

127th General Assembly
Regular Session __.
2007 – 2008

B. No.

A BILL

To enact new sections ____ and ____, and to amend sections ____, and ____ of the Revised Code to revise statutes governing the regulation of electric distribution, transmission, and generation service and to declare an emergency.

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

Section 1. That new sections _____, and _____ and amended sections _____, and _____ of the Revised Code be enacted to read as follow:

Section 1.

4905.01 As used in this chapter:

[definitions section remains the same accept for changes as follows:]

(F) “ACQUISITION COST” MEANS THE COST TO AN ELECTRIC LIGHT COMPANY OF ACQUIRING FUEL FOR GENERATION OF ELECTRICITY.

(G) “FUEL COMPONENT” MEANS ACQUISITION AND DELIVERY COSTS OF FUEL FOR THE GENERATION OF ELECTRICITY, INCLUDING THE ALLOWABLE COSTS OF PURCHASED POWER AS DEFINED IN SECTION 4909.159 OF THE REVISED CODE, DIVIDED BY THE CORRESPONDING NUMBER OF KILOWATT HOURS GENERATED AND PURCHASED.

(H) “BASE PERIOD” MEANS THE MOST RECENT SIX MONTH PERIOD FOR WHICH THE PUBLIC UTILITIES COMMISSION HAS DETERMINED EITHER THE AMOUNT OF THE FUEL COMPONENT OR THE FUEL COST PER KILOWATT HOUR INCLUDED IN THE BASE RATES OF AN ELECTRIC LIGHT COMPANY, WHICHEVER IS LAST DETERMINED.

(I) “CURRENT PERIOD” MEANS THE SIX MONTH PERIOD IMMEDIATELY SUCCEEDING THE BASE PERIOD FOR WHICH THE PUBLIC UTILITIES COMMISSION HAS DETERMINED THE AMOUNT OF THE FUEL COMPONENT IN THE BASE RATE OF AN ELECTRIC LIGHT COMPANY.

(J) "COMPLIANCE FACILITY" MEANS PROPERTY THAT IS DESIGNED, CONSTRUCTED, OR INSTALLED, AND USED AT AN ELECTRIC GENERATION FACILITY FOR THE PRIMARY PURPOSE OF COMPLYING WITH SULPHUR DIOXIDE, NITROUS OXIDE, MERCURY, OZONE, PARTICULATES, CARBON DIOXIDE AND ANY OTHER EMISSION REGULATED BY THE FEDERAL GOVERNMENT THAT CONTROLS OR LIMITS EMISSIONS RESULTING FROM COMBUSTION THROUGH THE REMOVAL OR REDUCTION OF THOSE COMPOUNDS BEFORE, DURING, OR AFTER THE COMBUSTION OF THE FUEL, BUT BEFORE THE COMBUSTION PRODUCTS ARE EMITTED INTO THE ATMOSPHERE.

(K) "AFFORDABLE" RATES FOR LOW-INCOME CUSTOMERS AS A CLASS IS DEFINED TO MEAN THAT THE RATIO OF AVERAGE BILL TO AVERAGE INCOME, AS DETERMINED IN THE LATEST CENSUS, SHALL BE NO HIGHER FOR LOW-INCOME CUSTOMERS AS A CLASS THAN FOR OTHER MEMBERS, TAKEN TOGETHER, OF THE RESIDENTIAL CUSTOMER CLASS.

(L) "SPECIAL CONTRACT" MEANS A SPECIAL RATE OR A SCHEDULE OF VARIABLE RATES AVAILABLE ONLY TO A SINGLE MERCANTILE COMMERCIAL OR INDUSTRIAL CUSTOMER OR SPECIFIED AGGREGATED GROUP OF MERCANTILE COMMERCIAL OR INDUSTRIAL CUSTOMERS.

4905.03. AS USED IN THIS CHAPTER:

[insert additional sections]

(4) an electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission OR GENERATION service OR BOTH for electricity delivered to consumers in this state, ~~but excluding a regional transmission organization approved by the federal energy regulatory commission.~~

4905.04 Power to regulate public utilities and railroads.

(A) The public utilities commission is hereby vested with the power and jurisdiction to supervise and regulate public utilities and railroads, to require all public utilities to furnish their products and render all services exacted by the commission or by law AT JUST AND

REASONABLE RATES WHICH ARE DESIGNED TO SERVE THE PUBLIC INTEREST, and to promulgate and enforce all orders relating to the protection, welfare, and safety of ELECTRIC UTILITY CUSTOMERS, NATURAL GAS CUSTOMERS, railroad employees and the traveling public, including the apportionment between railroads and the state and its political subdivisions of the cost of constructing protective devices at railroad grade crossings. CUSTOMER PROTECTIONS FOR PUBLIC UTILITY GENERAL SERVICE CUSTOMERS SHALL BE SUBSTANTIALLY IDENTICAL TO THOSE FOR RESIDENTIAL CUSTOMERS.

(B) Subject to sections 4905.041 and 4905.042 of the Revised Code, division (A) of this section includes such power and jurisdiction as is reasonably necessary for the commission to perform pursuant to federal law, including federal regulations, the acts of a state commission as defined in 47 U.S.C. 153.

4905.07 Information and records to be public.

Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all facts and information in the possession of the public utilities commission shall be public, and all reports records, files, books, accounts, papers, and memorandum of every nature in its possession shall be open to inspection by interested parties or their attorneys. The contents of special contracts, rates ~~or~~ tariffs AND ALL OTHER ARRANGEMENTS designed to provide rates lower than then existing tariffs, WHETHER PROPOSED FOR COMMISSION APPROVAL OR ADOPTED BY THE COMMISSION, ARE NOT SUBJECT TO SECTION 149.43 OF THE **REVISED CODE** AND ARE ALWAYS PUBLIC DOCUMENTS. PAPERS, MATERIALS, DESCRIPTIONS, AND NOTES PREPARED FOR OR DURING SETTLEMENT DISCUSSIONS ARE CONFIDENTIAL, PROTECTED AND ARE NOT AVAILABLE TO THE PUBLIC. ANY PERSON WHO RELEASES ANY INFORMATION RELATED TO SETTLEMENT DISCUSSIONS SHALL WITHDRAW FROM THE PROCEEDING ON MOTION FROM ANY INTERVENING PARTY. SPECIAL RATES OR A SCHEDULE OF VARIABLE RATES DEVELOPED PRIOR TO FILING OR DURING SETTLEMENT DISCUSSIONS AND PROPOSED FOR COMMISSION APPROVAL ARE NOT CONFIDENTIAL OR PROTECTED AND MUST BE PUBLICLY FILED WITH THE COMMISSION AS A COMPONENT OF THE PROPOSED APPLICATION OR STIPULATION IN THE SAME MANNER AS OTHER PROPOSED TARIFFS, SPECIAL RATES OR SCHEDULE OF VARIABLE RATES.

~~4905.09 Substantial compliance.~~

~~A substantial compliance by the public utilities commission with the requirements of Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and 4925. of the Revised Code is sufficient to give effect to all its rules, orders, acts, and regulations. Such rules, orders, acts, and regulations shall not be declared inoperative, illegal, or void for an omission of a technical nature in respect to such requirements. Such chapters do not affect, modify, or repeal any law fixing the rate which a company operating a railroad may demand and receive for the transportation of passengers.~~

4905.10.

(A) for the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of the state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within the state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility for the calendar year next preceding that in which the assessment is made. The Commission may include in that first computation any amounts of a railroad's or public utility's intrastate gross earnings or receipts that were underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the commission shall assess the railroad or public utility interest at ~~the rate stated in division (A) of section 1343.01 of the Revised Code~~ AN INTEREST RATE EQUIVALENT TO THE COST OF CAPITAL ESTABLISHED IN THE MOST RECENT BASE RATE CASE OF THE RAILROAD OR PUBLIC UTILITY. The Commission shall deposit any interest so collected into the public utilities fund.

4905.14 Annual report.

(A) Every public utility shall file an annual report with the public utilities commission. The report shall be filed at the time and in the form prescribed by the commission, shall be duly verified, and shall cover the yearly period fixed by the commission. The commission shall prescribe the character of the information to be embodied in the annual report, and shall furnish to each public utility a blank form for it. Every public

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utility also shall file a copy of the annual report with the office of consumers' counsel; the copy shall be filed at the same time that the original is filed with the commission. If any annual report filed with the commission is defective or erroneous, the commission may order that it be amended within a prescribed time. Any amendments made pursuant to such an order shall be filed with the commission and with the office of consumers' counsel. Each annual report filed with the commission shall be preserved in the office of the commission. The commission may, at any time, require specific answers to questions upon which it desires information.

(B) On the first day of July and the first day of November of each year, each ELECTRIC LIGHT COMPANY, gas company and natural gas company shall file with the commission a report in quintuplicate stating:

(1) The total demand, stated in terms of KILOWATT HOURS OR_cubic feet, that the company projects will be expected of the company for the following twelve months;

(2) With respect to electric light companies, the supply of fuel for the generation of electricity that they will possess as of the first day of July and the first day of November; with respect to gas companies and natural gas companies, the pertinent details of supply contracts with pipeline companies and producers for the following twelve months that they have executed and the quantity of the gas that they will possess in storage and will be available for delivery as of the first day of July and the first day of November;

(3) Where it appears from a comparison of the information reported in division (B)(1) of this section with that reported in division (B)(2) of this section that the total demand projected by the company for the twelve months following the date of the report will exceed the ability of the company to furnish it, the means which the company intends to employ in order to prevent any interruption or curtailment of service.

(C) The public utilities commission may require any telephone company to file with its annual report, supplementary reports of each exchange area owned or operated by it, in such detail as the commission may prescribe. Upon request of fifteen per cent of the subscribers of any telephone exchange, the public utilities commission shall require the report for such exchange area.

(D) WITHIN 15 DAYS AFTER THE END OF EACH MONTH, EACH ELECTRIC, GAS AND STEAM HEAT UTILITY SHALL FILE WITH THE

COMMISSION A REPORT CONTAINING THE FOLLOWING RESIDENTIAL INFORMATION FOR THAT MONTH.

1. TOTAL NUMBER OF RESIDENTIAL CUSTOMERS AS OF THE END OF THE MONTH, INCLUDING THE NUMBER OF ACCOUNTS, CATEGORIZED AS FOLLOWS:

(I) BILL ASSISTANCE CUSTOMERS, DEFINED FOR PURPOSES OF THIS SECTION AS PARTICIPANTS IN LOW-INCOME CUSTOMER ASSISTANCE PROGRAMS

(II) TOTAL NUMBER OF ACTIVE RESIDENTIAL ACCOUNTS IN ARREARS AND NOT ON A PAYMENT AGREEMENT, INCLUDING THE TOTAL AS OF THE END OF EACH MONTH, EXCLUDING BILL ASSISTANCE RECIPIENTS. NUMBERS OF ACTIVE RESIDENTIAL ACCOUNTS OVERDUE SHALL BE CATEGORIZED AS FOLLOWS:

A. BY USAGE—HEATING, NONHEATING.

B. BY TIME OVERDUE IN DAYS—

I. 30 DAYS OR LESS,

II. 31—60 DAYS,

III. 61—90 DAYS,

IV. 91—120 DAYS, AND

V. OVER 120 DAYS.

C. BY AMOUNT OVERDUE:6

I. \$25 OR LESS,

II. \$26—\$50,

III. \$51—\$150

IV. \$151—\$250,

V. \$251—\$500,

VI. \$501—\$1,000 AND

VII. OVER \$1,000.

2. WITHIN 31 DAYS FROM THE END OF A CALENDAR YEAR, EACH SUCH UTILITY SHALL FILE WITH THE COMMISSION A REPORT CONTAINING THE FOLLOWING RESIDENTIAL INFORMATION FOR THE YEAR AS A WHOLE. COMPANIES THAT FAIL TO FILE REQUIRED INFORMATION WITHIN SIX MONTHS OF THE MONTH BEING REPORTED SHALL BE PRECLUDED FROM DISCONNECTING ANY RESIDENTIAL CUSTOMERS.

TOTAL NUMBER OF RESIDENTIAL CUSTOMERS AS OF THE END OF THE MONTH FOR EACH MONTH OF THE YEAR, INCLUDING THE NUMBER OF ACCOUNTS, CATEGORIZED AS FOLLOWS:

(I) BY CLASSIFICATION—RESIDENTIAL, RESIDENTIAL MULTI-UNIT DWELLINGS.

(II) BY USAGE—HEATING, NONHEATING.

(III) BILL ASSISTANCE CUSTOMERS, DEFINED FOR
PURPOSES OF THIS SECTION AS PARTICIPANTS IN LOW-
INCOME CUSTOMER ASSISTANCE PROGRAMS

2. ANNUAL COLLECTIONS OPERATING EXPENSES AS OF THE
END OF THE YEAR, EXCLUDING BILL ASSISTANCE PAYMENTS BUT
INCLUDING ADMINISTRATIVE EXPENSES ASSOCIATED WITH
TERMINATION ACTIVITY, FIELD VISITS, NEGOTIATING PAYMENT
ARRANGEMENTS, BUDGET COUNSELING, INVESTIGATION AND
RESOLVING INFORMAL AND FORMAL COMPLAINTS ASSOCIATED
WITH PAYMENT ARRANGEMENTS, SECURING AND MAINTAINING
DEPOSITS, TRACKING DELINQUENT ACCOUNTS, COLLECTION
AGENCIES' EXPENSES, LITIGATION EXPENSES OTHER THAN
ALREADY INCLUDED, DUNNING EXPENSES AND WINTER SURVEY
EXPENSES.

3. ANNUAL RESIDENTIAL BILLINGS, INCLUDING THE
CUMULATIVE TOTAL DOLLAR AMOUNT IN ALL RESIDENTIAL BILLINGS
DURING THE YEAR, INCLUDING BILLINGS ON ACCOUNT OF LATE
PAYMENT.

4. TOTAL DOLLAR AMOUNT OF GROSS RESIDENTIAL WRITE-
OFFS, INCLUDING THE CUMULATIVE TOTAL DOLLAR AMOUNT AS OF
THE END OF THE YEAR, EXCLUDING BILL ASSISTANCE CREDITS OR
BILL ASSISTANCE ARREARAGE FORGIVENESS.

5. TOTAL NUMBER OF ACTIVE RESIDENTIAL ACCOUNTS IN
ARREARS AND NOT ON A PAYMENT AGREEMENT, INCLUDING THE
TOTAL AS OF THE END OF EACH MONTH, EXCLUDING BILL
ASSISTANCE RECIPIENTS. NUMBERS OF ACTIVE RESIDENTIAL
ACCOUNTS OVERDUE SHALL BE CATEGORIZED AS FOLLOWS:

A. BY USAGE—HEATING, NONHEATING.

B. BY TIME OVERDUE IN DAYS—

- I. 30 DAYS OR LESS,
- II. 31—60 DAYS,
- III. 61—90 DAYS,
- IV. 91—120 DAYS, AND
- V. OVER 120 DAYS.

C. BY AMOUNT OVERDUE:6

- I. \$25 OR LESS,
- II. \$26—\$50,
- III. \$51—\$150
- IV. \$151—\$250,
- V. \$251—\$500,
- VI. \$501—\$1,000 AND
- VII. OVER \$1,000.

6. TOTAL DOLLAR AMOUNT OF ACTIVE RESIDENTIAL
ACCOUNTS IN ARREARS AND NOT ON A PAYMENT AGREEMENT,

INCLUDING THE TOTAL AMOUNT AS OF THE END OF EACH MONTH, EXCLUDING BILL ASSISTANCE RECIPIENTS. AMOUNTS FOR ACTIVE RESIDENTIAL ACCOUNTS OVERDUE SHALL BE CATEGORIZED AS FOLLOWS:

- A. BY USAGE: HEATING, NONHEATING, AND FURTHER BY:
- B. TIME OVERDUE IN DAYS:
 - I. 30 DAYS OR LESS,
 - II. 31—60 DAYS,
 - III. 61—90 DAYS,
 - IV. 91—120 DAYS, AND
 - V. OVER 120 DAYS.

7. TOTAL NUMBER OF ACTIVE RESIDENTIAL ACCOUNTS IN ARREARS AND ON A PAYMENT AGREEMENT, INCLUDING THE TOTAL AS OF THE END OF EACH MONTH, EXCLUDING BILL ASSISTANCE RECIPIENTS.

8. THE TOTAL DOLLAR AMOUNT OF ACTIVE RESIDENTIAL ACCOUNTS IN ARREARS AND ON A PAYMENT AGREEMENT, INCLUDING THE TOTAL DOLLAR AMOUNT AS OF THE END OF EACH MONTH, EXCLUDING BILL ASSISTANCE RECIPIENTS.

9. THE TOTAL NUMBER OF INACTIVE RESIDENTIAL ACCOUNTS IN ARREARS, INCLUDING THE TOTAL AS OF THE END OF EACH MONTH. FOR PURPOSES OF THIS SECTION, AN INACTIVE ACCOUNT IS DEFINED AS AN ACCOUNT THAT HAS BEEN TERMINATED OR DISCONTINUED, THE FINAL BILL DUE DATE FOR WHICH HAS PASSED, AND THE AMOUNT OWED ON WHICH HAS NOT BEEN WRITTEN OFF.

10. THE TOTAL DOLLAR AMOUNT OF INACTIVE RESIDENTIAL ACCOUNTS IN ARREARS, INCLUDING THE TOTAL DOLLAR AMOUNT AS OF THE END OF EACH MONTH.

11. TOTAL NUMBER OF TERMINATION NOTICES SENT OUT BY COMPANY EACH MONTH, CATEGORIZED AS FOR NON-PAYMENT OR FOR OTHER REASON(S).

12. AVERAGE MONTHLY USAGE OF CUSTOMERS FOR THE PRECEDING SIX (6) MONTHS, CATEGORIZED BY WHETHER A TERMINATION NOTICE WAS SENT FOR NON-PAYMENT.

13. AVERAGE MONTHLY BILL OF CUSTOMERS FOR THE PRECEDING SIX (6) MONTHS, CATEGORIZED BY WHETHER A TERMINATION NOTICE WAS SENT FOR NON-PAYMENT.

14. TOTAL NUMBER OF DWELLINGS WHICH RECEIVE NOTICES SENT TO RATEPAYERS OTHER THAN OCCUPANTS.

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15. NUMBER OF COMPLETED PERSONAL CONTACTS PRIOR TO DISCONNECTION OF SERVICE, CATEGORIZED AS FOLLOWS:

- A. IN PERSON.
- B. BY TELEPHONE.
- C. BY THIRD-PARTY NOTIFICATION TO A PERSON DESIGNATED BY THE CUSTOMER.
- D. BY THIRD-PARTY NOTIFICATION TO A COMMUNITY INTEREST GROUP.
- E. BY THIRD-PARTY NOTIFICATION TO THE COMMISSION OR ITS DESIGNEE.

16. TOTAL NUMBER OF FINAL SHUT-OFF NOTICES POSTED.

17. NUMBER OF TERMINATIONS COMPLETED, CATEGORIZED AS FOLLOWS:

- A. NUMBER OF ACCOUNTS TERMINATED FOR NONPAYMENT OF UNDISPUTED DELINQUENT ACCOUNTS, FAILURE TO SATISFY CREDIT REQUIREMENTS, OR NONCOMPLIANCE OF A PAYMENT ARRANGEMENT.
- B. OTHERS.

18. NUMBER OF TERMINATIONS COMPLETED, CATEGORIZED AS FOLLOWS:

- A. BY USAGE—HEATING, NONHEATING.
- B. BY AMOUNT OVERDUE:
 - I. \$25 OR LESS,
 - II. \$26—\$50,
 - III. \$51—\$150,
 - IV. \$151—\$250,
 - V. \$251—\$500,
 - VI. \$501—\$1,000 AND
 - VII. OVER \$1,000.
- C. BY LENGTH OF TIME OVERDUE:
 - I. 30 DAYS OR LESS,
 - II. 31—60 DAYS,
 - III. 61—90 DAYS,
 - IV. 91—120 DAYS, AND
 - V. OVER 120 DAYS.
- D. BY FIRST THREE DIGITS OF EACH ACCOUNT'S ZIP CODE.

19. NUMBER OF RECONNECTIONS WITHIN 15 DAYS, CATEGORIZED AS FOLLOWS:

- A. BY USAGE—HEATING, NONHEATING.
- B. BY WHETHER AMORTIZATION SETTLEMENT AGREEMENT WAS ACHIEVED:
 - I. WITH INVOLVEMENT OF THE COMMISSION.
 - II. BETWEEN THE CUSTOMER AND UTILITY.

C. BY TOTAL NUMBER OF THE RECONNECTIONS DUE TO MEDICAL CERTIFICATION.

D. BY TOTAL NUMBER OF RECONNECTIONS DUE TO FULL PAYMENT OF ARREARAGE.

20. THE TOTAL NUMBER OF TERMINATIONS FOR NON-PAYMENT OF ARREARS, INCLUDING SECURITY DEPOSIT, AS DEFINED BY GENERAL OR UTILITY-SPECIFIC ORDER, TARIFF TERMS AND CONDITIONS, STATUTE AND/OR REGULATION FOR EACH MONTH, INCLUDING A SEPARATE REPORT WITH RESPECT TO BILL ASSISTANCE RECIPIENTS.

21. THE TOTAL NUMBER OF TERMINATIONS FOR OTHER REASONS AS DEFINED BY GENERAL OR UTILITY-SPECIFIC ORDER, TARIFF TERMS AND CONDITIONS, STATUTE AND/OR REGULATION FOR EACH MONTH, INCLUDING A SEPARATE REPORT WITH RESPECT TO BILL ASSISTANCE RECIPIENTS.

22. THE TOTAL NUMBER OF RECONNECTIONS AFTER CUSTOMER PAYMENT EACH MONTH, INCLUDING A SEPARATE REPORT WITH RESPECT TO BILL ASSISTANCE RECIPIENTS, AND INCLUDING CATEGORIZATION AS FOLLOWS:

- (A) LENGTH OF DISCONNECTION IS ONE WEEK OR LESS,
- (B) MORE THAN ONE WEEK BUT LESS THAN 30 DAYS,
- (C) BETWEEN 30 DAYS AND 89 DAYS, AND
- (D) 90 OR MORE DAYS.

23. THE TOTAL NUMBER OF RECONNECTIONS FOR CUSTOMER SUBMISSION OF MEDICAL CERTIFICATION EACH MONTH, INCLUDING A SEPARATE REPORT WITH RESPECT TO BILL ASSISTANCE RECIPIENTS.

24. THE TOTAL NUMBER OF RECONNECTIONS FOR REASONS OTHER THAN CUSTOMER PAYMENT OR MEDICAL CERTIFICATION EACH MONTH, INCLUDING A SEPARATE REPORT WITH RESPECT TO BILL ASSISTANCE RECIPIENTS.

25. AVERAGE DURATION OF SERVICE DISCONNECTION FOR RESTORED ACCOUNTS.

26. THE TOTAL NUMBER OF APPLICANTS THAT ARE REQUESTED OR BILLED A SECURITY DEPOSIT. REPORT THE CUMULATIVE NUMBER AS OF THE END OF THE MONTH. REPORT THE NUMBER FOR EACH MONTH OF THE YEAR.

27. THE TOTAL DOLLAR AMOUNT IN SECURITY DEPOSITS THAT ARE REQUESTED OR BILLED TO APPLICANTS EACH MONTH.

28. THE TOTAL NUMBER OF CUSTOMERS THAT ARE REQUESTED OR BILLED A SECURITY DEPOSIT EACH MONTH.

29. THE TOTAL DOLLAR AMOUNT IN SECURITY DEPOSITS THAT ARE REQUESTED OR BILLED TO CUSTOMERS EACH MONTH.

30. THE TOTAL NUMBER AND DOLLAR AMOUNT OF SECURITY DEPOSITS ON-HAND AS OF THE END OF THE YEAR.

31. BILL ASSISTANCE ADMINISTRATIVE PROGRAM COSTS FOR EACH MONTH, INCLUDING THE FOLLOWING: INTERNAL AND CONTRACT STAFFING, OUTREACH, INTAKE VERIFICATION, ANNUAL TRAINING, MAINTENANCE OF TELEPHONE LINES, RECERTIFICATION, EVALUATION, ACCOUNT MONITORING, CONSUMER EDUCATION AND CONSERVATION, AND OTHER ROUTINE FIXED OVERHEAD COSTS, AND COMPUTER PROGRAMMING.

32. BILL ASSISTANCE CREDITS FOR EACH MONTH.

33. COLLECTION DATA FOR BILL ASSISTANCE CUSTOMERS EACH MONTH, INCLUDING ALL CUSTOMERS WITH A CODE USED FOR PURPOSES OF DETERMINING ELIGIBILITY FOR WEATHER-RELATED TERMINATION PROTECTIONS AND ALL OTHER HARDSHIP PROTECTIONS, AND ALL CUSTOMERS WHOSE SOURCES OF INCOME, AS KNOWN TO THE UTILITY, INCLUDE ANY OF THE FOLLOWING:

A. HOME ENERGY ASSISTANCE PROGRAM (HEAP), THE FEDERAL HOME ENERGY ASSISTANCE PROGRAM FOR LOW INCOME CUSTOMERS,

B. TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF), THE PROGRAM FORMERLY KNOWN AS AFDC (AID TO FAMILIES WITH DEPENDENT CHILDREN),

C. GENERAL ASSISTANCE,

D. SUPPLEMENTAL SECURITY INCOME (GOLD CARD FROM THE SOCIAL SECURITY ADMINISTRATION);

INCLUDING THE FOLLOWING INFORMATION:

I. THE NUMBER OF BILL ASSISTANCE CUSTOMERS;

II. THE DISTRIBUTION OF FULL RETAIL BILLS;

III. THE NUMBER OF ACTIVE ACCOUNTS;

IV. THE NUMBER OF DISCONTINUANCE/TERMINATION NOTICES;

V. THE NUMBER OF ARREARAGE FORGIVENESS PROGRAM NOTICES;

VI. THE NUMBER OF ARREARAGE FORGIVENESS PROGRAM FINAL REMINDERS;

VII. THE NUMBER OF TELEPHONE CONTACTS BETWEEN THE UTILITY AND THE LOW-INCOME CUSTOMER (CATEGORIZED BY INBOUND AND OUTBOUND WHERE DATA ARE AVAILABLE);

VIII. THE NUMBER OF FIELD VISITS;

IX. THE NUMBER OF TERMINATIONS;

X. THE NUMBER OF RECONNECTIONS;

XI. THE NUMBER OF ACCOUNTS CHARGED OFF AS UNCOLLECTIBLE;

XII. THE DOLLAR AMOUNT OF ACCOUNTS CHARGED OFF AS UNCOLLECTIBLE;

XIII. THE NUMBER OF NEW PAYMENT ARRANGEMENTS;

XIV. THE NUMBER OF OVERDUE ACCOUNTS BY DOLLAR LEVEL AS FOLLOWS:

1. \$1-\$100;
2. \$101 - \$500
3. \$501 - \$1000
4. OVER \$1000.

XV. THE TOTAL DOLLARS OF OVERDUE ACCOUNTS BY DOLLAR LEVEL AS FOLLOWS:

1. \$1-\$100;
2. \$101 - \$500
3. \$501 - \$1000
4. OVER \$1000.

XVI. THE NUMBERS OF OVERDUE ACCOUNTS BY PAYMENT STATUS, AS FOLLOWS:

1. CURRENT
2. 31 – 60 DAYS
3. 61 – 90 DAYS
4. 91 OR MORE DAYS

XVII. THE TOTAL DOLLARS OF OVERDUE ACCOUNTS BY PAYMENT STATUS, AS FOLLOWS:

1. CURRENT
2. 31 – 60 DAYS
3. 61 – 90 DAYS
4. 91 OR MORE DAYS.

4905.30 Printed schedules of rates must be filed.

Every public utility shall print and file with the public utilities commission schedules showing all rates, joint rates, rentals, tolls, classifications, and charges for service of every kind furnished by it, INCLUDING BY SPECIAL CONTRACT, and all rules and regulations affecting them. SPECIAL RATES OR A SCHEDULE OF VARIABLE RATES CANNOT BE DECLARED CONFIDENTIAL OR SUBJECT TO A PROTECTIVE ORDER. Such schedules shall be plainly printed and kept open to public inspection. The commission may prescribe the form of every such schedule, and may prescribe, by order, changes in the form of such schedules. ~~The commission may establish and modify rules and regulations for keeping such schedules open to public inspection.~~ A copy of such schedules, or so much thereof as the commission deems necessary for the use and information of the public, shall be printed in

plain type and kept on file or posted in such places and in such manner as the commission orders.

4905.31 Reasonable arrangements allowed – variable rate.

Except as provided in section 4933.29 of the Revised Code, Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code do not prohibit a public utility from filing a schedule or entering into any reasonable arrangement with another public utility or with its customers, consumers, or employees providing for:

(A) The division or distribution of its surplus profits;

(B) A sliding scale of charges, including variations in rates based up either of the following:

(1) Stipulated variations in cost as provided in the schedule or arrangement;

~~(2) Any emissions fee levied upon an electric light company under Substitute Senate Bill No. 359 of the 119th general assembly as provided in the schedule. The public utilities commission shall permit an electric light company to recover the emissions fee pursuant to such a variable rate schedule.~~

~~(3) Any emissions fee levied upon an electric light company under division (C) or (D) of section 3745.11 of the Revised Code as provided in the schedule. The public utilities commission shall permit an electric light company to recover any such emission fee pursuant to such a variable rate schedule.~~

~~(4) Any schedule of variable rates filed under division (B) of this section shall provide for the recovery of any such emissions fee by applying a uniform percentage increase to the base rate charged each customer of the electric light company for service during the period that the variable rate is in effect.~~

~~(C) A minimum charge for service to be rendered unless such minimum charge is made or prohibited by the terms of the franchise, grant, or ordinance under which such public utility is operated;~~

(D) A classification of service based upon the quantity used, the time when used, the purpose for which used, the duration of use, and any

other reasonable consideration, PROVIDING THAT ALL SUCH RATES SHALL BE SUBJECTED TO A PUBLIC HEARING TO DETERMINE THAT THE RATE IS JUST AND REASONABLE, IS COST-BASED AND IS IN THE PUBLIC INTEREST, AND THE RATE DOES NOT SHIFT COSTS AMONG CUSTOMER CLASSES. THE PROPOSED RATE SHALL NOT BE ELIGIBLE FOR CONFIDENTIAL TREATMENT;

(E) Any other financial device that may be practicable or advantageous to the parties interested. No such arrangement, sliding scale, minimum charge, classification, variable rate, or device is lawful unless it is filed with and approved by the commission AFTER A PUBLIC HEARING, A FINDING BY THE COMMISSION THAT THE RATE IS JUST AND REASONABLE, IS COST-BASED AND IS IN THE PUBLIC INTEREST, AND THE RATE DOES NOT SHIFT COSTS AMONG CUSTOMER CLASSES.

Every such public utility is required to conform its schedules of rates, tolls, and charges to such arrangement, sliding scale, classification, or other device, and where variable rates are provided for in any such schedule or arrangement, the cost data or factors upon which such rates are based and fixed shall be filed with the commission in such form and at such times as the commission directs. The commission shall review the cost data or factors upon which a variable rate schedule filed under division (B)(2) or (3) of this section is based and shall adjust the based rates of the electric light company or order the company to refund any charges that it has collected under the variable rate schedule that the commission find to have resulted from errors or erroneous reporting. After recovery of all the ~~emissions~~ fees upon which a variable rate authorized under division (B)(2) or (3) of this section is based, collection of the variable rate shall end and the variable rate schedule shall be terminated.

Every such arrangement, sliding scale minimum charge, classification, variable rate, or device shall be under the supervision and regulation of the commission, and is subject to change, alteration, or modification by the commission. ALL SUCH RATES SHALL BE JUST AND REASONABLE AND COST-BASED AND IN THE PUBLIC INTEREST, AND THE RATE SHALL NOT SHIFT COSTS AMONG CUSTOMER CLASSES, AND SHALL BE SUBJECTED TO A PUBLIC HEARING. THE PROPOSED RATE SHALL NOT BE ELIGIBLE FOR CONFIDENTIAL TREATMENT.

4905.32 Schedule rate collected.

No public utility shall charge, demand, exact, receive, or collect a different rate, rental, toll, or charge for any service rendered, or to be rendered, than that applicable to such service as specified in its schedule filed with the public utilities commission which is in effect at the time.

No public utility shall refund or remit directly or indirectly, INCLUDING THROUGH AN UNREGULATED SUBSIDIARY OF THE HOLDING COMPANY OWNING OR CONTROLLING THE PUBLIC UTILITY, any rate, rental, toll, or charge so specified, or any part thereof, or extend to any person, firm, or corporation, any rule, regulation, privilege, or facility exact such as are specified in such schedule and regularly and uniformly extended to all persons, firms, and corporations under like circumstances for like, or substantially similar service. RATES FOR RESIDENTIAL CUSTOMERS WHICH ARE DESIGNED TO ACHIEVE AFFORDABILITY FOR CUSTOMERS PARTICIPATING IN LOW INCOME CUSTOMER ASSISTANCE PROGRAMS ARE PERMITTED UNDER THIS SECTION.

4905.331 PAYMENT PLANS MUST BE AFFORDABLE

PUBLIC UTILITIES SHALL PROVIDE CUSTOMERS WITH AFFORDABLE REPAYMENT PLANS WHEN A CUSTOMER FAILS TO PAY UTILITY BILLS. AN AFFORDABLE PAYMENT PLAN IS A PLAN THAT ENSURES THAT THE CURRENT BILL AND THE PAYMENT ON ELECTRIC ARREARAGES TOGETHER DO NOT EXCEED FOUR PERCENT OF THE CUSTOMER'S MONTHLY, QUARTERLY, OR ANNUAL INCOME AND THE CURRENT BILL AND THE PAYMENT ON NATURAL GAS ARREARAGES TOGETHER DO NOT EXCEED FOUR PERCENT OF THE CUSTOMERS MONTHLY, QUARTERLY OR ANNUAL INCOME. REPAYMENT ARRANGEMENTS SHALL BE EXTENDED AS NECESSARY TO COMPLY WITH THE LIMITS ON OVERALL PAYMENTS.

4905.34 Free service or reduced rates.

Except as provided in sections 4905.33 and 4905.35 and Chapter 4928. of the Revised Code, Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code do not prevent any public utility or railroad from granting any of its property for any public purpose, or granting reduced rates or free service of any kind to the United States, to the state or any political subdivision of the state, for charitable purposes INCLUDING RATES FOR NONPROFIT CUSTOMERS, for fairs or expositions, to a law enforcement officer residing in free public housing

provided pursuant to section 3735.43 of the Revised Code, or to any officer or employee of such public utility or railroad or the officer's or employee's family. All contracts and agreements made or entered into by such public utility or railroad for such use, reduced rates, or free service are valid and enforceable at law. As used in this section, "employee" includes furloughed, pensioned, and superannuated employees.

4905.35 Prohibiting discrimination.

(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage. RATES DESIGNED TO BE AFFORDABLE FOR CUSTOMERS ELIGIBLE FOR LOW INCOME CUSTOMER ASSISTANCE PROGRAMS ARE NOT DISCRIMINATORY UNDER ANY CIRCUMSTANCE.

[Remainder of section is unchanged.]

4905.402 Acquiring domestic telephone or electric utility company or holding company.

(B) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility OR OF A NATURAL GAS UTILITY unless that person obtains the prior approval of the public utilities commission under this section. To obtain approval the person shall file an application with the commission demonstrating that the acquisition will promote the public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. The application shall contain such information as the commission may require. ~~If the commission considers a hearing necessary, it may~~ SHALL FIX A time and place for hearing. If, after review of the application and after ~~any necessary~~ hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, THAT THERE WILL BE SIGNIFICANT NET BENEFITS TO RATEPAYERS AS A DIRECT RESULT OF THE PROPOSED TRANSACTION, THAT ALL SAVINGS FROM THE PROPOSED TRANSACTION WILL INURE TO THE BENEFIT OF RATEPAYERS, AND THAT RATES WILL INCLUDE NO ACQUISITION PREMIUM, the commission shall approve the application and make such order as it considers proper. ~~If the commission fails to issue an order within thirty~~

~~days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved by operation of law.—~~

4905.46 Restrictions on dividend or distribution.

(A) No public utility or railroad shall declare any stock, bond, or scrip dividend or distribution, or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders, unless it is authorized to do so by the public utilities commission.

(B) No telephone company shall declare any cash, stock, bond, or scrip dividend or distribution, or divide the proceeds of the sale of any stock, bond, or scrip among its common or voting shareholders, while such telephone company is in violation of any order of the commission, or against which telephone company there exists a finding of inadequate service, except when the public utilities commission makes a finding after hearing and notice, as provided in section 4905.26 of the Revised Code that such dividend or distribution will in no way postpone compliance with any order or affect the adequacy of service rendered or to be rendered by such telephone company. If a telephone company, while in violation of any order of the commission, or against which there exists a finding of inadequate service, desires to declare a cash dividend or distribution without the consent of the commission, it shall set aside in a special reserve fund a sum of money equivalent to the amount necessary to pay the proposed dividend or distribution, which, while said company is in violation of said order or against which such finding exists, may be expended only with the consent of the commission.

(C) UNLESS IT IS AUTHORIZED TO DO SO BY THE COMMISSION:

(1) NO PUBLIC UTILITY WHICH IS A PART OF AN ELECTRIC UTILITY HOLDING COMPANY SYSTEM SHALL INVEST IN, LEND FUNDS TO, GUARANTEE THE OBLIGATIONS OF, OTHERWISE FINANCE, OR TRANSFER ASSETS TO ANY COMPANY WHICH IS NOT A PUBLIC UTILITY AS DEFINED BY OHIO LAW OR THE LAW OF ANY OTHER STATE, AND WHICH IS AFFILIATED OR ASSOCIATED WITH IT IN THE SAME HOLDING COMPANY SYSTEM. THIS LIMITATION ON INVESTMENTS, LOANS, GUARANTEES, OR OTHER FINANCING DOES NOT APPLY TO TRANSACTIONS IN THE ORDINARY COURSE OF THE COMPANIES' PUBLIC UTILITIES BUSINESS OPERATIONS IN WHICH ONE ENTITY ACTS ON BEHALF OF, OR WITH RESPECT TO, ANOTHER WITHIN THE HOLDING COMPANY SYSTEM.

(2) NO ELECTRIC UTILITY HOLDING COMPANY, WHICH DIRECTLY OWNS, CONTROLS OR HOLDS WITH THE POWER TO VOTE TEN PER CENT OR MORE OF THE OUTSTANDING VOTING SECURITIES OF AN ELECTRIC LIGHT COMPANY, OR IS ITSELF AN ELECTRIC LIGHT COMPANY, SHALL MAKE ANY INVESTMENT, INCLUDING LOANS, IN ANY SUBSIDIARY, AFFILIATE, OR ASSOCIATE THAT IS NOT A PUBLIC UTILITY AS DEFINED BY OHIO LAW OR THE LAW OF ANOTHER STATE, THAT WOULD CAUSE THE COMPANY'S CAPITAL INVESTMENTS IN ALL SUCH NON-UTILITY SUBSIDIARIES, AFFILIATES, AND ASSOCIATES TO EXCEED, AT THE TIME SUCH PROPOSED INVESTMENT IS MADE, FIFTEEN PER CENT OR MORE OF THE AGGREGATE CAPITALIZATION OF THE HOLDING COMPANY ON A CONSOLIDATED BASIS. THIS LIMITATION, HOWEVER, DOES NOT EXTEND TO INVESTMENTS MADE WITH FUNDS PROVIDED FROM NONUTILITY SUBSIDIARIES, AFFILIATES, OR ASSOCIATES.

(D) THE COMMISSION SHALL NOT APPROVE A TRANSFER OF ASSETS SUBJECT TO DIVISION (C) OF THIS SECTION FOR AT LEAST NINETY DAYS AFTER AN APPLICATION FOR APPROVAL HAS BEEN FILED WITH IT. THE COMMISSION SHALL, UPON THE FILING OF SUCH APPLICATION, FIX A TIME AND PLACE FOR A HEARING.

4905.48 Transactions between public utilities.

With the consent and approval of the public utilities commission:

(A) Any two or more public utilities furnishing a like service or product and doing business in the same municipal corporation or locality within this state, or any two or more public utilities whose lines intersect or parallel each other within this state, may enter into contracts with each other that will enable them to operate their lines or plants in connection with each other.

(B) Any public utility may purchase or lease the property, plant, or business of any other such public utility.

(C) Any such public utility may sell or lease its property or business to any other such public utility.

(D) Any such public utility may purchase the stock of any other such public utility.

To obtain the consent and approval of the commission for such authority, a petition, joint or otherwise, signed and verified by the president and the secretary of the respective companies, clearly setting forth the object and purposes desired, and stating whether or not it is for the purchase, sale, lease, or making of contracts, or for any other purpose provided in this section, and also the terms and conditions of the same, shall be filed with the commission. ~~If necessary, it shall, upon the filing of such petition, fix a time and place for a hearing.~~ If ~~the~~ commission ~~deems~~ it necessary, it shall, upon the filing of such petition, fix a time and place for a hearing.

If, after such hearing ~~or in case no hearing is required~~, the commission is satisfied that the ~~prayer of such petition~~ APPLICATION should be granted, THAT THERE WILL BE SIGNIFICANT NET BENEFITS TO RATEPAYERS AS A DIRECT RESULT OF THE PROPOSED TRANSACTION, THAT ALL SAVINGS FROM THE PROPOSED TRANSACTION WILL INURE TO THE BENEFIT OF RATEPAYERS, THAT RATES WILL INCLUDE NO ACQUISITION PREMIUM, and the public will thereby be furnished adequate service for a reasonable and just rate, rental, toll, or charge, ~~it~~ THE COMMISSION shall make such order as it deems proper and the circumstances require, and thereupon the things provided for in such order may be done.

4905.70 Energy conservation AND RENEWABLE ENERGY programs.

(A) The public utilities commission, AFTER AN ADJUDICATORY PROCEEDING, shall initiate AND OVERSEE programs that will promote and encourage conservation of energy and a reduction in the growth rate of energy consumption, promote economic efficiencies, and take into account long-run incremental costs. Notwithstanding sections 4905.31, 4905.33, 4905.35, and 4909.151 of the Revised Code, the commission SHALL REQUIRE EACH ELECTRIC LIGHT COMPANY AND EACH NATURAL GAS COMPANY TO ACQUIRE ALL COST-EFFECTIVE ENERGY CONSERVATION; SHALL PROHIBIT DECLINING BLOCK RATE STRUCTURES EXCEPT WITH RESPECT TO RESIDENTIAL BUILDINGS AND COMMERCIAL BUILDINGS THAT BOTH RECEIVE SERVICE UNDER GENERAL SERVICE TARIFFS ON OCTOBER 31, 2007, AND USE ELECTRICITY FOR SPACE HEATING; AND BEFORE JANUARY 1, 2009, examine and issue written findings on ~~the declining block rate structure, lifeline AFFORDABLE rates FOR CUSTOMERS QUALIFIED TO PARTICIPATE IN LOW INCOME CUSTOMER ASSISTANCE PROGRAMS and inverted block rate structures, long-run incremental pricing, peak load and off peak pricing, time of day and seasonal pricing, interruptible load pricing, and single rate pricing where rates do not vary because of~~

~~classification of customers or amount of usage.~~ TIME OF DAY RATES MAY BE MADE AVAILABLE TO RESIDENTIAL AND GENERAL SERVICE CUSTOMERS ONLY IF COST BASED, AND ON AN OPTIONAL BASIS. THE COMMISSION SHALL ESTABLISH A COLLABORATIVE OF INTERESTED STAKEHOLDERS TO NEGOTIATE SETTLEMENT OF EACH ADJUDICATORY PROCEEDING; EACH COLLABORATIVE WILL INCLUDE THE PUBLIC UTILITY, COMMISSION STAFF, THE CONSUMERS' COUNSEL, LOW INCOME ADVOCATES, OTHER CONSUMER ADVOCATES, LARGE CUSTOMER GROUPS, AND ENVIRONMENTAL ORGANIZATIONS SELECTED BY THE COMMISSION, TO THE EXTENT EACH HAS MEMBERSHIP STATEWIDE AND IN THE SERVICE TERRITORY OF THE PUBLIC UTILITY, TO DEVELOP PROGRAMS THAT FURTHER THE GOALS OF THIS CHAPTER. The commission, by a rule adopted no later than October 1, 1977, and effective and applicable no later than November 1, 1977, shall require each electric light company to offer to such of their residential customers whose residences are primarily heated by electricity the option of their usage being metered by a demand or load meter. Under the rule, a customer who selects such option may NOT be required by the company, where no such meter is already installed, to pay for such meter and its installation. The rule shall require each company to bill such of its customers who select such option for those kilowatt hours in excess of a prescribed number of kilowatt hours per kilowatt of billing demand, at a rate per kilowatt hour that reflects the lower cost of providing service during off-peak periods.

(B) THE COMMISSION SHALL REQUIRE EACH ELECTRIC LIGHT COMPANY AND EACH NATURAL GAS COMPANY TO ESTABLISH ENERGY CONSERVATION PROGRAMS THAT SERVE EACH CUSTOMER CLASS. BEGINNING ON JANUARY 1, 2008, THE COMMISSION IS AUTHORIZED AND DIRECTED TO REQUIRE A MANDATORY CHARGE PER KILOWATT-HOUR OR THERM FOR ALL CONSUMERS OF THE STATE TO FUND ENERGY CONSERVATION ACTIVITIES. THE CHARGE SHALL BE ADEQUATE TO ACQUIRE ALL COST-EFFECTIVE ENERGY CONSERVATION AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION. CUSTOMERS PARTICIPATING IN LOW INCOME CUSTOMER ASSISTANCE PROGRAMS WILL BE EXEMPT FROM THIS CHARGE. SAID CHARGE SHALL BE AT LEAST THE AMOUNT NECESSARY, BASED ON ENGINEERING ESTIMATES REVIEWED BY THE COMMISSION TO ACHIEVE THE DEMAND REDUCTION REQUIRED BY SECTION (C) AND (D) OF THIS CHAPTER PROVIDED, HOWEVER, THAT IN AUTHORIZING SUCH PROGRAMS THE COMMISSION SHALL ENSURE THAT THEY ARE DELIVERED IN A COST-EFFECTIVE

MANNER. AT LEAST SIXTY PERCENT OF THE AMOUNT EXPENDED BY EACH ELECTRIC LIGHT COMPANY AND EACH NATURAL GAS COMPANY FOR THE RESIDENTIAL CUSTOMER CLASS IN ANY YEAR SHALL BE SPENT ON COMPREHENSIVE RESIDENTIAL DEMAND-SIDE MANAGEMENT AND EDUCATION PROGRAMS FOR CUSTOMERS WITH INCOMES EQUAL TO OR LESS THAN 300 PERCENT OF THE FEDERAL POVERTY LINE. THE RESIDENTIAL DEMAND-SIDE MANAGEMENT AND EDUCATION PROGRAMS AVAILABLE TO CUSTOMERS WITH INCOMES EQUAL TO OR LESS THAN 300 PERCENT OF THE FEDERAL POVERTY LINE, INCLUDING THE PROGRAMS AUTHORIZED BY SECTION 4928.55 OF THE REVISED CODE, SHALL BE IMPLEMENTED THROUGH NON-PROFIT ORGANIZATIONS ORGANIZED IN THE STATE OF OHIO AND SHALL BE COORDINATED WITH ALL OTHER ELECTRIC LIGHT COMPANY AND NATURAL GAS COMPANY DEMAND SIDE MANAGEMENT PROGRAMS, AND ALL OTHER EFFICIENCY PROGRAMS TO PROVIDE CUSTOMERS WITH COMPREHENSIVE DEMAND-SIDE SERVICES TO THE EXTENT FEASIBLE. THE COMMISSION SHALL OVERSEE AND COORDINATE RATEPAYER-FUNDED ENERGY EFFICIENCY PROGRAMS. THE COMMISSION SHALL SEEK TO ACHIEVE GOALS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: (I) ENSURE THAT ENERGY EFFICIENCY FUNDS ARE ALLOCATED EQUITABLY AMONG CUSTOMER CLASSES; (II) ENSURE THAT THERE WILL BE ADEQUATE SUPPORT FOR EFFICIENCY PROGRAMS IN AREAS SUCH AS NEW CONSTRUCTION, REMODELING, AND REPLACEMENT OF WORN-OUT EQUIPMENT, INCLUDING INEFFICIENT HEATING SYSTEMS; (III) GIVE DUE EMPHASIS TO STATEWIDE MARKET TRANSFORMATION PROGRAMS IN ORDER TO SYSTEMATICALLY ELIMINATE MARKET BARRIERS TO ENERGY EFFICIENCY GOODS AND SERVICES; (IV) SUPPORT ENFORCEMENT OF BUILDING EFFICIENCY CODES; AND (V) PROVIDE MANDATORY EFFICIENCY AUDITS OF HOMES BEFORE SALE.

(C) EFFICIENCY GAINS REQUIRED UNDER THIS ACT; ALL YEARLY EFFICIENCY AND PEAK DEMAND GAINS REQUIRED BY THIS ACT SHALL BE CUMULATIVE:

(1) THE COMMISSION SHALL ENSURE THAT ELECTRIC AND NATURAL GAS UTILITIES UTILIZE COST EFFECTIVE ENERGY EFFICIENCY INVESTMENTS TO SECURE THE FOLLOWING ANNUAL SAVINGS OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION:

(A) FOR YEAR 1 RETAIL ELECTRICITY SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .30% OF THEIR MOST RECENT YEAR'S SALES

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(B) TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION. FOR YEAR ONE NATURAL GAS SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .15% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(C) FOR YEAR 2 RETAIL ELECTRICITY SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .50% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION. FOR YEAR 2 NATURAL GAS SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .25% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(D) FOR YEAR 3 RETAIL ELECTRICITY SUPPLIERS MUST SECURE ANNUAL SAVINGS OF 1.5% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION. FOR YEAR 3 RETAIL NATURAL GAS SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .50% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(E) FOR YEAR 4 RETAIL ELECTRICITY SUPPLIERS MUST SECURE ANNUAL SAVINGS OF 2.5% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION. FOR YEAR 4 RETAIL NATURAL GAS SUPPLIERS MUST SECURE ANNUAL SAVINGS OF .75% OF THEIR MOST RECENT YEAR'S SALES TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(F) FOR YEAR 5 AND AFTER THE SAVINGS RATE WILL BE AND REMAIN 3% FOR RETAIL ELECTRICITY SUPPLIERS AND 1% FOR RETAIL NATURAL GAS SUPPLIERS. BEYOND YEAR 5 COMMISSION MAY ADJUST YEARLY SAVINGS RATES TO MATCH FEASIBILITY.

(2) THE OHIO DEPARTMENT OF DEVELOPMENT, OHIO ENERGY OFFICE, SHALL BE RESPONSIBLE FOR VERIFYING COMPLIANCE WITH THIS PROVISION.

(D) PEAK DEMAND REDUCTIONS REQUIRED UNDER THIS ACT:

(1) THE COMMISSION SHALL ENSURE THAT ELECTRIC AND NATURAL GAS UTILITIES REDUCE PEAK DEMAND THROUGH ENERGY EFFICIENCY PROGRAMS AND LOAD OR DEMAND SIDE MANAGEMENT PROGRAMS:

(A) FOR YEAR 1 RETAIL ELECTRICITY AND NATURAL GAS SUPPLIERS MUST SECURE ANNUAL PEAK DEMAND SAVINGS OF 1%

OF THEIR MOST RECENT YEAR'S PEAK DEMAND TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(B) FOR YEAR 2 RETAIL ELECTRICITY AND NATURAL GAS SUPPLIERS MUST SECURE ANNUAL PEAK DEMAND SAVINGS OF 2% OF THEIR MOST RECENT YEAR'S PEAK DEMAND TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(C) FOR YEAR 3 RETAIL ELECTRICITY AND NATURAL GAS SUPPLIERS MUST SECURE ANNUAL PEAK DEMAND SAVINGS OF 3% OF THEIR MOST RECENT YEAR'S PEAK DEMAND TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(D) FOR YEAR 4 RETAIL ELECTRICITY AND NATURAL GAS SUPPLIERS MUST SECURE ANNUAL PEAK DEMAND SAVINGS OF 4% OF THEIR MOST RECENT YEAR'S PEAK DEMAND TO RETAIL CUSTOMERS AS REPORTED TO THE COMMISSION.

(E) FOR YEAR 5 AND AFTER THE SAVINGS RATE WILL REMAIN 4% FOR RETAIL ELECTRICITY SUPPLIERS AND RETAIL NATURAL GAS SUPPLIERS. BEYOND YEAR 5 COMMISSION MAY ADJUST YEARLY SAVINGS RATES TO MATCH FEASIBILITY.

(2) THE OHIO DEPARTMENT OF DEVELOPMENT, OHIO ENERGY OFFICE, SHALL BE RESPONSIBLE FOR VERIFYING COMPLIANCE WITH THIS PROVISION.

(C) APPLIANCE EFFICIENCY STANDARDS ACT

(1). THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE "OHIO APPLIANCE EFFICIENCY STANDARDS ACT".

(2). AS USED IN THIS CHAPTER THE FOLLOWING WORDS SHALL, UNLESS THE CONTEXT REQUIRES OTHERWISE, HAVE THE FOLLOWING MEANINGS:

(A). "BALLAST", A DEVICE USED WITH AN ELECTRIC DISCHARGE LAMP TO OBTAIN NECESSARY CIRCUIT CONDITIONS (VOLTAGE, CURRENT AND WAVEFORM) FOR STARTING AND OPERATING THE LAMP.

(B). "BOILER", A SPACE HEATER THAT IS A SELF-CONTAINED APPLIANCE FOR SUPPLYING STEAM OR HOT WATER PRIMARILY

INTENDED FOR SPACE HEATING. THIS TERM DOES NOT INCLUDE HOT WATER SUPPLY BOILERS.

(C). "CENTRAL FURNACE", A SELF-CONTAINED SPACE HEATER DESIGNED TO SUPPLY HEATED AIR THROUGH DUCTS OF MORE THAN 10 INCHES IN LENGTH.

(D). "COMPENSATION", MONEY OR ANY OTHER VALUABLE THING, REGARDLESS OF FORM, RECEIVED OR TO BE RECEIVED BY A PERSON FOR SERVICES RENDERED.

(E). "ELECTRICITY RATIO (ER)" IS THE RATIO OF FURNACE ELECTRICITY USE TO TOTAL FURNACE ENERGY USE. $ER = (3.412 * EAE) / (1000 * EF + 3.412 * EAE)$ WHERE EAE AND EF ARE DEFINED IN TITLE 10 OF THE CODE OF FEDERAL REGULATIONS.

(F). "HIGH-INTENSITY DISCHARGE LAMP", A LAMP IN WHICH LIGHT IS PRODUCED BY THE PASSAGE OF AN ELECTRIC CURRENT THROUGH A VAPOR OR GAS AND IN WHICH THE LIGHT-PRODUCING ARC IS STABILIZED BY BULB WALL TEMPERATURE AND THE ARC TUBE HAS A BULB WALL LOADING IN EXCESS OF 3 WATTS PER SQUARE CENTIMETER.

(G). "FLUORESCENT LAMP BALLAST" OR "BALLAST", A DEVICE DESIGNED TO OPERATE FLUORESCENT LAMPS BY PROVIDING A STARTING VOLTAGE AND CURRENT, AND LIMITING THE CURRENT DURING NORMAL OPERATION, BUT SHALL NOT INCLUDE SUCH DEVICES THAT HAVE A DIMMING CAPABILITY OR ARE INTENDED FOR USE IN AMBIENT TEMPERATURES OF ZERO DEGREES FAHRENHEIT OR LESS OR HAVE A POWER FACTOR OF LESS THAN SIXTY ONE-HUNDREDTHS FOR A SINGLE F40T12 LAMP.

(H). "FLUORESCENT LAMP BALLAST" OR "FLUORESCENT BALLAST", A DEVICE DESIGNED TO OPERATE FLUORESCENT LAMPS BY PROVIDING A STARTING VOLTAGE AND CURRENT, AND LIMITING THE CURRENT DURING NORMAL OPERATION, BUT SHALL NOT INCLUDE SUCH DEVICES THAT HAVE A DIMMING CAPABILITY OR ARE INTENDED FOR USE IN AMBIENT TEMPERATURES OF ZERO DEGREES FAHRENHEIT OR LESS OR HAVE A POWER FACTOR OF LESS THAN SIXTY ONE-HUNDREDTHS FOR A SINGLE F40T12 LAMP.

(I). "FREEZER", A CABINET DESIGNED AS A UNIT FOR THE STORAGE OF FOOD AT TEMPERATURES OF APPROXIMATELY ZERO

DEGREES FAHRENHEIT, HAVING THE ABILITY TO FREEZE FOOD AND HAVING A SOURCE OF REFRIGERATION REQUIRING AN ENERGY INPUT.

(J). "F40T12 LAMP", A TUBULAR FLUORESCENT LAMP THAT IS A NOMINAL FORTY WATT LAMP WITH A FORTY-EIGHT INCH TUBE LENGTH AND ONE AND ONE-HALF INCHES IN DIAMETER.

(K). "F96T12 LAMP", A TUBULAR FLUORESCENT LAMP THAT IS A NOMINAL SEVENTY-FIVE WATT LAMP WITH A NINETY-SIX INCH TUBE LENGTH AND ONE AND ONE-HALF INCHES IN DIAMETER.

(L). "LAMP", AN INCANDESCENT, REFLECTOR INCANDESCENT, TUNGSTEN HALOGEN, OR FLUORESCENT TYPE LAMP.

(M). "LUMINAIRE", A COMPLETE LIGHTING UNIT CONSISTING OF A FLUORESCENT LAMP OR LAMPS, TOGETHER WITH PARTS DESIGNED TO DISTRIBUTE THE LIGHT, TO POSITION AND PROTECT SUCH LAMPS AND TO CONNECT SUCH LAMPS TO THE POWER SUPPLY.

(N). "MEDIUM VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMER", A TRANSFORMER THAT: (1) HAS AN INPUT VOLTAGE OF MORE THAN 600 VOLTS BUT LESS THAN OR EQUAL TO 34,500 VOLTS; (2) IS AIR-COOLED; (3) DOES NOT USE OIL AS A COOLANT; AND (4) IS RATED FOR OPERATION AT A FREQUENCY OF 60 HERTZ.

(O). "METAL HALIDE LAMP", A HIGH-INTENSITY DISCHARGE LAMP IN WHICH THE MAJOR PORTION OF THE LIGHT IS PRODUCED BY RADIATION OF METAL HALIDES AND THEIR PRODUCTS OF DISSOCIATION, POSSIBLY IN COMBINATION WITH METALLIC VAPORS.

(P). "METAL HALIDE LAMP FIXTURE", A LIGHT FIXTURE DESIGNED TO BE OPERATED WITH A METAL HALIDE LAMP AND A BALLAST FOR A METAL HALIDE LAMP.

(Q). "NEW APPLIANCE", AN APPLIANCE THAT IS SOLD, OFFERED FOR SALE OR INSTALLED FOR THE FIRST TIME AND SPECIFICALLY INCLUDES FLOOR MODELS AND DEMONSTRATION UNITS.

(R). "PROBE-START METAL HALIDE BALLAST", A BALLAST USED TO OPERATE METAL HALIDE LAMPS WHICH DOES NOT CONTAIN AN IGNITER AND WHICH INSTEAD STARTS LAMPS BY USING A THIRD STARTING ELECTRODE PROBE IN THE ARC TUBE.

(S). "REFRIGERATOR", A CABINET WITH ONE EXTERIOR DOOR DESIGNED FOR THE REFRIGERATED STORAGE OF FOOD AT TEMPERATURES ABOVE THIRTY-TWO DEGREES FAHRENHEIT AND HAVING A SOURCE OF REFRIGERATION REQUIRING AN ENERGY INPUT; REFRIGERATOR MAY INCLUDE A COMPARTMENT FOR THE FREEZING AND STORAGE OF FOOD AT TEMPERATURES BELOW THIRTY-TWO DEGREES FAHRENHEIT BUT DOES NOT PROVIDE A SEPARATE LOW TEMPERATURE COMPARTMENT DESIGNED FOR THE FREEZING AND LONG TERM STORAGE OF FOOD AT TEMPERATURES BELOW EIGHT DEGREES FAHRENHEIT. A REFRIGERATOR MAY HAVE INTERIOR DOORS ON COMPARTMENTS.

(T). "REFRIGERATOR-FREEZER", A CABINET WHICH CONSISTS OF TWO OR MORE COMPARTMENTS WITH AT LEAST ONE OF THE COMPARTMENTS DESIGNED FOR THE REFRIGERATED STORAGE OF FOODS AT TEMPERATURES ABOVE THIRTY-TWO DEGREES FAHRENHEIT AND WITH AT LEAST ONE OF THE COMPARTMENTS DESIGNED FOR THE FREEZING AND STORAGE OF FOODS AT TEMPERATURES OF EIGHT DEGREES FAHRENHEIT OR BELOW. THE SOURCE OF REFRIGERATION REQUIRES ENERGY INPUT.

(U). "RESIDENTIAL FURNACE OR BOILER", A PRODUCT WHICH UTILIZES ONLY SINGLE-PHASE ELECTRIC CURRENT, OR SINGLE-PHASE ELECTRIC CURRENT OR DC CURRENT IN CONJUNCTION WITH NATURAL GAS, PROPANE, OR HOME HEATING OIL, AND WHICH:-

(1) IS DESIGNED TO BE THE PRINCIPLE HEATING SOURCE FOR THE LIVING SPACE OF A RESIDENCE;

(2) IS NOT CONTAINED WITHIN THE SAME CABINET WITH A CENTRAL AIR CONDITIONER WITH A RATED COOLING CAPACITY EXCEEDING 65,000 BTU PER HOUR;

(3) IS AN ELECTRIC CENTRAL FURNACE, ELECTRIC BOILER, FORCED-AIR CENTRAL FURNACE, GRAVITY CENTRAL FURNACE OR LOW-PRESSURE STEAM OR HOT WATER BOILER; AND

(4) HAS A HEAT INPUT RATE OF LESS THAN 300,000 BTU PER HOUR FOR ELECTRIC BOILERS AND LOW-PRESSURE STEAM OR HOT WATER BOILERS, AND LESS THAN 225,000 BTU PER HOUR FOR FORCED-AIR CENTRAL FURNACES, GRAVITY CENTRAL FURNACE AND ELECTRIC CENTRAL FURNACES.

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(V). "SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLY", A DEVICE THAT:

(1) IS DESIGNED TO CONVERT LINE VOLTAGE AC INPUT INTO LOWER VOLTAGE DC OUTPUT;

(2) IS ABLE TO CONVERT TO ONLY ONE DC OUTPUT VOLTAGE AT A TIME;

(3) IS SOLD WITH, OR INTENDED TO BE USED WITH, A SEPARATE END-USE PRODUCT THAT CONSTITUTES THE PRIMARY POWER LOAD;

(4) IS CONTAINED WITHIN A SEPARATE PHYSICAL ENCLOSURE FROM THE END-USE PRODUCT;

(5) IS CONNECTED TO THE END-USE PRODUCT VIA A REMOVABLE OR HARD-WIRED MALE/FEMALE ELECTRICAL CONNECTION, CABLE, CORD OR OTHER WIRING;

(6) DOES NOT HAVE BATTERIES OR BATTERY PACKS, INCLUDING THOSE THAT ARE REMOVABLE, THAT PHYSICALLY ATTACH DIRECTLY TO THE POWER SUPPLY UNIT;

(7) DOES NOT HAVE A BATTERY CHEMISTRY OR TYPE SELECTOR SWITCH AND INDICATOR LIGHT, OR DOES NOT HAVE A BATTERY CHEMISTRY OR TYPE SELECTOR SWITCH AND A STATE OF CHARGE METER; AND

(8) HAS A NAMEPLATE OUTPUT POWER LESS THAN OR EQUAL TO 250 WATTS.

(W). "STATE-REGULATED INCANDESCENT REFLECTOR LAMP", A LAMP, NOT COLORED OR DESIGNED FOR ROUGH OR VIBRATION SERVICE APPLICATIONS, WITH AN INNER REFLECTIVE COATING ON THE OUTER BULB TO DIRECT THE LIGHT, AN E26 MEDIUM SCREW BASE, A RATED VOLTAGE OR VOLTAGE RANGE THAT LIES AT LEAST PARTIALLY WITHIN 115 TO 130 VOLTS AND THAT FALLS INTO EITHER OF THE FOLLOWING CATEGORIES: A BULGED REFLECTOR, ELLIPTICAL REFLECTOR, BLOWN PARABOLIC ALUMINIZED REFLECTOR OR SIMILAR BULB SHAPE WITH A DIAMETER EQUAL TO OR GREATER THAN 2.25 INCHES; OR A REFLECTOR, PARABOLIC ALUMINIZED REFLECTOR, BULGED REFLECTOR OR SIMILAR BULB SHAPE WITH A DIAMETER OF 2.25 TO 2.75 INCHES, INCLUSIVE.

(X). "STATE PLUMBING CODE", THE UNIFORM STATE PLUMBING CODE, AMENDMENTS AND RULES AND REGULATIONS THERETO, AS PROMULGATED BY THE BOARD OF STATE EXAMINERS OF PLUMBERS AND GAS FITTERS UNDER THE PROVISIONS OF SECTION THIRTEEN OF CHAPTER ONE HUNDRED AND FORTY-TWO.

(Y). "TRANSFORMER", A DEVICE CONSISTING OF 2 OR MORE COILS OF INSULATED WIRE AND THAT IS DESIGNED TO TRANSFER ALTERNATING CURRENT BY ELECTROMAGNETIC INDUCTION FROM 1 COIL TO ANOTHER TO CHANGE THE ORIGINAL VOLTAGE OR CURRENT VALUE. THIS TERM DOES NOT INCLUDE: (1) DEVICES WITH MULTIPLE VOLTAGE TAPS, WITH THE HIGHEST VOLTAGE TAP EQUALING AT LEAST 20 PER CENT MORE THAN THE LOWEST VOLTAGE TAP; OR (2) DEVICES, SUCH AS THOSE COMMONLY KNOWN AS DRIVE TRANSFORMERS, RECTIFIER TRANSFORMERS, AUTO-TRANSFORMERS, UNINTERRUPTIBLE POWER SYSTEM TRANSFORMERS, IMPEDANCE TRANSFORMERS, REGULATING TRANSFORMERS, SEALED AND NON-VENTILATING TRANSFORMERS, MACHINE TOOL TRANSFORMERS, WELDING TRANSFORMERS, GROUNDING TRANSFORMERS OR TESTING TRANSFORMERS, THAT ARE DESIGNED TO BE USED IN A SPECIAL-PURPOSE APPLICATION AND ARE UNLIKELY TO BE USED IN GENERAL-PURPOSE APPLICATIONS.

(Z) "WATER HEATER", AN AUTOMATICALLY CONTROLLED VESSEL DESIGNED PRIMARILY FOR HEATING AND STORING WATER TO PROVIDE HOT WATER SERVICE FOR DOMESTIC OR SANITARY PURPOSES.

(3). THE PROVISIONS OF THIS CHAPTER SHALL APPLY TO THE TESTING, CERTIFICATION AND ENFORCEMENT OF EFFICIENCY STANDARDS FOR LAMPS AND THE FOLLOWING TYPES OF NEW APPLIANCES SOLD, OFFERED FOR SALE OR INSTALLED IN THE COMMONWEALTH:

(A) REFRIGERATORS, REFRIGERATOR-FREEZERS AND FREEZERS WHICH CAN BE OPERATED BY ALTERNATING CURRENT ELECTRICITY, EXCLUDING THE FOLLOWING TYPES: THOSE DESIGNED TO BE USED WITHOUT DOORS; THOSE WHICH DO NOT INCLUDE A COMPRESSOR AND A CONDENSOR UNIT AS AN INTEGRAL PART OF THE CABINET ASSEMBLY; REFRIGERATORS AND REFRIGERATOR-FREEZERS WITH TOTAL REFRIGERATED VOLUME EXCEEDING THIRTY-NINE CUBIC FEET; TOP MOUNTED REFRIGERATOR-FREEZERS WITH TOTAL

REFRIGERATED VOLUME LESS THAN SIXTEEN AND SIX-TENTHS CUBIC FEET; AND FREEZERS WITH TOTAL REFRIGERATED VOLUME EXCEEDING THIRTY CUBIC FEET.

(B) STORAGE TYPE ELECTRIC, GAS AND OIL WATER HEATERS.

(C) FLUORESCENT BALLASTS FOR F40T12 AND F96T12 LAMPS.

(D) LUMINAIRES WITH FLUORESCENT BALLASTS FOR F40T12 AND F96T12 LAMPS.

(E) SHOWERHEADS.

(F) MEDIUM VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.

(G) METAL HALIDE LAMP FIXTURES.

(H) RESIDENTIAL FURNACES OR BOILERS.

(I) SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES.

(J) STATE-REGULATED INCANDESCENT REFLECTOR LAMPS.

THE PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO: NEW APPLIANCES OR LAMPS MANUFACTURED IN THE COMMONWEALTH AND SOLD OUTSIDE THE COMMONWEALTH; NEW APPLIANCES OR LAMPS MANUFACTURED OUTSIDE THE COMMONWEALTH AND SOLD AT WHOLESALE INSIDE THE COMMONWEALTH FOR FINAL RETAIL SALE AND INSTALLATION OUTSIDE THE COMMONWEALTH; APPLIANCES OR LAMPS INSTALLED IN MANUFACTURED HOMES AT THE TIME OF CONSTRUCTION; OR APPLIANCES OR LAMPS DESIGNED EXPRESSLY FOR INSTALLATION AND USE IN RECREATIONAL VEHICLES.

(4). NO NEW APPLIANCE COVERED BY CLAUSES (A) TO (E), INCLUSIVE, OF SECTION 3 MAY BE SOLD, OFFERED FOR SALE OR INSTALLED IN THE COMMONWEALTH ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED AND EIGHTY-EIGHT, UNLESS THE ENERGY EFFICIENCY OF THE APPLIANCE MEETS OR EXCEEDS THE STANDARDS ESTABLISHED PURSUANT TO THIS ACT.

NO NEW LAMP COVERED BY CLAUSES (A) TO (E), INCLUSIVE, OF SECTION 3 SHALL BE INSTALLED IN THE COMMONWEALTH IN A

BUILDING OTHER THAN A RESIDENCE ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED AND NINETY, UNLESS THE ENERGY EFFICIENCY OF THE LAMP MEETS OR EXCEEDS THE STANDARDS ESTABLISHED BY THE COMMISSION PURSUANT TO THIS CHAPTER. THE COMMISSION MAY, THROUGH REGULATION, ESTABLISH EXEMPTIONS FOR CERTAIN LAMPS USED FOR SPECIFIED PURPOSES.

(5). THE COMMISSION SHALL BY REGULATION ESTABLISH THE LEVEL OF ENERGY EFFICIENCY STANDARDS FOR LAMPS, SO THAT EACH LAMP COVERED BY SAID STANDARD SHALL CONSUME LESS POWER IN WATTS PER UNIT OF LIGHT OUTPUT IN LUMENS THAN A MAXIMUM REFERENCE LEVEL TO BE ESTABLISHED BY THE COMMISSION; PROVIDED, HOWEVER, THAT SAID STANDARDS SHALL NOT BECOME EFFECTIVE UNTIL JANUARY FIRST, NINETEEN HUNDRED AND NINETY. THE COMMISSION MAY BY REGULATION INCREASE THE LEVEL OF THE ENERGY EFFICIENCY STANDARDS FOR LAMPS, FLUORESCENT BALLASTS, LUMINAIRES AND SHOWERHEADS. SAID COMMISSION MAY ALSO BY REGULATION INCREASE THE LEVEL OF THE ENERGY EFFICIENCY STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, FREEZERS AND WATER HEATERS, PROVIDED THAT SAID STANDARDS SHALL NOT BECOME EFFECTIVE UNTIL JANUARY FIRST, NINETEEN HUNDRED AND NINETY. ANY REVISION OF SUCH STANDARDS SHALL BE BASED UPON THE DETERMINATION BY THE COMMISSION THAT SUCH EFFICIENCY LEVELS ARE COST-EFFECTIVE TO THE USERS, AS A GROUP, OF THE COVERED APPLIANCE OR LAMP. ANY STANDARD REVISED PURSUANT TO THIS SECTION WHICH CONFLICTS WITH A CORRESPONDING STANDARD IN THE STATE PLUMBING CODE SHALL TAKE PRECEDENCE OVER THE STANDARD IN SAID CODE. ANY STANDARD REVISED PURSUANT TO THIS SECTION SHALL NOT TAKE EFFECT FOR AT LEAST ONE YEAR AFTER ITS ADOPTION.

THE COMMISSION, IN CONSULTATION WITH THE HEADS OF OTHER APPROPRIATE AGENCIES, SHALL ADOPT REGULATIONS, IN ACCORDANCE WITH THIS CHAPTER, ESTABLISHING MINIMUM ENERGY EFFICIENCY STANDARDS FOR THE TYPES OF NEW PRODUCTS SET FORTH IN CLAUSES (F) TO (S), INCLUSIVE, OF SECTION 3.

THE REGULATIONS SHALL PROVIDE FOR THE FOLLOWING MINIMUM EFFICIENCY STANDARDS:

(1) MEDIUM VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS SHALL MEET MINIMUM EFFICIENCY LEVELS 3/10 OF A PERCENTAGE POINT HIGHER THAN THE CLASS 1 EFFICIENCY LEVELS FOR MEDIUM VOLTAGE DISTRIBUTION TRANSFORMERS SPECIFIED IN TABLE 4-2 OF THE "GUIDE FOR DETERMINING ENERGY EFFICIENCY FOR DISTRIBUTION TRANSFORMERS" PUBLISHED BY THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION (NEMA STANDARD TP-1-2002).

(2) METAL HALIDE LAMP FIXTURES DESIGNED TO BE OPERATED WITH LAMPS RATED GREATER THAN OR EQUAL TO 150 WATTS BUT LESS THAN OR EQUAL TO 500 WATTS SHALL NOT CONTAIN A PROBE-START METAL HALIDE BALLAST.

(3) RESIDENTIAL FURNACES OR BOILERS SHALL MEET OR EXCEED THE FOLLOWING ANNUAL FUEL UTILIZATION EFFICIENCY (AFUE):

PRODUCT TYPE	MINIMUM EFFICIENCY LEVEL
GAS AND PROPANE FURNACES	90% AFUE
OIL FURNACES	83% AFUE
GAS AND PROPANE HOT WATER BOILERS	84% AFUE
OIL-FIRED HOT WATER BOILERS	84% AFUE
GAS AND PROPANE STEAM BOILERS	82% AFUE
OIL-FIRED STEAM BOILERS	82% AFUE

THE COMMISSION MAY ADOPT RULES TO EXEMPT COMPLIANCE WITH THESE FURNACE OR BOILER STANDARDS AT ANY BUILDING, SITE OR LOCATION WHERE COMPLYING WITH SAID STANDARDS WOULD BE IN CONFLICT WITH ANY LOCAL ZONING ORDINANCE, BUILDING OR PLUMBING CODE OR OTHER RULE REGARDING INSTALLATION AND VENTING OF BOILERS OR FURNACES.

RESIDENTIAL FURNACE AIR HANDLERS SHALL HAVE AN ER OF 2 PER CENT OR LESS, EXCEPT RESIDENTIAL OIL FURNACES WITH A CAPACITY OF LESS THAN 94,000 BTU PER HOUR SHALL HAVE AN ER OF 2.3 PER CENT OR LESS.

(4) SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES SHALL MEET THE TIER 1 ENERGY EFFICIENCY REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 20, SECTION 1605.3 AS PUBLISHED IN APRIL 2005. THIS STANDARD APPLIES TO SINGLE-VOLTAGE AC TO DC POWER SUPPLIES THAT ARE SOLD

INDIVIDUALLY AND TO THOSE THAT ARE SOLD AS A COMPONENT OF OR IN CONJUNCTION WITH ANOTHER PRODUCT.

(5) STATE-REGULATED INCANDESCENT REFLECTOR LAMPS SHALL MEET THE MINIMUM AVERAGE LAMP EFFICIENCY REQUIREMENTS FOR FEDERALLY-REGULATED INCANDESCENT REFLECTOR LAMPS CONTAINED IN 42 U.S.C. SECTION 6295 (I)(1)(A). THE FOLLOWING LAMPS ARE EXEMPT FROM THESE REQUIREMENTS: ER30, BR30, BR40 AND ER40 OF 50 WATTS OR LESS; BR30, BR40 AND ER40 OF 65 WATTS; AND R20 OF 45 WATTS OR LESS.

ON OR AFTER JANUARY 1, 2009, NO NEW MEDIUM VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMER, SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLY OR STATE-REGULATED INCANDESCENT REFLECTOR LAMP MAY BE SOLD OR OFFERED FOR SALE IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED PURSUANT TO THIS SECTION. ON OR AFTER JANUARY 1, 2009, NO NEW METAL HALIDE LAMP FIXTURE MAY BE SOLD OR OFFERED FOR SALE IN THE COMMONWEALTH UNLESS THE EFFICIENCY OF THE PRODUCT MEETS OR EXCEEDS THE EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED PURSUANT TO THIS SECTION. IN ACCORDANCE WITH SECTION 9, THE COMMISSION, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL DETERMINE IF IMPLEMENTATION OF STATE STANDARDS FOR RESIDENTIAL FURNACES OR BOILERS REQUIRES A WAIVER FROM FEDERAL PREEMPTION, AND SHALL APPLY FOR SUCH WAIVERS IF NECESSARY. IF THE COMMISSION DETERMINES THAT A WAIVER FROM FEDERAL PREEMPTION IS NECESSARY FOR RESIDENTIAL FURNACES OR BOILER STANDARDS ESTABLISHED BY THIS SECTION, THE STATE STANDARD SHALL GO INTO EFFECT AT THE EARLIEST DATE PERMITTED BY FEDERAL LAW. IF THE COMMISSION DETERMINES THAT A WAIVER FROM FEDERAL PREEMPTION IS NOT NEEDED FOR RESIDENTIAL FURNACES OR BOILERS, THEN SUCH STATE STANDARDS SHALL GO INTO EFFECT ON JUNE 1, 2009.

ONE YEAR AFTER THE DATE UPON WHICH SALE OR OFFERING FOR SALE OF CERTAIN PRODUCTS IS LIMITED PURSUANT TO THE PRECEDING PARAGRAPH OF THIS SECTION, NO NEW PRODUCTS MAY BE INSTALLED FOR COMPENSATION IN THE STATE UNLESS THE EFFICIENCY OF THE NEW PRODUCT MEETS OR EXCEEDS THE

EFFICIENCY STANDARDS SET FORTH IN THE REGULATIONS ADOPTED PURSUANT TO THIS SECTION.

(6). THE COMMISSION SHALL ADOPT PROCEDURES FOR TESTING THE ENERGY EFFICIENCY OF THE APPLIANCES AND LAMPS COVERED BY THIS CHAPTER IF SUCH PROCEDURES ARE NOT PROVIDED FOR IN ANY OTHER APPLICABLE CODE REGARDING THE TESTING OF APPLIANCE EFFICIENCY. THE COMMISSION SHALL USE UNITED STATES DEPARTMENT OF ENERGY APPROVED TEST METHODS, OR IN THE ABSENCE OF SUCH TEST METHODS, OTHER APPROPRIATE NATIONALLY RECOGNIZED TEST METHODS APPLICABLE TO THE RESPECTIVE APPLIANCES AND LAMPS. THE MANUFACTURER SHALL CAUSE THE TESTING OF SAMPLES OF EACH MODEL OF EACH APPLIANCE AND LAMP COVERED BY THIS CHAPTER IN ACCORDANCE WITH THE TEST PROCEDURES ADOPTED PURSUANT TO THIS SECTION OR THOSE SPECIFIED IN ANY OTHER APPLICABLE CODE REGARDING THE TESTING OF APPLIANCE EFFICIENCY.

THE COMMISSION MAY TEST PRODUCTS COVERED BY SECTION 3. IF PRODUCTS SO TESTED ARE FOUND NOT TO BE IN COMPLIANCE WITH THE MINIMUM EFFICIENCY STANDARDS ESTABLISHED UNDER SECTION 5, THE COMMISSION SHALL: (1) CHARGE THE MANUFACTURER OF SUCH PRODUCT FOR THE COST OF PRODUCT PURCHASE AND TESTING, AND (2) PROVIDE INFORMATION TO THE PUBLIC ON PRODUCTS FOUND NOT TO BE IN COMPLIANCE WITH THE STANDARDS.

IN ADOPTING TEST PROCEDURES FOR DETERMINING ENERGY EFFICIENCY, THE COMMISSION MAY CONSULT WITH OTHER APPROPRIATE DEPARTMENT HEADS AND MAY ADOPT UPDATED TEST METHODS WHEN NEW VERSIONS OF TEST PROCEDURES BECOME AVAILABLE.

(7). MANUFACTURERS OF APPLIANCES AND LAMPS COVERED BY THIS CHAPTER SHALL CERTIFY TO THE COMMISSION THAT SUCH APPLIANCES AND LAMPS ARE IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER. THE COMMISSION SHALL PROMULGATE REGULATIONS GOVERNING THE CERTIFICATION OF APPLIANCES AND LAMPS COVERED BY THIS CHAPTER AND SHALL PUBLISH AN ANNUAL LIST OF SUCH APPLIANCES AND LAMPS. MANUFACTURERS' CERTIFICATIONS SHALL BE BASED ON TEST RESULTS. THE COMMISSION SHALL COORDINATE WITH THE CERTIFICATION

PROGRAMS OF OTHER STATES AND FEDERAL AGENCIES WITH SIMILAR STANDARDS TO THE MAXIMUM EXTENT PRACTICABLE, INCLUDING INVESTIGATING WHETHER CERTIFICATION IN ANOTHER STATE CAN SERVE AS A SUBSTITUTE FOR CERTIFICATION IN THE STATE. SINGLE VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION.

MANUFACTURERS OF NEW PRODUCTS COVERED BY SECTION 3 SHALL IDENTIFY EACH PRODUCT OFFERED FOR SALE OR INSTALLED IN THE STATE AS IN COMPLIANCE WITH THIS CHAPTER BY MEANS OF A MARK, LABEL OR TAG ON THE PRODUCT AND PACKAGING AT THE TIME OF SALE OR INSTALLATION. THE COMMISSION SHALL PROMULGATE REGULATIONS GOVERNING THE IDENTIFICATION OF SUCH PRODUCTS AND PACKAGING, WHICH SHALL BE COORDINATED TO THE GREATEST PRACTICAL EXTENT WITH THE LABELING PROGRAMS OF OTHER STATES AND FEDERAL AGENCIES WITH EQUIVALENT EFFICIENCY STANDARDS. THE COMMISSION SHALL ALLOW THE USE OF EXISTING MARKS, LABELS OR TAGS WHICH CONNOTE COMPLIANCE WITH THE EFFICIENCY REQUIREMENTS OF THIS CHAPTER. STATE REGULATED INCANDESCENT REFLECTOR LAMPS AND METAL HALIDE LAMP FIXTURES SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS PARAGRAPH. THE COMMISSION, IN CONSULTATION WITH OTHER STATES, PRODUCT MANUFACTURERS AND OTHER INTERESTED PARTIES, SHALL STUDY AND EVALUATE THE USEFULNESS AND EFFECTIVENESS OF SUCH MARKINGS FOR INCANDESCENT REFLECTOR LAMPS AND METAL HALIDE LAMP FIXTURES.

(8). THE COMMISSION MAY CAUSE PERIODIC INSPECTIONS TO BE MADE OF DISTRIBUTORS OR RETAILERS OF NEW APPLIANCES IN ORDER TO DETERMINE COMPLIANCE WITH THIS CHAPTER. THE COMMISSION MAY ALSO WORK WITH THE CHAIRMAN OF THE BOARD OF BUILDING REGULATIONS AND STANDARDS TO COORDINATE INSPECTIONS FOR NEW PRODUCTS THAT ARE ALSO COVERED BY THE STATE BUILDING CODE. THE COMMISSION SHALL CAUSE INVESTIGATIONS TO BE MADE OF COMPLAINTS RECEIVED CONCERNING VIOLATIONS OF THIS CHAPTER AND SHALL REPORT THE RESULTS OF SUCH INVESTIGATIONS TO THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY INSTITUTE PROCEEDINGS TO ENFORCE THE PROVISIONS OF THIS CHAPTER.

FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS CHAPTER SHALL CONSTITUTE AN UNFAIR OR DECEPTIVE ACT

UNDER THE PROVISIONS OF CHAPTER NINETY-THREE A. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER SHALL BE PUNISHED BY A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED AND FIFTY DOLLARS OR AS PROVIDED IN CHAPTER NINETY-THREE A, WHICHEVER IS GREATER. EACH VIOLATION OF THIS CHAPTER SHALL CONSTITUTE A SEPARATE OFFENSE AND EACH DAY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE.

(9). IF THE COMMISSION DETERMINES THAT A FEDERAL STATUTE, RULE OR DETERMINATION WOULD SUPERSEDE ANY REQUIREMENT OF THIS ACT, OR IF THE COMMISSION IS NOTIFIED BY THE UNITED STATES DEPARTMENT OF ENERGY THAT A PETITION HAS BEEN FILED TO SUPERSEDE ANY REQUIREMENT OF THIS ACT, THE COMMISSION SHALL DETERMINE (A) WHETHER THERE IS A SUBSTANTIAL STATE OR LOCAL NEED WHICH IS SUFFICIENT TO JUSTIFY THE STATE REQUIREMENT AT ISSUE, (B) WHETHER THE STATE REQUIREMENT AT ISSUE DOES NOT UNDULY BURDEN INTERSTATE COMMERCE, AND (C) WHETHER THE STATE REQUIREMENT AT ISSUE CONTAINS A MORE STRINGENT ENERGY EFFICIENCY STANDARD THAN A CORRESPONDING FEDERAL STANDARD. IF THE COMMISSION DETERMINES THAT THESE CRITERIA ARE MET, THE COMMISSION SHALL PROMPTLY PETITION THE UNITED STATES DEPARTMENT OF ENERGY REQUESTING A RULING THAT THE STATE REQUIREMENT AT ISSUE NOT BE SUPERSEDED, OR SHALL PROMPTLY FILE WITH THE UNITED STATES DEPARTMENT OF ENERGY A REQUEST THAT THE PETITION TO SUPERSEDE BE DENIED.

(10). THE COMMISSION SHALL STUDY AND EVALUATE THE EFFECTIVENESS OF ENERGY EFFICIENCY IN THE STATE AS WELL RECOMMEND NEW OR INCREASED EFFICIENCY STANDARDS. SUCH STUDY AND EVALUATION SHALL BE CONDUCTED IN CONSULTATION WITH INTERESTED PARTIES. THE COMMISSION SHALL FILE A REPORT WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE SEPTEMBER 1 OF THE YEAR BEFORE EACH NEW LEGISLATIVE SESSION, DESCRIBING THE TIMING, SCOPE AND FINDINGS OF THIS STUDY, AND SHALL RECOMMEND TO THE GENERAL COURT NEW OR INCREASED EFFICIENCY STANDARDS, IF THESE STANDARDS WOULD SERVE TO PROMOTE CONSERVATION IN THE COMMONWEALTH AND WOULD BE COST-EFFECTIVE FOR THE USERS, AS A GROUP, OF THE COVERED APPLIANCE. THE CLERK SHALL FORWARD SUCH REPORT TO THE PUBLIC UTILITIES

COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. THE COMMISSION MAY ADOPT SUCH FURTHER REGULATIONS AS NECESSARY TO ENSURE THE PROPER IMPLEMENTATION AND ENFORCEMENT OF THIS CHAPTER.

(D) THE COMMISSION SHALL ESTABLISH A RENEWABLE ENERGY PORTFOLIO STANDARD FOR ALL RETAIL ELECTRICITY SUPPLIERS SELLING ELECTRICITY TO END-USE CUSTOMERS IN THE STATE. BY DECEMBER 31, 2008, THE DIVISION SHALL DETERMINE THE ACTUAL PERCENTAGE OF KILOWATT-HOURS SALES TO END-USE CUSTOMERS IN THE STATE WHICH IS DERIVED FROM EXISTING RENEWABLE ENERGY GENERATING SOURCES. EVERY RETAIL SUPPLIER SHALL PROVIDE A MINIMUM PERCENTAGE OF KILOWATT-HOURS SALES TO END-USE CUSTOMERS IN THE STATE FROM NEW RENEWABLE ENERGY GENERATING SOURCES, ACCORDING TO THE FOLLOWING SCHEDULE: (I) AN ADDITIONAL 2% BY JUNE 1, 2008; AT LEAST 4% BY JUNE 1, 2009; AT LEAST 5% BY JUNE 1, 2010; AT LEAST 6% BY JUNE 1, 2011; AT LEAST 7% BY JUNE 1, 2012; AT LEAST 8% BY JUNE 1, 2013; AT LEAST 9% BY JUNE 1, 2014; AT LEAST 10% BY JUNE 1, 2015; AND INCREASING BY AT LEAST 1.5% EACH YEAR THEREAFTER TO AT LEAST 25% BY JUNE 1, 2025. FOR THE PURPOSE OF THIS SUBSECTION, A NEW RENEWABLE ENERGY GENERATING SOURCE IS ONE THAT BEGINS COMMERCIAL OPERATION AFTER DECEMBER 31, 2007, OR THAT REPRESENTS AN INCREASE IN GENERATING CAPACITY AFTER DECEMBER 31, 2007, AT AN EXISTING FACILITY. FOR THE PURPOSES OF THIS SECTION, A RENEWABLE ENERGY GENERATING SOURCE IS ONE WHICH GENERATES ELECTRICITY USING ANY OF THE FOLLOWING: (I) SOLAR PHOTOVOLTAIC OR SOLAR THERMAL ENERGY; (II) WIND ENERGY; (III) OCEAN THERMAL, WAVE, OR TIDAL ENERGY; (IV) FUEL CELLS UTILIZING RENEWABLE FUELS; (V) LANDFILL GAS; (VI) NATURALLY FLOWING WATER AND HYDROELECTRIC; AND (VIII) LOW-EMISSION, ADVANCED BIOMASS POWER CONVERSION TECHNOLOGIES, SUCH AS GASIFICATION USING SUCH BIOMASS FUELS AS WOOD, AGRICULTURAL, OR FOOD WASTES, ENERGY CROPS, BIOGAS, BIODIESEL, OR ORGANIC REFUSE-DERIVED FUEL. AFTER CONDUCTING ADMINISTRATIVE PROCEEDINGS, THE COMMISSION MAY ADD TECHNOLOGIES OR TECHNOLOGY CATEGORIES TO THE ABOVE LIST; PROVIDED, HOWEVER, THAT THE FOLLOWING TECHNOLOGIES OR TECHNOLOGIES THAT UTILIZE POWER PRODUCED WITH THE FOLLOWING FUELS SHALL NOT BE CONSIDERED RENEWABLE ENERGY SUPPLIES: COAL, OIL, NATURAL GAS, AND NUCLEAR POWER.

4906.10 Basis for decision granting or denying certificate.

(A) The power siting board shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, or modifications of the construction, operation, or maintenance of the major utility facility as the board considers appropriate. The certificate shall be conditioned upon the facility being in compliance with standards and rules adopted under sections 1501.33, 1501.34, and 4561.32 and Chapters 3704., 3734., and 6111. of the Revised Code. The period of initial operation under a certificate shall expire two years after the date on which electric power is first generated by the facility. During the period of initial operation, the facility shall be subject to the enforcement and monitoring powers of the director of environmental protection under Chapters 3704., 3734., and 6111. of the Revised Code and to the emergency provisions under those chapters. If a major utility facility constructed in accordance with the terms and conditions of its certificate is unable to operate in compliance with all applicable requirements of state laws, rules, and standards pertaining to air pollution, the facility may apply to the director of environmental protection for a conditional operating permit under division (G) of section 3704.03 of the Revised Code and the rules adopted thereunder. The operation of a major utility facility in compliance with a conditional operating permit is not in violation of its certificate. After the expiration of the period of initial operation of a major utility facility, the facility shall be under the jurisdiction of the environmental protection agency and shall comply with all laws, rules, and standards pertaining to air pollution, water pollution, and solid and hazardous waste disposal.

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

(1) The basis of the need for the MAJOR UTILITY FACILITY AS DEFINED IN SECTION 4935.04(A)(1) OF THE REVISED CODE. ~~if the facility is an electric transmission line or gas or natural gas transmission line;~~

(2) The nature of the probable environmental impact;

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

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

(5) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under sections 1501.33, 1501.34, and 4561.32 of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section 4561.32 of the Revised Code, the board shall consult with the office of aviation of the division of multi-modal planning and programs of the department of transportation under section 4561.341 of the Revised Code.

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

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

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

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

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

4909.01

add at the end of the section:

(G) "ACQUISITION COST" HAS THE MEANING SET FORTH IN SECTION 4905.01 OF THE REVISED CODE;

(H) "COMPLIANCE FACILITY" HAS THE MEANING SET FORTH IN SECTION 4905.01 OF THE REVISED CODE.

4909.15 Fixation of reasonable rate.

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

(1) The valuation as of the date certain of the property of the public utility used and useful in rendering the public utility service for which rates are to be fixed and determined. The valuation so determined shall be the total value as set forth in division (J) of section 4909.05 of the Revised Code, and a reasonable allowance for materials and supplies and cash working capital, as determined by the commission.

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. NO CARRYING CHARGES MAY BE ASSESSED AS A PART OF AN ALLOWANCE FOR CONSTRUCTION WORK IN PROGRESS.

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.

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.

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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 (J) of section 4909.05 of the Revised Code.

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

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.

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.

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.

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

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April 10, 1985, that resulted from such prior inclusion shall be offset against future revenues over the same period of time as the project was included in the valuation as construction work in progress. The total revenue effect of such offset shall not exceed the total revenues previously collected.

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

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

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

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

(a) ALL TAX DEDUCTIONS AND CREDITS SHALL BE DEDUCTED FROM UTILITY COSTS FOR RATE PURPOSES TO THE FULL EXTENT PERMITTED BY LAW. Federal, state, and local taxes imposed on or measured by net income SHALL, ~~in the discretion of the commission,~~ be computed by the normalization method of accounting ONLY WHERE REQUIRED BY LAW AND, provided the utility maintains accounting reserves that reflect differences between taxes actually payable and taxes on a normalized basis, provided that no determination as to the treatment in the rate-making process of such taxes shall be made that will result in loss of any tax depreciation or other tax benefit to which the utility would otherwise be entitled, and further provided that such tax benefit as redounds to the utility as a result of such a computation may not be retained by the company, used to fund any dividend or distribution, or utilized for any purpose other than the defrayal of the operating expenses of the utility and the defrayal of the expenses of the utility in connection with construction work.

(b) The amount of any tax credits granted to an electric light company under section 5727.391 of the Revised Code for Ohio coal burned prior to January 1, 2000, shall not be retained by the company, used to fund any

dividend or distribution, or utilized for any purposes other than the defrayal of the allowable operating expenses of the company and the defrayal of the allowable expenses of the company in connection with the installation, acquisition, construction, or use of a compliance facility. The amount of the tax credits granted to an electric light company under that section for Ohio coal burned prior to January 1, 2000, shall be returned to its customers within three years after initially claiming the credit through an offset to the company's rates or fuel component, as determined by the commission, as set forth in schedules filed by the company under section 4905.30 of the Revised Code. As used in division (A)(4)(c) of this section, "compliance facility" has the same meaning as in section 5727.391 of the Revised Code.

(5) NO CHANGE IN RATES CHARGED, WITH THE EXCEPTION OF FUEL ADJUSTMENT CLAUSES, SHALL CHANGE A SINGLE COMPONENT OF RATES, OR SET OF CHANGES WITHOUT PROCEEDING UNDER SECTION 4909.18 OF THE **REVISED CODE**. NO MECHANISM TO ADJUST RATES SHALL BE ALLOWED THAT IS BASED ON A SINGLE ISSUE OR SET OF ISSUES, OTHER THAN A FUEL ADJUSTMENT CLAUSE. FUEL ADJUSTMENT CLAUSES SHALL BE REVIEWED ANNUALLY.

(B) The commission shall compute the gross annual revenues to which the utility is entitled by adding the dollar amount of return under division (A)(3) of this section to the cost of rendering the public utility service for the test period under division (A)(4) of this section.

(C) The test period, unless otherwise ordered by the commission, shall be the twelve-month period beginning six months prior to the date the application is filed and ending six months subsequent to that date. In no event shall the test period end more than nine months subsequent to the date the application is filed. The revenues and expenses of the utility shall be determined during the test period. The date certain shall be not later than the date of filing.

(D) When the commission is of the opinion, after hearing and after making the determinations under divisions (A) and (B) of this section, that any rate, fare, charge, toll, rental, schedule, classification, or service, or any joint rate, fare, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is, or will be, unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, that the service is, or will be, inadequate, or that the

maximum rates, charges, tolls, or rentals chargeable by any such public utility are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the commission shall:

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

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

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

(b) But not including the portion of any periodic rental or use payments representing that cost of property that is included in the valuation report under divisions (F) and (G) of section 4909.05 of the Revised Code, fix and determine the just and reasonable rate, fare, charge, toll, rental, or service to be rendered, charged, demanded, exacted, or collected for the performance or rendition of the service that will provide the public utility the allowable gross annual revenues under division (B) of this section, and order such just and reasonable rate, fare, charge, toll, rental, or service to be substituted for the existing one. After such determination and order no change in the rate, fare, toll, charge, rental, schedule, classification, or service shall be made, rendered, charged, demanded, exacted, or changed by such public utility without the order of the commission, and any other rate, fare, toll, charge, rental, classification, or service is prohibited.

(E) Upon application of any person or any public utility, and after notice to the parties in interest and opportunity to be heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code for other hearings, has been given, the commission may rescind, alter, or amend an order fixing any rate, fare, toll, charge, rental,

classification, or service, or any other order made by the commission. Certified copies of such orders shall be served and take effect as provided for original orders.

4909.150 INVESTIGATING RATES UPON ITS OWN MOTION.

THE COMMISSION SHALL REVIEW THE RATES, CHARGES, AND EARNINGS OF EACH PUBLIC UTILITY AT LEAST ANNUALLY BASED ON THE ANNUAL REPORT REQUIRED UNDER SECTION 4905.14.

IF THE COMMISSION FINDS THAT A UTILITY IS EARNING MORE THAN ITS AUTHORIZED RATE OF RETURN FOR ANY TWELVE-MONTH PERIOD, AND IN ANY EVENT PRIOR TO JANUARY 1, 2009, THE COMMISSION SHALL INVESTIGATE THAT UTILITY'S RATES AND CHARGES, INCLUDING ALLOCATION OF COSTS TO CUSTOMER CLASSES, ON ITS OWN MOTION. NO RATE SHALL BE DESIGNED TO GENERATE CUSTOMER CLASS REVENUE IN EXCESS OF THE COST ALLOCATION DETERMINED TO BE JUST AND REASONABLE FOR THAT CLASS. NO SPECIAL CONTRACT SHALL BE ALLOWED UNLESS THE COMMISSION FINDS THAT THE CONTRACT IS JUST AND REASONABLE AND IN THE PUBLIC INTEREST, AND THAT COSTS ARE NOT SHIFTED TO OTHER CUSTOMER CLASSES.

IF THE PUBLIC UTILITIES COMMISSION BELIEVES THAT ANY RATE OR CHARGE MAY BE UNREASONABLE OR UNJUSTLY DISCRIMINATORY, AND THAT AN INVESTIGATION RELATING THERETO SHOULD BE MADE, IT MAY INVESTIGATE SUCH RATE OR CHARGE UPON ITS OWN MOTION. BEFORE SUCH INVESTIGATION IT SHALL PRESENT TO THE PUBLIC UTILITY A STATEMENT IN WRITING SETTING FORTH THE RATE OR CHARGE TO BE INVESTIGATED. THEREAFTER, ON TEN DAYS' NOTICE TO THE PUBLIC UTILITY, AND ALL INTERVENORS IN THE UTILITY'S LAST RATE CASE, OF THE TIME AND PLACE OF SUCH INVESTIGATION, THE COMMISSION MAY PROCEED TO INVESTIGATE SUCH RATE OR CHARGE IN THE SAME MANNER AND MAKE LIKE ORDERS IN RESPECT THERETO, AS IF SUCH INVESTIGATION HAD BEEN PURSUANT TO SECTION 4909.18.

4909.151 Consideration of costs attributable to service.

In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission may consider the costs attributable to such service. The utility shall file with the

commission an allocation of the cost, except cost related to sparsity of population, for services for which a change in rates is proposed when evidence relating thereto is presented which indicates that the rate or rates do not generally reflect the cost of providing these services. As used in this section, "costs" includes [include] operation and maintenance expense, depreciation expense, tax expense, and return on investment as actually incurred by the utility. The costs allocated to each service shall include only those costs used by the public utilities commission to determine allowable revenues.

THE ELECTRIC UTILITY COMPANY SHALL FILE A FULLY ALLOCATED COST OF SERVICE STUDY WITH ANY RATE CASE FILED UNDER SECTION 4909.18 OF THE REVISED CODE. THE COMMISSION SHALL HOLD A HEARING REGARDING THE PROPOSED COST OF SERVICE STUDY PRIOR TO THE ISSUANCE OF A STAFF REPORT. THE COMMISSION SHALL MODIFY THE COST OF SERVICE STUDY AS NECESSARY TO ENSURE JUST AND REASONABLE RATES THAT SERVE THE PUBLIC INTEREST.

4909.152 Consideration of efficiency, sufficiency, adequacy of facilities.

In fixing the just, reasonable, and compensatory rates, joint rates, tolls, classifications, charges, or rentals to be observed and charged for service by any public utility, the public utilities commission ~~may~~ SHALL consider the efficiency, sufficiency, and adequacy of the facilities provided and the services, INCLUDING DEMAND SIDE SERVICES, rendered by the public utility, the value of such service to the public, and the ability of the public utility to improve such service and facility.

If the commission determines that the facility or service is inefficient, insufficient, or inadequate, the commission may order the public utility to improve such facility or service to a level determined by the commission to be efficient, sufficient, or adequate. However, in any order entered pursuant to section 4909.19 of the Revised Code, the commission shall authorize a rate of return that is just and reasonable.

4909.18 Application to establish or change rate.

Any public utility desiring to establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any existing rate, 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, 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, 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 schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice affecting the same, a schedule of the modification amendment, change, increase, or reduction sought to be established, and a statement of the facts and grounds upon which such application is based. If such application proposes a new service or the use of new equipment, or proposes the establishment or amendment of a regulation, the application shall fully describe the new service or equipment, or the regulation proposed to be established or amended, and shall explain how the proposed service or equipment differs from services or equipment presently offered or in use, or how the regulation proposed to be established or amended differs from regulations presently in effect. The application shall provide such additional information as the commission may require in its discretion. If the commission determines that such application is not for an increase in any rate, joint rate, toll, classification, charge, or rental, the commission may permit the filing of the schedule proposed in the application and fix the time when such schedule shall take effect. If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing, AT WHICH INTERVENORS, OTHER THAN GOVERNMENT AGENCIES, REPRESENTING RESIDENTIAL AND GENERAL SERVICE RATEPAYERS SHALL BE FULL PARTICIPANTS, and shall give notice of such hearing by sending written notice of the date set for the hearing to the public utility AND ALL INTERVENORS IN THE UTILITY'S LAST RATE CASE, and publishing notice of the hearing one time in a newspaper of general circulation in each county in the service area affected by the application. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility AND THE EXPENSES OF RESIDENTIAL AND GENERAL SERVICE INTERVENORS, INCLUDING FEES OF ATTORNEYS AND EXPERT WITNESSES, SHALL BE PAID BY THE APPLICANT. After such hearing, the commission shall, where practicable, issue an appropriate order within six months from the date the application was filed.

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

(A) A report of its property used and useful in rendering the service referred to in such application, as provided in section 4909.05 of the Revised Code;

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

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

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

(E) A proposed notice for newspaper publication fully disclosing the substance of the application. The notice shall prominently state that any person, firm, corporation, or association may file, pursuant to section 4909.19 of the Revised Code, an objection to such increase which may allege that such application contains proposals that are unjust and discriminatory or unreasonable. The notice shall further include the average percentage increase in rate that a representative industrial, commercial, and residential customer will bear should the increase be granted in full;

(F) Such other information as the commission may require in its discretion.

4909.181 INTERVENOR FUNDING

(A). THE PURPOSE OF THIS CHAPTER IS TO PROVIDE COMPENSATION FOR REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS TO PUBLIC UTILITY CUSTOMERS OF PARTICIPATION OR INTERVENTION IN ANY PROCEEDING OF THE COMMISSION AND SITING BOARD.

(B). IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO ALL

FORMAL PROCEEDINGS OF THE COMMISSION AND SITING BOARD INVOLVING ELECTRIC, GAS, WATER, AND TELEPHONE UTILITIES.

(2) THE PROVISIONS OF THIS CHAPTER SHALL BE ADMINISTERED IN A MANNER THAT ENCOURAGES THE EFFECTIVE AND EFFICIENT PARTICIPATION OF ALL GROUPS THAT HAVE A STAKE IN THE PUBLIC UTILITY REGULATION PROCESS.

(3) THE PROCESS FOR FINDING ELIGIBILITY FOR INTERVENOR COMPENSATION BE STREAMLINED, BY SIMPLIFYING THE PRELIMINARY SHOWING BY AN INTERVENOR OF ISSUES, BUDGET, AND COSTS.

(4) INTERVENORS BE COMPENSATED FOR MAKING A SUBSTANTIAL CONTRIBUTION TO PROCEEDINGS OF THE COMMISSION OR SITING BOARD, AS DETERMINED BY THE COMMISSION OR SITING BOARD IN ITS ORDERS AND DECISIONS.

(5) INTERVENOR COMPENSATION BE AWARDED TO ELIGIBLE INTERVENORS IN A TIMELY MANNER, WITHIN A REASONABLE PERIOD AFTER THE INTERVENOR HAS MADE THE SUBSTANTIAL CONTRIBUTION TO A PROCEEDING THAT IS THE BASIS FOR THE COMPENSATION AWARD.

(C). AS USED IN THIS CHAPTER:

(1) "COMPENSATION" MEANS PAYMENT FOR ALL OR PART, AS DETERMINED BY THE COMMISSION OR SITING BOARD, OF REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS OF PREPARATION FOR AND PARTICIPATION IN A PROCEEDING, AND INCLUDES THE FEES AND COSTS OF OBTAINING AN AWARD UNDER THIS ARTICLE AND OF OBTAINING JUDICIAL REVIEW, IF ANY.

(2) "CUSTOMER" MEANS ANY OF THE FOLLOWING:

(A) A PARTICIPANT REPRESENTING CONSUMERS, CUSTOMERS, OR SUBSCRIBERS OF ANY ELECTRICAL, GAS, TELEPHONE, TELEGRAPH, OR WATER CORPORATION THAT IS SUBJECT TO THE JURISDICTION OF THE COMMISSION OR SITING BOARD.

(B) A REPRESENTATIVE WHO HAS BEEN AUTHORIZED BY A CUSTOMER.

(C) A REPRESENTATIVE OF A GROUP OR ORGANIZATION AUTHORIZED PURSUANT TO ITS ARTICLES OF INCORPORATION OR BYLAWS TO REPRESENT THE INTERESTS OF RESIDENTIAL CUSTOMERS, OR TO REPRESENT SMALL COMMERCIAL CUSTOMERS WHO RECEIVE BUNDLED ELECTRIC SERVICE FROM AN ELECTRICAL CORPORATION.

(D) A LABOR ORGANIZATION REPRESENTING ITS MEMBERS AS CUSTOMERS,

(E) AN ENVIRONMENTAL ORGANIZATION REPRESENTING

CUSTOMERS' CONCERNS FOR THE ENVIRONMENT, AND

(F) LOCAL GOVERNMENTS THAT ARE REPRESENTING THEIR RESIDENTS AS CUSTOMERS.

(3) "EXPERT WITNESS FEES" MEANS RECORDED OR BILLED COSTS INCURRED BY A CUSTOMER FOR AN EXPERT WITNESS.

(4) "OTHER REASONABLE COSTS" MEANS REASONABLE OUT-OF-POCKET EXPENSES DIRECTLY INCURRED BY A CUSTOMER THAT ARE DIRECTLY RELATED TO THE CONTENTIONS OR RECOMMENDATIONS MADE BY THE CUSTOMER THAT RESULTED IN A SUBSTANTIAL CONTRIBUTION.

(5) "PARTY" MEANS ANY INTERESTED PARTY, RESPONDENT PUBLIC UTILITY, OR COMMISSION OR SITING BOARD STAFF IN A HEARING OR PROCEEDING.

(6) "PROCEEDING" MEANS AN APPLICATION, COMPLAINT, OR INVESTIGATION, RULEMAKING, ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN LIEU OF FORMAL PROCEEDINGS AS MAY BE SPONSORED OR ENDORSED BY THE COMMISSION OR SITING BOARD, OR OTHER FORMAL PROCEEDING BEFORE THE COMMISSION OR SITING BOARD.

(7) "SIGNIFICANT FINANCIAL HARDSHIP" MEANS EITHER THAT THE CUSTOMER CANNOT AFFORD, WITHOUT UNDUE HARDSHIP, TO PAY THE COSTS OF EFFECTIVE PARTICIPATION, INCLUDING ADVOCATE'S FEES, EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS OF PARTICIPATION, OR THAT, IN THE CASE OF A GROUP OR ORGANIZATION, THE ECONOMIC INTEREST OF THE INDIVIDUAL MEMBERS OF THE GROUP OR ORGANIZATION IS SMALL IN COMPARISON TO THE COSTS OF EFFECTIVE PARTICIPATION IN THE PROCEEDING.

(8) "SMALL COMMERCIAL CUSTOMER" MEANS ANY NONRESIDENTIAL CUSTOMER WITH A MAXIMUM PEAK DEMAND OF LESS THAN 50 KILOWATTS OR 2000 MCF PER YEAR. THE COMMISSION OR SITING BOARD MAY ESTABLISH RULES TO MODIFY OR CHANGE THE DEFINITION OF "SMALL COMMERCIAL CUSTOMER," INCLUDING USE OF CRITERIA OTHER THAN A PEAK DEMAND THRESHOLD, IF THE COMMISSION OR SITING BOARD DETERMINES THAT THE MODIFICATION OR CHANGE WILL PROMOTE PARTICIPATION IN PROCEEDINGS AT THE COMMISSION BY ORGANIZATIONS REPRESENTING SMALL BUSINESSES, WITHOUT INCORPORATING LARGE COMMERCIAL AND INDUSTRIAL CUSTOMERS.

(9) "SUBSTANTIAL CONTRIBUTION" MEANS THAT, IN THE JUDGMENT OF THE COMMISSION OR SITING BOARD, THE CUSTOMER'S PRESENTATION HAS SUBSTANTIALLY ASSISTED THE COMMISSION OR SITING BOARD IN THE MAKING OF ITS ORDER OR

DECISION BECAUSE THE ORDER OR DECISION HAS ADOPTED IN WHOLE OR IN PART ONE OR MORE FACTUAL CONTENTIONS, LEGAL CONTENTIONS, OR SPECIFIC POLICY OR PROCEDURAL RECOMMENDATIONS PRESENTED BY THE CUSTOMER. WHERE THE CUSTOMER'S PARTICIPATION HAS RESULTED IN A SUBSTANTIAL CONTRIBUTION, EVEN IF THE DECISION ADOPTS THAT CUSTOMER'S CONTENTION OR RECOMMENDATIONS ONLY IN PART, THE COMMISSION SHALL AWARD THE CUSTOMER COMPENSATION FOR ALL REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT FEES, AND OTHER REASONABLE COSTS INCURRED BY THE CUSTOMER IN PREPARING AND PRESENTING THAT CONTENTION OR RECOMMENDATION.

(D). PARTICIPATION BY A CUSTOMER THAT MATERIALLY SUPPLEMENTS, COMPLEMENTS, OR CONTRIBUTES TO THE PRESENTATION OF ANOTHER PARTY, INCLUDING THE COMMISSION STAFF, SHALL BE FULLY ELIGIBLE FOR COMPENSATION IF THE PARTICIPATION MAKES A SUBSTANTIAL CONTRIBUTION TO A COMMISSION ORDER OR DECISION.

(E). THE COMMISSION SHALL AWARD REASONABLE ADVOCATE'S FEES, REASONABLE EXPERT WITNESS FEES, AND OTHER REASONABLE COSTS OF PREPARATION FOR AND PARTICIPATION IN A HEARING OR PROCEEDING TO ANY CUSTOMER WHO COMPLIES WITH SECTION (F) AND SATISFIES BOTH OF THE FOLLOWING REQUIREMENTS:

(1) THE CUSTOMER'S PRESENTATION MAKES A SUBSTANTIAL CONTRIBUTION TO THE ADOPTION, IN WHOLE OR IN PART, OF THE COMMISSION'S ORDER OR DECISION.

(2) PARTICIPATION OR INTERVENTION WITHOUT AN AWARD OF FEES OR COSTS IMPOSES A SIGNIFICANT FINANCIAL HARDSHIP.

(F). (1) (A) A CUSTOMER WHO INTENDS TO SEEK AN AWARD UNDER THIS ARTICLE SHALL, WITHIN 30 DAYS AFTER THE PREHEARING CONFERENCE IS HELD, FILE AND SERVE ON ALL PARTIES TO THE PROCEEDING A NOTICE OF INTENT TO CLAIM COMPENSATION. IN CASES WHERE NO PREHEARING CONFERENCE IS SCHEDULED OR WHERE THE COMMISSION OR SITING BOARD ANTICIPATES THAT THE PROCEEDING WILL TAKE LESS THAN 30 DAYS, THE COMMISSION OR SITING BOARD MAY DETERMINE THE PROCEDURE TO BE USED IN FILING THESE REQUESTS. IN CASES WHERE THE SCHEDULE WOULD NOT REASONABLY ALLOW PARTIES TO IDENTIFY ISSUES WITHIN THE TIMEFRAME SET FORTH ABOVE, OR WHERE NEW ISSUES EMERGE SUBSEQUENT TO THE TIME SET FOR FILING, THE

COMMISSION OR SITING BOARD SHALL DETERMINE AN APPROPRIATE PROCEDURE FOR ACCEPTING NEW OR REVISED NOTICES OF INTENT.

(2) (A) THE NOTICE OF INTENT TO CLAIM COMPENSATION SHALL INCLUDE BOTH OF THE FOLLOWING:

(I) A STATEMENT OF THE NATURE AND EXTENT OF THE CUSTOMER'S PLANNED PARTICIPATION IN THE PROCEEDING AS FAR AS IT IS POSSIBLE TO SET IT OUT WHEN THE NOTICE OF INTENT IS FILED.

(II) AN ITEMIZED ESTIMATE OF THE COMPENSATION THAT THE CUSTOMER EXPECTS TO REQUEST, GIVEN THE LIKELY DURATION OF THE PROCEEDING AS IT APPEARS AT THE TIME.

(B) THE NOTICE OF INTENT MAY ALSO INCLUDE A SHOWING BY THE CUSTOMER THAT PARTICIPATION IN THE HEARING OR PROCEEDING WOULD POSE A SIGNIFICANT FINANCIAL HARDSHIP. ALTERNATIVELY, SUCH A SHOWING SHALL BE INCLUDED IN THE REQUEST SUBMITTED PURSUANT TO SUBDIVISION (C).

(C) WITHIN 15 DAYS AFTER SERVICE OF THE NOTICE OF INTENT TO CLAIM COMPENSATION, THE ADMINISTRATIVE LAW JUDGE MAY DIRECT THE STAFF, AND MAY PERMIT ANY OTHER INTERESTED PARTY, TO FILE A STATEMENT RESPONDING TO THE NOTICE.

(D) (1) IF THE CUSTOMER'S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS INCLUDED IN THE NOTICE FILED PURSUANT TO SUBDIVISION (A), THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE WITHIN 30 DAYS THEREAFTER A PRELIMINARY RULING ADDRESSING WHETHER THE CUSTOMER WILL BE ELIGIBLE FOR AN AWARD OF COMPENSATION. THE RULING SHALL ADDRESS WHETHER A SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP HAS BEEN MADE. A FINDING OF SIGNIFICANT FINANCIAL HARDSHIP SHALL CREATE A REBUTTABLE PRESUMPTION OF ELIGIBILITY FOR COMPENSATION IN OTHER COMMISSION AND SITING BOARD PROCEEDINGS COMMENCING WITHIN ONE YEAR OF THE DATE OF THAT FINDING.

(2) THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE A RULING ADDRESSING ISSUES RAISED BY THE NOTICE OF INTENT TO CLAIM COMPENSATION. THE RULING MAY POINT OUT SIMILAR POSITIONS, AREAS OF POTENTIAL DUPLICATION IN SHOWINGS, UNREALISTIC EXPECTATION FOR COMPENSATION, AND ANY OTHER MATTER THAT MAY AFFECT THE CUSTOMER'S ULTIMATE CLAIM FOR COMPENSATION. A FINDING OF SIGNIFICANT FINANCIAL HARDSHIP DOES NOT BY ITSELF ENSURE COMPENSATION. SIMILARLY, THE FAILURE OF THE CUSTOMER TO IDENTIFY A SPECIFIC ISSUE IN THE NOTICE OF INTENT OR TO PRECISELY ESTIMATE POTENTIAL COMPENSATION SHALL NOT PRECLUDE AN AWARD OF REASONABLE COMPENSATION IF A SUBSTANTIAL CONTRIBUTION IS MADE.

(E) FOLLOWING ISSUANCE OF A FINAL ORDER OR DECISION BY THE COMMISSION OR SITING BOARD IN THE HEARING OR PROCEEDING, A CUSTOMER WHO HAS BEEN FOUND, PURSUANT TO SUBDIVISION (B), TO BE ELIGIBLE FOR AN AWARD OF COMPENSATION MAY FILE WITHIN 60 DAYS A REQUEST FOR AN AWARD. THE REQUEST SHALL INCLUDE AT A MINIMUM A DETAILED DESCRIPTION OF SERVICES AND EXPENDITURES AND A DESCRIPTION OF THE CUSTOMER'S SUBSTANTIAL CONTRIBUTION TO THE HEARING OR PROCEEDING. WITHIN 30 DAYS AFTER SERVICE OF THE REQUEST, THE COMMISSION STAFF MAY FILE, AND ANY OTHER PARTY MAY FILE, A RESPONSE TO THE REQUEST.

(F) THE COMMISSION OR SITING BOARD MAY AUDIT THE RECORDS AND BOOKS OF THE CUSTOMER TO THE EXTENT NECESSARY TO VERIFY THE BASIS FOR THE AWARD. THE COMMISSION AND SITING BOARD SHALL PRESERVE THE CONFIDENTIALITY OF THE CUSTOMER'S RECORDS IN MAKING ITS AUDIT. WITHIN 20 DAYS AFTER COMPLETION OF THE AUDIT, IF ANY, THE COMMISSION OR SITING BOARD SHALL DIRECT THAT AN AUDIT REPORT SHALL BE PREPARED AND FILED. ANY OTHER PARTY MAY FILE A RESPONSE TO THE AUDIT REPORT WITHIN 20 DAYS THEREAFTER.

(G) WITHIN 75 DAYS AFTER THE FILING OF A REQUEST FOR COMPENSATION PURSUANT TO SUBDIVISION (C), OR WITHIN 50 DAYS AFTER THE FILING OF AN AUDIT REPORT, WHICHEVER OCCURS LATER, THE COMMISSION OR SITING BOARD SHALL ISSUE A DECISION THAT DETERMINES WHETHER OR NOT THE CUSTOMER HAS MADE A SUBSTANTIAL CONTRIBUTION TO THE FINAL ORDER OR DECISION IN THE HEARING OR PROCEEDING. IF THE COMMISSION FINDS THAT THE CUSTOMER REQUESTING COMPENSATION HAS MADE A SUBSTANTIAL CONTRIBUTION, THE COMMISSION SHALL DESCRIBE THIS SUBSTANTIAL CONTRIBUTION AND SHALL DETERMINE THE AMOUNT OF COMPENSATION TO BE PAID PURSUANT TO SECTION H.

(H). THE COMPUTATION OF COMPENSATION AWARDED PURSUANT TO SECTION F SHALL TAKE INTO CONSIDERATION THE MARKET RATES PAID TO PERSONS OF COMPARABLE TRAINING AND EXPERIENCE WHO OFFER SIMILAR SERVICES. THE COMPENSATION AWARDED MAY NOT, IN ANY CASE, EXCEED THE COMPARABLE MARKET RATE FOR SERVICES PAID BY THE COMMISSION, SITING BOARD, OR THE PUBLIC UTILITY, WHICHEVER IS GREATER, TO PERSONS OF COMPARABLE TRAINING AND EXPERIENCE WHO ARE OFFERING SIMILAR SERVICES.

(I). AN AWARD MADE UNDER THIS CHAPTER SHALL BE PAID BY THE

PUBLIC UTILITY WHICH IS THE SUBJECT OF THE HEARING, INVESTIGATION, OR PROCEEDING, AS DETERMINED BY THE COMMISSION OR SITING BOARD, WITHIN 30 DAYS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY AWARD PAID BY A PUBLIC UTILITY PURSUANT TO THIS ARTICLE SHALL BE ALLOWED BY THE COMMISSION AS AN EXPENSE FOR THE PURPOSE OF ESTABLISHING RATES OF THE PUBLIC UTILITY BY WAY OF A DOLLAR-FOR-DOLLAR ADJUSTMENT TO RATES IMPOSED BY THE COMMISSION IMMEDIATELY ON THE DETERMINATION OF THE AMOUNT OF THE AWARD, SO THAT THE AMOUNT OF THE AWARD SHALL BE FULLY RECOVERED WITHIN THE SAME PERIOD AS THE UTILITY'S RATE CASE EXPENSES IN THE UTILITY'S NEXT RATE CASE.

4909.191 TO 4909.193 – FUEL COST RECOVERY –

REINSERT WITH MODIFICATIONS TO AUTHORIZE RECOVERY OF ACQUISITION COSTS ONLY, NOT FACILITY-RELATED COSTS.

4911.021 Counsel AND PUBLIC UTILITIES COMMISSION to operate call centers for consumer complaints.

The PUBLIC UTILITIES COMMISSION AND consumers' counsel shall ~~not operate a telephone call center for consumer~~ RECEIVE complaints FROM RESIDENTIAL AND GENERAL SERVICE CUSTOMERS AND THE CENTER FIRST CALLED SHALL RESOLVE THE COMPLAINT. ALL calls received by the CONSUMERS' COUNSEL OR THE ~~consumers' counsel~~ public utilities commission concerning consumer OR GENERAL SERVICE complaints shall be forwarded to the ~~public utilities commission's call center~~ OTHER, TOGETHER WITH THE RESPONSE THERETO.

4928.02 State policy.

It is the policy of this state to do the following ~~throughout this state beginning on the starting date of competitive retail electric service:~~

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and JUST AND reasonably priced retail electric service;

(B) ~~Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;~~

~~(C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;~~

~~(DC) REQUIRE DEPLOYMENT OF cost-effective supply and demand-side electric service;~~

~~(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote effective customer choice of retail electric service;~~

~~(F) Recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;~~

~~(G) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa;~~

~~(HF) Ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power;~~

~~(IG) Facilitate the state's effectiveness in the global economy.~~

~~(H) REQUIRE DEPLOYMENT OF RENEWABLE ENERGY GENERATION FACILITIES.~~

4928.03 Identification of competitive services and noncompetitive services.

~~Beginning on the starting date of competitive retail electric service, retail electric generation, aggregation, power marketing, and power brokerage services supplied to consumers within the certified territory of an electric utility are competitive retail electric services that the consumers may obtain subject to this chapter from any supplier or suppliers. In accordance with a filing under division (F) of section 4933.81 of the Revised Code, retail electric generation, aggregation, power marketing, or power brokerage services supplied to consumers within the certified territory of an electric cooperative that has made the filing are~~

~~competitive retail electric services that the consumers may obtain subject to this chapter from any supplier or suppliers.~~

~~Beginning on the starting date of competitive retail electric service and notwithstanding any other provision of law, each consumer in this state and the suppliers to a consumer shall have comparable and nondiscriminatory access to noncompetitive retail electric services of an electric utility in this state within its certified territory for the purpose of satisfying the consumer's electricity requirements in keeping with the policy specified in section 4928.02 of the Revised Code.~~

4928.04 Additional competitive services.

~~(A) All orders of the public utilities commission by order may declare DECLARING that GENERATION, retail ancillary, metering, or billing and collection service supplied to consumers within the certified territory of an electric utility on or after the starting date of competitive retail electric service is a competitive retail electric service that the consumers may obtain from any supplier or suppliers subject to this chapter ARE REVOKED. The commission may issue such order, after investigation and public hearing, only if it first determines either of the following:~~

~~(1) There will be effective competition with respect to the service.~~

~~(2) The customers of the service have reasonably available alternatives.~~

~~The commission shall initiate a proceeding on or before March 31, 2003, on the question of the desirability, feasibility, and timing of any such competition.~~

~~(B) In carrying out division (A) of this section, the commission may prescribe different classifications, procedures, terms, or conditions for different electric utilities and for the retail electric services they provide that are declared competitive pursuant to that division, provided the classifications, procedures, terms, or conditions are reasonable and do not confer any undue economic, competitive, or market advantage or preference upon any electric utility.~~

4928.05 Extent of exemptions.

~~(A)(1) On and after the starting date of competitive retail electric service, a competitive retail electric service supplied by an electric utility or~~

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~~electric services company shall not be subject to supervision and regulation by a municipal corporation under Chapter 743. of the Revised Code or by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code, except section 4905.10, division (B) of 4905.33, and sections 4905.35 and 4933.81 to 4933.90; except sections 4905.06, 4935.03, 4963.40, and 4963.41 of the Revised Code only to the extent related to service reliability and public safety; and except as otherwise provided in this chapter. The commission's authority to enforce those excepted provisions with respect to a competitive retail electric service shall be such authority as is provided for their enforcement under Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter.~~

~~On and after the starting date of competitive retail electric service, a competitive 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 as otherwise expressly provided in sections 4928.01 to 4928.10 and 4928.16 of the Revised Code.~~

~~(2) On and after the starting date of competitive retail electric service, a noncompetitive rRetail electric service supplied by an electric utility shall be subject to supervision and regulation by the commission under Title 49 Chapters 4901. to 4909., 4933., 4935., and 4963. of the Revised Code and this chapter, to the extent that authority is not preempted by federal law. The commission's authority to enforce those provisions with respect to a noncompetitive retail electric service shall be the authority provided under those chapters and this chapter, to the extent the authority is not preempted by federal law.~~

~~The commission shall exercise its jurisdiction with respect to the GENERATION AND 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 GENERATION AND 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 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 [49] of the Revised Code to regulate an electric light company in this state or an electric service supplied in this state ~~prior to the starting date of competitive retail electric service.~~

4928.06 Commission to ensure competitive retail electric service.

~~(A) Beginning on the starting date of competitive retail electric service, the public utilities commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated. To the extent necessary, the commission shall adopt rules to carry out this chapter. Initial rules necessary for the commencement of the competitive retail electric service under this chapter shall be adopted within one hundred eighty days after the effective date of this section. Except as otherwise provided in this chapter, the proceedings and orders of the commission under the chapter shall be subject to and governed by Chapter 4903. of the Revised Code.~~

~~(BA) If the commission determines, on or after the starting date of competitive retail electric service, THE GENERAL ASSEMBLY FINDS that there is ~~has been~~ a LACK, A decline ~~or~~ and A loss of effective competition with respect to a competitive retail electric service of an electric utility, which service was declared competitive by commission order issued pursuant to division (A) of section 4928.04 of the Revised Code, IN THE STATE. †THE commission shall ensure that RETAIL ELECTRIC service is provided at compensatory, fair, and nondiscriminatory prices and terms and conditions.~~

~~(C) In addition to its authority under section 4928.04 of the Revised Code and divisions (A) and (B) of this section, tThe commission, on an ongoing basis, shall monitor and evaluate the provision of retail electric service in this state for the purpose of discerning any noncompetitive retail electric service that should be available on a competitive basis on or after the starting date of competitive retail electric service pursuant to a declaration in the Revised Code, and for the purpose of discerning any competitive retail electric service that is no longer subject to effective competition on or after that date. Upon such evaluation, the commission periodically shall report its findings and any recommendations for legislation to the standing committees of both houses of the general~~

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~~assembly that have primary jurisdiction regarding public utility legislation. Until 2008, the commission and the consumer's counsel also shall provide biennial reports to those standing committees, regarding the effectiveness of competition in the supply of competitive retail electric services in this state. In addition, until the end of all market development periods as determined by the commission under section 4928.40 of the Revised Code, those standing committees shall meet at least biennially to consider the effect on this state of electric service restructuring and to receive reports from the commission, consumers' counsel, and director of development.~~

~~(D) In determining, for purposes of division (B) or (C) of this section, whether THAT there is NOT effective competition in the provision of a retail electric service or reasonably available alternatives for that service, the commission shall GENERAL ASSEMBLY HAS considered these factors including, but not limited to, all of the following:~~

- ~~(1) The number and size of alternative providers of that service;~~
- ~~(2) The extent to which the service is available from alternative suppliers in the relevant market;~~
- ~~(3) The ability of alternative suppliers to make functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;~~
- ~~(4) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of suppliers of services.~~

~~The burden of proof shall be on any entity requesting, under division (B) or (C) of this section, a determination by the commission of the existence of or a lack of effective competition or reasonably available alternatives.~~

~~(E)(1) Beginning on the starting date of competitive retail electric service, the commission has authority under Chapters 4901. to 4909. of the Revised Code, and shall exercise that authority, to resolve abuses of market power by any electric utility that interfere with effective competition in the provision of retail electric service.~~

~~(2) In addition to the commission's authority under division (E)(1) of this section, the commission, beginning the first year after the market development period of a particular electric utility and after reasonable~~

~~notice and opportunity for hearing, may take such measures within a transmission constrained area in the utility's certified territory as are necessary to ensure that retail electric generation service is provided at reasonable rates within that area. The commission may exercise this authority only upon findings that an electric utility is or has engaged in the abuse of market power and that that abuse is not adequately mitigated by rules and practices of any independent transmission entity controlling the transmission facilities. Any such measure shall be taken only to the extent necessary to protect customers in the area from the particular abuse of market power and to the extent the commission's authority is not preempted by federal law. The measure shall remain the commission, after reasonable notice and opportunity for hearing, determines that the particular abuse of market power has been mitigated.~~

~~(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.~~

~~The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer.~~

4928.07 Separate pricing of services on bill.

~~To the maximum extent practicable on or after the starting date of competitive retail electric service, an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall separately~~

~~price competitive retail electric services, and the prices shall be itemized on the bill of a customer or otherwise disclosed to the customer. Although a competitive retail electric service shall be supplied to any consumer on such a basis, such a~~AN electric utility, electric services company, electric cooperative, or governmental aggregator may ~~repackage the service on or after the starting date and offer it~~ RETAIL ELECTRIC SERVICE on a bundled basis. ~~with other retail electric services to meet consumer preferences. Such repackaging by an electric utility shall be subject to sections 4905.33 to 4905.35 of the Revised Code. Repackaging by such an electric services company, electric cooperative, or governmental aggregator shall be subject to the limitation that no such entity, as to a competitive retail electric service for which the company, cooperative, or aggregator is subject to certification, shall furnish free service or service for less than actual cost for the purpose of destroying competition.~~

4928.11 Minimum service requirements for noncompetitive services.

(A) For the protection of consumers in this state, the public utilities commission shall adopt rules ~~under division (A) of section 4928.06 of the Revised Code~~ that specify minimum service quality, safety, and reliability requirements for ~~noncompetitive retail~~ electric AND NATURAL GAS services supplied by an electric OR NATURAL GAS utility in this state, to the extent such authority is not preempted by federal law. The rules shall include prescriptive standards for inspection, maintenance, repair, and replacement of the GENERATION, transmission and distribution systems of electric AND NATURAL GAS utilities; shall apply to each substantial type of GENERATION, transmission or distribution equipment or facility; shall establish uniform interconnection standards to ensure GENERATION, transmission and distribution system safety and reliability and shall otherwise provide for high quality, safe, and reliable electric AND NATURAL GAS service; shall include standards for operation, reliability, and safety during periods of emergency and disaster; and shall include voltage standards for efficient operation of single-phase motors. The rules regarding interconnection shall seek to prevent barriers to new technology, INCLUDING DISTRIBUTED GENERATION, and shall not make compliance unduly burdensome or expensive. When questions arise about specific equipment to meet interconnection standards, the commission shall initiate proceedings open to the public to solicit comments from all interested parties. ~~Additionally, rules under this division shall include nondiscriminatory metering standards.~~

(B) The commission shall require each electric AND NATURAL GAS utility to report annually to the commission ~~on and after the starting date of competitive retail electric service~~, regarding its compliance with the rules required under division (A) of this section. The commission shall make the filed reports available to the public. Periodically as determined by commission rule ~~under division (A) of section 4928.06 of the Revised Code~~ and in a proceeding initiated under division (B) of section 4928.16 of the Revised Code, the commission shall review a utility's report to determine the utility's compliance and may act pursuant to division (B) of section 4928.16 of the Revised Code to enforce compliance.

(C) THE GENERAL ASSEMBLY FINDS:

(1) THE RELIABILITY AND SAFETY OF THE ELECTRIC AND NATURAL GAS SYSTEMS HAVE DEPENDED AND DEPEND ON A WORKFORCE OF SKILLED AND DEDICATED EMPLOYEES, EQUIPPED WITH TECHNICAL TRAINING AND EXPERIENCE;

(2) THE INTEGRITY AND RELIABILITY OF THE SYSTEMS ALSO DEPEND ON THE INDUSTRY'S COMMITMENT TO INVEST IN REGULAR INSPECTION AND MAINTENANCE, TO ASSURE THAT IT CAN WITHSTAND THE DEMANDS OF HEAVY SERVICE REQUIREMENTS AND EMERGENCY SITUATIONS;

(3) IT IS IN THE STATE'S INTEREST TO PROTECT THE INTERESTS OF UTILITY EMPLOYEES WHO HAVE AND CONTINUE TO DEDICATE THEMSELVES TO ASSURING RELIABLE SERVICE TO THE CITIZENS OF THIS STATE, AND WHO MIGHT OTHERWISE BE ECONOMICALLY DISPLACED. THE GENERAL ASSEMBLY FURTHER FINDS THAT IT IS NECESSARY TO ASSURE THAT EMPLOYEES OF ELECTRIC AND NATURAL GAS UTILITIES AND EMPLOYEES OF CONTRACTORS OR SUBCONTRACTORS PERFORMING WORK ON BEHALF OF AN ELECTRIC OR NATURAL GAS UTILITY HAVE THE REQUISITE SKILLS, KNOWLEDGE, TRAINING, EXPERIENCE, AND COMPETENCE TO PROVIDE RELIABLE AND SAFE ELECTRICAL OR NATURAL GAS SERVICE. THE GENERAL ASSEMBLY ALSO FINDS THAT IT IS NECESSARY TO ASSURE THAT EMPLOYEES OF NON-UTILITY RETAIL ELECTRIC AND NATURAL GAS SUPPLIERS AND EMPLOYEES OF CONTRACTORS OR SUBCONTRACTORS PERFORMING WORK ON BEHALF OF A NON-UTILITY RETAIL ELECTRIC OR NATURAL GAS SUPPLIER HAVE THE REQUISITE SKILLS, KNOWLEDGE, TRAINING, EXPERIENCE, AND COMPETENCE TO PROVIDE RELIABLE AND SAFE ELECTRICAL OR NATURAL GAS SERVICE. TO ENSURE THAT THESE

FINDINGS AND PREREQUISITES FOR RELIABLE AND SAFE ELECTRICAL NATURAL GAS SERVICE CONTINUE TO PREVAIL, EACH NON-UTILITY RETAIL ELECTRIC OR NATURAL GAS SUPPLIER, ELECTRIC OR NATURAL GAS UTILITY, CONTRACTORS, AND SUBCONTRACTOR PERFORMING WORK ON BEHALF OF AN ELECTRIC OR NATURAL GAS UTILITY OR NON-UTILITY RETAIL ELECTRIC OR NATURAL GAS SUPPLIER MUST DEMONSTRATE THE COMPETENCE OF THEIR RESPECTIVE EMPLOYEES TO WORK IN THE ELECTRIC OR NATURAL GAS INDUSTRY. THE KNOWLEDGE, SKILL, TRAINING, EXPERIENCE, AND COMPETENCE LEVELS TO BE DEMONSTRATED SHALL BE CONSISTENT WITH THOSE GENERALLY REQUIRED OF OR BY THE ELECTRIC AND NATURAL GAS UTILITIES IN THIS STATE AS OF JANUARY 1, 2010, WITH RESPECT TO THEIR EMPLOYEES AND EMPLOYEES OF CONTRACTORS OR SUBCONTRACTORS PERFORMING WORK ON THEIR BEHALF. AN ADEQUATE DEMONSTRATION OF REQUISITE KNOWLEDGE, SKILL, TRAINING, EXPERIENCE, AND COMPETENCE SHALL INCLUDE, AT A MINIMUM, SUCH FACTORS AS COMPLETION OR CURRENT PARTICIPATION AND ULTIMATE COMPLETION BY THE EMPLOYEE OF AN ACCREDITED OR OTHERWISE RECOGNIZED APPRENTICESHIP PROGRAM FOR THE PARTICULAR CRAFT, TRADE OR SKILL, OR SPECIFIED YEARS OF EMPLOYMENT WITH AN ELECTRIC OR NATURAL GAS UTILITY PERFORMING A PARTICULAR WORK FUNCTION. THE COMMISSION SHALL HAVE AN AFFIRMATIVE OBLIGATION TO ENSURE THAT AN ELECTRIC OR NATURAL GAS UTILITY IS EMPLOYING EMPLOYEES, CONTRACTORS, AND SUBCONTRACTORS WHO MEET THE REQUIREMENTS OF THIS SECTION WHEN INSTALLING, OPERATING, AND MAINTAINING GENERATION, TRANSMISSION, OR DISTRIBUTION FACILITIES AND EQUIPMENT WITHIN THE STATE. TO IMPLEMENT THIS REQUIREMENT FOR NON-UTILITY ELECTRIC AND NATURAL GAS SUPPLIERS, THE COMMISSION, IN DETERMINING THAT AN APPLICANT MEETS THE STANDARDS FOR CERTIFICATION, SHALL REQUIRE THE APPLICANT TO DEMONSTRATE:

(A) THAT THE APPLICANT IS LICENSED TO DO BUSINESS, AND BONDED, IN THE STATE; AND

(B) THAT THE EMPLOYEES OF THE APPLICANT THAT WILL BE INSTALLING, OPERATING, AND MAINTAINING GENERATION, TRANSMISSION, OR DISTRIBUTION FACILITIES WITHIN THE STATE, OR ANY ENTITY WITH WHICH THE APPLICANT HAS CONTRACTED TO PERFORM THOSE FUNCTIONS WITHIN THE STATE, HAVE THE REQUISITE KNOWLEDGE, SKILLS, TRAINING, EXPERIENCE, AND COMPETENCE TO PERFORM THOSE FUNCTIONS IN A SAFE AND RESPONSIBLE MANNER IN ORDER TO PROVIDE SAFE AND RELIABLE SERVICE, IN ACCORDANCE WITH THE CRITERIA PROVIDED ABOVE.

(D) (1) THE COMMISSION SHALL CONDUCT A COMPREHENSIVE WORKFORCE ANALYSIS STUDY OF EACH ELECTRIC AND NATURAL GAS UTILITY TO DETERMINE THE ADEQUACY OF THE TOTAL IN-HOUSE STAFFING IN EACH JOB CLASSIFICATION OR JOB TITLE CRITICAL TO MAINTAINING QUALITY RELIABILITY AND RESTORING SERVICE IN EACH ELECTRIC AND NATURAL GAS UTILITY'S SERVICE TERRITORY. EACH REPORT SHALL CONTAIN A YEARLY DETAILED COMPARISON BEGINNING WITH 1995 AND ENDING IN 2007 OF EACH ELECTRIC AND NATURAL GAS UTILITY'S RATIO OF:

(A) ELECTRIC UTILITY IN-HOUSE WORKERS, COMMONLY REFERRED TO AS "LINEMEN", TO CUSTOMERS AND NATURAL GAS UTILITY IN-HOUSE WORKERS TO CUSTOMERS;

(B) CUSTOMER SERVICE CALL-CENTER EMPLOYEES TO CUSTOMERS; AND

(C) METER SERVICE OR REPAIR EMPLOYEES TO CUSTOMERS. THE RATIOS SHALL BE REPORTED FROM EACH UTILITY'S NAMED SERVICE AREA, DISTRICT, DIVISION, OUTLYING AREA, VILLAGE, MUNICIPALITY, REPORTING POINT, OR REGION. THE ANALYSIS SHALL DETERMINE THE TOTAL NUMBER OF CONTRACTOR EMPLOYEES FOR THE SAME TIME FRAME AND SHALL BE CONDUCTED IN THE SAME MANNER AS THE IN-HOUSE ANALYSIS.

(2) THE COMMISSION MAY HOLD PUBLIC HEARINGS WHILE CONDUCTING THE ANALYSIS TO ASSIST IN THE ADEQUACY OF THE STUDY. THE COMMISSION MUST HOLD PUBLIC HEARINGS ON THE STUDY AND PRESENT THE RESULTS TO THE GENERAL ASSEMBLY NO LATER THAN JANUARY 1, 2009.

(3) THE COMMISSION SHALL REQUIRE ELECTRIC AND NATURAL GAS UTILITIES TO DEVELOP AND IMPLEMENT STRATEGIES TO ATTRACT AND RETAIN WORKERS AND REMEDY ALL DEFICIENCIES FOUND BY THE STUDY.

(4) THE COMMISSION SHALL DEVELOP AND IMPLEMENT RULES TO REQUIRE EACH ELECTRIC AND NATURAL GAS UTILITY TO EMPLOY AN ADEQUATELY SIZED, WELL-TRAINED IN-HOUSE UTILITY WORK FORCE, INCLUDING, BUT NOT LIMITED TO, BENCHMARKS FOR EMPLOYEE STAFFING LEVELS FOR EACH CLASSIFICATION AND EMPLOYEE TRAINING FOR EACH CLASSIFICATION.

(5) THE IMPACTS ON EMPLOYEES AND THEIR COMMUNITIES OF ANY NECESSARY REDUCTIONS IN THE UTILITY WORKFORCE SHALL BE MITIGATED TO THE EXTENT PRACTICABLE THROUGH SUCH MEANS AS OFFERS OF VOLUNTARY SEVERANCE, RETRAINING, EARLY

RETIREMENT, OUTPLACEMENT AND RELATED BENEFITS. BEFORE ANY SUCH REDUCTION IN THE WORKFORCE, A UTILITY SHALL PRESENT TO ITS EMPLOYEES OR THEIR REPRESENTATIVES A WORKFORCE REDUCTION PLAN OUTLINING THE MEANS BY WHICH THE UTILITY INTENDS TO MITIGATE THE IMPACT OF SUCH WORKFORCE REDUCTION ON ITS EMPLOYEES.

(6) IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER TRANSFER OF OWNERSHIP OF ONE OR MORE OHIO DIVISIONS OR BUSINESS UNITS, AND/OR GENERATING STATIONS OR GENERATING UNITS, OF AN ELECTRIC OR NATURAL GAS UTILITY, THE UTILITY'S CONTRACT AND/OR AGREEMENTS WITH THE ACQUIRING ENTITY OR PERSONS SHALL REQUIRE THAT THE ENTITY OR PERSONS HIRE A SUFFICIENT NUMBER OF NON-SUPERVISORY EMPLOYEES TO OPERATE AND MAINTAIN THE STATION, DIVISION OR UNIT AT NO LESS THAN THE THEN-CURRENT LEVEL OF SAFETY AND EFFICIENCY AND BY INITIALLY MAKING OFFERS OF EMPLOYMENT TO THE NON-SUPERVISORY WORKFORCE OF THE UTILITY'S DIVISION, BUSINESS UNIT, GENERATING STATION AND/OR GENERATING UNIT AT NO LESS THAN THE WAGE RATES, AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE IN EFFECT AT THE TIME OF TRANSFER OF OWNERSHIP OF SAID DIVISION, BUSINESS UNIT, GENERATING STATION, AND/OR GENERATING UNITS; AND SAID WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT LEAST 30 MONTHS FROM THE TIME OF SAID TRANSFER OF OWNERSHIP UNLESS THE PARTIES MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT WITHIN THAT 30-MONTH PERIOD. THE UTILITY SHALL OFFER A TRANSITION PLAN TO THOSE EMPLOYEES WHO ARE NOT OFFERED JOBS BY THE ACQUIRING ENTITY BECAUSE THAT ENTITY HAS A NEED FOR FEWER WORKERS. IF THERE IS LITIGATION CONCERNING THE SALE, OR OTHER TRANSFER OF OWNERSHIP OF THE UTILITY'S DIVISIONS, BUSINESS UNITS, GENERATING STATION, OR GENERATING UNITS, THE 30-MONTH PERIOD WILL BEGIN ON THE DATE THE ACQUIRING ENTITY OR PERSONS TAKE CONTROL OR MANAGEMENT OF THE DIVISIONS, BUSINESS UNITS, GENERATING STATION OR GENERATING UNITS OF THE UTILITY.

(7) IF A UTILITY TRANSFERS OWNERSHIP OF ONE OR MORE OHIO DIVISIONS, BUSINESS UNITS, GENERATING STATIONS OR GENERATING UNITS OF AN ELECTRIC OR NATURAL GAS UTILITY TO A MAJORITY-OWNED SUBSIDIARY, THAT SUBSIDIARY SHALL CONTINUE TO EMPLOY THE UTILITY'S EMPLOYEES WHO WERE EMPLOYED BY

THE UTILITY AT SUCH DIVISION, BUSINESS UNIT OR GENERATING STATION AT THE TIME OF THE TRANSFER UNDER THE SAME TERMS AND CONDITIONS OF EMPLOYMENT AS THOSE EMPLOYEES ENJOYED AT THE TIME OF THE TRANSFER. IF OWNERSHIP OF THE SUBSIDIARY IS SUBSEQUENTLY SOLD OR TRANSFERRED TO A THIRD PARTY DURING THE TRANSITION PERIOD, THE TRANSITION PROVISIONS OUTLINED IN SUBSECTION (F) SHALL APPLY.

4928.12 Qualifying transmission entities.

~~(A) Except as otherwise provided in THIS SECTION AND sections 4928.31 to 4928.40 of the Revised Code, AND~~ NO entity shall own THAT OWNS or controls transmission facilities as defined under federal law and located in this state ~~on or after the starting date of competitive retail electric service unless that entity is~~ SHALL BE a member of, ~~and~~ OR transfers control of those facilities to, one or more qualifying transmission entities, as described in division (B) of this section, that are operational UNLESS THE COMMISSION HAS DETERMINED THAT UTILITY RELIANCE ON OR MEMBERSHIP IN TRANSMISSION ENTITIES, INDEPENDENT SYSTEMS OPERATORS OR A REGIONAL TRANSMISSION ORGANIZATION COVERING ALL OF OHIO IS IN THE BEST INTERESTS OF OHIO ELECTRICITY CUSTOMERS.

(B) An entity that owns or controls transmission facilities located in this state complies with division (A) of this section if each transmission entity of which it is a member meets all of the following specifications:

(1) The transmission entity is approved by the federal energy regulatory commission.

(2) The transmission entity effects separate control of transmission facilities from control of generation facilities.

(3) The transmission entity implements, to the extent reasonably possible, policies and procedures designed to minimize pancaked transmission rates within this state.

(4) The transmission entity improves service reliability within this state.

(5) The transmission entity achieves the objectives of an open and competitive electric generation marketplace, elimination of barriers to market entry, and preclusion of control of bottleneck electric transmission facilities in the provision of retail electric service.

(6) The transmission entity is of sufficient scope or otherwise operates to substantially increase economical supply options for consumers.

(7) The governance structure or control of the transmission entity is independent of the users of the transmission facilities, and no member of its board of directors has an affiliation, with such a user or with an affiliate of a user during the member's tenure on the board, such as to unduly affect the transmission entity's performance. For the purpose of division (B)(7) of this section, a "user" is any entity or affiliate of that entity that buys or sells electric energy in the transmission entity's region or in a neighboring region.

(8) The transmission entity operates under policies that promote positive performance designed to satisfy the electricity requirements of customers.

(9) The transmission entity is capable of maintaining real-time reliability of the electric transmission system, ensuring comparable and nondiscriminatory transmission access and necessary services, minimizing system congestion, and further addressing real or potential transmission constraints.

(C) To the extent that a transmission entity under division (A) of this section is authorized to build transmission facilities, that transmission entity has the powers provided in and is subject to sections 1723.01 to 1723.08 of the Revised Code.

(D) For the purpose of forming or participating in a regional regulatory oversight body or mechanism developed for any transmission entity under division (A) of this section that is of regional scope and operates within this state:

(1) The commission shall make joint investigations, hold joint hearings, within or outside this state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States, whether in the holding of those investigations or hearings, or in the making of those orders, the commission is functioning under agreements or compacts between states, under the concurrent power of states to regulate interstate commerce, as an agency of the United States, or otherwise.

(2) The commission shall negotiate and enter into agreements or compacts with agencies of other states for cooperative regulatory efforts

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and for the enforcement of the respective state laws regarding the transmission entity.

(E) If a qualifying transmission entity is not operational as contemplated in division (A) of this section, division (A)(13) of section 4928.34 of the Revised Code, or division (G) of section 4928.35 of the Revised Code, the commission by rule or order shall take such measures or impose such requirements on all for-profit entities that own or control electric transmission facilities located in this state as the commission determines necessary and proper to achieve independent, nondiscriminatory operation of, and separate ownership and control of, such electric transmission facilities on or after the starting date of competitive retail electric service.

(F) THE COMMISSION IS HEREBY AUTHORIZED AND DIRECTED TO MONITOR ALL TRANSMISSION ENTITIES, INDEPENDENT SYSTEMS OPERATORS OR POWER EXCHANGES OPERATING IN OHIO. THE COMMISSION SHALL DETERMINE THE EXTENT TO WHICH SAID ENTITIES, OPERATORS AND EXCHANGES SERVE THE NEEDS OF RETAIL CUSTOMERS AND CONTRIBUTE TO THE ACHIEVEMENT OF ENERGY EFFICIENCY AND FUEL DIVERSITY GOALS AS SAID GOALS ARE IDENTIFIED BY THE COMMISSION AND THIS TITLE AND SHALL DETERMINE WHETHER CONTINUED UTILITY RELIANCE OR MEMBERSHIP IN TRANSMISSION ENTITIES, INDEPENDENT SYSTEMS OPERATORS OR POWER EXCHANGES OPERATING IN OHIO IS IN THE BEST INTERESTS OF OHIO ELECTRICITY CUSTOMERS, PROVIDED, HOWEVER, THAT SUCH RELIANCE OR MEMBERSHIP SHALL BE LIMITED TO SPOT MARKETS FOR THE PURPOSES OF BALANCING AND RELIABILITY AND TO ANCILLARY SERVICES THAT SUPPORT THE PRIMARY SUPPLY OF ELECTRICITY, SUCH AS REGULATION, LOAD FOLLOWING, REACTIVE SUPPLY, SPINNING RESERVE, SUPPLEMENTAL RESERVE, AND BACK-UP SUPPLY.

THE ANALYSIS AND PUBLICATION OF ALL DATA AND INFORMATION COLLECTED BY THE COMMISSION SHALL BE CONDUCTED TO INFORM CONSUMERS, ENERGY SUPPLIERS, AND THE GENERAL ASSEMBLY ABOUT THE OPERATION OF TRANSMISSION ENTITIES, INDEPENDENT SYSTEMS OPERATORS OR POWER EXCHANGES OPERATING IN OHIO AND ANY DEFICIENCIES IN THE OPERATION THEREOF, AND TO RECOMMEND IMPROVEMENTS TO SUCH. SAID DATA AND INFORMATION SHALL BE USED FOR THE PUBLICATION OF PERIODIC PROJECTIONS OF THE SUPPLY, DEMAND, AND PRICE OF ENERGY ON STATEWIDE AND REGIONAL BASIS.

THE COMMISSION SHALL ANNUALLY ISSUE A REPORT CONTAINING INFORMATION ON ALL ISSUES OF ELECTRICITY SYSTEM RELIABILITY,

INCLUDING, BUT NOT LIMITED TO, GENERATION AND TRANSMISSION DATA DETAILING LOAD AND CAPACITY, FOR THE PRIOR CALENDAR YEAR AND FORECASTING POTENTIAL FUTURE CAPACITY EXCESSES OR DEFICITS FOR THE NEXT FIFTEEN CALENDAR YEARS. THE COMMISSION SHALL UTILIZE ALL INFORMATION AVAILABLE TO FORECAST POTENTIAL CAPACITY EXCESSES OR DEFICITS, INCLUDING, BUT NOT LIMITED TO, ANALYSES BY THE ELECTRIC LIGHT COMPANIES, TRANSMISSION ENTITIES, INDEPENDENT SYSTEMS OPERATORS OR POWER EXCHANGES OPERATING IN OHIO, AND OTHER SUCH DATA COLLECTED BY THE COMMISSION. SAID REPORT SHALL CONTAIN (I) ELECTRICITY SPOT PRICE INFORMATION FOR THE PREVIOUS CALENDAR YEAR, INCLUDING, BUT NOT LIMITED TO, THE AVERAGE REGIONAL MONTHLY SPOT PRICE; (II) A DETERMINATION OF THE EXTENT TO WHICH NECESSARY LEVELS OF BULK RELIABILITY ARE BEING MAINTAINED; (III) A DETERMINATION OF WHETHER OR NOT THE ELECTRIC INDUSTRY IS PROVIDING CONSUMERS WITH THE LOWEST PRICES POSSIBLE; AND (IV) A DETERMINATION OF THE EXTENT TO WHICH THE STATE'S ENERGY EFFICIENCY AND FUEL DIVERSITY GOALS ARE BEING MET. SAID REPORT SHALL IDENTIFY ANY SUBSTANTIAL FLUCTUATION OR PRICING DIFFERENCES IN THE COST OF ELECTRICITY AVAILABLE TO CONSUMERS, ESPECIALLY WITH RESPECT TO GEOGRAPHIC REGIONS AND LOW AND MODERATE INCOME CONSUMERS. SAID REPORTS SHALL MAKE RECOMMENDATIONS FOR IMPROVING ANY DEFICIENCIES SO IDENTIFIED WHICH ARE WITHIN THE AUTHORITY OF THE GENERAL ASSEMBLY, THE FEDERAL ENERGY REGULATORY COMMISSION, OR ANY OTHER GOVERNMENTAL BODY WITH JURISDICTION OVER THE DEFICIENCY SO IDENTIFIED.

4928.14 ~~Market-based s~~Standard service offer.

(A) ~~After its market development period,~~ aN electric distribution utility in this state shall provide consumers, on a comparable and nondiscriminatory basis within its certified territory, a ~~market-based~~ standard service offer of all ~~competitive~~ retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service. Such offer shall be filed with the public utilities commission under section 4909.18 of the Revised Code.

~~(B) After that market development period, each electric distribution utility also shall offer customers within its certified territory an option to purchase competitive retail electric service the price of which is determined through a competitive bidding process. Prior to January 1, 2004, the commission shall adopt rules concerning the conduct of the~~

~~competitive bidding process, including the information requirements necessary for customers to choose this option and the requirements to evaluate qualified bidders. The commission may require that the competitive bidding process be reviewed by an independent third party. No generation supplier shall be prohibited from participating in the bidding process, provided that any winning bidder shall be considered a certified supplier for purposes of obligations to customers. At the election of the electric distribution utility, and approval of the commission, the competitive bidding option under this division may be used as the market-based standard offer required by division (A) of this section. The commission may determine at any time that a competitive bidding process is not required, if other means to accomplish generally the same option for customers is readily available in the market and a reasonable means for customer participation is developed.~~

~~(C)~~ After the market development period, ~~t~~The failure of a supplier to provide retail electric generation service to customers within the certified territory of the electric distribution utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer filed under division (A) of this section ~~until the customer chooses an alternative supplier~~. A supplier is deemed under this division to have failed to provide such service if the commission finds, after reasonable notice and opportunity for hearing, that any of the following conditions are met:

- (1) The supplier has defaulted on its contracts with customers, is in receivership, or has filed for bankruptcy.
- (2) The supplier is no longer capable of providing the service.
- (3) The supplier is unable to provide delivery to transmission or distribution facilities for such period of time as may be reasonably specified by commission rule adopted under division (A) of section 4928.06 of the Revised Code.
- (4) The supplier's certification has been suspended, conditionally rescinded, or rescinded under division (D) of section 4928.08 of the Revised Code.

4928.15 Schedules for provision of noncompetitive service.

(A) Except as otherwise provided in sections 4928.31 to 4928.40 of the Revised Code, no electric utility shall supply ~~noncompetitive~~ retail

electric distribution AND GENERATION service in this state ~~on or after the starting date of competitive retail electric service~~ except pursuant to a schedule for that service that is ~~consistent with the state policy specified in section 4928.02 of the Revised Code~~ and filed with the public utilities commission under section 4909.18 of the Revised Code. The schedule shall provide that electric distribution AND GENERATION service under the schedule is available to all consumers within the utility's certified territory ~~and to any supplier to those consumers~~ on a nondiscriminatory and comparable basis. ~~Distribution service rates and charges under the schedule shall be established in accordance with Chapters 4905. and 4909. of the Revised Code.~~ The schedule shall include an obligation to build distribution facilities when necessary to provide adequate distribution service, provided that a customer requesting that service may be required to pay all or part of the reasonable incremental cost of the new facilities, in accordance with rules, policy, precedents, or orders of the commission, AND GENERATION FACILITIES WHEN NECESSARY TO PROVIDE ADEQUATE GENERATION SERVICE, .

(B) Except as otherwise provided in sections 4928.31 to 4928.40 of the Revised Code and except as preempted by federal law, no electric utility shall supply the transmission service or ancillary service component of ~~noncompetitive~~ retail electric service in this state ~~on or after the starting date of competitive retail electric service~~ except pursuant to a schedule for that service component that is ~~consistent with the state policy specified in section 4928.02 of the Revised Code~~ and filed with the commission under section 4909.18 of the Revised Code. The schedule shall provide that transmission or ancillary service under the schedule is available to all consumers ~~and to any supplier to those consumers~~ on a nondiscriminatory and comparable basis. Service rates and charges under the schedule shall be established in accordance with Chapters 4905. and 4909. of the Revised Code.

(C) A self-generator shall have access to backup electricity supply ~~from its competitive electric generation service provider~~ at a rate to be determined by ~~contract~~ the commission THAT SHALL NOT EXCEED THE TARIFF RATE FOR A SIMILARLY SITUATED CUSTOMER THAT IS NOT A SELF-GENERATOR.

4928.17 Corporate separation plans.

ALL PLAN APPROVALS PURSUANT TO PREVIOUS VERSIONS OF THIS SECTION ARE REVOKED TO THE EXTENT THEY HAVE NOT BEEN IMPLEMENTED.

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~~(A) Except as otherwise provided in sections 4928.31 to 4928.40 of the Revised Code and beginning on the starting date of competitive retail electric service, no electric utility shall engage in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a competitive retail electric service, or in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric service, unless the utility implements and operates under a corporate separation plan that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, and achieves all of the following:~~

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

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

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

~~(B) The commission may approve, modify and approve, or disapprove a corporate separation plan filed with the commission under division (A) of this section. As part of the code of conduct required under division (A)(1) of this section, the commission shall adopt rules pursuant to division (A)~~

~~of section 4928.06 of the Revised Code regarding corporate separation and procedures for plan filing and approval. The rules shall include limitations on affiliate practices solely for the purpose of maintaining a separation of the affiliate's business from the business of the utility to prevent unfair competitive advantage by virtue of that relationship. The rules also shall include an opportunity for any person having a real and substantial interest in the corporate separation plan to file specific objections to the plan and propose specific responses to issues raised in the objections, which objections and responses the commission shall address in its final order. Prior to commission approval of the plan, the commission shall afford a hearing upon those aspects of the plan that the commission determines reasonably require a hearing. The commission may reject and require refiling of a substantially inadequate plan under this section.~~

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

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

~~(E) Notwithstanding section 4905.20, 4905.21, 4905.46, or 4905.48 of the Revised Code, an electric utility may divest itself of any generating asset at any time without commission approval, subject to the provisions of Title XLIX [49] of the Revised Code relating to the transfer of transmission, distribution, or ancillary service provided by such generating asset.~~

Sec. 4935.04. Energy Information and Reports

(A) As used in this chapter:

(1) "Major utility facility" means:

(a) AN ELECTRIC GENERATING PLANT AND ASSOCIATED FACILITIES DESIGNED FOR, OR CAPABLE OF, OPERATION AT A CAPACITY OF FIFTY MEGAWATTS OR MORE;

(b) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

(c)~~(b)~~ A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.

"Major utility facility" does not include electric, gas, or natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the public utilities commission; facilities owned or operated by industrial firms, persons, or institutions that produce or transmit gas, or natural gas, or electricity primarily for their own use or as a byproduct of their operations; gas or natural gas transmission lines and associated facilities over which an agency of the United States has certificate jurisdiction; facilities owned or operated by a person furnishing gas or natural gas directly to fifteen thousand or fewer customers within this state.

(2) "Person" has the meaning set forth in section 4906.01 of the Revised Code.

(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the energy information filed by the person with that agency of the United States.

(C) Each person owning or operating a major utility facility within this state, or furnishing gas, natural gas, or electricity directly to more than fifteen thousand customers within this state annually shall furnish a report to the commission for its review. The report shall be termed the long-term forecast report and shall contain:

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(1) A year-by-year, ten-year forecast of annual energy demand, peak load, reserves, and a general description of the resource plan to meet demand;

(2) A range of projected loads during the period;

(3) A description of major utility facilities planned to be added or taken out of service in the next ten years, including PROSPECTIVE SITES FOR GENERATING PLANTS AND, to the extent the information is available, PROSPECTIVE SITES for transmission line locations;

(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period;

(5) FOR ELECTRICITY, A RANGE OF PROJECTED LOADS AND A PROJECTION OF ANNUAL ENERGY DEMAND, ANTICIPATED GENERATING CAPACITY, AND SYSTEM SEASONAL PEAK DEMAND FOR A TWENTY-YEAR PERIOD;

(6) A description of proposed changes in the transmission system planned for the next five years;

(7)(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural gas utilities, for the next two years. The report shall describe the major utility facilities that, in the judgment of such person, will be required to supply system demands during the forecast period. The report from a gas or natural gas utility shall cover the ten- and five-year periods next succeeding the date of the report, and the report from an electric utility shall cover the twenty-, ten-, and five-year periods next succeeding the date of the report. Each report shall be made available to the public and furnished upon request to municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use. The report shall be in such form and shall contain such information as may be prescribed by the commission.

Each person not owning or operating a major utility facility within this state and serving fifteen thousand or fewer gas or natural gas, or electric customers within this state shall furnish such information as the commission requires.

(8) AN ANALYSIS OF THE POTENTIAL FOR REDUCTION IN DEMAND AND PEAK DEMAND BY CUSTOMER CLASS FOR A TWENTY YEAR PERIOD.

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(D) The commission shall:

(1) Review and comment on the reports filed under division (C) of this section, and make the information contained in the reports readily available to the public and other interested government agencies;

(2) Compile and publish each year the GENERAL LOCATIONS OF THE PROPOSED POWER PLANT SITES AND general locations of proposed and existing transmission line routes within its jurisdiction as identified in the reports filed under division (C) of this section, identifying the general location of such sites and routes and the approximate year when construction is expected to commence, and to make such information readily available to the public, to each newspaper of daily or weekly circulation within the area affected by the proposed site and route, and to interested federal, state, and local agencies;

(3) Hold a public hearing:

(a) On the first long-term forecast report filed after January 11, 1983;

(b) At least once in every five years, on the latest report furnished by any person subject to this section;

(c) On the latest report furnished by any person subject to this section if the report contains a substantial change from the preceding report furnished by that person. "Substantial change" includes, but is not limited to:

(i) THE ADDITION OR CANCELLATION OF A GENERATING FACILITY OF FIFTY MEGAWATTS OR MORE IN THE REPORT FURNISHED PURSUANT TO DIVISION (C) OF THIS SECTION;

(ii) A change in forecasted peak loads or energy consumption over the forecast period of greater than an average of one-half of one per cent per year;

(iii)~~(ii)~~ Demonstration of good cause to the commission by an interested party.

The commission shall fix a time for the hearing, which shall be not later than ninety days after the report is filed, and publish notice of the date, time of day, and location of the hearing in a newspaper of general circulation in each county in which the person furnishing the report has

or intends to locate a major utility facility and will provide service during the period covered by the report. The notice shall be published not less than fifteen nor more than thirty days before the hearing and shall state the matters to be considered.

Absent a showing of good cause, the commission shall not hold hearings under division (D)(3) of this section with respect to persons who, as the primary purpose of their business, furnish gas or natural gas, or electricity directly to fifteen thousand or fewer customers within this state solely for direct consumption by those customers.

(4) Require such information from persons subject to its jurisdiction as necessary to assist in the conduct of hearings and any investigation or studies it may undertake;

(5) Conduct any studies or investigations that are necessary or appropriate to carry out its responsibilities under this section.

(E)(1) The scope of the hearing held under division (D)(3) of this section shall be limited to issues relating to forecasting. The power siting board, the office of consumers' counsel, and all other persons having an interest in the proceedings shall be afforded the opportunity to be heard and to be represented by counsel. The commission may adjourn the hearing from time to time.

(2) The hearing shall include, but not be limited to, a review of:

(a) The projected loads and energy requirements for each year of the period;

(b) The estimated installed capacity and supplies to meet the projected load requirements;

(C) THE ESTMATED AMOUNT OF DEMAND REDUCTION AND PEAK DEMAND REDUCTION THAT CAN BE ACHIEVED COST-EFFECTIVELY FOR EACH YEAR OF THE PERIOD.

(F) Based upon the report furnished pursuant to division (C) of this section and the hearing record, the commission, within ninety days from the close of the record in the hearing, shall determine if:

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(1) All information relating to current activities, facilities agreements, and published energy policies of the state has been completely and accurately represented;

(2) The load requirements are based on substantially accurate historical information and adequate methodology;

(3) The forecasting methods consider the relationships between price and energy consumption;

(4) The report identifies and projects reductions in energy demands due to energy conservation measures in the industrial, commercial, residential, transportation, and energy production sectors in the service area;

(5) Utility company forecasts of loads and resources are reasonable in relation to population growth estimates made by state and federal agencies, transportation, and economic development plans and forecasts, and make recommendations where possible for necessary and reasonable alternatives to meet forecasted electric power demand;

(6) The report considers plans for expansion of the regional power grid and the planned facilities of other utilities in the state;

(7) All assumptions made in the forecast are reasonable and adequately documented.

(G) The commission shall adopt rules under section 111.15 of the Revised Code to establish criteria for evaluating the long-term forecasts of needs for gas and electric GENERATION AND transmission service AND DEMAND SIDE MANAGEMENT, to conduct hearings held under this section, to establish reasonable fees to defray the direct cost of the hearings and the review process, and such other rules as are necessary and convenient to implement this section.

(H) The hearing record produced under this section and the determinations of the commission shall be introduced into evidence and shall be considered in determining the basis of need for power siting board deliberations under division (A)(1) of section 4906.10 of the Revised Code. The hearing record produced under this section shall be introduced into evidence and shall be considered by the public utilities commission in its initiation of programs, examinations, and findings under section 4905.70 of the Revised Code, and shall be considered in

the commission's determinations with respect to the establishment of just and reasonable rates under section 4909.15 of the Revised Code and financing utility facilities and authorizing issuance of all securities under sections 4905.40, 4905.401, 4905.41, and 4905.42 of the Revised Code. The forecast findings shall be provided to the Ohio Power Authority and shall provide the basis for its determinations of procurement of all cost-effective energy efficiency, consideration of construction of generation resources, and procurement of other resources. The forecast findings also shall serve as the basis for all other energy planning and development activities of the state government where electric and gas data are required.

(1)(1) No court other than the supreme court shall have power to review, suspend, or delay any determination made by the commission under this section, or enjoin, restrain, or interfere with the commission in the performance of official duties. A writ of mandamus shall not be issued against the commission by any court other than the supreme court.

(2) A final determination made by the commission shall be reversed, vacated, or modified by the supreme court on appeal, if, upon consideration of the record, such court is of the opinion that such determination was unreasonable or unlawful.

The proceeding to obtain such reversal, vacation, or modification shall be by notice of appeal, filed with the commission by any party to the proceeding before it, against the commission, setting forth the determination appealed from and errors complained of. The notice of appeal shall be served, unless waived, upon the commission by leaving a copy at the office of the chairperson of the commission at Columbus. The court may permit an interested party to intervene by cross-appeal.

(3) No proceeding to reverse, vacate, or modify a determination of the commission is commenced unless the notice of appeal is filed within sixty days after the date of the determination.

CHAPTER 4934. OHIO ENERGY AUTHORITY

4934.01 ENERGY AUTHORITY DEFINITIONS.

AS USED IN THIS CHAPTER:

(A) "GOVERNMENTAL AGENCY" MEANS A DEPARTMENT, DIVISION, OR OTHER UNIT OF STATE GOVERNMENT, A MUNICIPAL CORPORATION,

COUNTY, TOWNSHIP, AND OTHER POLITICAL SUBDIVISION, OR ANY OTHER PUBLIC CORPORATION OR AGENCY HAVING THE POWER TO ACQUIRE, CONSTRUCT, OR OPERATE ENERGY FACILITIES, THE UNITED STATES OR ANY AGENCY THEREOF, AND ANY AGENCY, COMMISSION, OR AUTHORITY ESTABLISHED PURSUANT TO AN INTERSTATE COMPACT OR AGREEMENT.

(B) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPORATION, OR ANY COMBINATION THEREOF.

(C) "AIR CONTAMINANT" MEANS PARTICULATE MATTER, DUST, FUMES, GAS, MIST, SMOKE, NOISE, VAPOR, HEAT, RADIOACTIVITY, RADIATION, OR ODOROUS SUBSTANCE, OR ANY COMBINATION THEREOF.

(D) "EMISSION" MEANS THE RELEASE INTO THE OUTDOOR ATMOSPHERE OF AN AIR CONTAMINANT.

(E) "ENERGY FACILITY" MEANS AN ELECTRIC GENERATING PLANT, INCLUDING DISTRIBUTED GENERATION, OR EQUIPMENT AND ASSOCIATED FACILITIES, INCLUDING NET METERING EQUIPMENT;

(H) "PROJECT" OR "ENERGY PROJECT" MEANS ANY ENERGY FACILITY, INCLUDING UNDIVIDED OR OTHER INTERESTS THEREIN, ACQUIRED OR TO BE ACQUIRED OR CONSTRUCTED OR TO BE CONSTRUCTED BY THE OHIO ENERGY AUTHORITY UNDER THIS CHAPTER, OR ACQUIRED OR TO BE ACQUIRED OR CONSTRUCTED OR TO BE CONSTRUCTED BY A THE ENERGY AUTHORITY, A GOVERNMENTAL AGENCY, OR PERSON WITH ALL OR A PART OF THE COST THEREOF BEING PAID FROM A LOAN OR GRANT FROM THE AUTHORITY UNDER THIS CHAPTER, INCLUDING ALL BUILDINGS AND FACILITIES THAT THE AUTHORITY DETERMINES NECESSARY FOR THE OPERATION OF THE PROJECT, TOGETHER WITH ALL PROPERTY, RIGHTS, EASEMENTS, AND INTERESTS THAT MAY BE REQUIRED FOR THE OPERATION OF THE PROJECT.

(I) "COST" AS APPLIED TO AN ENERGY PROJECT MEANS THE COST OF ACQUISITION AND CONSTRUCTION, THE COST OF ACQUISITION OF ALL LAND, RIGHTS-OF-WAY, PROPERTY RIGHTS, EASEMENTS, FRANCHISE RIGHTS, AND INTERESTS REQUIRED FOR SUCH ACQUISITION AND CONSTRUCTION, THE COST OF DEMOLISHING OR REMOVING ANY BUILDINGS OR STRUCTURES ON LAND SO ACQUIRED, INCLUDING THE COST OF ACQUIRING ANY LANDS TO

WHICH SUCH BUILDINGS OR STRUCTURES MAY BE MOVED, THE COST OF ACQUIRING OR CONSTRUCTING AND EQUIPPING A PRINCIPAL OFFICE AND SUB-OFFICES OF THE AUTHORITY, THE COST OF DIVERTING HIGHWAYS, INTERCHANGE OF HIGHWAYS, AND ACCESS ROADS TO PRIVATE PROPERTY, INCLUDING THE COST OF LAND OR EASEMENTS FOR SUCH ACCESS ROADS, THE COST OF PUBLIC UTILITY AND COMMON CARRIER RELOCATION OR DUPLICATION, THE COST OF ALL MACHINERY, FURNISHINGS, AND EQUIPMENT, FINANCING CHARGES, INTEREST PRIOR TO AND DURING CONSTRUCTION AND FOR NO MORE THAN EIGHTEEN MONTHS AFTER COMPLETION OF CONSTRUCTION, ENGINEERING, LEGAL EXPENSES, PLANS, SPECIFICATIONS, SURVEYS, STUDIES, ESTIMATES OF COST AND REVENUES, WORKING CAPITAL, OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF ACQUIRING OR CONSTRUCTING SUCH PROJECT, ADMINISTRATIVE EXPENSE, AND SUCH OTHER EXPENSE AS MAY BE NECESSARY OR INCIDENT TO THE ACQUISITION OR CONSTRUCTION OF THE PROJECT, THE FINANCING OF SUCH ACQUISITION OR CONSTRUCTION, INCLUDING THE AMOUNT AUTHORIZED IN THE RESOLUTION OF THE AUTHORITY PROVIDING FOR THE ISSUANCE OF ENERGY REVENUE BONDS TO BE PAID INTO ANY SPECIAL FUNDS FROM THE PROCEEDS OF SUCH BONDS, AND THE FINANCING OF THE PLACING OF SUCH PROJECT IN OPERATION. ANY OBLIGATION, COST, OR EXPENSE INCURRED BY ANY GOVERNMENTAL AGENCY OR PERSON FOR SURVEYS, BORINGS, PREPARATION OF PLANS AND SPECIFICATIONS, AND OTHER ENGINEERING SERVICES, OR ANY OTHER COST DESCRIBED ABOVE, IN CONNECTION WITH THE ACQUISITION OR CONSTRUCTION OF A PROJECT MAY BE REGARDED AS A PART OF THE COST OF THAT PROJECT AND MAY BE REIMBURSED OUT OF THE PROCEEDS OF ENERGY REVENUE BONDS AS AUTHORIZED BY THIS CHAPTER.

(J) "OWNER" INCLUDES AN INDIVIDUAL, COPARTNERSHIP, ASSOCIATION, OR CORPORATION HAVING ANY TITLE OR INTEREST IN ANY PROPERTY, RIGHTS, EASEMENTS, OR INTERESTS AUTHORIZED TO BE ACQUIRED BY THIS CHAPTER.

(K) "REVENUES" MEANS ALL RENTALS AND OTHER CHARGES RECEIVED BY THE AUTHORITY FOR THE USE OR SERVICES OF ANY ENERGY PROJECT, ANY GIFT OR GRANT RECEIVED WITH RESPECT TO ANY ENERGY PROJECT, ANY MONEYS RECEIVED WITH RESPECT TO THE LEASE, SUBLEASE, SALE, INCLUDING INSTALLMENT SALE OR CONDITIONAL SALE, OR OTHER DISPOSITION OF AN ENERGY

PROJECT, MONEYS RECEIVED IN REPAYMENT OF AND FOR INTEREST ON ANY LOANS MADE BY THE AUTHORITY TO A PERSON OR GOVERNMENTAL AGENCY, WHETHER FROM THE UNITED STATES OR ANY DEPARTMENT, ADMINISTRATION, OR AGENCY THEREOF, OR OTHERWISE, PROCEEDS OF SUCH BONDS TO THE EXTENT THAT USE THEREOF FOR PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS AUTHORIZED BY THE AUTHORITY, PROCEEDS FROM ANY INSURANCE, CONDEMNATION, OR GUARANTY PERTAINING TO A PROJECT OR PROPERTY MORTGAGED TO SECURE BONDS OR PERTAINING TO THE FINANCING OF THE PROJECT, AND INCOME AND PROFIT FROM THE INVESTMENT OF THE PROCEEDS OF ENERGY REVENUE BONDS OR OF ANY REVENUES.

(L) "PUBLIC ROADS" INCLUDES ALL PUBLIC HIGHWAYS, ROADS, AND STREETS IN THE STATE, WHETHER MAINTAINED BY THE STATE, COUNTY, CITY, TOWNSHIP, OR OTHER POLITICAL SUBDIVISION.

(M) "PUBLIC UTILITY FACILITIES" INCLUDES TRACKS, PIPES, MAINS, CONDUITS, CABLES, WIRES, TOWERS, POLES, AND OTHER EQUIPMENT AND APPLIANCES OF ANY PUBLIC UTILITY.

(N) "CONSTRUCTION," UNLESS THE CONTEXT INDICATES A DIFFERENT MEANING OR INTENT, INCLUDES RECONSTRUCTION, ENLARGEMENT, IMPROVEMENT, OR PROVIDING FURNISHINGS OR EQUIPMENT.

(O) "ENERGY REVENUE BONDS," UNLESS THE CONTEXT INDICATES A DIFFERENT MEANING OR INTENT, INCLUDES ENERGY REVENUE NOTES, ENERGY REVENUE RENEWAL NOTES, AND ENERGY REVENUE REFUNDING BONDS, EXCEPT THAT NOTES ISSUED IN ANTICIPATION OF THE ISSUANCE OF BONDS SHALL HAVE A MAXIMUM MATURITY OF FIVE YEARS AS PROVIDED IN SECTION 4934.05 OF THE REVISED CODE AND NOTES OR RENEWAL NOTES ISSUED AS THE DEFINITIVE OBLIGATION MAY BE ISSUED MATURING AT SUCH TIME OR TIMES WITH A MAXIMUM MATURITY OF FORTY YEARS FROM THE DATE OF ISSUANCE OF THE ORIGINAL NOTE.

(P) "SOLID WASTE" MEANS ANY GARBAGE; REFUSE; SLUDGE FROM A WASTE WATER TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY; AND OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID, SEMISOLID, OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL, MINING, AND AGRICULTURAL OPERATIONS, AND

FROM COMMUNITY ACTIVITIES, BUT NOT INCLUDING SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE, OR SOLID OR DISSOLVED MATERIAL IN IRRIGATION RETURN FLOWS OR INDUSTRIAL DISCHARGES THAT ARE POINT SOURCES SUBJECT TO PERMITS UNDER SECTION 402 OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 880, 33 U.S.C.A. 1342, AS AMENDED, OR SOURCE, SPECIAL NUCLEAR, OR BYPRODUCT MATERIAL AS DEFINED BY THE "ATOMIC ENERGY ACT OF 1954," 68 STAT. 921, 42 U.S.C.A. 2011, AS AMENDED.

(Q) "SLUDGE" MEANS ANY SOLID, SEMISOLID, OR LIQUID WASTE, OTHER THAN A RECYCLABLE BY-PRODUCT, GENERATED FROM A MUNICIPAL, COMMERCIAL, OR INDUSTRIAL WASTE WATER TREATMENT PLANT, WATER SUPPLY PLANT, OR AIR POLLUTION CONTROL FACILITY OR ANY OTHER SUCH WASTES HAVING SIMILAR CHARACTERISTICS AND EFFECTS.

(T) "BIOFUEL" MEANS ANY FUEL THAT IS MADE FROM CELLULOSIC BIOMASS RESOURCES, INCLUDING RENEWABLE ORGANIC MATTER, CROP WASTE RESIDUE, WOOD, AQUATIC PLANTS AND OTHER CROPS, ANIMAL WASTE, SOLID WASTE, OR SLUDGE, AND THAT IS USED FOR THE PRODUCTION OF ENERGY FOR TRANSPORTATION OR OTHER PURPOSES.

(U) "FUTUREGEN PROJECT" MEANS THE BUILDINGS, EQUIPMENT, AND REAL PROPERTY AND FUNCTIONALLY RELATED BUILDINGS, EQUIPMENT, AND REAL PROPERTY, INCLUDING RELATED RESEARCH PROJECTS THAT SUPPORT THE DEVELOPMENT AND OPERATION OF THE BUILDINGS, EQUIPMENT, AND REAL PROPERTY, DESIGNATED BY THE UNITED STATES DEPARTMENT OF ENERGY AND THE FUTUREGEN INDUSTRIAL ALLIANCE, INC., AS THE COAL-FUELED, ZERO-EMISSIONS POWER PLANT DESIGNED TO PROVE THE TECHNICAL AND ECONOMIC FEASIBILITY OF PRODUCING ELECTRICITY AND HYDROGEN FROM COAL AND NEARLY ELIMINATING CARBON DIOXIDE EMISSIONS THROUGH CAPTURE AND PERMANENT STORAGE.

(V) "RENEWABLE ENERGY" IS ONE WHICH GENERATES ELECTRICITY USING ANY OF THE FOLLOWING: (I) SOLAR PHOTOVOLTAIC OR SOLAR THERMAL ENERGY; (II) WIND ENERGY; (III) OCEAN THERMAL, WAVE, OR TIDAL ENERGY; (IV) FUEL CELLS UTILIZING RENEWABLE FUELS; (V) LANDFILL GAS; (VI) NATURALLY FLOWING WATER AND HYDROELECTRIC; AND (VIII) LOW-EMISSION, ADVANCED BIOMASS

POWER CONVERSION TECHNOLOGIES, SUCH AS GASIFICATION USING SUCH BIOMASS FUELS AS WOOD, AGRICULTURAL, OR FOOD WASTES, ENERGY CROPS, BIOGAS, BIODIESEL, OR ORGANIC REFUSE-DERIVED FUEL. AFTER CONDUCTING ADMINISTRATIVE PROCEEDINGS, THE COMMISSION MAY ADD TECHNOLOGIES OR TECHNOLOGY CATEGORIES TO THE ABOVE LIST; PROVIDED, HOWEVER, THAT THE FOLLOWING TECHNOLOGIES OR TECHNOLOGIES THAT UTILIZE POWER PRODUCED WITH THE FOLLOWING FUELS SHALL NOT BE CONSIDERED RENEWABLE ENERGY SUPPLIES: COAL, OIL, NATURAL GAS, AND NUCLEAR POWER.

4934.02 ENERGY DEVELOPMENT AUTHORITY - APPOINTMENT OF MEMBERS - VACANCIES, BOND.

THERE IS HEREBY CREATED THE OHIO ENERGY DEVELOPMENT AUTHORITY. SUCH AUTHORITY IS A BODY BOTH CORPORATE AND POLITIC IN THIS STATE, AND THE CARRYING OUT OF ITS PURPOSES AND THE EXERCISE BY IT OF THE POWERS CONFERRED BY CHAPTER 4934. OF THE REVISED CODE SHALL BE HELD TO BE, AND ARE HEREBY DETERMINED TO BE, ESSENTIAL GOVERNMENTAL FUNCTIONS AND PUBLIC PURPOSES OF THE STATE, BUT THE AUTHORITY SHALL NOT BE IMMUNE FROM LIABILITY BY REASON THEREOF.

THE AUTHORITY SHALL CONSIST OF SEVEN MEMBERS AS FOLLOWS: FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, NO MORE THAN THREE OF WHOM SHALL BE MEMBERS OF THE SAME POLITICAL PARTY, AND THE DIRECTOR OF ENVIRONMENTAL PROTECTION AND THE DIRECTOR OF HEALTH, WHO SHALL BE MEMBERS EX OFFICIO WITHOUT COMPENSATION. EACH APPOINTIVE MEMBER SHALL BE A RESIDENT OF THE STATE, AND A QUALIFIED ELECTOR THEREIN. THE MEMBERS OF THE AUTHORITY FIRST APPOINTED SHALL CONTINUE IN OFFICE FOR TERMS EXPIRING ON JUNE 30, 2009, JUNE 30, 2010, JUNE 30, 2011, JUNE 30, 2012, AND JUNE 30, 2013, RESPECTIVELY, THE TERM OF EACH MEMBER TO BE DESIGNATED BY THE GOVERNOR. APPOINTED MEMBERS' TERMS OF OFFICE SHALL BE FOR EIGHT YEARS, COMMENCING ON THE FIRST DAY OF JULY AND ENDING ON THE THIRTIETH DAY OF JUNE. EACH APPOINTED MEMBER SHALL HOLD OFFICE FROM THE DATE OF HIS APPOINTMENT UNTIL THE END OF THE TERM FOR WHICH HE WAS APPOINTED. ANY MEMBER APPOINTED TO FILL A VACANCY OCCURRING PRIOR TO THE EXPIRATION OF THE TERM FOR WHICH HIS PREDECESSOR WAS APPOINTED SHALL HOLD OFFICE FOR THE

REMAINDER OF SUCH TERM. ANY APPOINTED MEMBER SHALL CONTINUE IN OFFICE SUBSEQUENT TO THE EXPIRATION DATE OF HIS TERM UNTIL HIS SUCCESSOR TAKES OFFICE, OR UNTIL A PERIOD OF SIXTY DAYS HAS ELAPSED, WHICHEVER OCCURS FIRST. A MEMBER OF THE AUTHORITY IS ELIGIBLE FOR REAPPOINTMENT. EACH APPOINTED MEMBER OF THE AUTHORITY, BEFORE ENTERING UPON HIS DUTIES, SHALL TAKE AN OATH AS PROVIDED BY SECTION 7 OF ARTICLE XV, OHIO CONSTITUTION. THE GOVERNOR MAY AT ANY TIME REMOVE ANY MEMBER OF THE AUTHORITY FOR MISFEASANCE, NONFEASANCE, OR MALFEASANCE IN OFFICE. THE AUTHORITY SHALL ELECT ONE OF ITS APPOINTED MEMBERS AS CHAIRMAN AND ANOTHER AS VICE-CHAIRMAN, AND SHALL APPOINT A SECRETARY-TREASURER WHO NEED NOT BE A MEMBER OF THE AUTHORITY. FOUR MEMBERS OF THE AUTHORITY SHALL CONSTITUTE A QUORUM, AND THE AFFIRMATIVE VOTE OF FOUR MEMBERS SHALL BE NECESSARY FOR ANY ACTION TAKEN BY VOTE OF THE AUTHORITY. NO VACANCY IN THE MEMBERSHIP OF THE AUTHORITY SHALL IMPAIR THE RIGHTS OF A QUORUM BY SUCH VOTE TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE AUTHORITY.

BEFORE THE ISSUANCE OF ANY ENERGY REVENUE BONDS UNDER CHAPTER 4934. OF THE REVISED CODE, EACH APPOINTED MEMBER OF THE AUTHORITY SHALL GIVE A SURETY BOND TO THE STATE IN THE PENAL SUM OF TWENTY-FIVE THOUSAND DOLLARS AND THE SECRETARY-TREASURER SHALL GIVE SUCH A BOND IN THE PENAL SUM OF FIFTY THOUSAND DOLLARS, EACH SUCH SURETY BOND TO BE CONDITIONED UPON THE FAITHFUL PERFORMANCE OF THE DUTIES OF THE OFFICE, TO BE EXECUTED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, AND TO BE APPROVED BY THE GOVERNOR AND FILED IN THE OFFICE OF THE SECRETARY OF STATE. EACH APPOINTED MEMBER OF THE AUTHORITY SHALL RECEIVE AN ANNUAL SALARY OF FIVE THOUSAND DOLLARS, PAYABLE IN MONTHLY INSTALLMENTS. EACH MEMBER SHALL BE REIMBURSED FOR HIS ACTUAL EXPENSES NECESSARILY INCURRED IN THE PERFORMANCE OF HIS DUTIES. ALL EXPENSES INCURRED IN CARRYING OUT CHAPTER 4934. OF THE REVISED CODE SHALL BE PAYABLE SOLELY FROM FUNDS PROVIDED UNDER CHAPTER 4934. OF THE REVISED CODE, APPROPRIATED FOR SUCH PURPOSE BY THE GENERAL ASSEMBLY, OR PROVIDED BY THE CONTROLLING BOARD. NO LIABILITY OR OBLIGATION SHALL BE INCURRED BY THE AUTHORITY BEYOND THE EXTENT TO WHICH MONEYS HAVE BEEN SO PROVIDED OR APPROPRIATED.

4934.03 PURPOSES OF ENERGY AUTHORITY.

IT IS HEREBY DECLARED TO BE THE PUBLIC POLICY OF THE STATE THROUGH THE OPERATIONS OF THE OHIO ENERGY DEVELOPMENT AUTHORITY UNDER THIS CHAPTER TO CONTRIBUTE TOWARD ONE OR MORE OF THE FOLLOWING: TO INSURE THAT ADEQUATE ELECTRIC GENERATION SERVICE IS AVAILABLE TO ALL CUSTOMERS AT AFFORDABLE PRICES AND CONSISTENT WITH THE POLICIES OF THIS STATE AS ESTABLISHED IN SECTION 4928.02 OF THE REVISED CODE AND THE LEAST COST PLANNING PROCESS REQUIRED UNDER SECTION 4905.70 OF THE REVISED CODE, TO PROMOTE COMMERCE, DISTRIBUTION, AND RESEARCH, TO CREATE OR PRESERVE JOBS AND EMPLOYMENT OPPORTUNITIES OR IMPROVE THE ECONOMIC WELFARE OF THE PEOPLE, OR ASSIST AND COOPERATE WITH GOVERNMENTAL AGENCIES IN ACHIEVING SUCH PURPOSES. IN FURTHERANCE OF SUCH PUBLIC POLICY THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY INITIATE, ACQUIRE, CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE ENERGY PROJECTS OR CAUSE THE SAME TO BE OPERATED PURSUANT TO A LEASE, SUBLEASE, OR AGREEMENT WITH ANY PERSON OR GOVERNMENTAL AGENCY; MAY MAKE LOANS AND GRANTS TO GOVERNMENTAL AGENCIES FOR THE ACQUISITION OR CONSTRUCTION OF ENERGY FACILITIES BY SUCH GOVERNMENTAL AGENCIES; MAY MAKE LOANS TO PERSONS FOR THE ACQUISITION OR CONSTRUCTION OF ENERGY FACILITIES BY SUCH PERSONS; AND MAY ISSUE ENERGY REVENUE BONDS OF THIS STATE PAYABLE SOLELY FROM REVENUES, TO PAY THE COST OF SUCH PROJECTS. ANY RESOLUTION OF THE AUTHORITY PROVIDING FOR ACQUIRING OR CONSTRUCTING SUCH PROJECTS OR FOR MAKING A LOAN OR GRANT FOR SUCH PROJECTS SHALL INCLUDE A FINDING BY THE AUTHORITY THAT SUCH DETERMINATION HAS BEEN MADE. DETERMINATIONS BY RESOLUTION OF THE AUTHORITY THAT A PROJECT IS AN ENERGY FACILITY UNDER THIS CHAPTER AND IS CONSISTENT WITH THE PURPOSES OF SECTION 13 OF ARTICLE VIII, OHIO CONSTITUTION, AND THIS CHAPTER, SHALL BE CONCLUSIVE AS TO THE VALIDITY AND ENFORCEABILITY OF THE ENERGY REVENUE BONDS ISSUED TO FINANCE SUCH PROJECT AND OF THE RESOLUTIONS, TRUST AGREEMENTS OR INDENTURES, LEASES, SUBLEASES, SALE AGREEMENTS, LOAN AGREEMENTS, AND OTHER AGREEMENTS MADE IN CONNECTION THEREWITH, ALL IN ACCORDANCE WITH THEIR TERMS.

4934.04 DEVELOPMENT AUTHORITY - POWERS AND DUTIES.

THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY:

(A) ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(B) ADOPT AN OFFICIAL SEAL;

(C) MAINTAIN A PRINCIPAL OFFICE AND SUBOFFICES AT SUCH PLACES WITHIN THE STATE AS IT DESIGNATES;

(D) SUE AND PLEAD IN ITS OWN NAME; BE SUED AND IMPEADED IN ITS OWN NAME WITH RESPECT TO ITS CONTRACTS OR TORTS OF ITS MEMBERS, EMPLOYEES, OR AGENTS ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT, OR TO ENFORCE ITS OBLIGATIONS AND COVENANTS MADE UNDER SECTIONS 4934.05, 4934.07, AND 4934.12 OF THE REVISED CODE. ANY SUCH ACTIONS AGAINST THE AUTHORITY SHALL BE BROUGHT IN THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE AUTHORITY IS LOCATED, OR IN THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE CAUSE OF ACTION AROSE, PROVIDED SUCH COUNTY IS LOCATED WITHIN THIS STATE, AND ALL SUMMONSES, EXCEPTIONS, AND NOTICES OF EVERY KIND SHALL BE SERVED ON THE AUTHORITY BY LEAVING A COPY THEREOF AT THE PRINCIPAL OFFICE WITH THE PERSON IN CHARGE THEREOF OR WITH THE SECRETARY-TREASURER OF THE AUTHORITY.

(E) MAKE LOANS AND GRANTS TO GOVERNMENTAL AGENCIES FOR THE ACQUISITION OR CONSTRUCTION OF ENERGY PROJECTS BY ANY SUCH GOVERNMENTAL AGENCY AND ADOPT RULES AND PROCEDURES FOR MAKING SUCH LOANS AND GRANTS, PROVIDED THAT SUCH PROJECTS ARE CONSISTENT WITH THE POLICIES OF THIS STATE AS ESTABLISHED IN SECTION 4928.02 OF THE REVISED CODE AND THE LEAST COST PLANNING PROCESS REQUIRED UNDER SECTION 4905.70 OF THE REVISED CODE;

(F) ACQUIRE, CONSTRUCT, RECONSTRUCT, ENLARGE, IMPROVE, FURNISH, EQUIP, MAINTAIN, REPAIR, OPERATE, LEASE OR RENT TO, OR CONTRACT FOR OPERATION BY, A PERSON OR GOVERNMENTAL AGENCY, ENERGY PROJECTS, AND ESTABLISH RULES FOR THE USE OF SUCH PROJECTS, PROVIDED THAT SUCH PROJECTS ARE CONSISTENT WITH THE POLICIES OF THIS STATE AS ESTABLISHED IN SECTION 4928.02 OF THE REVISED CODE AND THE LEAST COST

PLANNING PROCESS REQUIRED UNDER SECTION 4905.70 OF THE REVISED CODE;

(G) MAKE AVAILABLE THE USE OR SERVICES OF ANY ENERGY PROJECT TO ONE OR MORE PERSONS, ONE OR MORE GOVERNMENTAL AGENCIES, OR ANY COMBINATION THEREOF;

(H) ISSUE ENERGY REVENUE BONDS AND NOTES AND ENERGY REVENUE REFUNDING BONDS OF THE STATE, PAYABLE SOLELY FROM REVENUES AS PROVIDED IN SECTION 4934.05 OF THE REVISED CODE, UNLESS THE BONDS BE REFUNDED BY REFUNDING BONDS, FOR THE PURPOSE OF PAYING ANY PART OF THE COST OF ONE OR MORE ENERGY PROJECTS OR PARTS THEREOF;

(I) ACQUIRE BY GIFT OR PURCHASE, HOLD, AND DISPOSE OF REAL AND PERSONAL PROPERTY IN THE EXERCISE OF THE POWERS OF THE AUTHORITY AND THE PERFORMANCE OF ITS DUTIES UNDER THIS CHAPTER;

(J) ACQUIRE, IN THE NAME OF THE STATE, BY PURCHASE OR OTHERWISE, ON SUCH TERMS AND IN SUCH MANNER AS THE AUTHORITY FINDS PROPER, OR BY THE EXERCISE OF THE RIGHT OF CONDEMNATION IN THE MANNER PROVIDED BY SECTION 4934.17 OF THE REVISED CODE, SUCH PUBLIC OR PRIVATE LANDS, INCLUDING PUBLIC PARKS, PLAYGROUNDS, OR RESERVATIONS, OR PARTS THEREOF OR RIGHTS THEREIN, RIGHTS-OF-WAY, PROPERTY, RIGHTS, EASEMENTS, AND INTERESTS AS IT FINDS NECESSARY FOR CARRYING OUT THIS CHAPTER, BUT EXCLUDING THE ACQUISITION BY THE EXERCISE OF THE RIGHT OF CONDEMNATION OF ANY ENERGY FACILITY OWNED BY ANY PERSON OR GOVERNMENTAL AGENCY; AND COMPENSATION SHALL BE PAID FOR PUBLIC OR PRIVATE LANDS SO TAKEN;

(K) MAKE AND ENTER INTO ALL CONTRACTS AND AGREEMENTS AND EXECUTE ALL INSTRUMENTS NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE EXECUTION OF ITS POWERS UNDER THIS CHAPTER.

(1) WHEN THE COST UNDER ANY SUCH CONTRACT OR AGREEMENT, OTHER THAN COMPENSATION FOR PERSONAL SERVICES, INVOLVES AN EXPENDITURE OF MORE THAN TWO THOUSAND DOLLARS, THE AUTHORITY SHALL MAKE A WRITTEN CONTRACT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, IN ACCORDANCE WITH

SECTION 9.312 OF THE REVISED CODE, AFTER ADVERTISEMENT FOR NOT LESS THAN TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN FRANKLIN COUNTY, AND IN SUCH OTHER PUBLICATIONS AS THE AUTHORITY DETERMINES, WHICH NOTICE SHALL STATE THE GENERAL CHARACTER OF THE WORK AND THE GENERAL CHARACTER OF THE MATERIALS TO BE FURNISHED, THE PLACE WHERE PLANS AND SPECIFICATIONS THEREFOR MAY BE EXAMINED, AND THE TIME AND PLACE OF RECEIVING BIDS; PROVIDED, THAT A CONTRACT OR LEASE FOR THE OPERATION OF AN ENERGY PROJECT CONSTRUCTED AND OWNED BY THE AUTHORITY OR AN AGREEMENT FOR COOPERATION IN THE ACQUISITION OR CONSTRUCTION OF AN ENERGY PROJECT PURSUANT TO SECTION 4934.12 OF THE REVISED CODE OR ANY CONTRACT FOR THE CONSTRUCTION OF AN ENERGY PROJECT THAT IS TO BE LEASED BY THE AUTHORITY TO, AND OPERATED BY, PERSONS WHO ARE NOT GOVERNMENTAL AGENCIES AND THE COST OF SUCH PROJECT IS TO BE AMORTIZED EXCLUSIVELY FROM RENTALS OR OTHER CHARGES PAID TO THE AUTHORITY BY PERSONS WHO ARE NOT GOVERNMENTAL AGENCIES IS NOT SUBJECT TO THE FOREGOING REQUIREMENTS AND THE AUTHORITY MAY ENTER INTO SUCH CONTRACT, LEASE, OR AGREEMENT PURSUANT TO NEGOTIATION AND UPON SUCH TERMS AND CONDITIONS AND FOR SUCH PERIOD AS IT FINDS TO BE REASONABLE AND PROPER IN THE CIRCUMSTANCES AND IN THE BEST INTERESTS OF PROPER OPERATION OR OF EFFICIENT ACQUISITION OR CONSTRUCTION OF SUCH PROJECT.

(2) EACH BID FOR A CONTRACT FOR THE CONSTRUCTION, DEMOLITION, ALTERATION, REPAIR, OR RECONSTRUCTION OF AN IMPROVEMENT SHALL CONTAIN THE FULL NAME OF EVERY PERSON INTERESTED IN IT AND MEET THE REQUIREMENTS OF SECTION 153.54 OF THE REVISED CODE.

(3) EACH BID FOR A CONTRACT EXCEPT AS PROVIDED IN DIVISION (K)(2) OF THIS SECTION SHALL CONTAIN THE FULL NAME OF EVERY PERSON INTERESTED IN IT AND SHALL BE ACCOMPANIED BY A SUFFICIENT BOND OR CERTIFIED CHECK ON A SOLVENT BANK THAT IF THE BID IS ACCEPTED A CONTRACT WILL BE ENTERED INTO AND THE PERFORMANCE THEREOF SECURED.

(4) THE AUTHORITY MAY REJECT ANY AND ALL BIDS.

(5) A BOND WITH GOOD AND SUFFICIENT SURETY, APPROVED BY THE AUTHORITY, SHALL BE REQUIRED OF EVERY CONTRACTOR AWARDED A CONTRACT EXCEPT AS PROVIDED IN DIVISION (K)(2) OF THIS SECTION, IN AN AMOUNT EQUAL TO AT LEAST FIFTY PER CENT OF THE CONTRACT PRICE, CONDITIONED UPON THE FAITHFUL PERFORMANCE OF THE CONTRACT.

(L) EMPLOY MANAGERS, SUPERINTENDENTS, AND OTHER EMPLOYEES AND RETAIN OR CONTRACT WITH CONSULTING ENGINEERS, FINANCIAL CONSULTANTS, ACCOUNTING EXPERTS, ARCHITECTS, ATTORNEYS, AND SUCH OTHER CONSULTANTS AND INDEPENDENT CONTRACTORS AS ARE NECESSARY IN ITS JUDGMENT TO CARRY OUT THIS CHAPTER, AND FIX THE COMPENSATION THEREOF. ALL EXPENSES THEREOF SHALL BE PAYABLE SOLELY FROM THE PROCEEDS OF ENERGY REVENUE BONDS OR NOTES ISSUED UNDER THIS CHAPTER, FROM REVENUES, OR FROM FUNDS APPROPRIATED FOR SUCH PURPOSE BY THE GENERAL ASSEMBLY.

(M) RECEIVE AND ACCEPT FROM ANY FEDERAL AGENCY, SUBJECT TO THE APPROVAL OF THE GOVERNOR, GRANTS FOR OR IN AID OF THE CONSTRUCTION OF ANY ENERGY PROJECT OR FOR RESEARCH AND DEVELOPMENT WITH RESPECT TO ENERGY FACILITIES, AND RECEIVE AND ACCEPT AID OR CONTRIBUTIONS FROM ANY SOURCE OF MONEY, PROPERTY, LABOR, OR OTHER THINGS OF VALUE, TO BE HELD, USED, AND APPLIED ONLY FOR THE PURPOSES FOR WHICH SUCH GRANTS AND CONTRIBUTIONS ARE MADE;

(N) ENGAGE IN RESEARCH AND DEVELOPMENT WITH RESPECT TO ENERGY FACILITIES;

(O) PURCHASE FIRE AND EXTENDED COVERAGE AND LIABILITY INSURANCE FOR ANY ENERGY PROJECT AND FOR THE PRINCIPAL OFFICE AND SUBOFFICES OF THE AUTHORITY, INSURANCE PROTECTING THE AUTHORITY AND ITS OFFICERS AND EMPLOYEES AGAINST LIABILITY FOR DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF PERSONS ARISING FROM ITS OPERATIONS, AND ANY OTHER INSURANCE THE AUTHORITY MAY AGREE TO PROVIDE UNDER ANY RESOLUTION AUTHORIZING ITS ENERGY REVENUE BONDS OR IN ANY TRUST AGREEMENT SECURING THE SAME;

(P) CHARGE, ALTER, AND COLLECT RENTALS AND OTHER CHARGES FOR THE USE OR SERVICES OF ANY ENERGY PROJECT AS PROVIDED IN SECTION 3706.13 OF THE REVISED CODE;

(Q) PROVIDE COVERAGE FOR ITS EMPLOYEES UNDER CHAPTERS 145., 4123., AND 4141. OF THE REVISED CODE;

(R) DO ALL ACTS NECESSARY OR PROPER TO CARRY OUT THE POWERS EXPRESSLY GRANTED IN THIS CHAPTER.

ANY INSTRUMENT BY WHICH REAL PROPERTY IS ACQUIRED PURSUANT TO THIS SECTION SHALL IDENTIFY THE AGENCY OF THE STATE THAT HAS THE USE AND BENEFIT OF THE REAL PROPERTY AS SPECIFIED IN SECTION 5301.012 OF THE REVISED CODE.

4934.041 FINANCING PROJECTS FOR INDUSTRY, COMMERCE, DISTRIBUTION, OR RESEARCH.

(A) WITH RESPECT TO PROJECTS, AND THE FINANCING THEREOF, THE PERSON TO WHOM THE PROJECT IS TO BE LEASED, SUBLEASED OR SOLD, OR TO WHOM A LOAN IS TO BE MADE FOR THE PROJECT, IS TO MAKE PAYMENTS SUFFICIENT TO PAY ALL OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE ENERGY REVENUE BONDS ISSUED FOR THE PROJECT, THE AUTHORITY MAY, IN ADDITION TO OTHER POWERS UNDER THIS CHAPTER:

(1) MAKE LOANS FOR THE ACQUISITION OR CONSTRUCTION OF THE PROJECT TO SUCH PERSON UPON SUCH TERMS AS THE AUTHORITY MAY DETERMINE OR AUTHORIZE, INCLUDING SECURED OR UNSECURED LOANS, AND, IN CONNECTION THEREWITH, ENTER INTO LOAN AGREEMENTS AND OTHER AGREEMENTS, ACCEPT NOTES AND OTHER FORMS OF OBLIGATION TO EVIDENCE SUCH INDEBTEDNESS AND MORTGAGES, LIENS, PLEDGES, ASSIGNMENTS, OR OTHER SECURITY INTERESTS TO SECURE SUCH INDEBTEDNESS, WHICH MAY BE PRIOR OR SUBORDINATE TO OR ON A PARITY WITH OTHER INDEBTEDNESS, OBLIGATIONS, MORTGAGES, PLEDGES, ASSIGNMENTS, OTHER SECURITY INTERESTS, OR LIENS OR ENCUMBRANCES, AND TAKE SUCH ACTIONS AS MAY BE CONSIDERED BY IT APPROPRIATE TO PROTECT SUCH SECURITY AND SAFEGUARD AGAINST LOSSES, INCLUDING, WITHOUT LIMITATION THERETO, FORECLOSURE AND THE BIDDING UPON AND PURCHASE OF PROPERTY UPON FORECLOSURE OR OTHER SALE.

(2) SELL SUCH PROJECT UNDER SUCH TERMS AS IT MAY DETERMINE, INCLUDING, WITHOUT LIMITATION THERETO, SALE BY CONDITIONAL SALE OR INSTALLMENT SALE, UNDER WHICH TITLE MAY PASS PRIOR TO OR AFTER COMPLETION OF THE PROJECT OR PAYMENT OR PROVISIONS FOR PAYMENT OF ALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH BONDS, OR AT ANY OTHER TIME PROVIDED IN SUCH AGREEMENT PERTAINING TO SUCH SALE, AND INCLUDING SALE UNDER AN OPTION TO PURCHASE AT A PRICE WHICH MAY BE A NOMINAL AMOUNT OR LESS THAN TRUE VALUE AT THE TIME OF PURCHASE.

(3) GRANT A MORTGAGE, LIEN OR OTHER ENCUMBRANCE ON, OR PLEDGE OR ASSIGNMENT OF, OR OTHER SECURITY INTEREST WITH RESPECT TO, ALL OR ANY PART OF THE PROJECT, REVENUES, RESERVE FUNDS, OR OTHER FUNDS ESTABLISHED IN CONNECTION WITH SUCH BONDS, OR ON, OF, OR WITH RESPECT TO ANY LEASE, SUBLEASE, SALE, CONDITIONAL SALE OR INSTALLMENT SALE AGREEMENT, LOAN AGREEMENT, OR OTHER AGREEMENT PERTAINING TO THE LEASE, SUBLEASE, SALE, OR OTHER DISPOSITION OF A PROJECT OR PERTAINING TO A LOAN MADE FOR A PROJECT, OR ANY GUARANTY OR INSURANCE AGREEMENT MADE WITH RESPECT THERETO, OR ANY INTEREST OF THE AUTHORITY THEREIN, OR ANY OTHER INTEREST GRANTED, ASSIGNED, OR RELEASED TO SECURE PAYMENTS OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR TO SECURE ANY OTHER PAYMENTS TO BE MADE BY THE AUTHORITY, WHICH MORTGAGE, LIEN, ENCUMBRANCE, PLEDGE, ASSIGNMENT, OR OTHER SECURITY INTEREST MAY BE PRIOR OR SUBORDINATE TO OR ON A PARITY WITH ANY OTHER MORTGAGE, ASSIGNMENT, OTHER SECURITY INTEREST, OR LIEN OR ENCUMBRANCE.

(4) PROVIDE THAT THE INTEREST ON SUCH BONDS MAY BE AT A VARIABLE RATE OR RATES CHANGING FROM TIME TO TIME IN ACCORDANCE WITH A BASE OR FORMULA AS AUTHORIZED BY THE AUTHORITY.

(5) CONTRACT FOR THE ACQUISITION OR CONSTRUCTION OF SUCH PROJECT OR ANY PART THEREOF AND FOR THE LEASING, SUBLEASING, SALE OR OTHER DISPOSITION OF SUCH PROJECT IN A MANNER DETERMINED BY THE AUTHORITY IN ITS SOLE DISCRETION, WITHOUT NECESSITY FOR COMPETITIVE BIDDING OR PERFORMANCE BONDS.

(B) PROPERTY COMPRISING A PROJECT SHALL NOT BE SUBJECT TO TAXES OR ASSESSMENTS AND SO LONG AS THE BONDS OR NOTES ISSUED TO FINANCE THE COSTS OF SUCH PROJECT ARE OUTSTANDING, AND THE TRANSFER OF TITLE TO OR POSSESSION OF SUCH PROPERTY TO THE PERSON TO WHOM A LOAN OR INSTALLMENT SALE OR CONDITIONAL SALE WITH RESPECT TO SUCH PROJECT IS MADE SHALL NOT BE SUBJECT TO THE TAXES LEVIED PURSUANT TO CHAPTERS 5739. AND 5741. OF THE REVISED CODE. TAXES SHALL NOT BE IMPUTED FOR THE PURPOSE OF ESTABLISHING A REVENUE REQUIREMENT.

THE AUTHORITY SHALL CERTIFY THE PROPERTY COMPRISING A PROJECT WHICH IS EXEMPT FROM TAXES AND ASSESSMENTS PURSUANT TO THIS SECTION, AND SHALL SEND, BY CERTIFIED MAIL, COPIES OF SUCH CERTIFICATION TO THE OWNER OF SUCH EXEMPT PROPERTY, TO THE TAX COMMISSIONER, AND TO THE COUNTY AUDITOR OF THE COUNTY OR COUNTIES IN WHICH ANY SUCH EXEMPT PROPERTY IS LOCATED.

EACH COUNTY AUDITOR SHALL MAINTAIN A SEPARATE LIST OF ALL PROPERTY EXEMPT PURSUANT TO THIS SECTION AND SECTIONS 6121.044 AND 6123.041 OF THE REVISED CODE, IN ADDITION TO THE LIST OF EXEMPT PROPERTY REQUIRED TO BE MAINTAINED PURSUANT TO SECTION 5713.07 OF THE REVISED CODE.

(C) THE AUTHORITY, IN THE LEASE, SALE OR LOAN AGREEMENT WITH RESPECT TO A PROJECT REFERRED TO IN DIVISION (A) OF THIS SECTION, SHALL MAKE APPROPRIATE PROVISION FOR ADEQUATE MAINTENANCE OF THE PROJECT.

(D) WITH RESPECT TO THE PROJECTS REFERRED TO IN THIS SECTION, THE AUTHORITY GRANTED BY THIS SECTION IS CUMULATIVE AND SUPPLEMENTARY TO ALL OTHER AUTHORITY GRANTED IN THIS CHAPTER. THE AUTHORITY GRANTED BY THIS SECTION DOES NOT ALTER OR IMPAIR ANY SIMILAR AUTHORITY GRANTED ELSEWHERE IN THIS CHAPTER FOR OR WITH RESPECT TO OTHER PROJECTS.

4934.042 LABORERS AND MECHANICS EMPLOYED ON PROJECTS TO BE PAID AT PREVAILING WAGE RATES.

THE OHIO ENERGY DEVELOPMENT AUTHORITY SHALL NOT ENTER INTO ANY LOAN AGREEMENT OR GRANT ANY FUNDS FOR ANY

PROJECT UNLESS LABORERS AND MECHANICS EMPLOYED ON SUCH PROJECTS ARE PAID AT THE PREVAILING RATES OF WAGES OF LABORERS AND MECHANICS FOR THE CLASS OF WORK CALLED FOR BY SUCH PROJECT, WHICH WAGES SHALL BE DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 4115. OF THE REVISED CODE FOR DETERMINATION OF PREVAILING WAGE RATES PROVIDED THAT THE REQUIREMENTS OF THIS SECTION DO NOT APPLY WHERE THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES FURNISHES BY LOAN OR GRANT ALL OR ANY PART OF THE FUNDS USED IN CONNECTION WITH SUCH PROJECT AND PRESCRIBES PREDETERMINED MINIMUM WAGES TO BE PAID TO SUCH LABORERS AND MECHANICS; AND PROVIDED FURTHER THAT SHOULD A NON-PUBLIC USER BENEFICIARY OF THE PROJECT UNDERTAKE, AS PART OF THE PROJECT, CONSTRUCTION TO BE PERFORMED BY ITS REGULAR BARGAINING UNIT EMPLOYEES WHO ARE COVERED UNDER A COLLECTIVE BARGAINING AGREEMENT WHICH WAS IN EXISTENCE PRIOR TO THE DATE OF THE COMMITMENT INSTRUMENT UNDERTAKING A LOAN OR GRANT OF FUNDS THEN, IN THAT EVENT, THE RATE OF PAY PROVIDED UNDER THE COLLECTIVE BARGAINING AGREEMENT MAY BE PAID TO SUCH EMPLOYEES.

4934.05 AUTHORITY MAY ISSUE REVENUE BONDS AND NOTES.

THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY AT ANY TIME ISSUE REVENUE BONDS AND NOTES OF THE STATE IN SUCH PRINCIPAL AMOUNT AS, IN THE OPINION OF THE AUTHORITY, ARE NECESSARY FOR THE PURPOSE OF PAYING ANY PART OF THE COST OF ONE OR MORE ENERGY PROJECTS OR PARTS THEREOF. THE AUTHORITY MAY AT ANY TIME ISSUE RENEWAL NOTES, ISSUE BONDS TO PAY SUCH NOTES AND WHENEVER IT DEEMS REFUNDING EXPEDIENT, REFUND ANY BONDS BY THE ISSUANCE OF ENERGY REVENUE REFUNDING BONDS OF THE STATE, WHETHER THE BONDS TO BE REFUNDED HAVE OR HAVE NOT MATURED, AND ISSUE BONDS PARTLY TO REFUND BONDS THEN OUTSTANDING, AND PARTLY FOR ANY OTHER AUTHORIZED PURPOSE. THE REFUNDING BONDS SHALL BE SOLD AND THE PROCEEDS APPLIED TO THE PURCHASE, REDEMPTION, OR PAYMENT OF THE BONDS TO BE REFUNDED. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED BY THE AUTHORITY, EVERY ISSUE OF ITS BONDS OR NOTES SHALL BE GENERAL OBLIGATIONS OF THE AUTHORITY PAYABLE OUT OF THE REVENUES OF THE AUTHORITY THAT ARE PLEDGED FOR SUCH PAYMENT, WITHOUT PREFERENCE, OR PRIORITY OF THE FIRST

BONDS ISSUED, SUBJECT ONLY TO ANY AGREEMENTS WITH THE HOLDERS OF PARTICULAR BONDS OR NOTES PLEDGING ANY PARTICULAR REVENUES. SUCH PLEDGE SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE AND THE REVENUES SO PLEDGED AND THEREAFTER RECEIVED BY THE AUTHORITY SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF SUCH PLEDGE WITHOUT ANY PHYSICAL DELIVERY THEREOF OR FURTHER ACT, AND THE LIEN OF ANY SUCH PLEDGE IS VALID AND BINDING AS AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE AUTHORITY, IRRESPECTIVE OF WHETHER SUCH PARTIES HAVE NOTICE THEREOF. NEITHER THE RESOLUTION NOR ANY TRUST AGREEMENT BY WHICH A PLEDGE IS CREATED NEED BE FILED OR RECORDED EXCEPT IN THE RECORDS OF THE AUTHORITY.

WHETHER OR NOT THE BONDS OR NOTES ARE OF SUCH FORM AND CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS, THE BONDS OR NOTES SHALL HAVE ALL THE QUALITIES AND INCIDENTS OF NEGOTIABLE INSTRUMENTS, SUBJECT ONLY TO THE PROVISIONS OF THE BONDS OR NOTES FOR REGISTRATION.

THE BONDS AND NOTES SHALL BE AUTHORIZED BY RESOLUTION OF THE AUTHORITY, SHALL BEAR SUCH DATE OR DATES, AND SHALL MATURE AT SUCH TIME OR TIMES, IN THE CASE OF ANY SUCH NOTE OR ANY RENEWALS THEREOF NOT EXCEEDING FIVE YEARS FROM THE DATE OF ISSUE OF SUCH ORIGINAL NOTE AND IN THE CASE OF ANY SUCH BOND NOT EXCEEDING FORTY YEARS FROM THE DATE OF ISSUE, AS SUCH RESOLUTION OR RESOLUTIONS MAY PROVIDE. THE BONDS AND NOTES SHALL BEAR INTEREST AT SUCH RATE OR RATES, BE IN SUCH DENOMINATIONS, BE IN SUCH FORM, EITHER COUPON OR REGISTERED, CARRY SUCH REGISTRATION PRIVILEGES, BE PAYABLE IN SUCH MEDIUM OF PAYMENT, AT SUCH PLACE OR PLACES, AND BE SUBJECT TO SUCH TERMS OF REDEMPTION AS THE AUTHORITY MAY AUTHORIZE. THE BONDS AND NOTES OF THE AUTHORITY MAY BE SOLD BY THE AUTHORITY, AT PUBLIC OR PRIVATE SALE, AT OR AT NOT LESS THAN SUCH PRICE OR PRICES AS THE AUTHORITY DETERMINES. THE BONDS AND NOTES SHALL BE EXECUTED BY THE CHAIRMAN AND VICE-CHAIRMAN OF THE AUTHORITY, EITHER OR BOTH OF WHOM MAY USE A FACSIMILE SIGNATURE, THE OFFICIAL SEAL OF THE AUTHORITY OR A FACSIMILE THEREOF SHALL BE AFFIXED THERETO OR PRINTED THEREON AND ATTESTED, MANUALLY OR BY FACSIMILE SIGNATURE, BY THE SECRETARY-TREASURER OF THE AUTHORITY, AND ANY

COUPONS ATTACHED THERETO SHALL BEAR THE SIGNATURE OR FACSIMILE SIGNATURE OF THE CHAIRMAN OF THE AUTHORITY. IN CASE ANY OFFICER WHOSE SIGNATURE, OR A FACSIMILE OF WHOSE SIGNATURE, APPEARS ON ANY BONDS, NOTES OR COUPONS CEASES TO BE SUCH OFFICER BEFORE DELIVERY OF BONDS OR NOTES, SUCH SIGNATURE OR FACSIMILE SHALL NEVERTHELESS BE SUFFICIENT FOR ALL PURPOSES THE SAME AS IF HE HAD REMAINED IN OFFICE UNTIL SUCH DELIVERY, AND IN CASE THE SEAL OF THE AUTHORITY HAS BEEN CHANGED AFTER A FACSIMILE HAS BEEN IMPRINTED ON SUCH BONDS OR NOTES, SUCH FACSIMILE SEAL WILL CONTINUE TO BE SUFFICIENT FOR ALL PURPOSES.

ANY RESOLUTION OR RESOLUTIONS AUTHORIZING ANY BONDS OR NOTES OR ANY ISSUE THEREOF MAY CONTAIN PROVISIONS, SUBJECT TO SUCH AGREEMENTS WITH BONDHOLDERS OR NOTEHOLDERS AS MAY THEN EXIST, WHICH PROVISIONS SHALL BE A PART OF THE CONTRACT WITH THE HOLDERS THEREOF, AS TO: THE PLEDGING OF ALL OR ANY PART OF THE REVENUES OF THE AUTHORITY TO SECURE THE PAYMENT OF THE BONDS OR NOTES OR OF ANY ISSUE THEREOF; THE USE AND DISPOSITION OF REVENUES OF THE AUTHORITY; A COVENANT TO FIX, ALTER, AND COLLECT RENTALS AND OTHER CHARGES SO THAT PLEDGED REVENUES WILL BE SUFFICIENT TO PAY COSTS OF OPERATION, MAINTENANCE, AND REPAIRS, PAY PRINCIPAL OF AND INTEREST ON BONDS OR NOTES SECURED BY THE PLEDGE OF SUCH REVENUES, AND PROVIDE SUCH RESERVES AS MAY BE REQUIRED BY THE APPLICABLE RESOLUTION OR TRUST AGREEMENT; THE SETTING ASIDE OF RESERVE FUNDS, SINKING FUNDS, OR REPLACEMENT AND IMPROVEMENT FUNDS AND THE REGULATION AND DISPOSITION THEREOF; THE CREDITING OF THE PROCEEDS OF THE SALE OF BONDS OR NOTES TO AND AMONG THE FUNDS REFERRED TO OR PROVIDED FOR IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS OR NOTES; THE USE, LEASE, SALE, OR OTHER DISPOSITION OF ANY ENERGY PROJECT OR ANY OTHER ASSETS OF THE AUTHORITY; LIMITATIONS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS OR NOTES MAY BE APPLIED AND THE PLEDGING OF SUCH PROCEEDS TO SECURE THE PAYMENT OF THE BONDS OR NOTES OR OF ANY ISSUE THEREOF; AS TO NOTES ISSUED IN ANTICIPATION OF THE ISSUANCE OF BONDS, THE AGREEMENT OF THE AUTHORITY TO DO ALL THINGS NECESSARY FOR THE AUTHORIZATION, ISSUANCE, AND SALE OF SUCH BONDS IN SUCH AMOUNTS AS MAY BE NECESSARY FOR THE TIMELY RETIREMENT OF SUCH NOTES; LIMITATIONS ON THE ISSUANCE OF

ADDITIONAL BONDS OR NOTES; THE TERMS UPON WHICH ADDITIONAL BONDS OR NOTES MAY BE ISSUED AND SECURED; THE REFUNDING OF OUTSTANDING BONDS OR NOTES; THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS OR NOTEHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS OR NOTES THE HOLDERS OF WHICH MUST CONSENT THERETO, AND THE MANNER IN WHICH SUCH CONSENT MAY BE GIVEN; LIMITATIONS ON THE AMOUNT OF MONEYS TO BE EXPENDED BY THE AUTHORITY FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY; SECURING ANY BONDS OR NOTES BY A TRUST AGREEMENT IN ACCORDANCE WITH SECTION 4934.07 OF THE REVISED CODE; ANY OTHER MATTERS, OF LIKE OR DIFFERENT CHARACTER, THAT IN ANY WAY AFFECT THE SECURITY OR PROTECTION OF THE BONDS OR NOTES.

NEITHER THE MEMBERS OF THE AUTHORITY NOR ANY PERSON EXECUTING THE BONDS OR NOTES SHALL BE LIABLE PERSONALLY ON THE BONDS OR NOTES OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

4934.06 OTHER STATE LAWS NOT APPLICABLE.

THE ISSUANCE OF ENERGY REVENUE BONDS AND NOTES OR ENERGY REVENUE REFUNDING BONDS UNDER CHAPTER 4934. OF THE REVISED CODE NEED NOT COMPLY WITH ANY OTHER LAW APPLICABLE TO THE ISSUANCE OF BONDS OR NOTES.

4934.07 BONDS OR NOTES SECURED BY TRUST AGREEMENT.

IN THE DISCRETION OF THE OHIO ENERGY DEVELOPMENT AUTHORITY, ANY ENERGY REVENUE BONDS OR NOTES OR ENERGY REVENUE REFUNDING BONDS ISSUED UNDER CHAPTER 4934. OF THE REVISED CODE, MAY BE SECURED BY A TRUST AGREEMENT BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE, WHICH TRUSTEE MAY BE ANY TRUST COMPANY OR BANK HAVING THE POWERS OF A TRUST COMPANY WITHIN OR WITHOUT THE STATE.

ANY SUCH TRUST AGREEMENT MAY PLEDGE OR ASSIGN REVENUES OF THE AUTHORITY TO BE RECEIVED, BUT SHALL NOT CONVEY OR MORTGAGE ANY ENERGY PROJECT OR ANY PART THEREOF. ANY SUCH TRUST AGREEMENT OR ANY RESOLUTION PROVIDING FOR

THE ISSUANCE OF SUCH BONDS OR NOTES MAY CONTAIN SUCH PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF THE BONDHOLDERS OR NOTEHOLDERS AS ARE REASONABLE AND PROPER AND NOT IN VIOLATION OF LAW, INCLUDING COVENANTS SETTING FORTH THE DUTIES OF THE AUTHORITY IN RELATION TO THE ACQUISITION OF PROPERTY, THE CONSTRUCTION, IMPROVEMENT, MAINTENANCE, REPAIR, OPERATION, AND INSURANCE OF THE ENERGY PROJECT OR PROJECTS IN CONNECTION WITH WHICH SUCH BONDS OR NOTES ARE AUTHORIZED, THE RENTALS OR OTHER CHARGES TO BE IMPOSED FOR THE USE OR SERVICES OF ANY ENERGY PROJECT, THE CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEYS, AND PROVISIONS FOR THE EMPLOYMENT OF CONSULTING ENGINEERS IN CONNECTION WITH THE CONSTRUCTION OR OPERATION OF SUCH ENERGY PROJECT OR PROJECTS. ANY BANK OR TRUST COMPANY INCORPORATED UNDER THE LAWS OF THIS STATE THAT MAY ACT AS DEPOSITORY OF THE PROCEEDS OF BONDS OR NOTES OR OF REVENUES MAY FURNISH SUCH INDEMNIFYING BONDS OR MAY PLEDGE SUCH SECURITIES AS ARE REQUIRED BY THE AUTHORITY. ANY SUCH TRUST AGREEMENT MAY SET FORTH THE RIGHTS AND REMEDIES OF THE BONDHOLDERS AND NOTEHOLDERS AND OF THE TRUSTEE, AND MAY RESTRICT THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS AND NOTEHOLDERS AS IS CUSTOMARY IN TRUST AGREEMENTS OR TRUST INDENTURES SECURING SIMILAR BONDS. SUCH TRUST AGREEMENT MAY CONTAIN SUCH OTHER PROVISIONS AS THE AUTHORITY DETERMINES REASONABLE AND PROPER FOR THE SECURITY OF THE BONDHOLDERS OR NOTEHOLDERS. ALL EXPENSES INCURRED IN CARRYING OUT THE PROVISIONS OF ANY SUCH TRUST AGREEMENT MAY BE TREATED AS A PART OF THE COST OF THE OPERATION OF THE ENERGY PROJECT OR PROJECTS. ANY SUCH TRUST AGREEMENT OR RESOLUTION AUTHORIZING THE ISSUANCE OF ENERGY REVENUE BONDS MAY PROVIDE THE METHOD WHEREBY THE GENERAL ADMINISTRATIVE OVERHEAD EXPENSES OF THE AUTHORITY SHALL BE ALLOCATED AMONG THE SEVERAL PROJECTS ACQUIRED OR CONSTRUCTED BY IT AS A FACTOR OF THE OPERATION EXPENSE OF EACH SUCH PROJECT.

4934.08 PROTECTION AND ENFORCEMENT OF RIGHTS OF BONDHOLDER AND TRUSTEES.

ANY HOLDER OF ENERGY REVENUE BONDS ISSUED UNDER CHAPTER 4934. OF THE REVISED CODE, OR ANY OF THE COUPONS

APPERTAINING THERETO, AND THE TRUSTEE UNDER ANY TRUST AGREEMENT, EXCEPT TO THE EXTENT THE RIGHTS GIVEN BY SUCH CHAPTER MAY BE RESTRICTED BY THE APPLICABLE RESOLUTION OR SUCH TRUST AGREEMENT, MAY BY SUIT, ACTION, MANDAMUS, OR OTHER PROCEEDINGS, PROTECT AND ENFORCE ANY RIGHTS UNDER THE LAWS OF THE STATE OR GRANTED UNDER SUCH CHAPTER, TRUST AGREEMENT, OR THE RESOLUTION AUTHORIZING THE ISSUANCE OF SUCH BONDS, AND MAY ENFORCE AND COMPEL THE PERFORMANCE OF ALL DUTIES REQUIRED BY SUCH CHAPTER, OR BY THE TRUST AGREEMENT OR RESOLUTION, TO BE PERFORMED BY THE OHIO ENERGY DEVELOPMENT AUTHORITY OR ANY OFFICER THEREOF, INCLUDING THE FIXING, CHARGING, AND COLLECTING OF RENTALS OR OTHER CHARGES.

4934.09 BONDS NOT A DEBT OF STATE.

ENERGY REVENUE BONDS AND NOTES AND ENERGY REVENUE REFUNDING BONDS ISSUED UNDER CHAPTER 4934. OF THE REVISED CODE DO NOT CONSTITUTE A DEBT, OR A PLEDGE OF THE FAITH AND CREDIT, OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND THE HOLDERS OR OWNERS THEREOF HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL THEREOF OR INTEREST THEREON, BUT SUCH BONDS AND NOTES ARE PAYABLE SOLELY FROM THE REVENUES AND FUNDS PLEDGED FOR THEIR PAYMENT AS AUTHORIZED BY SUCH CHAPTER, UNLESS THE NOTES ARE ISSUED IN ANTICIPATION OF THE ISSUANCE OF BONDS OR THE BONDS ARE REFUNDED BY REFUNDING BONDS ISSUED UNDER SUCH CHAPTER, WHICH BONDS OR REFUNDING BONDS SHALL BE PAYABLE SOLELY FROM REVENUES AND FUNDS PLEDGED FOR THEIR PAYMENT AS AUTHORIZED BY SUCH SECTIONS. ALL SUCH BONDS AND NOTES SHALL CONTAIN ON THE FACE THEREOF A STATEMENT TO THE EFFECT THAT THE BONDS OR NOTES, AS TO BOTH PRINCIPAL AND INTEREST, ARE NOT DEBTS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, BUT ARE PAYABLE SOLELY FROM REVENUES AND FUNDS PLEDGED FOR THEIR PAYMENT.

ALL EXPENSES INCURRED IN CARRYING OUT CHAPTER 4934. OF THE REVISED CODE ARE PAYABLE SOLELY FROM FUNDS PROVIDED UNDER SUCH CHAPTER. SUCH CHAPTER DOES NOT AUTHORIZE THE OHIO ENERGY DEVELOPMENT AUTHORITY TO INCUR INDEBTEDNESS

OR LIABILITY ON BEHALF OF OR PAYABLE BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

4934.10 ALL FUNDS ACQUIRED SHALL BE HELD IN TRUST.

ALL MONEYS, FUNDS, PROPERTIES, AND ASSETS ACQUIRED BY THE OHIO ENERGY DEVELOPMENT AUTHORITY UNDER CHAPTER 4934. OF THE REVISED CODE, WHETHER AS PROCEEDS FROM THE SALE OF ENERGY REVENUE BONDS OR AS REVENUES, OR OTHERWISE, SHALL BE HELD BY IT IN TRUST FOR THE PURPOSES OF CARRYING OUT ITS POWERS AND DUTIES, SHALL BE USED AND REUSED AS PROVIDED IN SUCH CHAPTER, AND SHALL AT NO TIME BE PART OF OTHER PUBLIC FUNDS. SUCH FUNDS, EXCEPT AS OTHERWISE PROVIDED IN ANY RESOLUTION AUTHORIZING ITS ENERGY REVENUE BONDS OR IN ANY TRUST AGREEMENT SECURING THE SAME, OR EXCEPT WHEN INVESTED PURSUANT TO SECTION 4934.11 OF THE REVISED CODE, SHALL BE KEPT IN DEPOSITORIES SELECTED BY THE AUTHORITY IN THE MANNER PROVIDED IN CHAPTER 135. OF THE REVISED CODE, AND THE DEPOSITS SHALL BE SECURED AS PROVIDED IN CHAPTER 135. OF THE REVISED CODE. THE RESOLUTION AUTHORIZING THE ISSUANCE OF SUCH BONDS OF ANY ISSUE OR THE TRUST AGREEMENT SECURING SUCH BONDS SHALL PROVIDE THAT ANY OFFICER TO WHOM, OR ANY BANK OR TRUST COMPANY TO WHICH, SUCH MONEYS ARE PAID SHALL ACT AS TRUSTEE OF SUCH MONEYS AND HOLD AND APPLY THEM FOR THE PURPOSES HEREOF, SUBJECT TO SUCH CONDITIONS AS SUCH CHAPTER AND SUCH RESOLUTIONS OR TRUST AGREEMENT PROVIDE.

4934.101 RENEWABLE ENERGY AND ENERGY EFFICIENCY.

THE ENERGY AUTHORITY SHALL WORK WITH ELECTRIC UTILITIES, GOVERNMENT AGENCIES AND PERSONS TO ENSURE THAT THE REQUIREMENTS OF SECTION 4928.70 ARE ACHIEVED IN A TIMELY AND LEAST COST MANNER.

4934.11 MONIES IN EXCESS OF CURRENT NEEDS MAY BE INVESTED IN NOTES AND BONDS.

MONEYS IN THE FUNDS OF THE OHIO ENERGY DEVELOPMENT AUTHORITY, EXCEPT AS OTHERWISE PROVIDED IN ANY RESOLUTION AUTHORIZING THE ISSUANCE OF ITS ENERGY REVENUE BONDS OR IN ANY TRUST AGREEMENT SECURING THE SAME, IN EXCESS OF

CURRENT NEEDS, MAY BE INVESTED IN NOTES, BONDS, OR OTHER OBLIGATIONS OF THE UNITED STATES OF AMERICA OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR IN OBLIGATIONS OF THIS STATE OR ANY POLITICAL SUBDIVISION THEREOF. INCOME FROM ALL SUCH INVESTMENTS OF MONEYS IN ANY FUND SHALL BE CREDITED TO SUCH FUNDS AS THE AUTHORITY DETERMINES, SUBJECT TO THE PROVISIONS OF ANY SUCH RESOLUTION OR TRUST AGREEMENT AND SUCH INVESTMENTS MAY BE SOLD AT SUCH TIME AS THE AUTHORITY DETERMINES.

**4934.12 RENTALS OR CHARGES FOR USE OR SERVICES -
GOVERNMENTAL AGENCIES MAY COOPERATE WITH AUTHORITY -
AGREEMENTS.**

THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY CHARGE, ALTER, AND COLLECT RENTALS OR OTHER CHARGES FOR THE USE OR SERVICES OF ANY ENERGY PROJECT AND CONTRACT IN THE MANNER PROVIDED BY THIS SECTION WITH ONE OR MORE PERSONS, ONE OR MORE GOVERNMENTAL AGENCIES, OR ANY COMBINATION THEREOF, DESIRING THE USE OR SERVICES OF SUCH PROJECT, AND FIX THE TERMS, CONDITIONS, RENTALS, OR OTHER CHARGES FOR SUCH USE OR SERVICES. SUCH RENTALS OR OTHER CHARGES SHALL NOT BE SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER AUTHORITY, COMMISSION, BOARD, BUREAU, OR AGENCY OF THE STATE AND SUCH CONTRACT MAY PROVIDE FOR ACQUISITION BY SUCH PERSON OR GOVERNMENTAL AGENCY OF ALL OR ANY PART OF SUCH ENERGY PROJECT FOR SUCH CONSIDERATION PAYABLE OVER THE PERIOD OF THE CONTRACT OR OTHERWISE AS THE AUTHORITY IN ITS SOLE DISCRETION DETERMINES TO BE APPROPRIATE, BUT SUBJECT TO THE PROVISIONS OF ANY RESOLUTION AUTHORIZING THE ISSUANCE OF ENERGY REVENUE BONDS OR NOTES OR ENERGY REVENUE REFUNDING BONDS OF THE AUTHORITY OR ANY TRUST AGREEMENT SECURING THE SAME. ANY GOVERNMENTAL AGENCY THAT HAS POWER TO CONSTRUCT, OPERATE, AND MAINTAIN ENERGY FACILITIES MAY ENTER INTO A CONTRACT OR LEASE WITH THE AUTHORITY WHEREBY THE USE OR SERVICES OF ANY ENERGY PROJECT OF THE AUTHORITY WILL BE MADE AVAILABLE TO SUCH GOVERNMENTAL AGENCY AND MAY PAY FOR SUCH USE OR SERVICES SUCH RENTALS OR OTHER CHARGES AS MAY BE AGREED TO BY THE AUTHORITY AND SUCH GOVERNMENTAL AGENCY.

ANY GOVERNMENTAL AGENCY OR COMBINATION OF GOVERNMENTAL AGENCIES MAY COOPERATE WITH THE AUTHORITY IN THE ACQUISITION OR CONSTRUCTION OF AN ENERGY PROJECT AND SHALL ENTER INTO SUCH AGREEMENTS WITH THE AUTHORITY AS MAY BE NECESSARY, WITH A VIEW TO EFFECTIVE COOPERATIVE ACTION AND SAFEGUARDING OF THE RESPECTIVE INTERESTS OF THE PARTIES THERETO, WHICH AGREEMENTS SHALL PROVIDE FOR SUCH CONTRIBUTIONS BY THE PARTIES THERETO IN SUCH PROPORTION AS MAY BE AGREED UPON AND SUCH OTHER TERMS AS MAY BE MUTUALLY SATISFACTORY TO THE PARTIES INCLUDING WITHOUT LIMITATION THE AUTHORIZATION OF THE CONSTRUCTION OF THE PROJECT BY ONE OF THE PARTIES ACTING AS AGENT FOR ALL OF THE PARTIES AND THE OWNERSHIP AND CONTROL OF THE PROJECT BY THE AUTHORITY TO THE EXTENT NECESSARY OR APPROPRIATE FOR PURPOSES OF THE ISSUANCE OF ENERGY REVENUE BONDS BY THE AUTHORITY. ANY GOVERNMENTAL AGENCY MAY PROVIDE THE FUNDS FOR THE PAYMENT OF SUCH CONTRIBUTION AS IS REQUIRED UNDER SUCH AGREEMENTS BY THE LEVY OF TAXES, ASSESSMENTS OR RENTALS AND OTHER CHARGES FOR THE USE OF THE UTILITY SYSTEM OF WHICH THE ENERGY PROJECT IS A PART OR TO WHICH IT IS CONNECTED, IF OTHERWISE AUTHORIZED BY THE LAWS GOVERNING SUCH GOVERNMENTAL AGENCY IN THE CONSTRUCTION OF THE TYPE OF ENERGY PROJECT PROVIDED FOR IN THE AGREEMENTS, AND MAY PAY THE PROCEEDS FROM THE COLLECTION OF SUCH TAXES, ASSESSMENTS, UTILITY RENTALS, OR OTHER CHARGES TO THE AUTHORITY PURSUANT TO SUCH AGREEMENTS; OR THE GOVERNMENTAL AGENCY MAY ISSUE BONDS OR NOTES, IF AUTHORIZED BY SUCH LAWS, IN ANTICIPATION OF THE COLLECTION OF SUCH TAXES, ASSESSMENTS, UTILITY RENTALS, OR OTHER CHARGES AND MAY PAY THE PROCEEDS OF SUCH BONDS OR NOTES TO THE AUTHORITY PURSUANT TO SUCH AGREEMENTS. IN ADDITION ANY GOVERNMENTAL AGENCY MAY PROVIDE THE FUNDS FOR THE PAYMENT OF SUCH CONTRIBUTION BY THE APPROPRIATION OF MONEY OR, IF OTHERWISE AUTHORIZED BY LAW, BY THE ISSUANCE OF BONDS OR NOTES AND MAY PAY SUCH APPROPRIATED MONEY OR THE PROCEEDS OF SUCH BONDS OR NOTES TO THE AUTHORITY PURSUANT TO SUCH AGREEMENTS. THE AGREEMENT BY THE GOVERNMENTAL AGENCY TO PROVIDE SUCH CONTRIBUTION, WHETHER FROM APPROPRIATED MONEY OR FROM THE PROCEEDS OF SUCH TAXES, ASSESSMENTS, UTILITY RENTALS, OR OTHER CHARGES, OR SUCH BONDS OR NOTES, OR ANY COMBINATION THEREOF, SHALL NOT BE SUBJECT TO CHAPTER 133. OF THE

REVISED CODE OR ANY REGULATIONS OR LIMITATIONS CONTAINED THEREIN. THE PROCEEDS FROM THE COLLECTION OF SUCH TAXES OR ASSESSMENTS, AND ANY INTEREST EARNED THEREON, SHALL BE PAID INTO A SPECIAL FUND IMMEDIATELY UPON THE COLLECTION THEREOF BY THE GOVERNMENTAL AGENCY FOR THE PURPOSE OF PROVIDING SUCH CONTRIBUTION AT THE TIMES REQUIRED UNDER SUCH AGREEMENTS.

WHEN THE CONTRIBUTION OF ANY GOVERNMENTAL AGENCY IS TO BE MADE OVER A PERIOD OF TIME FROM THE PROCEEDS OF THE COLLECTION OF SPECIAL ASSESSMENTS, THE INTEREST ACCRUED AND TO ACCRUE BEFORE THE FIRST INSTALLMENT OF SUCH ASSESSMENTS SHALL BE COLLECTED WHICH IS PAYABLE BY SUCH GOVERNMENTAL AGENCY ON SUCH CONTRIBUTION UNDER THE TERMS AND PROVISIONS OF SUCH AGREEMENTS SHALL BE TREATED AS PART OF THE COST OF THE IMPROVEMENT FOR WHICH SUCH ASSESSMENTS ARE LEVIED, AND THAT PORTION OF SUCH ASSESSMENTS AS ARE COLLECTED IN INSTALLMENTS SHALL BEAR INTEREST AT THE SAME RATE AS SUCH GOVERNMENTAL AGENCY IS OBLIGATED TO PAY ON SUCH CONTRIBUTION UNDER THE TERMS AND PROVISIONS OF SUCH AGREEMENTS AND FOR THE SAME PERIOD OF TIME AS THE CONTRIBUTION IS TO BE MADE UNDER SUCH AGREEMENTS. IF THE ASSESSMENT OR ANY INSTALLMENT THEREOF IS NOT PAID WHEN DUE, IT SHALL BEAR INTEREST UNTIL THE PAYMENT THEREOF AT THE SAME RATE AS SUCH CONTRIBUTION AND THE COUNTY AUDITOR SHALL ANNUALLY PLACE ON THE TAX LIST AND DUPLICATE THE INTEREST APPLICABLE TO SUCH ASSESSMENT AND THE PENALTY AND ADDITIONAL INTEREST THEREON AS OTHERWISE AUTHORIZED BY LAW.

ANY GOVERNMENTAL AGENCY, PURSUANT TO A FAVORABLE VOTE OF THE ELECTORS IN AN ELECTION HELD BEFORE OR AFTER JUNE 1, 1970, FOR THE PURPOSE OF ISSUING BONDS TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT, OR EQUIP, OR PROVIDE REAL ESTATE AND INTERESTS IN REAL ESTATE FOR, AN ENERGY FACILITY, WHETHER OR NOT SUCH GOVERNMENTAL AGENCY, AT THE TIME OF SUCH ELECTION, HAD THE AUTHORITY TO PAY THE PROCEEDS FROM SUCH BONDS OR NOTES ISSUED IN ANTICIPATION THEREOF TO THE AUTHORITY AS PROVIDED IN THIS SECTION, MAY ISSUE SUCH BONDS OR NOTES IN ANTICIPATION OF THE ISSUANCE THEREOF AND PAY THE PROCEEDS THEREOF TO THE AUTHORITY IN ACCORDANCE WITH ITS AGREEMENT WITH THE AUTHORITY; PROVIDED, THAT THE LEGISLATIVE AUTHORITY OF THE

GOVERNMENTAL AGENCY FIND AND DETERMINE THAT THE ENERGY PROJECT TO BE ACQUIRED OR CONSTRUCTED BY THE AUTHORITY IN COOPERATION WITH SUCH GOVERNMENTAL AGENCY WILL SERVE THE SAME PUBLIC PURPOSE AND MEET SUBSTANTIALLY THE SAME PUBLIC NEED AS THE FACILITY OTHERWISE PROPOSED TO BE ACQUIRED OR CONSTRUCTED BY THE GOVERNMENTAL AGENCY WITH THE PROCEEDS OF SUCH BONDS OR NOTES.

4934.13 PROJECTS TO BE MAINTAINED AND REPAIRED - REPORTS.

EACH ENERGY PROJECT, WHEN CONSTRUCTED AND PLACED IN OPERATION, SHALL BE MAINTAINED AND KEPT IN GOOD CONDITION AND REPAIR BY THE OHIO ENERGY DEVELOPMENT AUTHORITY OR THE AUTHORITY SHALL CAUSE THE SAME TO BE MAINTAINED AND KEPT IN GOOD CONDITION AND REPAIR. EACH SUCH PROJECT SHALL BE OPERATED BY SUCH OPERATING EMPLOYEES AS THE AUTHORITY EMPLOYS OR PURSUANT TO A CONTRACT OR LEASE WITH A PERSON OR GOVERNMENTAL AGENCY. ALL PUBLIC OR PRIVATE PROPERTY DAMAGED OR DESTROYED IN CARRYING OUT THE POWERS GRANTED BY CHAPTER 3706. OF THE REVISED CODE, SHALL BE RESTORED OR REPAIRED AND PLACED IN ITS ORIGINAL CONDITION, AS NEARLY AS PRACTICABLE, OR ADEQUATE COMPENSATION SHALL BE PAID THEREFOR FROM FUNDS PROVIDED UNDER SUCH CHAPTER.

ON OR BEFORE THE TWENTIETH DAY OF APRIL IN EACH YEAR, THE AUTHORITY SHALL MAKE A REPORT OF ITS ACTIVITIES FOR THE PRECEDING CALENDAR YEAR TO THE GOVERNOR AND THE GENERAL ASSEMBLY. EACH SUCH REPORT SHALL SET FORTH A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE AUTHORITY'S OPERATIONS DURING THE YEAR. THE AUTHORITY SHALL CAUSE AN AUDIT OF ITS BOOKS AND ACCOUNTS TO BE MADE AT LEAST ONCE EACH YEAR BY CERTIFIED PUBLIC ACCOUNTANTS AND THE COST THEREOF MAY BE TREATED AS A PART OF THE COST OF CONSTRUCTION OR OF OPERATIONS OF ITS PROJECTS.

4934.14 BONDS ARE LAWFUL INVESTMENTS.

ALL ENERGY REVENUE BONDS ISSUED UNDER THIS CHAPTER ARE LAWFUL INVESTMENTS OF BANKS, SOCIETIES FOR SAVINGS, SAVINGS AND LOAN ASSOCIATIONS, DEPOSIT GUARANTEE ASSOCIATIONS, TRUST COMPANIES, TRUSTEES, FIDUCIARIES,

INSURANCE COMPANIES, INCLUDING DOMESTIC FOR LIFE AND DOMESTIC NOT FOR LIFE, TRUSTEES OR OTHER OFFICERS HAVING CHARGE OF SINKING AND BOND RETIREMENT OR OTHER SPECIAL FUNDS OF POLITICAL SUBDIVISIONS AND TAXING DISTRICTS OF THIS STATE, THE COMMISSIONERS OF THE SINKING FUND OF THE STATE, THE ADMINISTRATOR OF WORKERS' COMPENSATION, THE STATE TEACHERS RETIREMENT SYSTEM, THE PUBLIC EMPLOYEES RETIREMENT SYSTEM, THE SCHOOL EMPLOYEES RETIREMENT SYSTEM, AND THE OHIO POLICE AND FIRE PENSION FUND, AND ARE ACCEPTABLE AS SECURITY FOR THE DEPOSIT OF PUBLIC MONEYS.

4934.15 EXEMPTION FROM TAXES AND ASSESSMENTS.

THE EXERCISE OF THE POWERS GRANTED BY CHAPTER 3706. OF THE REVISED CODE, WILL BE FOR THE BENEFIT OF THE PEOPLE OF THE STATE, FOR THE IMPROVEMENT OF THEIR HEALTH, SAFETY, CONVENIENCE, AND WELFARE, AND FOR THE ENHANCEMENT OF THEIR RESIDENTIAL, AGRICULTURAL, RECREATIONAL, ECONOMIC, COMMERCIAL, AND INDUSTRIAL OPPORTUNITIES AND IS A PUBLIC PURPOSE. AS THE OPERATION AND MAINTENANCE OF ENERGY PROJECTS WILL CONSTITUTE THE PERFORMANCE OF ESSENTIAL GOVERNMENTAL FUNCTIONS, THE OHIO ENERGY DEVELOPMENT AUTHORITY SHALL NOT BE REQUIRED TO PAY ANY TAXES OR ASSESSMENTS UPON ANY ENERGY PROJECT, OR UPON ANY PROPERTY ACQUIRED OR USED BY THE AUTHORITY UNDER CHAPTER 3706. OF THE REVISED CODE, OR UPON THE INCOME THEREFROM, NOR SHALL THE TRANSFER TO OR FROM THE OHIO ENERGY DEVELOPMENT AUTHORITY OF TITLE OR POSSESSION OF ANY ENERGY PROJECT, PART THEREOF, OR ITEM INCLUDED OR TO BE INCLUDED IN ANY SUCH PROJECT, BE SUBJECT TO THE TAXES LEVIED PURSUANT TO CHAPTERS 5739., AND 5741. OF THE REVISED CODE, AND THE BONDS AND NOTES ISSUED UNDER THIS CHAPTER, THEIR TRANSFER, AND THE INCOME THEREFROM, INCLUDING ANY PROFIT MADE ON THE SALE THEREOF, SHALL AT ALL TIMES BE FREE FROM TAXATION WITHIN THE STATE.

4934.16 AUTHORITY TO ACQUIRE LAND AS NECESSARY FOR PROJECTS.

THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY ACQUIRE BY PURCHASE, WHENEVER IT FINDS SUCH PURCHASE EXPEDIENT, ANY LAND, PROPERTY, RIGHTS, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LANDS AS IT FINDS TO BE

NECESSARY OR CONVENIENT FOR THE CONSTRUCTION AND OPERATION OF ANY ENERGY PROJECT, UPON SUCH TERMS AND AT SUCH PRICE AS IT CONSIDERS REASONABLE AND ARE AGREED UPON BETWEEN THE AUTHORITY AND THE OWNER THEREOF, AND TAKE TITLE THERETO IN THE NAME OF THE STATE.

ANY GOVERNMENTAL AGENCY, NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND WITHOUT THE NECESSITY FOR AN ADVERTISEMENT, AUCTION, ORDER OF COURT, OR OTHER ACTION OR FORMALITY, OTHER THAN THE REGULAR AND FORMAL ACTION OF SUCH GOVERNMENTAL AGENCY CONCERNED, MAY LEASE, LEND, GRANT, OR CONVEY TO THE AUTHORITY, AT ITS REQUEST, UPON SUCH TERMS AS THE PROPER AUTHORITIES OF SUCH GOVERNMENTAL AGENCY FIND REASONABLE AND FAIR ANY REAL PROPERTY OR INTERESTS THEREIN INCLUDING IMPROVEMENTS THERETO OR PERSONAL PROPERTY WHICH IS NECESSARY OR CONVENIENT TO EFFECT THE AUTHORIZED PURPOSES OF THE AUTHORITY, INCLUDING PUBLIC ROADS AND REAL OR PERSONAL PROPERTY ALREADY DEVOTED TO PUBLIC USE.

4934.17 AUTHORITY TO APPROPRIATE LAND AS NECESSARY FOR PROJECTS.

THE OHIO ENERGY DEVELOPMENT AUTHORITY MAY ACQUIRE BY APPROPRIATION PURSUANT TO DIVISION (J) OF SECTION 3706.04 OF THE REVISED CODE ANY LAND, RIGHTS, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, OR OTHER PROPERTY NECESSARY OR PROPER FOR THE CONSTRUCTION OR THE EFFICIENT OPERATION OF ANY ENERGY PROJECT. IN ANY PROCEEDINGS FOR APPROPRIATION UNDER THIS SECTION, THE PROCEDURE TO BE FOLLOWED SHALL BE IN ACCORDANCE WITH CHAPTER 163. OF THE REVISED CODE.

THIS SECTION DOES NOT EMPOWER THE AUTHORITY TO TAKE OR DISTURB PROPERTY OR FACILITIES BELONGING TO AND REQUIRED FOR THE PROPER AND CONVENIENT OPERATION OF ANY PUBLIC UTILITY OR ANY COMMON CARRIER ENGAGED IN INTERSTATE COMMERCE, UNLESS PROVISION IS MADE FOR THE RESTORATION, RELOCATION, OR DUPLICATION OF SUCH PROPERTY OR FACILITIES ELSEWHERE AT THE SOLE COST OF THE AUTHORITY.

**4934.18 AUTHORITY TO CAUSE REMOVAL OR RELOCATION OF
ROADS, HIGHWAYS, RAILROADS OR PUBLIC UTILITY FACILITIES.**

WHEN THE OHIO ENERGY DEVELOPMENT AUTHORITY FINDS IT NECESSARY TO CHANGE THE LOCATION OF ANY PORTION OF ANY PUBLIC ROAD, STATE HIGHWAY, RAILROAD, OR PUBLIC UTILITY FACILITY IN CONNECTION WITH THE CONSTRUCTION OF AN ENERGY PROJECT, IT SHALL CAUSE THE SAME TO BE RECONSTRUCTED AT SUCH LOCATION AS THE DIVISION OF GOVERNMENT HAVING JURISDICTION OVER SUCH ROAD, HIGHWAY, RAILROAD, OR PUBLIC UTILITY FACILITY FINDS MOST FAVORABLE. SUCH RECONSTRUCTION SHALL BE OF SUBSTANTIALLY THE SAME TYPE AND IN AS GOOD CONDITION AS THE ORIGINAL ROAD, HIGHWAY, RAILROAD, OR PUBLIC UTILITY FACILITY. THE COST OF SUCH RECONSTRUCTION, RELOCATION, OR REMOVAL AND ANY DAMAGE INCURRED IN CHANGING THE LOCATION OF ANY SUCH ROAD, HIGHWAY, RAILROAD, OR PUBLIC UTILITY FACILITY SHALL BE PAID BY THE AUTHORITY AS A PART OF THE COST OF SUCH ENERGY PROJECT.

WHEN THE AUTHORITY FINDS IT NECESSARY THAT ANY PUBLIC HIGHWAY OR PORTION THEREOF BE VACATED BY REASON OF THE ACQUISITION OR CONSTRUCTION OF AN ENERGY PROJECT, THE AUTHORITY MAY REQUEST THE DIRECTOR OF TRANSPORTATION, IN WRITING, TO VACATE SUCH HIGHWAY OR PORTION THEREOF IN ACCORDANCE WITH SECTION 5511.07 OF THE REVISED CODE IF THE HIGHWAY OR PORTION THEREOF TO BE VACATED IS ON THE STATE HIGHWAY SYSTEM, OR, IF THE HIGHWAY OR PORTION THEREOF TO BE VACATED IS UNDER THE JURISDICTION OF THE COUNTY COMMISSIONERS, THE AUTHORITY SHALL REQUEST THE DIRECTOR, IN WRITING, TO PETITION THE COUNTY COMMISSIONERS, IN THE MANNER PROVIDED IN SECTION 5553.041 OF THE REVISED CODE, TO VACATE SUCH HIGHWAY OR PORTION THEREOF. THE AUTHORITY SHALL PAY TO THE DIRECTOR OR TO THE COUNTY, AS A PART OF THE COST OF SUCH ENERGY PROJECT, ANY AMOUNTS REQUIRED TO BE DEPOSITED WITH ANY COURT IN CONNECTION WITH PROCEEDINGS FOR THE DETERMINATION OF COMPENSATION AND DAMAGES AND ALL AMOUNTS OF COMPENSATION AND DAMAGES FINALLY DETERMINED TO BE PAYABLE AS A RESULT OF SUCH VACATION.

THE AUTHORITY MAY MAKE REASONABLE REGULATIONS FOR THE INSTALLATION, CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, RELOCATION, AND REMOVAL OF RAILROAD OR PUBLIC UTILITY FACILITIES IN, ON, OVER, OR UNDER ANY ENERGY PROJECT.

WHENEVER THE AUTHORITY DETERMINES THAT IT IS NECESSARY THAT ANY SUCH FACILITIES INSTALLED OR CONSTRUCTED IN, ON, OVER, OR UNDER PROPERTY OF THE AUTHORITY PURSUANT TO SUCH REGULATIONS BE RELOCATED, THE PUBLIC UTILITY OWNING OR OPERATING SUCH FACILITIES SHALL RELOCATE OR REMOVE THEM IN ACCORDANCE WITH THE ORDER OF THE AUTHORITY. THE COST AND EXPENSES OF SUCH RELOCATION OR REMOVAL, INCLUDING THE COST OF INSTALLING SUCH FACILITIES IN A NEW LOCATION, AND THE COST OF ANY LANDS, OR ANY RIGHTS OR INTERESTS IN LANDS, AND THE COST OF ANY OTHER RIGHTS, ACQUIRED TO ACCOMPLISH SUCH RELOCATION OR REMOVAL, MAY BE PAID BY THE AUTHORITY AS A PART OF THE COST OF SUCH ENERGY PROJECT. IN CASE OF ANY SUCH RELOCATION OR REMOVAL OF FACILITIES, THE RAILROAD OR PUBLIC UTILITY OWNING OR OPERATING THEM, ITS SUCCESSORS, OR ASSIGNS MAY MAINTAIN AND OPERATE SUCH FACILITIES, WITH THE NECESSARY APPURTENANCES, IN THE NEW LOCATION IN, ON, OVER, OR UNDER THE PROPERTY OF THE AUTHORITY FOR AS LONG A PERIOD AND UPON THE SAME TERMS AS IT HAD THE RIGHT TO MAINTAIN AND OPERATE SUCH FACILITIES IN THEIR FORMER LOCATION.

4934.19 ELECTRIC UTILITIES PURCHASES.

ALL ELECTRIC UTILITIES ARE REQUIRED TO PURCHASE ELECTRICITY PRODUCED BY GENERATION OWNED, LEASED, OR CONSTRUCTED WITH FUNDING FROM THE ENERGY AUTHORITY, AND ARE ALSO REQUIRED TO PURCHASE ENERGY FROM POWER SALES AGREEMENTS ENTERED INTO BY THE AUTHORITY PROVIDED THAT THE PROJECT OR PURCHASE IS CONSISTENT WITH STATE POLICY UNDER SECTION 4928.02 OF THE REVISED CODE AND SECTION 4905.70 OF THE REVISED CODE. FURTHER, THE PRICE OF THE POWER REQUIRED TO BE PURCHASED SHALL BE ESTABLISHED THROUGH A PROCEEDING UNDER SECTION 4909.18 OF THE REVISED CODE. ELECTRIC UTILITIES SHALL PROVIDE AT COST ELECTRICITY PURCHASED UNDER THE AUTHORITY OF THIS SECTION AS A COMPONENT OF THE STANDARD SERVICE OFFER REQUIRED BY SECTION 4928.14 OF THE REVISED CODE, THE SERVICE REQUIRED UNDER 4928.15 OF THE REVISED CODE, AND TO SELF-GENERATORS AS NECESSARY FOR BACKUP SERVICE.

4934.20 PUBLIC MEETINGS AND RECORDS.

ALL MEETINGS OF THE OHIO ENERGY DEVELOPMENT AUTHORITY SHALL BE PUBLIC. ALL FINAL ACTIONS OF THE AUTHORITY SHALL BE

JOURNALIZED AND SUCH JOURNAL AND THE RECORDS OF THE AUTHORITY SHALL BE OPEN TO PUBLIC INSPECTION AT ALL REASONABLE TIMES, EXCEPT THAT ANY RECORD OR INFORMATION RELATING TO SECRET PROCESSES OR SECRET METHODS OF MANUFACTURE OR PRODUCTION THAT MAY BE OBTAINED BY THE AUTHORITY OR OTHER PERSONS ACTING UNDER CHAPTER 4934. OF THE REVISED CODE ARE CONFIDENTIAL AND SHALL NOT BE DISCLOSED.

4934.21 LIBERAL CONSTRUCTION OF CHAPTER.

SECTIONS 4934.01 TO 4934.20, INCLUSIVE, OF THE REVISED CODE BEING NECESSARY FOR THE WELFARE OF THE STATE AND ITS INHABITANTS SHALL BE LIBERALLY CONSTRUED TO EFFECT THE PURPOSES THEREOF CONSISTENT WITH THE POLICIES OF THIS STATE ESTABLISHED UNDER THIS CHAPTER AND UNDER SECTION 4928.02 OF THE REVISED CODE.

Section 5739.02(B)(48) ENERGY STAR® CERTIFIED APPLIANCES, HEATING AND COOLING EQUIPMENT AND LIGHTING.

Section 2.

The commission may adopt and publish rules under section 111.15 of the Revised Code, as are necessary and proper to implement the provisions of Section 1.