customers within the certified 2262
territory of an electric distribution utility shall result in 2263
the supplier's customers, after reasonable notice, defaulting to 2264
the utility's standard service offer under sections 4928.141, 2265
and 4928.142, and 4928.143 of the Revised Code until the 2266
customer chooses an alternative supplier. A- 2267

(B) A supplier is deemed under this section to have failed 2268
to provide such retail electric generation service if the 2269
commission finds, after reasonable notice and opportunity for 2270
hearing, that any of the following conditions are met: 2271

~~(A)~~ (1) The supplier has defaulted on its contracts with 2272

customers, is in receivership, or has filed for bankruptcy. 2273

~~(B)~~ (2) The supplier is no longer capable of providing the 2274
service. 2275

~~(C)~~ (3) The supplier is unable to provide delivery to 2276
transmission or distribution facilities for such period of time 2277
as may be reasonably specified by commission rule adopted under 2278
division (A) of section 4928.06 of the Revised Code. 2279

~~(D)~~ (4) The supplier's certification has been suspended, 2280
conditionally rescinded, or rescinded under division (D) of 2281
section 4928.08 of the Revised Code. 2282

(C) If an electric distribution utility has an electric 2283
security plan that was approved under section 4928.143 of the 2284
Revised Code as that section existed prior to the amendments to 2285
this section by this act, the failure of a supplier to provide 2286
retail electric generation service to customers within the 2287
certified territory of that utility shall result in the 2288
supplier's customers, after reasonable notice, defaulting to the 2289
utility's standard service offer under that electric security 2290
plan until the customer chooses an alternative supplier or until 2291
the utility's standard service offer is authorized under section 2292
4928.142 of the Revised Code. 2293

Sec. 4928.141. ~~(A) Beginning January 1, 2009, an~~ (A) (1) An 2294
electric distribution utility shall provide consumers, on a 2295
comparable and nondiscriminatory basis within its certified 2296
territory, a standard service offer of all competitive retail 2297
electric services necessary to maintain essential electric 2298
service to consumers, including a firm supply of electric 2299
generation service. To that end, the electric distribution 2300
utility shall apply to the public utilities commission to 2301

establish the standard service offer in accordance with section 2302
4928.142 ~~or 4928.143~~ of the Revised Code ~~and, at its discretion,~~ 2303
~~may apply simultaneously under both sections, except that the~~ 2304
~~utility's first standard service offer application at minimum~~ 2305
~~shall include a filing under section 4928.143 of the Revised~~ 2306
~~Code. Only~~ Except as provided in division (A) (2) of this 2307
section, a standard service offer authorized in accordance with 2308
section 4928.142 ~~or 4928.143~~ of the Revised Code, shall serve as 2309
the utility's standard service offer for the purpose of 2310
compliance with this section~~,~~ and that standard service offer 2311
shall serve as the utility's default standard service offer for 2312
the purpose of section 4928.14 of the Revised Code. 2313
~~Notwithstanding the foregoing provision, the rate~~ 2314

(2) An electric distribution utility's electric security 2315
plan of an electric distribution utility that was approved under 2316
section 4928.143 of the Revised Code as that section existed 2317
prior to the amendments to this section by this act shall 2318
continue for the purpose of the utility's compliance with ~~this~~ 2319
division (A) (1) of this section until a standard service offer 2320
is first authorized to be effective under section 4928.142 ~~or~~ 2321
~~4928.143~~ of the Revised Code, ~~and, as applicable, pursuant to~~ 2322
~~division (D) of section 4928.143 of the Revised Code, any rate~~ . 2323
Each security plan that extends approved before the effective 2324
date of the amendments to this section by this act shall extend 2325
~~beyond December 31, 2008, shall continue to be in effect for the~~ 2326
~~subject electric distribution utility for the duration of the~~ 2327
~~plan's term~~ through the final standard service offer auction 2328
delivery period approved by the public utilities commission 2329
under the plan as of the effective date of the amendments to 2330
this section by this act and thereafter shall terminate. 2331

(3) A standard service offer under section 4928.142 ~~or~~ 2332

~~4928.143~~ of the Revised Code shall exclude any previously 2333
authorized allowances for transition costs, with such exclusion 2334
being effective on and after the date that the allowance is 2335
scheduled to end under the utility's ~~rate~~ electric security 2336
plan. 2337

(B) The commission shall set the time for hearing of a 2338
filing under section 4928.142 ~~or 4928.143~~ of the Revised Code, 2339
send written notice of the hearing to the electric distribution 2340
utility, and publish notice in a newspaper of general 2341
circulation in each county in the utility's certified territory. 2342
The commission shall adopt rules regarding filings under ~~those~~ 2343
~~sections~~ the section. 2344

Sec. 4928.142. (A) For the purpose of complying with 2345
section 4928.141 of the Revised Code and subject to division (D) 2346
of this section and, as applicable, subject to the ~~rate plan~~ 2347
~~requirement~~ requirements of division (A) of section 4928.141 of 2348
the Revised Code, an electric distribution utility ~~may~~ shall 2349
establish a standard service offer price for retail electric 2350
generation service that is delivered to the utility under a 2351
market-rate offer. 2352

(1) The market-rate offer shall be determined through a 2353
competitive bidding process that provides for all of the 2354
following: 2355

(a) Open, fair, and transparent competitive solicitation; 2356

(b) Clear product definition; 2357

(c) Standardized bid evaluation criteria; 2358

(d) Oversight by an independent third party that shall 2359
design the solicitation, administer the bidding, and ensure that 2360
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2361

this section are met; 2362

(e) Evaluation of the submitted bids prior to the 2363
selection of the least-cost bid winner or winners. 2364

No generation supplier shall be prohibited from 2365
participating in the bidding process. 2366

(2) The public utilities commission shall modify rules, or 2367
adopt new rules as necessary, concerning the conduct of the 2368
competitive bidding process and the qualifications of bidders, 2369
which rules shall foster supplier participation in the bidding 2370
process and shall be consistent with the requirements of 2371
division (A) (1) of this section. 2372

(B) Prior to initiating a competitive bidding process for 2373
a market-rate offer under division (A) of this section, the 2374
electric distribution utility shall file an application with the 2375
commission. An electric distribution utility may file its 2376
application with the commission prior to the effective date of 2377
the commission rules required under division (A) (2) of this 2378
section, and, as the commission determines necessary, the 2379
utility shall immediately conform its filing to the rules upon 2380
their taking effect. 2381

An application under this division shall detail the 2382
electric distribution utility's proposed compliance with the 2383
requirements of division (A) (1) of this section and with 2384
commission rules under division (A) (2) of this section and 2385
demonstrate that all of the following requirements are met: 2386

(1) The electric distribution utility or its transmission 2387
service affiliate belongs to at least one regional transmission 2388
organization that has been approved by the federal energy 2389
regulatory commission; or there otherwise is comparable and 2390

nondiscriminatory access to the electric transmission grid. 2391

(2) Any such regional transmission organization has a 2392
market-monitor function and the ability to take actions to 2393
identify and mitigate market power or the electric distribution 2394
utility's market conduct; or a similar market monitoring 2395
function exists with commensurate ability to identify and 2396
monitor market conditions and mitigate conduct associated with 2397
the exercise of market power. 2398

(3) A published source of information is available 2399
publicly or through subscription that identifies pricing 2400
information for traded electricity on- and off-peak energy 2401
products that are contracts for delivery beginning at least two 2402
years from the date of the publication and is updated on a 2403
regular basis. 2404

The commission shall initiate a proceeding and, within 2405
ninety days after the application's filing date, shall determine 2406
by order whether the electric distribution utility and its 2407
market-rate offer meet all of the foregoing requirements. If the 2408
finding is positive, the electric distribution utility ~~may~~ shall 2409
initiate its competitive bidding process. If the finding is 2410
negative as to one or more requirements, the commission in the 2411
order shall direct the electric distribution utility regarding 2412
how any deficiency ~~may~~ shall be timely remedied ~~in a timely~~ 2413
~~manner~~ to the commission's satisfaction; ~~otherwise, the electric~~ 2414
~~distribution utility shall withdraw the application. However, if~~ 2415
~~such remedy is made and the subsequent finding is positive and~~ 2416
~~also if the electric distribution utility made a simultaneous~~ 2417
~~filing under this section and section 4928.143 of the Revised~~ 2418
~~Code, the utility shall not initiate its competitive bid until~~ 2419
~~at least one hundred fifty days after the filing date of those~~ 2420

applications. 2421

(C) Upon the completion of the competitive bidding process 2422
authorized by divisions (A) and (B) of this section, ~~including~~ 2423
~~for the purpose of division (D) of this section,~~ the commission 2424
shall select the least-cost bid winner or winners of that 2425
process, and such selected bid or bids, as prescribed as retail 2426
rates by the commission, shall be the electric distribution 2427
utility's standard service offer unless the commission, by order 2428
issued before the third calendar day following the conclusion of 2429
the competitive bidding process for the market rate offer, 2430
determines that one or more of the following criteria were not 2431
met: 2432

(1) Each portion of the bidding process was 2433
oversubscribed, such that the amount of supply bid upon was 2434
greater than the amount of the load bid out. 2435

(2) There were four or more bidders. 2436

(3) At least twenty-five per cent of the load is bid upon 2437
by one or more persons other than the electric distribution 2438
utility. 2439

All costs incurred by the electric distribution utility as 2440
a result of or related to the competitive bidding process or to 2441
procuring generation service to provide the standard service 2442
offer, including the costs of energy and capacity and the costs 2443
of all other products and services procured as a result of the 2444
competitive bidding process, shall be timely recovered through 2445
the standard service offer price, and, for that purpose, the 2446
commission shall approve a reconciliation mechanism, other 2447
recovery mechanism, or a combination of such mechanisms for the 2448
utility. 2449

(D) The ~~first~~ application filed under this section by an 2450
electric distribution utility ~~that, as of July 31, 2008,~~ 2451
~~directly owns, in whole or in part, operating electric-~~ 2452
~~generating facilities that had been used and useful in this-~~ 2453
~~state shall require that a portion of that the utility's~~ 2454
~~standard service offer load for the first five years of the-~~ 2455
~~market rate offer be competitively bid under division (A) of~~ 2456
~~this section as follows: ten per cent of the load in year one,~~ 2457
~~not more than twenty per cent in year two, thirty per cent in-~~ 2458
~~year three, forty per cent in year four, and fifty per cent in-~~ 2459
~~year five. Consistent with those percentages, the commission-~~ 2460
~~shall determine the actual percentages for each year of years-~~ 2461
~~one through five. The standard service offer price for retail-~~ 2462
~~electric generation service under this first application shall~~ 2463
~~be a proportionate blend of the bid price and the generation-~~ 2464
~~service price for the remaining standard service offer load,~~ 2465
~~which latter price shall be equal to the electric distribution-~~ 2466
~~utility's most recent standard service offer price, adjusted-~~ 2467
~~upward or downward as the commission determines reasonable,~~ 2468
~~relative to the jurisdictional portion of any known and-~~ 2469
~~measurable changes from the level of any one or more of the-~~ 2470
~~following costs as reflected in that most recent standard-~~ 2471
~~service offer price:~~ 2472

~~(1) The electric distribution utility's prudently incurred~~ 2473
~~cost of fuel used to produce electricity;~~ 2474

~~(2) Its prudently incurred purchased power costs;~~ 2475

~~(3) Its prudently incurred costs of satisfying the supply-~~ 2476
~~and demand portfolio requirements of this state, including, but-~~ 2477
~~not limited to, renewable energy resource and energy efficiency-~~ 2478
~~requirements;~~ 2479

~~(4) Its costs prudently incurred to comply with environmental laws and regulations, with consideration of the derating of any facility associated with those costs.~~ 2480
2481
2482

~~In making any adjustment to the most recent standard service offer price on the basis of costs described in division (D) of this section, the commission shall include the benefits that may become available to the electric distribution utility as a result of or in connection with the costs included in the adjustment, including, but not limited to, the utility's receipt of emissions credits or its receipt of tax benefits or of other benefits, and, accordingly, the commission may impose such conditions on the adjustment to ensure that any such benefits are properly aligned with the associated cost responsibility. The commission shall also determine how such adjustments will affect the electric distribution utility's return on common equity that may be achieved by those adjustments. The commission shall not apply its consideration of the return on common equity to reduce any adjustments authorized under this division unless the adjustments will cause the electric distribution utility to earn a return on common equity that is significantly in excess of the return on common equity that is earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility.~~ 2483
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~~Additionally, the commission may adjust the electric distribution utility's most recent standard service offer price by such just and reasonable amount that the commission determines necessary to address any emergency that threatens the utility's financial integrity or to ensure that the resulting~~ 2506
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~~revenue available to the utility for providing the standard- 2511
service offer is not so inadequate as to result, directly or- 2512
indirectly, in a taking of property without compensation- 2513
pursuant to Section 19 of Article I, Ohio Constitution. The- 2514
electric distribution utility has the burden of demonstrating- 2515
that any adjustment to its most recent standard service offer- 2516
price is proper in accordance with this division. 2517~~

~~(E) Beginning in the second year of a blended price under 2518
division (D) of this section and notwithstanding any other- 2519
requirement of this section, the commission may alter- 2520
prospectively the proportions specified in that division to- 2521
mitigate any effect of an abrupt or significant change in the- 2522
electric distribution utility's standard service offer price- 2523
that would otherwise result in general or with respect to any- 2524
rate group or rate schedule but for such alteration. Any such- 2525
alteration shall be made not more often than annually, and the- 2526
commission shall not, by altering those proportions and in any- 2527
event, including because of the length of time, as authorized- 2528
under division (C) of this section, taken to approve the market- 2529
rate offer, cause the duration of the blending period to exceed- 2530
ten years as counted from the effective date of the approved- 2531
market rate offer. Additionally, any such alteration shall be- 2532
limited to an alteration affecting the prospective proportions- 2533
used during the blending period and shall not affect any- 2534
blending proportion previously approved and applied by the- 2535
commission under this division. 2536~~

~~(F) An electric distribution utility that has received 2537
commission approval of its first application under division (C)- 2538
of this section shall not, nor ever shall be authorized or- 2539
required by the commission to, file an application under section 2540
4928.143 of the Revised Code. 2541~~

Sec. 4928.144. The public utilities commission by order 2542
may authorize any just and reasonable phase-in of any electric 2543
distribution utility ~~rate or price~~ established under sections 2544
4928.141 ~~to 4928.143~~ and 4928.142 of the Revised Code, and 2545
inclusive of carrying charges, as the commission considers 2546
necessary to ensure ~~rate or price~~ stability for consumers. If 2547
the commission's order includes such a phase-in, the order also 2548
shall provide for the creation of regulatory assets pursuant to 2549
generally accepted accounting principles, by authorizing the 2550
deferral of incurred costs equal to the amount not collected, 2551
plus carrying charges on that amount. Further, the order shall 2552
authorize the collection of those deferrals through a 2553
nonbypassable surcharge on any such rate or price so established 2554
for the electric distribution utility by the commission. 2555

Sec. 4928.149. No electric distribution utility may use 2556
any electric energy storage system to participate in the 2557
wholesale market, if the utility purchased or acquired that 2558
system for distribution service. 2559

Sec. 4928.1410. If an electric distribution utility has an 2560
existing electric security plan under which the commission had 2561
authorized the creation or continuation of riders, then, to the 2562
extent those riders will cease to exist after termination of the 2563
electric security plan, the electric distribution utility is 2564
authorized to create necessary regulatory assets or liabilities, 2565
along with carrying costs at the utility's weighted average cost 2566
of debt, for the resolution of any outstanding under-collection 2567
or over-collection of funds under such riders. The resolution of 2568
such regulatory assets or liabilities shall be addressed in the 2569
first distribution rate case under section 4909.18 of the 2570
Revised Code that occurs after the plan's expiration. 2571

Sec. 4928.17. (A) Except as otherwise provided in sections 2572
4928.141 or 4928.142 ~~or 4928.143~~ or 4928.31 to 4928.40 of the 2573
Revised Code ~~and beginning on the starting date of competitive~~ 2574
~~retail electric service,~~ no electric utility shall engage in 2575
this state, either directly or through an affiliate, ~~in the~~ 2576
~~businesses of supplying a noncompetitive retail electric service~~ 2577
~~and supplying a competitive retail electric service, or in the~~ 2578
businesses of supplying a noncompetitive retail electric service 2579
and supplying a product or service other than retail electric 2580
service, unless the utility implements and operates under a 2581
corporate separation plan that is approved by the public 2582
utilities commission under this section, is consistent with the 2583
policy specified in section 4928.02 of the Revised Code, and 2584
achieves all of the following: 2585

(1) The plan provides, at minimum, for the provision of 2586
~~the competitive retail electric service or the nonelectric~~ 2587
product or service through a fully separated affiliate of the 2588
utility, and the plan includes separate accounting requirements, 2589
the code of conduct as ordered by the commission pursuant to a 2590
rule it shall adopt under division (A) of section 4928.06 of the 2591
Revised Code, and such other measures as are necessary to 2592
effectuate the policy specified in section 4928.02 of the 2593
Revised Code. 2594

(2) The plan satisfies the public interest in ~~preventing~~ 2595
~~unfair competitive advantage and~~ preventing the abuse of market 2596
power. 2597

(3) The plan is sufficient to ensure that the utility will 2598
not extend any undue preference or advantage to any affiliate, 2599
division, or part of its own business engaged in the business of 2600
supplying the ~~competitive retail electric service or nonelectric~~ 2601

product or service, including, but not limited to, utility 2602
resources such as trucks, tools, office equipment, office space, 2603
supplies, customer and marketing information, advertising, 2604
billing and mailing systems, personnel, and training, without 2605
compensation based upon fully loaded embedded costs charged to 2606
the affiliate; and to ensure that any such affiliate, division, 2607
or part will not receive undue preference or advantage from any 2608
affiliate, division, or part of the business engaged in business 2609
of supplying the noncompetitive retail electric service. No such 2610
utility, affiliate, division, or part shall extend such undue 2611
preference. ~~Notwithstanding any other division of this section,~~ 2612
~~a utility's obligation under division (A) (3) of this section~~ 2613
~~shall be effective January 1, 2000.~~ 2614

(B) The commission may approve, modify and approve, or 2615
disapprove a corporate separation plan filed with the commission 2616
under division (A) of this section. As part of the code of 2617
conduct required under division (A) (1) of this section, the 2618
commission shall adopt rules pursuant to division (A) of section 2619
4928.06 of the Revised Code regarding corporate separation and 2620
procedures for plan filing and approval. The rules shall include 2621
limitations on affiliate practices solely for the purpose of 2622
maintaining a separation of the affiliate's business from the 2623
business of the utility to prevent ~~unfair competitive advantage~~ 2624
abuse of market power by virtue of that relationship. The rules 2625
also shall include an opportunity for any person having a real 2626
and substantial interest in the corporate separation plan to 2627
file specific objections to the plan and propose specific 2628
responses to issues raised in the objections, which objections 2629
and responses the commission shall address in its final order. 2630
Prior to commission approval of the plan, the commission shall 2631
afford a hearing upon those aspects of the plan that the 2632

commission determines reasonably require a hearing. The 2633
commission may reject and require refiling of a substantially 2634
inadequate plan under this section. 2635

(C) The commission shall issue an order approving or 2636
modifying and approving a corporate separation plan under this 2637
section, to be effective on the date specified in the order, 2638
only upon findings that the plan reasonably complies with the 2639
requirements of division (A) of this section and will provide 2640
for ongoing compliance with the policy specified in section 2641
4928.02 of the Revised Code. However, for good cause shown, the 2642
commission may issue an order approving or modifying and 2643
approving a corporate separation plan under this section that 2644
does not comply with division (A)(1) of this section but 2645
complies with such functional separation requirements as the 2646
commission authorizes to apply for an interim period prescribed 2647
in the order, upon a finding that such alternative plan will 2648
provide for ongoing compliance with the policy specified in 2649
section 4928.02 of the Revised Code. 2650

(D) Any party may seek an amendment to a corporate 2651
separation plan approved under this section, and the commission, 2652
pursuant to a request from any party or on its own initiative, 2653
may order as it considers necessary the filing of an amended 2654
corporate separation plan to reflect changed circumstances. 2655

~~(E) No electric distribution utility shall sell or 2656
transfer any generating asset it wholly or partly owns at any 2657
time without obtaining prior commission approval. 2658~~

Sec. 4928.20. (A) The legislative authority of a municipal 2659
corporation may adopt an ordinance, or the board of township 2660
trustees of a township or the board of county commissioners of a 2661
county may adopt a resolution, under which, ~~on or after the~~ 2662

~~starting date of competitive retail electric service,~~ it may 2663
aggregate in accordance with this section the retail electrical 2664
loads located, respectively, within the municipal corporation, 2665
township, or unincorporated area of the county and, for that 2666
purpose, may enter into service agreements to facilitate for 2667
those loads the sale and purchase of electricity. The 2668
legislative authority or board also may exercise such authority 2669
jointly with any other such legislative authority or board. For 2670
customers that are not mercantile customers, an ordinance or 2671
resolution under this division shall specify whether the 2672
aggregation will occur only with the prior, affirmative consent 2673
of each person owning, occupying, controlling, or using an 2674
electric load center proposed to be aggregated or will occur 2675
automatically for all such persons pursuant to the opt-out 2676
requirements of division (D) of this section. The aggregation of 2677
mercantile customers shall occur only with the prior, 2678
affirmative consent of each such person owning, occupying, 2679
controlling, or using an electric load center proposed to be 2680
aggregated. Nothing in this division, however, authorizes the 2681
aggregation of the retail electric loads of an electric load 2682
center, as defined in section 4933.81 of the Revised Code, that 2683
is located in the certified territory of a nonprofit electric 2684
supplier under sections 4933.81 to 4933.90 of the Revised Code 2685
or an electric load center served by transmission or 2686
distribution facilities of a municipal electric utility. 2687

(B) If an ordinance or resolution adopted under division 2688
(A) of this section specifies that aggregation of customers that 2689
are not mercantile customers will occur automatically as 2690
described in that division, the ordinance or resolution shall 2691
direct the board of elections to submit the question of the 2692
authority to aggregate to the electors of the respective 2693

municipal corporation, township, or unincorporated area of a 2694
county at a special election on the day of the next primary or 2695
general election in the municipal corporation, township, or 2696
county. The legislative authority or board shall certify a copy 2697
of the ordinance or resolution to the board of elections not 2698
less than ninety days before the day of the special election. No 2699
ordinance or resolution adopted under division (A) of this 2700
section that provides for an election under this division shall 2701
take effect unless approved by a majority of the electors voting 2702
upon the ordinance or resolution at the election held pursuant 2703
to this division. 2704

(C) Upon the applicable requisite authority under 2705
divisions (A) and (B) of this section, the legislative authority 2706
or board shall develop a plan of operation and governance for 2707
the aggregation program so authorized. Before adopting a plan 2708
under this division, the legislative authority or board shall 2709
hold at least two public hearings on the plan. Before the first 2710
hearing, the legislative authority or board shall publish notice 2711
of the hearings once a week for two consecutive weeks in a 2712
newspaper of general circulation in the jurisdiction or as 2713
provided in section 7.16 of the Revised Code. The notice shall 2714
summarize the plan and state the date, time, and location of 2715
each hearing. 2716

(D) No legislative authority or board, pursuant to an 2717
ordinance or resolution under divisions (A) and (B) of this 2718
section that provides for automatic aggregation of customers 2719
that are not mercantile customers as described in division (A) 2720
of this section, shall aggregate the electrical load of any 2721
electric load center located within its jurisdiction unless it 2722
in advance clearly discloses to the person owning, occupying, 2723
controlling, or using the load center that the person will be 2724

enrolled automatically in the aggregation program and will 2725
remain so enrolled unless the person affirmatively elects by a 2726
stated procedure not to be so enrolled. The disclosure shall 2727
state prominently the rates, charges, and other terms and 2728
conditions of enrollment. The stated procedure shall allow any 2729
person enrolled in the aggregation program the opportunity to 2730
opt out of the program every three years, without paying a 2731
switching fee. Any such person that opts out before the 2732
commencement of the aggregation program pursuant to the stated 2733
procedure shall default to the standard service offer provided 2734
under section 4928.14 or division (D) of section 4928.35 of the 2735
Revised Code until the person chooses an alternative supplier. 2736

(E) (1) With respect to a governmental aggregation for a 2737
municipal corporation that is authorized pursuant to divisions 2738
(A) to (D) of this section, resolutions may be proposed by 2739
initiative or referendum petitions in accordance with sections 2740
731.28 to 731.41 of the Revised Code. 2741

(2) With respect to a governmental aggregation for a 2742
township or the unincorporated area of a county, which 2743
aggregation is authorized pursuant to divisions (A) to (D) of 2744
this section, resolutions may be proposed by initiative or 2745
referendum petitions in accordance with sections 731.28 to 2746
731.40 of the Revised Code, except that: 2747

(a) The petitions shall be filed, respectively, with the 2748
township fiscal officer or the board of county commissioners, 2749
who shall perform those duties imposed under those sections upon 2750
the city auditor or village clerk. 2751

(b) The petitions shall contain the signatures of not less 2752
than ten per cent of the total number of electors in, 2753
respectively, the township or the unincorporated area of the 2754

county who voted for the office of governor at the preceding 2755
general election for that office in that area. 2756

(F) A governmental aggregator under division (A) of this 2757
section is not a public utility engaging in the wholesale 2758
purchase and resale of electricity, and provision of the 2759
aggregated service is not a wholesale utility transaction. A 2760
governmental aggregator shall be subject to supervision and 2761
regulation by the public utilities commission only to the extent 2762
of any competitive retail electric service it provides and 2763
commission authority under this chapter. 2764

(G) This section does not apply in the case of a municipal 2765
corporation that supplies such aggregated service to electric 2766
load centers to which its municipal electric utility also 2767
supplies a noncompetitive retail electric service through 2768
transmission or distribution facilities the utility singly or 2769
jointly owns or operates. 2770

(H) A governmental aggregator shall not include in its 2771
aggregation the accounts of any of the following: 2772

(1) A customer that has opted out of the aggregation; 2773

(2) A customer in contract with a certified electric 2774
services company; 2775

(3) A customer that has a special contract with an 2776
electric distribution utility; 2777

(4) A customer that is not located within the governmental 2778
aggregator's governmental boundaries; 2779

(5) Subject to division (C) of section 4928.21 of the 2780
Revised Code, a customer who appears on the "do not aggregate" 2781
list maintained under that section. 2782

(I) Customers that are part of a governmental aggregation 2783
under this section shall be responsible only for such portion of 2784
a surcharge under section 4928.144 of the Revised Code that is 2785
proportionate to the benefits, as determined by the commission, 2786
that electric load centers within the jurisdiction of the 2787
governmental aggregation as a group receive. The proportionate 2788
surcharge so established shall apply to each customer of the 2789
governmental aggregation while the customer is part of that 2790
aggregation. If a customer ceases being such a customer, the 2791
otherwise applicable surcharge shall apply. Nothing in this 2792
section shall result in less than full recovery by an electric 2793
distribution utility of any surcharge authorized under section 2794
4928.144 of the Revised Code. Nothing in this section shall 2795
result in less than the full and timely imposition, charging, 2796
collection, and adjustment by an electric distribution utility, 2797
its assignee, or any collection agent, of the phase-in-recovery 2798
charges authorized pursuant to a final financing order issued 2799
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 2800

~~(J) On behalf of the customers that are part of a 2801
governmental aggregation under this section and by filing 2802
written notice with the public utilities commission, the 2803
legislative authority that formed or is forming that 2804
governmental aggregation may elect not to receive standby 2805
service within the meaning of division (B)(2)(d) of section 2806
4928.143 of the Revised Code from an electric distribution 2807
utility in whose certified territory the governmental 2808
aggregation is located and that operates under an approved 2809
electric security plan under that section. Upon the filing of 2810
that notice, the electric distribution utility shall not charge 2811
any such customer to whom competitive retail electric generation 2812
service is provided by another supplier under the governmental 2813~~

~~aggregation for the standby service. Any such consumer that~~ 2814
~~returns to the utility for competitive retail electric service~~ 2815
~~shall pay the market price of power incurred by the utility to~~ 2816
~~serve that consumer plus any amount attributable to the~~ 2817
~~utility's cost of compliance with the renewable energy resource~~ 2818
~~provisions of section 4928.64 of the Revised Code to serve the~~ 2819
~~consumer. Such market price shall include, but not be limited~~ 2820
~~to, capacity and energy charges; all charges associated with the~~ 2821
~~provision of that power supply through the regional transmission~~ 2822
~~organization, including, but not limited to, transmission,~~ 2823
~~ancillary services, congestion, and settlement and~~ 2824
~~administrative charges; and all other costs incurred by the~~ 2825
~~utility that are associated with the procurement, provision, and~~ 2826
~~administration of that power supply, as such costs may be~~ 2827
~~approved by the commission. The period of time during which the~~ 2828
~~market price and renewable energy resource amount shall be so~~ 2829
~~assessed on the consumer shall be from the time the consumer so~~ 2830
~~returns to the electric distribution utility until the~~ 2831
~~expiration of the electric security plan. However, if that~~ 2832
~~period of time is expected to be more than two years, the~~ 2833
~~commission may reduce the time period to a period of not less~~ 2834
~~than two years.~~ 2835

~~(K) The commission shall adopt rules and issue orders in~~ 2836
~~proceedings under sections 4928.141 and 4928.142 of the Revised~~ 2837
~~Code to encourage and promote large-scale governmental~~ 2838
~~aggregation in this state. For that purpose, the commission~~ 2839
~~shall conduct an immediate review of any rules it has adopted~~ 2840
~~for the purpose of this section that are in effect on the~~ 2841
~~effective date of the amendment of this section by S.B. 221 of~~ 2842
~~the 127th general assembly, July 31, 2008. Further, within the~~ 2843
~~context of an electric security plan under section 4928.143 of~~ 2844

~~the Revised Code, the~~ The commission shall ~~consider the effect~~ 2845
~~on large-scale governmental aggregation of any nonbypassable~~ 2846
~~generation charges, however collected, that would be established~~ 2847
~~under that plan, except any nonbypassable generation charges~~ 2848
~~that relate to any cost incurred by the~~ review each application 2849
filed under section 4928.142 of the Revised Code by an electric 2850
distribution utility, to ensure that the deferral of which has 2851
~~been authorized by the commission prior to the effective date of~~ 2852
application and the amendment of this section by S.B. 221 of the 2853
~~127th general assembly, July 31, 2008~~ resulting market rate 2854
offer shall not contain any rate, price, term, condition, or 2855
provision that would have an adverse effect on large-scale 2856
governmental aggregation in this state. 2857

Sec. 4928.23. As used in sections 4928.23 to 4928.2318 of 2858
the Revised Code: 2859

(A) "Ancillary agreement" means any bond insurance policy, 2860
letter of credit, reserve account, surety bond, swap 2861
arrangement, hedging arrangement, liquidity or credit support 2862
arrangement, or other similar agreement or arrangement entered 2863
into in connection with the issuance of phase-in-recovery bonds 2864
that is designed to promote the credit quality and marketability 2865
of the bonds or to mitigate the risk of an increase in interest 2866
rates. 2867

(B) "Assignee" means any person or entity to which an 2868
interest in phase-in-recovery property is sold, assigned, 2869
transferred, or conveyed, other than as security, and any 2870
successor to or subsequent assignee of such a person or entity. 2871

(C) "Bond" includes debentures, notes, certificates of 2872
participation, certificates of beneficial interest, certificates 2873
of ownership or other evidences of indebtedness or ownership 2874

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

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

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

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

(2) Any payment required under an ancillary agreement;

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

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

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

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

holder of an obligation described in division (E) (5) of this 2903
section that are necessary to be incurred for the electric 2904
distribution utility to issue or cause the issuance of phase-in- 2905
recovery bonds; 2906

(7) Any taxes, franchise fees, or license fees imposed on 2907
phase-in-recovery revenues; 2908

(8) Any costs related to issuing or servicing phase-in- 2909
recovery bonds or related to obtaining a financing order, 2910
including servicing fees and expenses, trustee fees and 2911
expenses, legal, accounting, or other professional fees and 2912
expenses, administrative fees, placement fees, underwriting 2913
fees, capitalized interest and equity, and rating-agency fees; 2914

(9) Any other similar costs that the public utilities 2915
commission finds appropriate. 2916

(F) "Financing order" means an order issued by the public 2917
utilities commission under section 4928.232 of the Revised Code 2918
that authorizes an electric distribution utility or an assignee 2919
to issue phase-in-recovery bonds and recover phase-in-recovery 2920
charges. 2921

(G) "Final financing order" means a financing order that 2922
has become final and has taken effect as provided in section 2923
4928.233 of the Revised Code. 2924

(H) "Financing party" means either of the following: 2925

(1) Any trustee, collateral agent, or other person acting 2926
for the benefit of any bondholder; 2927

(2) Any party to an ancillary agreement, the rights and 2928
obligations of which relate to or depend upon the existence of 2929
phase-in-recovery property, the enforcement and priority of a 2930

security interest in phase-in-recovery property, the timely 2931
collection and payment of phase-in-recovery revenues, or a 2932
combination of these factors. 2933

(I) "Financing statement" has the same meaning as in 2934
section 1309.102 of the Revised Code. 2935

(J) "Phase-in costs" means costs, inclusive of carrying 2936
charges incurred before, on, or after ~~the effective date of this~~ 2937
~~section~~ March 22, 2012, authorized by the commission before, on, 2938
or after ~~the effective date of this section~~ March 22, 2012, to 2939
be securitized or deferred as regulatory assets in proceedings 2940
under section 4909.18 ~~of the Revised Code, sections 4928.141 to~~ 2941
~~4928.143, 4928.142, or 4928.144 of the Revised Code, or~~ section 2942
4928.14 of the Revised Code as it existed prior to July 31, 2943
2008, or section 4928.143 of the Revised Code as it existed 2944
prior to the effective date of the amendments to this section by 2945
this act pursuant to a final order for which appeals have been 2946
exhausted. "Phase-in costs" excludes the following: 2947

(1) With respect to any electric generating facility that, 2948
on and after ~~the effective date of this section~~ March 22, 2012, 2949
is owned, in whole or in part, by an electric distribution 2950
utility applying for a financing order under section 4928.231 of 2951
the Revised Code, costs that are authorized under division (B) 2952
(2) (b) or (c) of section 4928.143 of the Revised Code as that 2953
section existed prior to the effective date of the amendments to 2954
this section by this act; 2955

(2) Costs incurred after ~~the effective date of this~~ 2956
~~section~~ March 22, 2012, related to the ongoing operation of an 2957
electric generating facility, but not environmental clean-up or 2958
remediation costs incurred by an electric distribution utility 2959
because of its ownership or operation of an electric generating 2960

facility prior to ~~the effective date of this section~~ March 22, 2961
2012, which such clean-up or remediation costs are imposed or 2962
incurred pursuant to federal or state law, rules, or regulations 2963
and for which the commission approves or approved recovery in 2964
accordance with section 4909.18 ~~of the Revised Code, sections~~ 2965
~~4928.141 to 4928.143,~~ 4928.142, or 4928.144 of the Revised Code, 2966
~~or~~ section 4928.14 of the Revised Code as it existed prior to 2967
July 31, 2008, or section 4928.143 of the Revised Code as it 2968
existed prior to the effective date of the amendments to this 2969
section by this act. 2970

(K) "Phase-in-recovery property" means the property, 2971
rights, and interests of an electric distribution utility or an 2972
assignee under a final financing order, including the right to 2973
impose, charge, and collect the phase-in-recovery charges that 2974
shall be used to pay and secure the payment of phase-in-recovery 2975
bonds and financing costs, and including the right to obtain 2976
adjustments to those charges, and any revenues, receipts, 2977
collections, rights to payment, payments, moneys, claims, or 2978
other proceeds arising from the rights and interests created 2979
under the final financing order. 2980

(L) "Phase-in-recovery revenues" means all revenues, 2981
receipts, collections, payments, moneys, claims, or other 2982
proceeds arising from phase-in-recovery property. 2983

(M) "Successor" means, with respect to any entity, another 2984
entity that succeeds by operation of law to the rights and 2985
obligations of the first legal entity pursuant to any 2986
bankruptcy, reorganization, restructuring, or other insolvency 2987
proceeding, any merger, acquisition, or consolidation, or any 2988
sale or transfer of assets, regardless of whether any of these 2989
occur as a result of a restructuring of the electric power 2990

industry or otherwise.	2991
Sec. 4928.231. (A) An electric distribution utility may	2992
apply to the public utilities commission for a financing order	2993
that authorizes the following:	2994
(1) The issuance of phase-in-recovery bonds, in one or	2995
more series, to recover uncollected phase-in costs;	2996
(2) The imposition, charging, and collection of phase-in-	2997
recovery charges, in accordance with the adjustment mechanism	2998
approved by the commission under section 4928.232 of the Revised	2999
Code, and consistent with the commission's authority regarding	3000
governmental aggregation as provided in division (I) of section	3001
4928.20 of the Revised Code, to recover both of the following:	3002
(a) Uncollected phase-in costs;	3003
(b) Financing costs.	3004
(3) The creation of phase-in-recovery property under the	3005
financing order.	3006
(B) The application shall include all of the following:	3007
(1) A description of the uncollected phase-in costs that	3008
the electric distribution utility seeks to recover through the	3009
issuance of phase-in-recovery bonds;	3010
(2) An estimate of the date each series of phase-in-	3011
recovery bonds are expected to be issued;	3012
(3) The expected term during which the phase-in costs	3013
associated with the issuance of each series of phase-in-recovery	3014
bonds are expected to be recovered;	3015
(4) An estimate of the financing costs, as described in	3016
section 4928.23 of the Revised Code, associated with the	3017

issuance of each series of phase-in-recovery bonds; 3018

(5) An estimate of the amount of phase-in-recovery charges 3019
necessary to recover the phase-in costs and financing costs set 3020
forth in the application and the calculation for that estimate, 3021
which calculation shall take into account the estimated date or 3022
dates of issuance and the estimated principal amount of each 3023
series of phase-in-recovery bonds; 3024

(6) For phase-in-recovery charges not subject to 3025
allocation according to an existing order, a proposed 3026
methodology for allocating phase-in-recovery charges among 3027
customer classes, including a proposed methodology for 3028
allocating such charges to governmental aggregation customers 3029
based upon the proportionate benefit determination made under 3030
division (I) of section 4928.20 of the Revised Code; 3031

(7) A description of a proposed adjustment mechanism for 3032
use as described in division (A)(2) of this section; 3033

(8) A description and valuation of how the issuance of the 3034
phase-in-recovery bonds, including financing costs, will both 3035
result in cost savings to customers and mitigate rate impacts to 3036
customers when compared to the use of other financing mechanisms 3037
or cost-recovery methods available to the electric distribution 3038
utility; 3039

(9) Any other information required by the commission. 3040

(C) The electric distribution utility may restate or 3041
incorporate by reference in the application any information 3042
required under division (B)(9) of this section that the electric 3043
distribution utility filed with the commission under section 3044
4909.18 or sections 4928.141 to 4928.144 of the Revised Code ~~or~~ 3045
, section 4928.14 of the Revised Code as it existed prior to 3046

July 31, 2008, or section 4928.143 of the Revised Code as it 3047
existed prior to the amendments to this section by this act. 3048

Sec. 4928.232. (A) Proceedings before the public utilities 3049
commission on an application submitted by an electric 3050
distribution utility under section 4928.231 of the Revised Code 3051
shall be governed by Chapter 4903. of the Revised Code, but only 3052
to the extent that chapter is not inconsistent with this section 3053
or section 4928.233 of the Revised Code. Any party that 3054
participated in the proceeding in which phase-in costs were 3055
approved under section 4909.18 or sections 4928.141 to 4928.144 3056
of the Revised Code ~~or,~~ section 4928.14 of the Revised Code as 3057
it existed prior to July 31, 2008, or section 4928.143 of the 3058
Revised Code as it existed prior to the amendments to this 3059
section by this act shall have standing to participate in 3060
proceedings under sections 4928.23 to 4928.2318 of the Revised 3061
Code. 3062

(B) When reviewing an application for a financing order 3063
pursuant to sections 4928.23 to 4928.2318 of the Revised Code, 3064
the commission may hold such hearings, make such inquiries or 3065
investigations, and examine such witnesses, books, papers, 3066
documents, and contracts as the commission considers proper to 3067
carry out these sections. Within thirty days after the filing of 3068
an application under section 4928.231 of the Revised Code, the 3069
commission shall publish a schedule of the proceeding. 3070

(C) (1) Not later than one hundred thirty-five days after 3071
the date the application is filed, the commission shall issue 3072
either a financing order, granting the application in whole or 3073
with modifications, or an order suspending or rejecting the 3074
application. 3075

(2) If the commission suspends an application for a 3076

financing order, the commission shall notify the electric 3077
distribution utility of the suspension and may direct the 3078
electric distribution utility to provide additional information 3079
as the commission considers necessary to evaluate the 3080
application. Not later than ninety days after the suspension, 3081
the commission shall issue either a financing order, granting 3082
the application in whole or with modifications, or an order 3083
rejecting the application. 3084

(D) (1) The commission shall not issue a financing order 3085
under division (C) of this section unless the commission 3086
determines that the financing order is consistent with section 3087
4928.02 of the Revised Code. 3088

(2) Except as provided in division (D) (1) of this section, 3089
the commission shall issue a financing order under division (C) 3090
of this section if, at the time the financing order is issued, 3091
the commission finds that the issuance of the phase-in-recovery 3092
bonds and the phase-in-recovery charges authorized by the order 3093
results in, consistent with market conditions, both measurably 3094
enhancing cost savings to customers and mitigating rate impacts 3095
to customers as compared with traditional financing mechanisms 3096
or traditional cost-recovery methods available to the electric 3097
distribution utility or, if the commission previously approved a 3098
recovery method, as compared with that recovery method. 3099

(E) The commission shall include all of the following in a 3100
financing order issued under division (C) of this section: 3101

(1) A determination of the maximum amount and a 3102
description of the phase-in costs that may be recovered through 3103
phase-in-recovery bonds issued under the financing order; 3104

(2) A description of phase-in-recovery property, the 3105

creation of which is authorized by the financing order; 3106

(3) A description of the financing costs that may be 3107
recovered through phase-in-recovery charges and the period over 3108
which those costs may be recovered; 3109

(4) For phase-in-recovery charges not subject to 3110
allocation according to an existing order, a description of the 3111
methodology and calculation for allocating phase-in-recovery 3112
charges among customer classes, including the allocation of such 3113
charges, if any, to governmental aggregation customers based 3114
upon the proportionate benefit determination made under division 3115
(I) of section 4928.20 of the Revised Code; 3116

(5) A description of the adjustment mechanism for use in 3117
the imposition, charging, and collection of the phase-in- 3118
recovery charges; 3119

(6) The maximum term of the phase-in-recovery bonds; 3120

(7) Any other provision the commission considers 3121
appropriate to ensure the full and timely imposition, charging, 3122
collection, and adjustment, pursuant to an approved adjustment 3123
mechanism, of the phase-in-recovery charges described in 3124
divisions (E) (3) to (5) of this section. 3125

(F) The commission may, in a financing order, afford the 3126
electric distribution utility flexibility in establishing the 3127
terms and conditions for the phase-in-recovery bonds to 3128
accommodate changes in market conditions, including repayment 3129
schedules, interest rates, financing costs, collateral 3130
requirements, required debt service and other reserves, and the 3131
ability of the electric distribution utility, at its option, to 3132
effect a series of issuances of phase-in-recovery bonds and 3133
correlated assignments, sales, pledges, or other transfers of 3134

phase-in-recovery property. Any changes made under this section 3135
to terms and conditions for the phase-in-recovery bonds shall be 3136
in conformance with the financing order. 3137

(G) A financing order may provide that the creation of 3138
phase-in-recovery property shall be simultaneous with the sale 3139
of that property to an assignee as provided in the application 3140
and the pledge of the property to secure phase-in-recovery 3141
bonds. 3142

(H) The commission shall, in a financing order, require 3143
that after the final terms of each issuance of phase-in-recovery 3144
bonds have been established, and prior to the issuance of those 3145
bonds, the electric distribution utility shall determine the 3146
resulting phase-in-recovery charges in accordance with the 3147
adjustment mechanism described in the financing order. These 3148
phase-in-recovery charges shall be final and effective upon the 3149
issuance of the phase-in-recovery bonds, without further 3150
commission action. 3151

Sec. 4928.34. (A) The public utilities commission shall 3152
not approve or prescribe a transition plan under division (A) or 3153
(B) of section 4928.33 of the Revised Code unless the commission 3154
first makes all of the following determinations: 3155

(1) The unbundled components for the electric transmission 3156
component of retail electric service, as specified in the 3157
utility's rate unbundling plan required by division (A)(1) of 3158
section 4928.31 of the Revised Code, equal the tariff rates 3159
determined by the federal energy regulatory commission that are 3160
in effect on the date of the approval of the transition plan 3161
under sections 4928.31 to 4928.40 of the Revised Code, as each 3162
such rate is determined applicable to each particular customer 3163
class and rate schedule by the commission. The unbundled 3164

transmission component shall include a sliding scale of charges 3165
under division (B) of section 4905.31 of the Revised Code to 3166
ensure that refunds determined or approved by the federal energy 3167
regulatory commission are flowed through to retail electric 3168
customers. 3169

(2) The unbundled components for retail electric 3170
distribution service in the rate unbundling plan equal the 3171
difference between the costs attributable to the utility's 3172
transmission and distribution rates and charges under its 3173
schedule of rates and charges in effect on the effective date of 3174
this section, based upon the record in the most recent rate 3175
proceeding of the utility for which the utility's schedule was 3176
established, and the tariff rates for electric transmission 3177
service determined by the federal energy regulatory commission 3178
as described in division (A) (1) of this section. 3179

(3) All other unbundled components required by the 3180
commission in the rate unbundling plan equal the costs 3181
attributable to the particular service as reflected in the 3182
utility's schedule of rates and charges in effect on the 3183
effective date of this section. 3184

(4) The unbundled components for retail electric 3185
generation service in the rate unbundling plan equal the 3186
residual amount remaining after the determination of the 3187
transmission, distribution, and other unbundled components, and 3188
after any adjustments necessary to reflect the effects of the 3189
amendment of section 5727.111 of the Revised Code by Sub. S.B. 3190
No. 3 of the 123rd general assembly. 3191

(5) All unbundled components in the rate unbundling plan 3192
have been adjusted to reflect any base rate reductions on file 3193
with the commission and as scheduled to be in effect by December 3194

31, 2005, under rate settlements in effect on the effective date 3195
of this section. However, all earnings obligations, 3196
restrictions, or caps imposed on an electric utility in a 3197
commission order prior to the effective date of this section are 3198
void. 3199

(6) Subject to division (A) (5) of this section, the total 3200
of all unbundled components in the rate unbundling plan are 3201
capped and shall equal during the market development period, 3202
except as specifically provided in this chapter, the total of 3203
all rates and charges in effect under the applicable bundled 3204
schedule of the electric utility pursuant to section 4905.30 of 3205
the Revised Code in effect on the day before the effective date 3206
of this section, including the transition charge determined 3207
under section 4928.40 of the Revised Code, adjusted for any 3208
changes in the taxation of electric utilities and retail 3209
electric service under Sub. S.B. No. 3 of the 123rd General 3210
Assembly, the universal service rider authorized by section 3211
4928.51 of the Revised Code, and the temporary rider authorized 3212
by section 4928.61 of the Revised Code. For the purpose of this 3213
division, the rate cap applicable to a customer receiving 3214
electric service pursuant to an arrangement approved by the 3215
commission under section 4905.31 of the Revised Code is, for the 3216
term of the arrangement, the total of all rates and charges in 3217
effect under the arrangement. For any rate schedule filed 3218
pursuant to section 4905.30 of the Revised Code or any 3219
arrangement subject to approval pursuant to section 4905.31 of 3220
the Revised Code, the initial tax-related adjustment to the rate 3221
cap required by this division shall be equal to the rate of 3222
taxation specified in section 5727.81 of the Revised Code and 3223
applicable to the schedule or arrangement. To the extent such 3224
total annual amount of the tax-related adjustment is greater 3225

than or less than the comparable amount of the total annual tax 3226
reduction experienced by the electric utility as a result of the 3227
provisions of Sub. S.B. No. 3 of the 123rd general assembly, 3228
such difference shall be addressed by the commission through 3229
accounting procedures, refunds, or an annual surcharge or credit 3230
to customers, or through other appropriate means, to avoid 3231
placing the financial responsibility for the difference upon the 3232
electric utility or its shareholders. Any adjustments in the 3233
rate of taxation specified in section 5727.81 of the Revised 3234
Code ~~section~~ shall not occur without a corresponding adjustment 3235
to the rate cap for each such rate schedule or arrangement. The 3236
department of taxation shall advise the commission and self- 3237
assessors under section 5727.81 of the Revised Code prior to the 3238
effective date of any change in the rate of taxation specified 3239
under that section, and the commission shall modify the rate cap 3240
to reflect that adjustment so that the rate cap adjustment is 3241
effective as of the effective date of the change in the rate of 3242
taxation. This division shall be applied, to the extent 3243
possible, to eliminate any increase in the price of electricity 3244
for customers that otherwise may occur as a result of 3245
establishing the taxes contemplated in section 5727.81 of the 3246
Revised Code. 3247

(7) The rate unbundling plan complies with any rules 3248
adopted by the commission under division (A) of section 4928.06 3249
of the Revised Code. 3250

(8) The corporate separation plan required by division (A) 3251
(2) of section 4928.31 of the Revised Code complies with section 3252
4928.17 of the Revised Code and any rules adopted by the 3253
commission under division (A) of section 4928.06 of the Revised 3254
Code. 3255

(9) Any plan or plans the commission requires to address 3256
operational support systems and any other technical 3257
implementation issues pertaining to competitive retail electric 3258
service comply with any rules adopted by the commission under 3259
division (A) of section 4928.06 of the Revised Code. 3260

(10) The employee assistance plan required by division (A) 3261
(4) of section 4928.31 of the Revised Code sufficiently provides 3262
severance, retraining, early retirement, retention, 3263
outplacement, and other assistance for the utility's employees 3264
whose employment is affected by electric industry restructuring 3265
under this chapter. 3266

(11) The consumer education plan required under division 3267
(A) (5) of section 4928.31 of the Revised Code complies with 3268
former section 4928.42 of the Revised Code and any rules adopted 3269
by the commission under division (A) of section 4928.06 of the 3270
Revised Code. 3271

(12) The transition revenues for which an electric utility 3272
is authorized a revenue opportunity under sections 4928.31 to 3273
4928.40 of the Revised Code are the allowable transition costs 3274
of the utility as such costs are determined by the commission 3275
pursuant to section 4928.39 of the Revised Code, and the 3276
transition charges for the customer classes and rate schedules 3277
of the utility are the charges determined pursuant to section 3278
4928.40 of the Revised Code. 3279

(13) Any independent transmission plan included in the 3280
transition plan filed under section 4928.31 of the Revised Code 3281
reasonably complies with section 4928.12 of the Revised Code and 3282
any rules adopted by the commission under division (A) of 3283
section 4928.06 of the Revised Code, unless the commission, for 3284
good cause shown, authorizes the utility to defer compliance 3285

until an order is issued under division (G) of section 4928.35 3286
of the Revised Code. 3287

(14) The utility is in compliance with sections 4928.01 to 3288
4928.11 of the Revised Code and any rules or orders of the 3289
commission adopted or issued under those sections. 3290

(15) All unbundled components in the rate unbundling plan 3291
have been adjusted to reflect the elimination of the tax on 3292
gross receipts imposed by section 5727.30 of the Revised Code. 3293

In addition, a transition plan approved by the commission 3294
under section 4928.33 of the Revised Code but not containing an 3295
approved independent transmission plan shall contain the express 3296
conditions that the utility will comply with an order issued 3297
under division (G) of section 4928.35 of the Revised Code. 3298

~~(B) Subject to division (E) of section 4928.17 of the~~ 3299
~~Revised Code, if~~If the commission finds that any part of the 3300
transition plan would constitute an abandonment under sections 3301
4905.20 and 4905.21 of the Revised Code, the commission shall 3302
not approve that part of the transition plan unless it makes the 3303
finding required for approval of an abandonment application 3304
under section 4905.21 of the Revised Code. Sections 4905.20 and 3305
4905.21 of the Revised Code otherwise shall not apply to a 3306
transition plan under sections 4928.31 to 4928.40 of the Revised 3307
Code. 3308

Sec. 4928.542. The winning bid or bids selected through 3309
the competitive procurement process established under section 3310
4928.54 of the Revised Code shall meet all of the following 3311
requirements: 3312

(A) Be designed to provide reliable competitive retail 3313
electric service to percentage of income payment plan program 3314

customers; 3315

(B) Reduce the cost of the percentage of income payment 3316
plan program relative to the otherwise applicable standard 3317
service offer established under sections 4928.141, ~~and~~ 4928.142, 3318
~~and 4928.143~~ of the Revised Code; 3319

(C) Result in the best value for persons paying the 3320
universal service rider under section 4928.52 of the Revised 3321
Code. 3322

Sec. 4928.64. (A) (1) As used in this section, "qualifying 3323
renewable energy resource" means a renewable energy resource, as 3324
defined in section 4928.01 of the Revised Code that: 3325

(a) Has a placed-in-service date on or after January 1, 3326
1998; 3327

(b) Is any run-of-the-river hydroelectric facility that 3328
has an in-service date on or after January 1, 1980; 3329

(c) Is a small hydroelectric facility; 3330

(d) Is created on or after January 1, 1998, by the 3331
modification or retrofit of any facility placed in service prior 3332
to January 1, 1998; or 3333

(e) Is a mercantile customer-sited renewable energy 3334
resource, whether new or existing, that the mercantile customer 3335
commits for integration into the electric distribution utility's 3336
demand-response, energy efficiency, or peak demand reduction 3337
programs as provided under division (A) (2) (c) of section 4928.66 3338
of the Revised Code, including, but not limited to, any of the 3339
following: 3340

(i) A resource that has the effect of improving the 3341
relationship between real and reactive power; 3342

(ii) A resource that makes efficient use of waste heat or 3343
other thermal capabilities owned or controlled by a mercantile 3344
customer; 3345

(iii) Storage technology that allows a mercantile customer 3346
more flexibility to modify its demand or load and usage 3347
characteristics; 3348

(iv) Electric generation equipment owned or controlled by 3349
a mercantile customer that uses a renewable energy resource. 3350

(2) For the purpose of this section and as it considers 3351
appropriate, the public utilities commission may classify any 3352
new technology as such a qualifying renewable energy resource. 3353

(B) (1) By the end of 2026, an electric distribution 3354
utility shall have provided from qualifying renewable energy 3355
resources, including, at its discretion, qualifying renewable 3356
energy resources obtained pursuant to an electricity supply 3357
contract, a portion of the electricity supply required for its 3358
standard service offer under ~~section~~ sections 4928.141 and 3359
4928.142 of the Revised Code, and an electric services company 3360
shall have provided a portion of its electricity supply for 3361
retail consumers in this state from qualifying renewable energy 3362
resources, including, at its discretion, qualifying renewable 3363
energy resources obtained pursuant to an electricity supply 3364
contract. That portion shall equal eight and one-half per cent 3365
of the total number of kilowatt hours of electricity sold by the 3366
subject utility or company to any and all retail electric 3367
consumers whose electric load centers are served by that utility 3368
and are located within the utility's certified territory or, in 3369
the case of an electric services company, are served by the 3370
company and are located within this state. However, nothing in 3371
this section precludes a utility or company from providing a 3372

greater percentage. 3373

~~(2) Subject to section 4928.642 of the Revised Code, the~~ 3374

The portion required under division (B) (1) of this section shall 3375

be generated from renewable energy resources in accordance with 3376

the following benchmarks: 3377

3378

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5%	0%
N	2021	6%	0%

O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%
R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented 3379
by the utility or company shall be met either: 3380

(a) Through facilities located in this state; or 3381

(b) With resources that can be shown to be deliverable 3382
into this state. 3383

(C) (1) The commission annually shall review an electric 3384
distribution utility's or electric services company's compliance 3385
with the most recent applicable benchmark under division (B) (2) 3386
of this section and, in the course of that review, shall 3387
identify any undercompliance or noncompliance of the utility or 3388
company that it determines is weather-related, related to 3389
equipment or resource shortages for qualifying renewable energy 3390
resources as applicable, or is otherwise outside the utility's 3391
or company's control. 3392

(2) Subject to the cost cap provisions of division (C) (3) 3393
of this section, if the commission determines, after notice and 3394
opportunity for hearing, and based upon its findings in that 3395
review regarding avoidable undercompliance or noncompliance, but 3396
subject to division (C) (4) of this section, that the utility or 3397
company has failed to comply with any such benchmark, the 3398
commission shall impose a renewable energy compliance payment on 3399

the utility or company. 3400

(a) The compliance payment pertaining to the solar energy 3401
resource benchmarks under division (B) (2) of this section shall 3402
be an amount per megawatt hour of undercompliance or 3403
noncompliance in the period under review, as follows: 3404

(i) Three hundred dollars for 2014, 2015, and 2016; 3405

(ii) Two hundred fifty dollars for 2017 and 2018; 3406

(iii) Two hundred dollars for 2019. 3407

(b) The compliance payment pertaining to the renewable 3408
energy resource benchmarks under division (B) (2) of this section 3409
shall equal the number of additional renewable energy credits 3410
that the electric distribution utility or electric services 3411
company would have needed to comply with the applicable 3412
benchmark in the period under review times an amount that shall 3413
begin at forty-five dollars and shall be adjusted annually by 3414
the commission to reflect any change in the consumer price index 3415
~~as defined in section 101.27 of the Revised Code~~, but shall not 3416
be less than forty-five dollars. As used in this division, 3417
"consumer price index" means the consumer price index prepared 3418
by the United States bureau of labor statistics (U.S. city 3419
average for urban wage earners and clerical workers: all items, 3420
1982-1984=100), or, if that index is no longer published, a 3421
generally available comparable index. 3422

(c) The compliance payment shall not be passed through by 3423
the electric distribution utility or electric services company 3424
to consumers. The compliance payment shall be remitted to the 3425
commission, for deposit to the credit of the advanced energy 3426
fund created under section 4928.61 of the Revised Code. Payment 3427
of the compliance payment shall be subject to such collection 3428

and enforcement procedures as apply to the collection of a 3429
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 3430
Revised Code. 3431

(3) An electric distribution utility or an electric 3432
services company need not comply with a benchmark under division 3433
(B) (2) of this section to the extent that its reasonably 3434
expected cost of that compliance exceeds its reasonably expected 3435
cost of otherwise producing or acquiring the requisite 3436
electricity by three per cent or more. The cost of compliance 3437
shall be calculated as though any exemption from taxes and 3438
assessments had not been granted under section 5727.75 of the 3439
Revised Code. 3440

(4) (a) An electric distribution utility or electric 3441
services company may request the commission to make a force 3442
majeure determination pursuant to this division regarding all or 3443
part of the utility's or company's compliance with any minimum 3444
benchmark under division (B) (2) of this section during the 3445
period of review occurring pursuant to division (C) (2) of this 3446
section. The commission may require the electric distribution 3447
utility or electric services company to make solicitations for 3448
renewable energy resource credits as part of its default service 3449
before the utility's or company's request of force majeure under 3450
this division can be made. 3451

(b) Within ninety days after the filing of a request by an 3452
electric distribution utility or electric services company under 3453
division (C) (4) (a) of this section, the commission shall 3454
determine if qualifying renewable energy resources are 3455
reasonably available in the marketplace in sufficient quantities 3456
for the utility or company to comply with the subject minimum 3457
benchmark during the review period. In making this 3458

determination, the commission shall consider whether the 3459
electric distribution utility or electric services company has 3460
made a good faith effort to acquire sufficient qualifying 3461
renewable energy or, as applicable, solar energy resources to so 3462
comply, including, but not limited to, by banking or seeking 3463
renewable energy resource credits or by seeking the resources 3464
through long-term contracts. Additionally, the commission shall 3465
consider the availability of qualifying renewable energy or 3466
solar energy resources in this state and other jurisdictions in 3467
the PJM interconnection regional transmission organization, 3468
L.L.C., or its successor and the midcontinent independent system 3469
operator or its successor. 3470

(c) If, pursuant to division (C) (4) (b) of this section, 3471
the commission determines that qualifying renewable energy or 3472
solar energy resources are not reasonably available to permit 3473
the electric distribution utility or electric services company 3474
to comply, during the period of review, with the subject minimum 3475
benchmark prescribed under division (B) (2) of this section, the 3476
commission shall modify that compliance obligation of the 3477
utility or company as it determines appropriate to accommodate 3478
the finding. Commission modification shall not automatically 3479
reduce the obligation for the electric distribution utility's or 3480
electric services company's compliance in subsequent years. If 3481
it modifies the electric distribution utility or electric 3482
services company obligation under division (C) (4) (c) of this 3483
section, the commission may require the utility or company, if 3484
sufficient renewable energy resource credits exist in the 3485
marketplace, to acquire additional renewable energy resource 3486
credits in subsequent years equivalent to the utility's or 3487
company's modified obligation under division (C) (4) (c) of this 3488
section. 3489

(5) The commission shall establish a process to provide 3490
for at least an annual review of the renewable energy resource 3491
market in this state and in the service territories of the 3492
regional transmission organizations that manage transmission 3493
systems located in this state. The commission shall use the 3494
results of this study to identify any needed changes to the 3495
amount of the renewable energy compliance payment specified 3496
under divisions (C) (2) (a) and (b) of this section. Specifically, 3497
the commission may increase the amount to ensure that payment of 3498
compliance payments is not used to achieve compliance with this 3499
section in lieu of actually acquiring or realizing energy 3500
derived from qualifying renewable energy resources. However, if 3501
the commission finds that the amount of the compliance payment 3502
should be otherwise changed, the commission shall present this 3503
finding to the general assembly for legislative enactment. 3504

(D) The commission annually shall submit to the general 3505
assembly in accordance with section 101.68 of the Revised Code a 3506
report describing all of the following: 3507

(1) The compliance of electric distribution utilities and 3508
electric services companies with division (B) of this section; 3509

(2) The average annual cost of renewable energy credits 3510
purchased by utilities and companies for the year covered in the 3511
report; 3512

(3) Any strategy for utility and company compliance or for 3513
encouraging the use of qualifying renewable energy resources in 3514
supplying this state's electricity needs in a manner that 3515
considers available technology, costs, job creation, and 3516
economic impacts. 3517

The commission shall begin providing the information 3518

described in division (D) (2) of this section in each report 3519
submitted after September 10, 2012. The commission shall allow 3520
and consider public comments on the report prior to its 3521
submission to the general assembly. Nothing in the report shall 3522
be binding on any person, including any utility or company for 3523
the purpose of its compliance with any benchmark under division 3524
(B) of this section, or the enforcement of that provision under 3525
division (C) of this section. 3526

(E) All costs incurred by an electric distribution utility 3527
in complying with the requirements of this section shall be 3528
bypassable by any consumer that has exercised choice of supplier 3529
under section 4928.03 of the Revised Code. 3530

Sec. 4928.645. (A) An electric distribution utility or 3531
electric services company may use, for the purpose of complying 3532
with the requirements under divisions (B) (1) and (2) of section 3533
4928.64 of the Revised Code, renewable energy credits any time 3534
in the five calendar years following the date of their purchase 3535
or acquisition from any entity, including, but not limited to, 3536
the following: 3537

(1) A mercantile customer; 3538

(2) An owner or operator of a hydroelectric generating 3539
facility that is located at a dam on a river, or on any water 3540
discharged to a river, that is within or bordering this state or 3541
within or bordering an adjoining state, or that produces power 3542
that can be shown to be deliverable into this state; 3543

(3) A seller of compressed natural gas that has been 3544
produced from biologically derived methane gas, provided that 3545
the seller may only provide renewable energy credits for metered 3546
amounts of gas. 3547

(B) (1) The public utilities commission shall adopt rules 3548
specifying that one unit of credit shall equal one megawatt hour 3549
of electricity derived from renewable energy resources, except 3550
that, for a generating facility of seventy-five megawatts or 3551
greater that is situated within this state and has committed by 3552
December 31, 2009, to modify or retrofit its generating unit or 3553
units to enable the facility to generate principally from 3554
biomass energy by June 30, 2013, each megawatt hour of 3555
electricity generated principally from that biomass energy shall 3556
equal, in units of credit, the product obtained by multiplying 3557
the actual percentage of biomass feedstock heatinput used to 3558
generate such megawatt hour by the quotient obtained by dividing 3559
the then existing unit dollar amount used to determine a 3560
renewable energy compliance payment as provided under division 3561
(C) (2) (b) of section 4928.64 of the Revised Code by the then 3562
existing market value of one renewable energy credit, but such 3563
megawatt hour shall not equal less than one unit of credit. 3564
Renewable energy resources do not have to be converted to 3565
electricity in order to be eligible to receive renewable energy 3566
credits. The rules shall specify that, for purposes of 3567
converting the quantity of energy derived from biologically 3568
derived methane gas to an electricity equivalent, one megawatt 3569
hour equals 3,412,142 British thermal units. 3570

(2) The rules also shall provide for this state a system 3571
of registering renewable energy credits by specifying which of 3572
any generally available registries shall be used for that 3573
purpose and not by creating a registry. That selected system of 3574
registering renewable energy credits shall allow a hydroelectric 3575
generating facility to be eligible for obtaining renewable 3576
energy credits and shall allow customer-sited projects or 3577
actions the broadest opportunities to be eligible for obtaining 3578

renewable energy credits. 3579

~~(C) Beginning January 1, 2020, a qualifying solar resource 3580
as defined in section 3706.40 of the Revised Code is not 3581
eligible to obtain a renewable energy credit under this section 3582
for any megawatt hour for which the resource has been issued a 3583
solar energy credit under section 3706.45 of the Revised Code. 3584~~

~~(D) Except for compressed natural gas that has been 3585
produced from biologically derived methane gas, energy generated 3586
by using natural gas as a resource is not eligible to obtain a 3587
renewable energy credit under this section. 3588~~

Sec. 4928.73. (A) As used in this section: 3589

(1) "Mercantile customer member" means a mercantile 3590
customer connected to a mercantile customer self-power system. 3591

(2) "Mercantile customer self-power system" means one or 3592
more electric generation facilities, electric storage 3593
facilities, or both, along with any associated facilities, that 3594
meet all of the following: 3595

(a) Produce electricity primarily for the consumption of a 3596
mercantile customer member or a group of mercantile customer 3597
members; 3598

(b) Connect directly to the mercantile customer member's 3599
side of the electric meter; 3600

(c) Deliver electricity to the mercantile customer 3601
member's side of the electric meter without the use of an 3602
electric distribution utility's distribution system or 3603
transmission system; 3604

(d) Is located on a property owned or controlled by a 3605
mercantile customer member or the entity that owns or operates 3606

the mercantile customer self-power system. 3607

(B) The mercantile customer self-power system may be owned 3608
or operated by a mercantile customer member, group of mercantile 3609
customer members, or an entity that is not a mercantile customer 3610
member. 3611

(C) A mercantile customer self-power system may provide 3612
electric generation service to one or more mercantile customers. 3613

(D) The public utilities commission shall adopt rules to 3614
implement this section. 3615

Sec. 4929.20. ~~(A)~~ (A) (1) No governmental aggregator as 3616
defined in division (K) (1) of section 4929.01 of the Revised 3617
Code or no retail natural gas supplier shall provide a 3618
competitive retail natural gas service on or after thirteen 3619
months following ~~the effective date of this section~~ June 26, 3620
2001, to a consumer in this state without first being certified 3621
by the public utilities commission regarding its managerial, 3622
technical, and financial capability to provide that service and 3623
providing reasonable financial assurances sufficient to protect 3624
customers and natural gas companies from default. ~~In addition, a~~ 3625
~~retail natural gas supplier may be required to provide a~~ 3626
~~performance bond sufficient to protect customers and natural gas~~ 3627
~~companies from default.~~ Certification shall be granted pursuant 3628
to procedures and standards the commission shall prescribe in 3629
accordance with rules adopted under section 4929.10 of the 3630
Revised Code. However, certification or certification renewal 3631
shall be deemed approved thirty days after the filing of an 3632
application with the commission unless the commission suspends 3633
that approval for good cause shown. In the case of such a 3634
suspension, the commission shall act to approve or deny 3635
certification or certification renewal to the applicant not 3636

later than ninety days after the date of the suspension. 3637

(2) The commission shall establish rules to require a 3638
competitive retail natural gas supplier to maintain financial 3639
assurances sufficient to protect customers and natural gas 3640
companies from default. Such rules also shall specifically allow 3641
a natural gas company to set reasonable standards for its 3642
security and the security of its customers through financial 3643
requirements set in its tariffs. 3644

(3) As used in division (A)(2) of this section, "retail 3645
natural gas supplier" has the same meaning as in section 4929.01 3646
of the Revised Code, but excludes a broker or aggregator. 3647

(B) Capability standards adopted in rules pursuant to 3648
division (A) of this section shall be sufficient to ensure 3649
compliance with section 4929.22 of the Revised Code and with the 3650
minimum service requirements established under section 4929.23 3651
of the Revised Code. The standards shall allow flexibility for 3652
voluntary aggregation, to encourage market creativity in 3653
responding to consumer needs and demands. The rules shall 3654
include procedures for biennially renewing certification. 3655

(C)(1) The commission may suspend, rescind, or 3656
conditionally rescind the certification of any retail natural 3657
gas supplier or governmental aggregator issued under this 3658
section if the commission determines, after reasonable notice 3659
and opportunity for hearing, that the retail natural gas 3660
supplier or governmental aggregator has failed to comply with 3661
any applicable certification standards prescribed in rules 3662
adopted pursuant to this section or section 4929.22 of the 3663
Revised Code. 3664

(2) An affected natural gas company may file an 3665

application with the commission for approval of authority to 3666
recover in accordance with division (C) (2) of this section 3667
incremental costs reasonably and prudently incurred by the 3668
company in connection with the commission's continuation, 3669
suspension, rescission, or conditional rescission of a 3670
particular retail natural gas supplier's certification under 3671
division (C) (1) of this section. Upon the filing of such an 3672
application, the commission shall conduct an audit of such 3673
incremental costs as are specified in the application. Cost 3674
recovery shall be through a rider on the base rates of customers 3675
of the company for which there is a choice of supplier of 3676
commodity sales service as a result of revised schedules 3677
approved under division (C) of section 4929.29 of the Revised 3678
Code, a rule or order adopted or issued by the commission under 3679
Chapter 4905. of the Revised Code, or an exemption granted by 3680
the commission under sections 4929.04 to 4929.08 of the Revised 3681
Code. The rider shall take effect ninety days after the date of 3682
the application's filing unless the commission, based on the 3683
audit results and for good cause shown, sets the matter for 3684
hearing. After the hearing, the commission shall approve the 3685
application, and authorize such cost recovery rider effective on 3686
the date specified in the order, only for such incremental costs 3687
as the commission determines were reasonably and prudently 3688
incurred by the company in connection with the continuation, 3689
suspension, rescission, or conditional rescission of a retail 3690
natural gas supplier's certification under division (C) (1) of 3691
this section. Any proceeding under division (C) (2) of this 3692
section shall be governed by Chapter 4903. of the Revised Code. 3693

(D) No natural gas company, on and after thirteen months 3694
following ~~the effective date of this section~~ June 26, 2001, 3695
shall knowingly distribute natural gas, to a retail consumer in 3696

this state, for any governmental aggregator, as defined in 3697
division (K) (1) of section 4929.01 of the Revised Code, or 3698
retail natural gas supplier, that has not been certified by the 3699
commission pursuant to this section. 3700

(E) Notwithstanding any provision of section 121.95 of the 3701
Revised Code to the contrary, a regulatory restriction contained 3702
in a rule adopted under section 4929.20 of the Revised Code is 3703
not subject to sections 121.95 to 121.953 of the Revised Code. 3704

Sec. 4929.221. (A) If a competitive retail natural gas 3705
service supplier offers a residential customer or non-mercantile 3706
commercial customer a contract for a fixed introductory rate 3707
that converts to a variable rate upon the expiration of the 3708
fixed rate, the supplier shall send two notices to each 3709
residential customer and non-mercantile commercial customer that 3710
enters into such a contract. Each notice shall provide all of 3711
the following information to the customer: 3712

(1) The fixed rate that is expiring under the contract; 3713

(2) The expiration date of the contract's fixed rate; 3714

(3) The rate to be charged upon the contract's conversion 3715
to a variable rate; 3716

(4) The public utilities commission web site that, as a 3717
comparison tool, lists rates offered by competitive retail 3718
natural gas service suppliers; 3719

(5) A statement explaining that appearing on each 3720
customer's bill is a price-to-compare notice that lists the 3721
natural gas company's default rate for natural gas charged to 3722
customers who decide not to shop for a competitive supplier. 3723

(B) The notices shall be sent by standard United States 3724

mail as follows: 3725

(1) The supplier shall send the first notice not earlier 3726
than ninety days and not later than sixty days prior to the 3727
expiration of the fixed rate. 3728

(2) The supplier shall send the second notice not earlier 3729
than forty-five days and not later than thirty days prior to the 3730
expiration of the fixed rate. 3731

(C) A competitive retail natural gas service supplier 3732
shall provide an annual notice, by standard United States mail, 3733
to each residential customer and non-mercantile commercial 3734
customer that has entered into a contract with the supplier that 3735
has converted to a variable rate upon the expiration of the 3736
contract's fixed introductory rate. The notice shall inform the 3737
customer that the customer is currently subject to a variable 3738
rate and that other fixed rate contracts are available. 3739

(D) Not later than one hundred fifty days after the 3740
effective date of this section, the commission shall adopt rules 3741
in order to implement divisions (A) to (C) of this section. The 3742
rules, at a minimum, shall include the following requirements 3743
regarding the notices required under divisions (A) to (C) of 3744
this section: 3745

(1) To use clear and unambiguous language in order to 3746
enable the customer to make an informed decision; 3747

(2) To design the notices in a way to ensure that they 3748
cannot be confused with marketing materials. 3749

(E) Notwithstanding any provision of section 121.95 of the 3750
Revised Code to the contrary, a regulatory restriction contained 3751
in a rule adopted under section 4929.221 of the Revised Code is 3752
not subject to sections 121.95 to 121.953 of the Revised Code. 3753

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

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

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

Sec. 5727.01. As used in this chapter:

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

(B) "Gross receipts" means the entire receipts for
business done by any person from operations as a public utility,
or incidental thereto, or in connection therewith, including any
receipts received under Chapter 4928. of the Revised Code. The
gross receipts for business done by an incorporated company
engaged in operation as a public utility includes the entire

receipts for business done by such company under the exercise of 3783
its corporate powers, whether from the operation as a public 3784
utility or from any other business. 3785

(C) "Rural electric company" means any nonprofit 3786
corporation, organization, association, or cooperative engaged 3787
in the business of supplying electricity to its members or 3788
persons owning an interest therein in an area the major portion 3789
of which is rural. "Rural electric company" excludes an energy 3790
company. 3791

(D) Any person: 3792

(1) Is a telegraph company when engaged in the business of 3793
transmitting telegraphic messages to, from, through, or in this 3794
state; 3795

(2) Is a telephone company when primarily engaged in the 3796
business of providing local exchange telephone service, 3797
excluding cellular radio service, in this state; 3798

(3) Is an electric company when engaged in the business of 3799
generating, transmitting, or distributing electricity within 3800
this state for use by others, but excludes a rural electric 3801
company or an energy company; 3802

(4) Is a natural gas company when engaged in the business 3803
of supplying or distributing natural gas for lighting, power, or 3804
heating purposes to consumers within this state, excluding a 3805
person that is a governmental aggregator or retail natural gas 3806
supplier as defined in section 4929.01 of the Revised Code; 3807

(5) Is a pipe-line company when engaged in the business of 3808
transporting natural gas, oil, or coal or its derivatives 3809
through pipes or tubing, either wholly or partially within this 3810
state; 3811

(6) Is a water-works company when engaged in the business 3812
of supplying water through pipes or tubing, or in a similar 3813
manner, to consumers within this state; 3814

(7) Is a water transportation company when engaged in the 3815
transportation of passengers or property, by boat or other 3816
watercraft, over any waterway, whether natural or artificial, 3817
from one point within this state to another point within this 3818
state, or between points within this state and points without 3819
this state; 3820

(8) Is a heating company when engaged in the business of 3821
supplying water, steam, or air through pipes or tubing to 3822
consumers within this state for heating purposes; 3823

(9) Is a railroad company when engaged in the business of 3824
owning or operating a railroad either wholly or partially within 3825
this state on rights-of-way acquired and held exclusively by 3826
such company, or otherwise, and includes a passenger, street, 3827
suburban, or interurban railroad company; 3828

(10) Is an energy company when engaged in the business of 3829
generating, transmitting, or distributing electricity within 3830
this state for use by others solely from an energy facility with 3831
an aggregate nameplate capacity in excess of two hundred fifty 3832
kilowatts. 3833

As used in division (D) (2) of this section, "local 3834
exchange telephone service" means making available or furnishing 3835
access and a dial tone to all persons within a local calling 3836
area for use in originating and receiving voice grade 3837
communications over a switched network operated by the provider 3838
of the service within the area and for gaining access to other 3839
telecommunication services. 3840

(E) "Taxable property" means the property required by 3841
section 5727.06 of the Revised Code to be assessed by the tax 3842
commissioner, but does not include either of the following: 3843

(1) An item of tangible personal property that for the 3844
period subsequent to the effective date of an air, water, or 3845
noise pollution control certificate and continuing so long as 3846
the certificate is in force, has been certified as part of the 3847
pollution control facility with respect to which the certificate 3848
has been issued; 3849

(2) An item of tangible personal property that during the 3850
construction of a plant or facility and until the item is first 3851
capable of operation, whether actually used in operation or not, 3852
is incorporated in or being held exclusively for incorporation 3853
in that plant or facility. 3854

Notwithstanding section 5701.03 of the Revised Code, for 3855
tax year 2006 and thereafter, "taxable property" includes 3856
patterns, jigs, dies, and drawings of an electric company or a 3857
combined company for use in the activity of an electric company. 3858

(F) "Taxing district" means a municipal corporation or 3859
township, or part thereof, in which the aggregate rate of 3860
taxation is uniform. 3861

(G) "Telecommunications service" has the same meaning as 3862
in division (AA) of section 5739.01 of the Revised Code. 3863

(H) "Interexchange telecommunications company" means a 3864
person that is engaged in the business of transmitting 3865
telephonic messages to, from, through, or in this state, but 3866
that is not a telephone company. 3867

(I) "Sale and leaseback transaction" means a transaction 3868
in which a public utility or interexchange telecommunications 3869

company sells any tangible personal property to a person other 3870
than a public utility or interexchange telecommunications 3871
company and leases that property back from the buyer. 3872

(J) "Production equipment" means all taxable steam, 3873
nuclear, hydraulic, renewable resource, clean coal technology, 3874
and other production plant equipment used to generate 3875
electricity. For tax years prior to 2001, "production equipment" 3876
includes taxable station equipment that is located at a 3877
production plant. 3878

(K) "Tax year" means the year for which property or gross 3879
receipts are subject to assessment under this chapter. This 3880
division does not limit the tax commissioner's ability to assess 3881
and value property or gross receipts outside the tax year. 3882

(L) "Combined company" means any person engaged in the 3883
activity of an electric company or rural electric company that 3884
is also engaged in the activity of a heating company or a 3885
natural gas company, or any combination thereof. 3886

(M) "Public utility property lessor" means any person, 3887
other than a public utility or an interexchange 3888
telecommunications company, that leases personal property, other 3889
than in a sale and leaseback transaction, to a public utility, 3890
other than a railroad, water transportation, telephone, or 3891
telegraph company if the property would be taxable property if 3892
owned by the public utility. A public utility property lessor is 3893
subject to this chapter only for the purposes of reporting and 3894
paying tax on taxable property it leases to a public utility 3895
other than a telephone or telegraph company. A public utility 3896
property lessor that leases property to a public utility other 3897
than a telephone or telegraph company is not a public utility, 3898
but it shall report its property and be assessed in the same 3899

manner as the utility to which it leases the property.	3900
(N) "Energy resource" means any of the following:	3901
(1) "Renewable energy resource" as defined in section 4928.01 of the Revised Code;	3902 3903
(2) "Clean coal technology" as described in division (A) (34) (c) of section 4928.01 of the Revised Code;	3904 3905
(3) "Advanced nuclear technology" as described in division (A) (34) (d) of section 4928.01 of the Revised Code;	3906 3907
(4) "Cogeneration technology" as described in division (A) (34) (b) of section 4928.01 of the Revised Code.	3908 3909
(O) "Energy conversion equipment" means tangible personal property connected to a wind turbine tower, connected to and behind solar radiation collector areas and designed to convert the radiant energy of the sun into electricity or heat, or connected to any other property used to generate electricity from an energy resource, through which electricity is transferred to controls, transformers, or power electronics and to the transmission interconnection point.	3910 3911 3912 3913 3914 3915 3916 3917
"Energy conversion equipment" includes, but is not limited to, inverters, batteries, switch gears, wiring, collection lines, substations, ancillary tangible personal property, or any lines and associated tangible personal property located between substations and the transmission interconnection point.	3918 3919 3920 3921 3922
(P) "Energy facility" means one or more interconnected wind turbines, solar panels, or other tangible personal property used to generate electricity from an energy resource owned by the same person, including:	3923 3924 3925 3926
(1) All interconnection equipment, devices, and related	3927

apparatus connected to such tangible personal property; 3928

(2) All cables, equipment, devices, and related apparatus 3929
that connect the generators to an electricity grid or to a 3930
building or facility that directly consumes the electricity 3931
produced, that facilitate the transmission of electrical energy 3932
from the generators to the grid, building, or facility, and, 3933
where applicable, that transform voltage before ultimate 3934
delivery of electricity to the grid, building, or facility. 3935

"Energy facility" includes buildings, structures, 3936
improvements, or fixtures exclusively used to house, support, or 3937
stabilize tangible personal property constituting the facility 3938
or that are otherwise necessary for the operation of that 3939
property; and so much of the land on which such tangible 3940
personal property is situated as is required for operation of 3941
the facility and is not devoted to some other use, not to 3942
exceed, in the case of wind turbines, one-half acre for each 3943
wind turbine, and regardless of whether the land is owned by the 3944
owner or lessee of the tangible personal property or by another 3945
person. 3946

(Q) "Nameplate capacity" means the original interconnected 3947
maximum rated alternating current output of a generator or other 3948
electric production equipment under specific conditions 3949
designated by the manufacturer, expressed in the number of 3950
kilowatts or megawatts. 3951

(R) "Qualifying production equipment" means production 3952
equipment that is placed into service on or after the last day 3953
of the year that includes the effective date of this amendment. 3954

Sec. 5727.031. (A) A person that is engaged in some other 3955
primary business to which the supplying of electricity to others 3956

is incidental shall file a report under section 5727.08 of the Revised Code as an electric company but shall only report therein as taxable property the amounts required in divisions (B) and (C) of this section. All time limits and other procedural requirements of this chapter for the reporting and assessment of property of electric companies apply to persons required to file a report under this section. For the purposes of this section, "the supplying of electricity to others" shall not include donating all of the electricity a person generates to a political subdivision of the state.

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

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

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

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

(1) Multiply the portion of the true value determined 3987
under division (B) (1) of this section by the assessment rate in 3988
section 5727.111 of the Revised Code that is applicable to the_ 3989
taxable production equipment of an electric company; 3990

(2) Multiply the portion of the true value determined 3991
under division (B) (2) of this section by the assessment rate in 3992
section 5727.111 of the Revised Code that is applicable to the 3993
taxable property of an electric company that is not production 3994
equipment. 3995

Sec. 5727.06. (A) Except as otherwise provided by law, the 3996
following constitutes the taxable property of a public utility, 3997
interexchange telecommunications company, or public utility 3998
property lessor that shall be assessed by the tax commissioner: 3999

(1) For tax years before tax year 2006: 4000

(a) In the case of a railroad company, all real property 4001
and tangible personal property owned or operated by the railroad 4002
company in this state on the thirty-first day of December of the 4003
preceding year; 4004

(b) In the case of a water transportation company, all 4005
tangible personal property, except watercraft, owned or operated 4006
by the water transportation company in this state on the thirty- 4007
first day of December of the preceding year and all watercraft 4008
owned or operated by the water transportation company in this 4009
state during the preceding calendar year; 4010

(c) In the case of all other public utilities and 4011
interexchange telecommunications companies, all tangible 4012
personal property that on the thirty-first day of December of 4013
the preceding year was both located in this state and: 4014

(i) Owned by the public utility or interexchange 4015

telecommunications company; or	4016
(ii) Leased by the public utility or interexchange	4017
telecommunications company under a sale and leaseback	4018
transaction.	4019
(2) For tax years 2006, 2007, and 2008:	4020
(a) In the case of a railroad company, all real property	4021
used in railroad operations and tangible personal property owned	4022
or operated by the railroad company in this state on the thirty-	4023
first day of December of the preceding year;	4024
(b) In the case of a water transportation company, all	4025
tangible personal property, except watercraft, owned or operated	4026
by the water transportation company in this state on the thirty-	4027
first day of December of the preceding year and all watercraft	4028
owned or operated by the water transportation company in this	4029
state during the preceding calendar year;	4030
(c) In the case of all other public utilities except	4031
telephone and telegraph companies, all tangible personal	4032
property that on the thirty-first day of December of the	4033
preceding year was both located in this state and either owned	4034
by the public utility or leased by the public utility under a	4035
sale and leaseback transaction.	4036
(3) For tax year 2009 and each tax year thereafter:	4037
(a) In the case of a railroad company, all real property	4038
used in railroad operations and tangible personal property owned	4039
or operated by the railroad company in this state on the thirty-	4040
first day of December of the preceding year;	4041
(b) In the case of a water transportation company, all	4042
tangible personal property, except watercraft, owned or operated	4043

by the water transportation company in this state on the thirty- 4044
first day of December of the preceding year and all watercraft 4045
owned or operated by the water transportation company in this 4046
state during the preceding calendar year; 4047

(c) In the case of all other public utilities except 4048
telephone and telegraph companies, all tangible personal 4049
property except qualifying production equipment that on the 4050
thirty-first day of December of the preceding year was both 4051
located in this state and either owned by the public utility or 4052
leased by the public utility under a sale and leaseback 4053
transaction, and that is not exempted from taxation under 4054
section 5727.75 of the Revised Code; 4055

(d) In the case of a public utility property lessor, all 4056
personal property except qualifying production equipment that on 4057
the thirty-first day of December of the preceding year was both 4058
located in this state and leased, in other than a sale and 4059
leaseback transaction, to a public utility other than a 4060
railroad, telephone, telegraph, or water transportation company. 4061
The assessment rate used under section 5727.111 of the Revised 4062
Code shall be based on the assessment rate that would apply if 4063
the public utility owned the property, and that is not exempted 4064
from taxation under section 5727.75 of the Revised Code. 4065

(4) For tax years 2005 and 2006, in the case of telephone, 4066
telegraph, or interexchange telecommunications companies, all 4067
tangible personal property that on the thirty-first day of 4068
December of the preceding year was both located in this state 4069
and either owned by the telephone, telegraph, or interexchange 4070
telecommunications company or leased by the telephone, 4071
telegraph, or interexchange telecommunications company under a 4072
sale and leaseback transaction. 4073

(5) (a) For tax year 2007 and thereafter, in the case of 4074
telephone, telegraph, or interexchange telecommunications 4075
companies, all tangible personal property shall be listed and 4076
assessed for taxation under Chapter 5711. of the Revised Code, 4077
but the tangible personal property shall be valued in accordance 4078
with this chapter using the composite annual allowances and 4079
other valuation procedures prescribed under section 5727.11 of 4080
the Revised Code by the tax commissioner for such property for 4081
tax year 2006, notwithstanding any section of Chapter 5711. of 4082
the Revised Code to the contrary. 4083

(b) A telephone, telegraph, or interexchange 4084
telecommunications company subject to division (A) (5) (a) of this 4085
section shall file a combined return with the tax commissioner 4086
in accordance with section 5711.13 of the Revised Code even if 4087
the company has tangible personal property in only one county. 4088
Such a company also is subject to the issuance of a preliminary 4089
assessment certificate by the tax commissioner under section 4090
5711.25 of the Revised Code. Such a company is not required to 4091
file a county supplemental return under section 5711.131 of the 4092
Revised Code. 4093

(6) In the case of an energy company, for tax year 2011 4094
and each tax year thereafter, all tangible personal property 4095
except qualifying production equipment that on the thirty-first 4096
day of December of the preceding year was both located in this 4097
state and either owned by the company or leased by the company 4098
under a sale and leaseback transaction, and that is not exempted 4099
from taxation under section 5727.75 of the Revised Code. 4100

(B) This division applies to tax years before tax year 4101
2007. 4102

In the case of an interexchange telecommunications 4103

company, all taxable property shall be subject to the provisions 4104
of this chapter and shall be valued by the commissioner in 4105
accordance with division (A) of section 5727.11 of the Revised 4106
Code. A person described by this division shall file the report 4107
required by section 5727.08 of the Revised Code. Persons 4108
described in this division shall not be considered taxpayers, as 4109
defined in division (B) of section 5711.01 of the Revised Code, 4110
and shall not be required to file a return and list their 4111
taxable property under any provision of Chapter 5711. of the 4112
Revised Code. 4113

(C) The lien of the state for taxes levied each year on 4114
the real and personal property of public utilities and 4115
interexchange telecommunications companies and on the personal 4116
property of public utility property lessors shall attach thereto 4117
on the thirty-first day of December of the preceding year. 4118

(D) Property that is required by division (A) (3) (b) of 4119
this section to be assessed by the tax commissioner under this 4120
chapter shall not be listed by the owner of the property under 4121
Chapter 5711. of the Revised Code. 4122

(E) The ten-thousand-dollar exemption provided for in 4123
division (C) (3) of section 5709.01 of the Revised Code does not 4124
apply to any personal property that is valued under this 4125
chapter. 4126

(F) The tax commissioner may adopt rules governing the 4127
listing of the taxable property of public utilities and 4128
interexchange telecommunications companies and the determination 4129
of true value. 4130

Sec. 5727.11. (A) Except as otherwise provided in this 4131
section, the true value of all taxable property, except property 4132

of a railroad company, required by section 5727.06 of the 4133
Revised Code to be assessed by the tax commissioner shall be 4134
determined by a method of valuation using cost as capitalized on 4135
the public utility's books and records less composite annual 4136
allowances as prescribed by the commissioner. If the 4137
commissioner finds that application of this method will not 4138
result in the determination of true value of the public 4139
utility's taxable property, the commissioner may use another 4140
method of valuation. 4141

(B) (1) Except as provided in division (B) (2) of this 4142
section, the true value of current gas stored underground is the 4143
cost of that gas shown on the books and records of the public 4144
utility on the thirty-first day of December of the preceding 4145
year. 4146

(2) For tax year 2001 and thereafter, the true value of 4147
current gas stored underground is the quotient obtained by 4148
dividing (a) the average value of the current gas stored 4149
underground, which shall be determined by adding the value of 4150
the gas on hand at the end of each calendar month in the 4151
calendar year preceding the tax year, or, if applicable, the 4152
last day of business of each month for a partial month, divided 4153
by (b) the total number of months the natural gas company was in 4154
business during the calendar year prior to the beginning of the 4155
tax year. With the approval of the tax commissioner, a natural 4156
gas company may use a date other than the end of a calendar 4157
month to value its current gas stored underground. 4158

(C) The true value of noncurrent gas stored underground is 4159
thirty-five per cent of the cost of that gas shown on the books 4160
and records of the public utility on the thirty-first day of 4161
December of the preceding year. 4162

(D) (1) Except as provided in division (D) (2) of this 4163
section, the true value of the taxable production equipment of 4164
an electric company and the true value of all taxable property 4165
of a rural electric company is the equipment's or property's 4166
cost as capitalized on the company's books and records less 4167
fifty per cent of that cost as an allowance for depreciation and 4168
obsolescence. 4169

(2) The true value of the taxable production equipment or 4170
energy conversion equipment of an electric company, rural 4171
electric company, or energy company purchased, transferred, or 4172
placed into service after October 5, 1999, is the purchase price 4173
of the equipment as capitalized on the company's books and 4174
records less composite annual allowances as prescribed by the 4175
tax commissioner. 4176

(E) The true value of taxable property, except property of 4177
a railroad company, required by section 5727.06 of the Revised 4178
Code to be assessed by the tax commissioner shall not include 4179
the allowance for funds used during construction or interest 4180
during construction that has been capitalized on the public 4181
utility's books and records as part of the total cost of the 4182
taxable property. This division shall not apply to the taxable 4183
property of an electric company or a rural electric company, 4184
excluding transmission and distribution property, first placed 4185
into service after December 31, 2000, or to the taxable property 4186
a person purchases, which includes transfers, if that property 4187
was used in business by the seller prior to the purchase. 4188

(F) The true value of watercraft owned or operated by a 4189
water transportation company shall be determined by multiplying 4190
the true value of the watercraft as determined under division 4191
(A) of this section by a fraction, the numerator of which is the 4192

number of revenue-earning miles traveled by the watercraft in 4193
the waters of this state and the denominator of which is the 4194
number of revenue-earning miles traveled by the watercraft in 4195
all waters. 4196

(G) The cost of property subject to a sale and leaseback 4197
transaction is the cost of the property as capitalized on the 4198
books and records of the public utility owning the property 4199
immediately prior to the sale and leaseback transaction. 4200

(H) The cost as capitalized on the books and records of a 4201
public utility includes amounts capitalized that represent 4202
regulatory assets, if such amounts previously were included on 4203
the company's books and records as capitalized costs of taxable 4204
personal property. 4205

(I) Any change in the composite annual allowances as 4206
prescribed by the commissioner on a prospective basis shall not 4207
be admissible in any judicial or administrative action or 4208
proceeding as evidence of value with regard to prior years' 4209
taxes. Information about the business, property, or transactions 4210
of any taxpayer obtained by the commissioner for the purpose of 4211
adopting or modifying the composite annual allowances shall not 4212
be subject to discovery or disclosure. 4213

Sec. 5727.111. The taxable property of each public 4214
utility, except a railroad company, and of each interexchange 4215
telecommunications company shall be assessed at the following 4216
percentages of true value: 4217

(A) In the case of a rural electric company, fifty per 4218
cent in the case of its taxable transmission and distribution 4219
property placed into service before the last day of the year 4220
that includes the effective date of this amendment and its 4221

energy conversion equipment, and twenty-five per cent for all 4222
its other taxable property; 4223

(B) In the case of a telephone or telegraph company, 4224
twenty-five per cent for taxable property first subject to 4225
taxation in this state for tax year 1995 or thereafter for tax 4226
years before tax year 2007, and pursuant to division (H) of 4227
section 5711.22 of the Revised Code for tax year 2007 and 4228
thereafter, and the following for all other taxable property: 4229

(1) For tax years prior to 2005, eighty-eight per cent; 4230

(2) For tax year 2005, sixty-seven per cent; 4231

(3) For tax year 2006, forty-six per cent; 4232

(4) For tax year 2007 and thereafter, pursuant to division 4233
(H) of section 5711.22 of the Revised Code. 4234

(C) Twenty-five per cent in the case of (1) a natural gas 4235
company or (2) a water-works company for taxable property first 4236
subject to taxation in this state for tax year 2017 and 4237
thereafter; 4238

(D) Eighty-eight per cent in the case of taxable property 4239
of a pipe-line company placed into service before the last day 4240
of the year that includes the effective date of this amendment, 4241
a water-works company for taxable property first subject to 4242
taxation in this state before tax year 2017, or a heating 4243
company; 4244

(E) (1) For tax year 2005, eighty-eight per cent in the 4245
case of the taxable transmission and distribution property of an 4246
electric company, and twenty-five per cent for all its other 4247
taxable property; 4248

(2) For tax year 2006 and each tax year thereafter, in the 4249

case of an electric company, eighty-five per cent in the case of 4250
its taxable transmission and distribution property placed into 4251
service before the last day of the year that includes the 4252
effective date of this amendment and its energy conversion 4253
equipment, twenty-five per cent in the case of its other taxable 4254
transmission and distribution property, and twenty-four per cent 4255
for all its other taxable property. 4256

(F) (1) Twenty-five per cent in the case of an 4257
interexchange telecommunications company for tax years before 4258
tax year 2007; 4259

(2) Pursuant to division (H) of section 5711.22 of the 4260
Revised Code for tax year 2007 and thereafter. 4261

(G) Twenty-five per cent in the case of a water 4262
transportation company; 4263

(H) ~~For tax year 2011 and each tax year thereafter in~~ In 4264
the case of an energy company, twenty-four per cent in the case 4265
of its taxable production equipment, twenty-five per cent for 4266
its taxable transmission and distribution property placed into 4267
service on or after the last day of the year that includes the 4268
effective date of this amendment, and eighty-five per cent for 4269
all its other taxable property. 4270

(I) Twenty-five per cent in the case of taxable property 4271
of a pipe-line company placed into service on or after the last 4272
day of the year that includes the effective date of this 4273
amendment. 4274

Sec. 5727.75. (A) For purposes of this section: 4275

(1) "Qualified energy project" means an energy project 4276
certified by the director of development pursuant to this 4277
section. 4278

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

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

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours. For the purpose of this calculation, "performed at the project" includes only hours worked at the qualified energy project and devoted to site preparation or protection, construction and installation, and the unloading and distribution of materials at the project site, but does not include hours worked by superintendents, owners, manufacturers' representatives, persons employed in a bona fide executive, management, supervisory, or administrative capacity, or persons whose sole employment on the project is transporting materials or persons to the project site.

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

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

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

(a) The tax year in which the secretary of the treasury of the United States, or the secretary's delegate, determines, in accordance with section 45Y of the Internal Revenue Code, that

the annual greenhouse gas emissions from the production of 4308
electricity in the United States are equal to or less than 4309
twenty-five per cent of the annual greenhouse gas emissions from 4310
the production of electricity in the United States for calendar 4311
year 2022; 4312

(b) Tax year 2029. 4313

(8) "Internal Revenue Code" means the Internal Revenue 4314
Code as of ~~the effective date of this amendment~~ October 3, 2023. 4315

(B) (1) Tangible personal property of a qualified energy 4316
project using renewable energy resources is exempt from taxation 4317
for tax years 2011 through the applicable year if all of the 4318
following conditions are satisfied: 4319

(a) On or before the last day of the tax year preceding 4320
the applicable year, the owner or a lessee pursuant to a sale 4321
and leaseback transaction of the project submits an application 4322
to the power siting board for a certificate under section 4323
4906.20 of the Revised Code, or if that section does not apply, 4324
submits an application for any approval, consent, permit, or 4325
certificate or satisfies any condition required by a public 4326
agency or political subdivision of this state for the 4327
construction or initial operation of an energy project. 4328

(b) Construction or installation of the energy facility 4329
begins on or after January 1, 2009, and before the first day of 4330
the applicable year. For the purposes of this division, 4331
construction begins on the earlier of the date of application 4332
for a certificate or other approval or permit described in 4333
division (B) (1) (a) of this section, or the date the contract for 4334
the construction or installation of the energy facility is 4335
entered into. 4336

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

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through the applicable year, and the certification under division (E) (2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for the tax year following the applicable year and all ensuing tax years if the property was placed into service before the first day of the tax year following the applicable year, as certified in the construction progress report required under division (F) (2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear

technology, or cogeneration technology is exempt from taxation 4368
for the first tax year that the property would be listed for 4369
taxation and all subsequent years if all of the following 4370
circumstances are met: 4371

(1) The property was placed into service before January 1, 4372
2021. Tangible personal property that has not been placed into 4373
service before that date is taxable property subject to 4374
taxation. 4375

(2) For such a qualified energy project with a nameplate 4376
capacity of twenty megawatts or greater, a board of county 4377
commissioners of a county in which property of the qualified 4378
energy project is located has adopted a resolution under 4379
division (E) (1) (b) or (c) of this section to approve the 4380
application submitted under division (E) of this section to 4381
exempt the property located in that county from taxation. A 4382
board's adoption of a resolution rejecting the application or 4383
its failure to adopt a resolution approving the application does 4384
not affect the tax-exempt status of the qualified energy 4385
project's property that is located in another county. 4386

(3) The certification for the qualified energy project 4387
issued under division (E) (2) of this section has not been 4388
revoked. An energy project for which certification has been 4389
revoked is ineligible for exemption under this section. 4390
Revocation does not affect the tax-exempt status of the 4391
project's tangible personal property for the tax year in which 4392
revocation occurs or any prior tax year. 4393

(D) Except as otherwise provided in this section, real 4394
property of a qualified energy project is exempt from taxation 4395
for any tax year for which the tangible personal property of the 4396
qualified energy project is exempted under this section. 4397

(E) (1) (a) A person may apply to the director of 4398
development for certification of an energy project as a 4399
qualified energy project on or before the following dates: 4400

(i) The last day of the tax year preceding the applicable 4401
year, for an energy project using renewable energy resources; 4402

(ii) December 31, 2017, for an energy project using clean 4403
coal technology, advanced nuclear technology, or cogeneration 4404
technology. 4405

(b) The director shall forward a copy of each application 4406
for certification of an energy project with a nameplate capacity 4407
of twenty megawatts or greater to the board of county 4408
commissioners of each county in which the project is located and 4409
to each taxing unit with territory located in each of the 4410
affected counties. Any board that receives from the director a 4411
copy of an application submitted under this division shall adopt 4412
a resolution approving or rejecting the application unless it 4413
has adopted a resolution under division (E) (1) (c) of this 4414
section. A resolution adopted under division (E) (1) (b) or (c) of 4415
this section may require an annual service payment to be made in 4416
addition to the service payment required under division (G) of 4417
this section. The sum of the service payment required in the 4418
resolution and the service payment required under division (G) 4419
of this section shall not exceed nine thousand dollars per 4420
megawatt of nameplate capacity located in the county. The 4421
resolution shall specify the time and manner in which the 4422
payments required by the resolution shall be paid to the county 4423
treasurer. The county treasurer shall deposit the payment to the 4424
credit of the county's general fund to be used for any purpose 4425
for which money credited to that fund may be used. 4426

The board shall send copies of the resolution to the owner 4427

of the facility and the director by certified mail or, if the 4428
board has record of an internet identifier of record associated 4429
with the owner or director, by ordinary mail and by that 4430
internet identifier of record. The board shall send such notice 4431
within thirty days after receipt of the application, or a longer 4432
period of time if authorized by the director. 4433

(c) A board of county commissioners may adopt a resolution 4434
declaring the county to be an alternative energy zone and 4435
declaring all applications submitted to the director of 4436
development under this division after the adoption of the 4437
resolution, and prior to its repeal, to be approved by the 4438
board. 4439

All tangible personal property and real property of an 4440
energy project with a nameplate capacity of twenty megawatts or 4441
greater is taxable if it is located in a county in which the 4442
board of county commissioners adopted a resolution rejecting the 4443
application submitted under this division or failed to adopt a 4444
resolution approving the application under division (E) (1) (b) or 4445
(c) of this section. 4446

(2) The director shall certify an energy project if all of 4447
the following circumstances exist: 4448

(a) The application was timely submitted. 4449

(b) For an energy project with a nameplate capacity of 4450
twenty megawatts or greater, a board of county commissioners of 4451
at least one county in which the project is located has adopted 4452
a resolution approving the application under division (E) (1) (b) 4453
or (c) of this section. 4454

(c) No portion of the project's facility was used to 4455
supply electricity before December 31, 2009. 4456

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

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

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

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

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

(1) Comply with all applicable regulations;

(2) File with the director of development a certified

construction progress report before the first day of March of 4486
each year during the energy facility's construction or 4487
installation indicating the percentage of the project completed, 4488
and the project's nameplate capacity, as of the preceding 4489
thirty-first day of December. Unless otherwise instructed by the 4490
director of development, the owner or lessee of an energy 4491
project shall file a report with the director on or before the 4492
first day of March each year after completion of the energy 4493
facility's construction or installation indicating the project's 4494
nameplate capacity as of the preceding thirty-first day of 4495
December. Not later than sixty days after June 17, 2010, the 4496
owner or lessee of an energy project, the construction of which 4497
was completed before June 17, 2010, shall file a certificate 4498
indicating the project's nameplate capacity. 4499

(3) File with the director of development, in a manner 4500
prescribed by the director, a report of the total number of 4501
full-time equivalent employees, and the total number of full- 4502
time equivalent employees domiciled in Ohio, who are employed in 4503
the construction or installation of the energy facility; 4504

(4) For energy projects with a nameplate capacity of 4505
twenty megawatts or greater, repair all roads, bridges, and 4506
culverts affected by construction as reasonably required to 4507
restore them to their preconstruction condition, as determined 4508
by the county engineer in consultation with the local 4509
jurisdiction responsible for the roads, bridges, and culverts. 4510
In the event that the county engineer deems any road, bridge, or 4511
culvert to be inadequate to support the construction or 4512
decommissioning of the energy facility, the road, bridge, or 4513
culvert shall be rebuilt or reinforced to the specifications 4514
established by the county engineer prior to the construction or 4515
decommissioning of the facility. The owner or lessee of the 4516

facility shall post a bond in an amount established by the 4517
county engineer and to be held by the board of county 4518
commissioners to ensure funding for repairs of roads, bridges, 4519
and culverts affected during the construction. The bond shall be 4520
released by the board not later than one year after the date the 4521
repairs are completed. The energy facility owner or lessee 4522
pursuant to a sale and leaseback transaction shall post a bond, 4523
as may be required by the Ohio power siting board in the 4524
certificate authorizing commencement of construction issued 4525
pursuant to section 4906.10 of the Revised Code, to ensure 4526
funding for repairs to roads, bridges, and culverts resulting 4527
from decommissioning of the facility. The energy facility owner 4528
or lessee and the county engineer may enter into an agreement 4529
regarding specific transportation plans, reinforcements, 4530
modifications, use and repair of roads, financial security to be 4531
provided, and any other relevant issue. 4532

(5) Provide or facilitate training for fire and emergency 4533
responders for response to emergency situations related to the 4534
energy project and, for energy projects with a nameplate 4535
capacity of twenty megawatts or greater, at the person's 4536
expense, equip the fire and emergency responders with proper 4537
equipment as reasonably required to enable them to respond to 4538
such emergency situations; 4539

(6) (a) Except as otherwise provided in this division, for 4540
projects for which certification as a qualified energy project 4541
was applied for, under division (E) of this section, ~~before the~~ 4542
~~effective date of this amendment~~ October 3, 2023, maintain a 4543
ratio of Ohio-domiciled full-time equivalent employees employed 4544
in the construction or installation of the energy project to 4545
total full-time equivalent employees employed in the 4546
construction or installation of the energy project of not less 4547

than eighty per cent in the case of a solar energy project, and 4548
not less than fifty per cent in the case of any other energy 4549
project. A person applying for such a qualified energy project 4550
may certify to the director of development that the project will 4551
be voluntarily subject to the wage requirements described in 4552
section 45(b)(7)(A) of the Internal Revenue Code and 4553
apprenticeship requirements described in section 45(b)(8)(A)(i) 4554
of the Internal Revenue Code as authorized in division (F)(6)(b) 4555
of this section. Upon receipt of that certification, the project 4556
shall comply with division (F)(6)(b) of this section rather than 4557
division (F)(6)(a) of this section. 4558

(b) For projects for which certification as a qualified 4559
energy project was applied for, under division (E) of this 4560
section, on or after ~~the effective date of this amendment~~ 4561
October 3, 2023, maintain a ratio of Ohio-domiciled full-time 4562
equivalent employees employed in the construction or 4563
installation of the energy project to total full-time equivalent 4564
employees employed in the construction or installation of the 4565
energy project of not less than seventy per cent in the case of 4566
a solar energy project, and not less than fifty per cent in the 4567
case of any other energy project. 4568

(c) For purposes of divisions (F)(6)(a) and (b) of this 4569
section, in the case of an energy project for which 4570
certification from the power siting board is required under 4571
section 4906.20 of the Revised Code, the number of full-time 4572
equivalent employees employed in the construction or 4573
installation of the energy project equals the number actually 4574
employed or the number projected to be employed in the 4575
certificate application, if such projection is required under 4576
regulations adopted pursuant to section 4906.03 of the Revised 4577
Code, whichever is greater. For all other energy projects, the 4578

number of full-time equivalent employees employed in the 4579
construction or installation of the energy project equals the 4580
number actually employed or the number projected to be employed 4581
by the director of development, whichever is greater. To 4582
estimate the number of employees to be employed in the 4583
construction or installation of an energy project, the director 4584
shall use a generally accepted job-estimating model in use for 4585
renewable energy projects, including but not limited to the job 4586
and economic development impact model. The director may adjust 4587
an estimate produced by a model to account for variables not 4588
accounted for by the model. 4589

(7) For energy projects with a nameplate capacity in 4590
excess of twenty megawatts, establish a relationship with any of 4591
the following to educate and train individuals for careers in 4592
the wind or solar energy industry: 4593

(a) A member of the university system of Ohio as defined 4594
in section 3345.011 of the Revised Code; 4595

(b) A person offering an apprenticeship program registered 4596
with the employment and training administration within the 4597
United States department of labor or with the apprenticeship 4598
council created by section 4139.02 of the Revised Code; 4599

(c) A career-technical center, joint vocational school 4600
district, comprehensive career-technical center, or compact 4601
career-technical center; 4602

(d) A training center operated by a labor organization, or 4603
with a training center operated by a for-profit or nonprofit 4604
organization. 4605

The relationship may include endowments, cooperative 4606
programs, internships, apprenticeships, research and development 4607

projects, and curriculum development. 4608

(8) Offer to sell power or renewable energy credits from 4609
the energy project to electric distribution utilities or 4610
electric service companies subject to renewable energy resource 4611
requirements under section 4928.64 of the Revised Code that have 4612
issued requests for proposal for such power or renewable energy 4613
credits. If no electric distribution utility or electric service 4614
company issues a request for proposal on or before December 31, 4615
2010, or accepts an offer for power or renewable energy credits 4616
within forty-five days after the offer is submitted, power or 4617
renewable energy credits from the energy project may be sold to 4618
other persons. Division (F) (8) of this section does not apply 4619
if: 4620

(a) The owner or lessee is a rural electric company or a 4621
municipal power agency as defined in section 3734.058 of the 4622
Revised Code. 4623

(b) The owner or lessee is a person that, before 4624
completion of the energy project, contracted for the sale of 4625
power or renewable energy credits with a rural electric company 4626
or a municipal power agency. 4627

(c) The owner or lessee contracts for the sale of power or 4628
renewable energy credits from the energy project before June 17, 4629
2010. 4630

(9) Make annual service payments as required by division 4631
(G) of this section and as may be required in a resolution 4632
adopted by a board of county commissioners under division (E) of 4633
this section. 4634

(G) The owner or a lessee pursuant to a sale and leaseback 4635
transaction of a qualified energy project shall make annual 4636

service payments in lieu of taxes to the county treasurer on or 4637
before the final dates for payments of taxes on public utility 4638
personal property on the real and public utility personal 4639
property tax list for each tax year for which property of the 4640
energy project is exempt from taxation under this section. The 4641
county treasurer shall allocate the payment on the basis of the 4642
project's physical location. Upon receipt of a payment, or if 4643
timely payment has not been received, the county treasurer shall 4644
certify such receipt or non-receipt to the director of 4645
development and tax commissioner in a form determined by the 4646
director and commissioner, respectively. Each payment shall be 4647
in the following amount: 4648

(1) In the case of a solar energy project, seven thousand 4649
dollars per megawatt of nameplate capacity located in the county 4650
as of the thirty-first-day of December of the preceding tax 4651
year; 4652

(2) In the case of any other energy project using 4653
renewable energy resources, the following: 4654

(a) If the project maintains during the construction or 4655
installation of the energy facility a ratio of Ohio-domiciled 4656
full-time equivalent employees to total full-time equivalent 4657
employees of not less than seventy-five per cent, six thousand 4658
dollars per megawatt of nameplate capacity located in the county 4659
as of the thirty-first day of December of the preceding tax 4660
year; 4661

(b) If the project maintains during the construction or 4662
installation of the energy facility a ratio of Ohio-domiciled 4663
full-time equivalent employees to total full-time equivalent 4664
employees of less than seventy-five per cent but not less than 4665
sixty per cent, seven thousand dollars per megawatt of nameplate 4666

capacity located in the county as of the thirty-first day of 4667
December of the preceding tax year; 4668

(c) If the project maintains during the construction or 4669
installation of the energy facility a ratio of Ohio-domiciled 4670
full-time equivalent employees to total full-time equivalent 4671
employees of less than sixty per cent but not less than fifty 4672
per cent, eight thousand dollars per megawatt of nameplate 4673
capacity located in the county as of the thirty-first day of 4674
December of the preceding tax year. 4675

(3) In the case of an energy project using clean coal 4676
technology, advanced nuclear technology, or cogeneration 4677
technology, the following: 4678

(a) If the project maintains during the construction or 4679
installation of the energy facility a ratio of Ohio-domiciled 4680
full-time equivalent employees to total full-time equivalent 4681
employees of not less than seventy-five per cent, six thousand 4682
dollars per megawatt of nameplate capacity located in the county 4683
as of the thirty-first day of December of the preceding tax 4684
year; 4685

(b) If the project maintains during the construction or 4686
installation of the energy facility a ratio of Ohio-domiciled 4687
full-time equivalent employees to total full-time equivalent 4688
employees of less than seventy-five per cent but not less than 4689
sixty per cent, seven thousand dollars per megawatt of nameplate 4690
capacity located in the county as of the thirty-first day of 4691
December of the preceding tax year; 4692

(c) If the project maintains during the construction or 4693
installation of the energy facility a ratio of Ohio-domiciled 4694
full-time equivalent employees to total full-time equivalent 4695

employees of less than sixty per cent but not less than fifty 4696
per cent, eight thousand dollars per megawatt of nameplate 4697
capacity located in the county as of the thirty-first day of 4698
December of the preceding tax year. 4699

(H) The director of development in consultation with the 4700
tax commissioner shall adopt rules pursuant to Chapter 119. of 4701
the Revised Code to implement and enforce this section. 4702

(I) This section and any payments in lieu of taxes made as 4703
required under this section continue to apply and be required 4704
notwithstanding the enactment of S.B. 2 of the 136th general 4705
assembly. 4706

Sec. 5727.76. (A) As used in this section, "qualifying 4707
property" means property that is dedicated to transporting or 4708
transmitting electricity or natural gas and that is placed into 4709
service in a priority investment area designated under section 4710
122.161 of the Revised Code during a time when that designation 4711
is in effect. 4712

(B) Qualifying property shall be exempt from taxation for 4713
the tax year following the year in which the property is placed 4714
into service and for the ensuing four tax years. 4715

Section 2. That existing sections 4905.03, 4906.01, 4716
4906.03, 4906.07, 4906.10, 4909.04, 4909.05, 4909.052, 4909.06, 4717
4909.07, 4909.08, 4909.15, 4909.156, 4909.17, 4909.173, 4718
4909.174, 4909.18, 4909.191, 4909.42, 4911.15, 4928.01, 4928.05, 4719
4928.08, 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4720
4928.20, 4928.23, 4928.231, 4928.232, 4928.34, 4928.542, 4721
4928.64, 4928.645, 4929.20, 5727.01, 5727.031, 5727.06, 5727.11, 4722
5727.111, and 5727.75 of the Revised Code are hereby repealed. 4723

Section 3. That sections 3706.40, 3706.41, 3706.43, 4724

3706.431, 3706.45, 3706.46, 3706.49, 3706.491, 3706.55, 4725
3706.551, 3706.59, 3706.63, 3706.65, 4928.143, 4928.148, and 4726
4928.642 of the Revised Code are hereby repealed. 4727

Section 4. (A) Beginning on the effective date of this 4728
section, no electric distribution utility shall collect from its 4729
retail customers in this state any charge that was authorized 4730
under section 4928.148 of the Revised Code prior to the repeal 4731
of that section by this act for retail recovery of prudently 4732
incurred costs related to a legacy generation resource. 4733
Beginning on the effective date of this section, the electric 4734
distribution utility shall not apply for, and the public 4735
utilities commission shall not authorize, any rider or cost 4736
recovery mechanism for a legacy generation resource. 4737

(B) Beginning on the effective date of this section, no 4738
electric distribution utility shall collect from its retail 4739
customers in the state any charge that was authorized under 4740
section 3706.46 of the Revised Code to meet the revenue 4741
requirement for disbursements from the Solar Generation Fund to 4742
owners or operators of qualifying solar resources that was 4743
required under section 3706.55 of the Revised Code before the 4744
repeal of these sections by this act. 4745

Section 5. Section 4928.01 of the Revised Code is 4746
presented in this act as a composite of the section as amended 4747
by both H.B. 308 and H.B. 315 of the 135th General Assembly. The 4748
General Assembly, applying the principle stated in division (B) 4749
of section 1.52 of the Revised Code that amendments are to be 4750
harmonized if reasonably capable of simultaneous operation, 4751
finds that the composite is the resulting version of the section 4752
in effect prior to the effective date of the section as 4753
presented in this act. 4754