

As Introduced

**124th General Assembly
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H. B. No. 9

REPRESENTATIVES Setzer, Olman

A B I L L

To amend sections 4905.10, 4911.18, and 4929.01 and to 1
enact sections 4929.20 to 4929.26 of the Revised 2
Code to subject retail natural gas suppliers and 3
governmental aggregators to certification by the 4
Public Utilities Commission, to authorize 5
governmental aggregation for competitive retail 6
natural gas services, and to authorize the 7
Commission, upon application by a governmental 8
aggregator, to require a natural gas company to 9
provide distribution service on a comparable and 10
nondiscriminatory basis within the area of the 11
governmental aggregation. 12

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

Section 1. That sections 4905.10, 4911.18, and 4929.01 be 13
amended and sections 4929.20, 4929.21, 4929.22, 4929.23, 4929.24, 14
4929.25, and 4929.26 of the Revised Code be enacted to read as 15
follows: 16

Sec. 4905.10. (A) For the sole purpose of maintaining and 17
administering the public utilities commission and exercising its 18
supervision and jurisdiction over the railroads and public 19
utilities of ~~the~~ this state, an amount equivalent to the 20

appropriation from the public utilities fund created under 21
division (B) of this section to the public utilities commission 22
for railroad and public utilities regulation in each fiscal year 23
shall be apportioned among and assessed against each railroad and 24
public utility within ~~the~~ this state by the commission by first 25
computing an assessment as though it were to be made in proportion 26
to the intrastate gross earnings or receipts, excluding earnings 27
or receipts from sales to other public utilities for resale, of 28
the railroad or public utility for the calendar year next 29
preceding that in which the assessment is made. The commission may 30
include in that first computation any amount of a railroad's or 31
public utility's intrastate gross earnings or receipts that were 32
underreported in a prior year. In addition to whatever penalties 33
apply under the Revised Code to such underreporting, the 34
commission shall assess the railroad or public utility interest at 35
the rate stated in division (A) of section 1343.01 of the Revised 36
Code. The commission shall deposit any interest so collected into 37
the public utilities fund. 38

The final computation of the assessment shall consist of 39
imposing upon each railroad and public utility whose assessment 40
under the first computation would have been fifty dollars or less 41
an assessment of fifty dollars and recomputing the assessments of 42
the remaining railroads and public utilities by apportioning an 43
amount equal to the appropriation to the public utilities 44
commission for administration of the utilities division in each 45
fiscal year less the total amount to be recovered from those 46
paying the minimum assessment, in proportion to the intrastate 47
gross earnings or receipts of the remaining railroads and public 48
utilities for the calendar year next preceding that in which the 49
assessments are made. 50

In the case of an assessment based on intrastate gross 51
receipts under this section against a public utility that is an 52

electric utility as defined in section 4928.01 of the Revised
Code, or an electric services company, electric cooperative, or
governmental aggregator subject to certification under section
4928.08 of the Revised Code, such receipts shall be those
specified in the utility's, company's, cooperative's, or
aggregator's most recent report of intrastate gross receipts and
sales of kilowatt hours of electricity, filed with the commission
pursuant to division (F) of section 4928.06 of the Revised Code,
and verified by the commission.

In the case of an assessment based on intrastate gross
receipts under this section against a retail natural gas supplier
or governmental aggregator subject to certification under section
4929.20 of the Revised Code, such receipts shall be those
specified in the supplier's or aggregator's most recent report of
intrastate gross receipts and sales of hundred cubic feet of
natural gas, filed with the commission pursuant to division (B) of
section 4929.23 of the Revised Code, and verified by the
commission.

(B) On or before the first day of October in each year, the
commission shall notify each such railroad and public utility of
the sum assessed against it, whereupon payment shall be made to
the commission, which shall deposit it into the state treasury to
the credit of the public utilities fund, which is hereby created.
Any such amounts paid into the fund but not expended by the
commission shall be credited ratably, after first deducting any
deficits accumulated from prior years, by the commission to
railroads and public utilities that pay more than the minimum
assessment, according to the respective portions of such sum
assessable against them for the ensuing calendar year. The
assessments for such calendar year shall be reduced
correspondingly.

(C) Within five days after the beginning of each fiscal year,

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the director of budget and management shall transfer from the
general revenue fund to the public utilities fund an amount
sufficient for maintaining and administering the public utilities
commission and exercising its supervision and jurisdiction over
the railroads and public utilities of the state during the first
four months of the fiscal year. The director shall transfer the
same amount back to the general revenue fund from the public
utilities fund at such time as the director determines that the
balance of the public utilities fund is sufficient to support the
appropriations from the fund for the fiscal year. The director may
transfer less than that amount if the director determines that the
revenues of the public utilities fund during the fiscal year will
be insufficient to support the appropriations from the fund for
the fiscal year, in which case the amount not paid back to the
general revenue fund shall be payable to the general revenue fund
in future fiscal years.

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(D) For the purpose of this section only, "public utility"
includes, ~~in:~~

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(1) In addition to an electric utility as defined in section
4928.01 of the Revised Code, an electric services company, an
electric cooperative, or a governmental aggregator subject to
certification under section 4928.08 of the Revised Code, to the
extent of the company's, cooperative's, or aggregator's engagement
in the business of supplying or arranging for the supply in this
state of any retail electric service for which it must be so
certified;

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(2) In addition to a natural gas company as defined in
section 4929.01 of the Revised Code, a retail natural gas supplier
or governmental aggregator subject to certification under section
4929.20 of the Revised Code, to the extent of the supplier's or
aggregator's engagement in the business of supplying or arranging
for the supply in this state of any competitive retail natural gas

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service for which it must be certified. 117

(E) Each public utilities commissioner shall receive a salary 118
fixed at the level set by pay range 49 under schedule E-2 of 119
section 124.152 of the Revised Code. 120

Sec. 4911.18. (A) For the sole purpose of maintaining and 121
administering the office of the consumers' counsel and exercising 122
the powers of the consumers' counsel under this chapter, an amount 123
equal to the appropriation to the office of the consumers' counsel 124
in each fiscal year shall be apportioned among and assessed 125
against each public utility within ~~the~~ this state, as defined in 126
section 4911.01 of the Revised Code, by first computing an 127
assessment as though it were to be made in proportion to the 128
intrastate gross earnings or receipts of the public utility for 129
the calendar year next preceding that in which the assessment is 130
made, excluding earnings or receipts from sales to other public 131
utilities for resale. The office may include in that first 132
computation any amount of a public utility's intrastate gross 133
earnings or receipts underreported in a prior year. In addition to 134
whatever penalties apply under the Revised Code to such 135
underreporting, the office shall assess the public utility 136
interest at the rate stated in division (A) of section 1343.01 of 137
the Revised Code. The office shall deposit any interest so 138
collected into the consumers' counsel operating fund. 139

The final computation of the assessment shall consist of 140
imposing upon each public utility whose assessment under the first 141
computation would have been fifty dollars or less an assessment of 142
fifty dollars and recomputing the assessment of the remaining 143
companies by apportioning an amount equal to the appropriation to 144
the office of consumers' counsel in each fiscal year less the 145
total amount to be recovered from those paying the minimum 146
assessment, in proportion to the intrastate gross earnings or 147

receipts of the remaining companies for the calendar year next 148
preceding that in which the assessments are made, excluding 149
earnings or receipts from sales to other public utilities for 150
resale. 151

In the case of an assessment based on intrastate gross 152
receipts under this section against a public utility that is an 153
electric utility as defined in section 4928.01 of the Revised 154
Code, or an electric services company, electric cooperative, or 155
governmental aggregator subject to certification under section 156
4928.08 of the Revised Code, such receipts shall be those 157
specified in the utility's, company's, cooperative's, or 158
aggregator's most recent report of intrastate gross receipts and 159
sales of kilowatt hours of electricity, filed with the public 160
utilities commission pursuant to division (F) of section 4928.06 161
of the Revised Code, and verified by the commission. 162

In the case of an assessment based on intrastate gross 163
receipts under this section against a retail natural gas supplier 164
or governmental aggregator subject to certification under section 165
4929.20 of the Revised Code, such receipts shall be those 166
specified in the supplier's or aggregator's most recent report of 167
intrastate gross receipts and sales of hundred cubic feet of 168
natural gas, filed with the commission pursuant to division (B) of 169
section 4929.23 of the Revised Code, and verified by the 170
commission. 171

(B) On or before the first day of October in each year, the 172
office of consumers' counsel shall notify each public utility of 173
the sum assessed against it, whereupon payment shall be made to 174
the counsel, who shall deposit it into the state treasury to the 175
credit of the consumers' counsel operating fund, which is hereby 176
created. Any such amounts paid into the fund but not expended by 177
the office shall be credited ratably by the office to the public 178
utilities that pay more than the minimum assessment, according to 179

the respective portions of such sum assessable against them for 180
the ensuing calendar year, after first deducting any deficits 181
accumulated from prior years. The assessments for such calendar 182
year shall be reduced correspondingly. 183

(C) Within five days after the beginning of each fiscal year, 184
the director of budget and management shall transfer from the 185
general revenue fund to the consumers' counsel operating fund an 186
amount sufficient for maintaining and administering the office of 187
the consumers' counsel and exercising the powers of the consumers' 188
counsel under this chapter during the first four months of the 189
fiscal year. Not later than the thirty-first day of December of 190
the fiscal year, the same amount shall be transferred back to the 191
general revenue fund from the consumers' counsel operating fund. 192

(D) As used in this section, "public utility" includes, ~~in:~~ 194

(1) In addition to an electric utility as defined in section 195
4928.01 of the Revised Code, an electric services company, an 196
electric cooperative, or a governmental aggregator subject to 197
certification under section 4928.08 of the Revised Code, to the 198
extent of the company's, cooperative's, or aggregator's engagement 199
in the business of supplying or arranging for the supply in this 200
state of any retail electric service for which it must be so 201
certified; 202

(2) In addition to a natural gas company as defined in 203
section 4929.01 of the Revised Code, a retail natural gas supplier 204
or governmental aggregator subject to certification under section 205
4929.20 of the Revised Code, to the extent of the supplier's or 206
aggregator's engagement in the business of supplying or arranging 207
for the supply in this state of any competitive retail natural gas 208
service for which it must be certified. 209

Sec. 4929.01. As used in this chapter: 210

(A) "Alternative rate plan" means a method, alternate to the method of section 4909.15 of the Revised Code, for establishing rates and charges, under which rates and charges may be established for a commodity sales service or ancillary service that is not exempt pursuant to section 4929.04 of the Revised Code or for a distribution service. Alternative rate plans may include, but are not limited to, methods that provide adequate and reliable natural gas services and goods in this state; minimize the costs and time expended in the regulatory process; tend to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred; afford rate stability; promote and reward efficiency, quality of service, or cost containment by a natural gas company; or provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges. Alternative rate plans also may include, but are not limited to, automatic adjustments based on a specified index or changes in a specified cost or costs.

(B) "Ancillary service" means a service that is ancillary to the receipt or delivery of natural gas to consumers, including, but not limited to, storage, pooling, balancing, and transmission.

(C) "Commodity sales service" means the sale of natural gas to consumers, exclusive of any distribution or ancillary service.

(D) "Comparable service" means any regulated service or goods whose availability, quality, price, terms, and conditions are the same as or better than those of the services or goods that the natural gas company provides to a person with which it is affiliated or which it controls, or, as to any consumer, that the natural gas company offers to that consumer as part of a bundled service that includes both regulated and exempt services or goods.

(E) "Consumer" means any person or association of persons

purchasing, delivering, storing, or transporting, or seeking to 243
purchase, deliver, store, or transport, natural gas, including 244
industrial consumers, commercial consumers, and residential 245
consumers, but not including natural gas companies. 246

(F) "Distribution service" means the delivery of natural gas 247
to a consumer at the consumer's facilities, by and through the 248
instrumentalities and facilities of a natural gas company, 249
regardless of the party having title to the natural gas. 250

(G) "Natural gas company" means a natural gas company, as 251
defined in section 4905.03 of the Revised Code, that is a public 252
utility as defined in section 4905.02 of the Revised Code and 253
excludes a retail natural gas supplier. 254

(H) "Person," except as provided in division (M) of this 255
section, has the same meaning as in section 1.59 of the Revised 256
Code, and includes this state and any political subdivision, 257
agency, or other instrumentality of this state and includes the 258
United States and any agency or other instrumentality of the 259
United States. 260

(I) "Billing or collection agent" means a fully independent 261
agent, not affiliated with or otherwise controlled by a retail 262
natural gas supplier subject to certification under section 263
4929.20 of the Revised Code, to the extent that the agent is under 264
contract with such supplier solely to provide billing and 265
collection for competitive retail natural gas service on behalf of 266
the supplier. 267

(J) "Competitive retail natural gas service" means any 268
natural gas service that may be competitively offered to consumers 269
in this state within the service area of a natural gas company 270
pursuant to revised schedules approved under division (B) of 271
section 4929.26 of the Revised Code or as a result of a rule or 272
order adopted or issued by the public utilities commission under 273

Chapter 4905. of the Revised Code or an exemption granted by the 274
commission under sections 4929.04 to 4929.08 of the Revised Code. 275

(K) "Governmental aggregator" means a legislative authority 276
of a municipal corporation, a board of township trustees, or a 277
board of county commissioners acting as an aggregator for the 278
provision of competitive retail natural gas service under 279
authority conferred under section 4929.25 of the Revised Code. 280

(L) "Retail natural gas load center" means a natural 281
gas-consuming facility of any type or character that is owned, 282
occupied, controlled, or used by a person at a single location and 283
has been, is, or will be connected to and served at a metered 284
point of delivery, and to which facility competitive retail 285
natural gas service has been, is, or will be rendered. 286

(M) "Retail natural gas supplier" means any person, as 287
defined in section 1.59 of the Revised Code notwithstanding 288
division (H) of this section, that is engaged on a for-profit or 289
not-for-profit basis in the business of supplying or arranging for 290
the supply of a competitive retail natural gas service to 291
consumers in this state. "Retail natural gas supplier" includes a 292
marketer, broker, or aggregator, but excludes a natural gas 293
company, a governmental aggregator, or a billing or collection 294
agent, and excludes a producer or gatherer of gas to the extent 295
such producer or gatherer is not a natural gas company under 296
section 4905.03 of the Revised Code and is not engaged on a 297
for-profit or not-for-profit basis in the business of supplying or 298
arranging for the supply of a competitive retail natural gas 299
service to consumers in this state. 300

Sec. 4929.20. (A) Beginning on the effective date of initial 301
rules adopted pursuant to this division to establish a 302
certification system for natural gas suppliers and governmental 303
aggregators, no retail natural gas supplier or governmental 304

aggregator shall provide a competitive retail natural gas service 305
to a consumer in this state without first being certified by the 306
public utilities commission regarding its managerial, technical, 307
and financial capability to provide that service and providing a 308
financial guarantee sufficient to protect customers and natural 309
gas companies from default. Certification shall be granted 310
pursuant to procedures and standards the commission shall 311
prescribe in accordance with rules adopted under section 4929.10 312
of the Revised Code. However, certification or certification 313
renewal shall be deemed approved thirty days after the filing of 314
an application with the commission unless the commission suspends 315
that approval for good cause shown. In the case of such a 316
suspension, the commission shall act to approve or deny 317
certification or certification renewal to the applicant not later 318
than ninety days after the date of the suspension. 319

(B) Capability standards adopted in rules pursuant to 320
division (A) of this section shall be sufficient to ensure 321
compliance with the minimum service requirements established under 322
section 4929.23 of the Revised Code and with section 4929.22 of 323
the Revised Code. The standards shall allow flexibility for 324
voluntary aggregation, to encourage market creativity in 325
responding to consumer needs and demands. The rules shall include 326
procedures for biennially renewing certification. 327

(C) The commission may suspend, rescind, or conditionally 328
rescind the certification of any retail natural gas supplier or 329
governmental aggregator issued under this section if the 330
commission determines, after reasonable notice and opportunity for 331
hearing, that the retail natural gas supplier or governmental 332
aggregator has failed to comply with any applicable certification 333
standards or has engaged in anticompetitive or unfair, deceptive, 334
or unconscionable acts or practices in this state. 335

(D) No natural gas company, on and after the effective date 336

of initial rules adopted pursuant to division (A) of this section 337
to establish a certification system for retail natural gas 338
suppliers and governmental aggregators, shall knowingly distribute 339
natural gas, to a retail consumer in this state, for any retail 340
natural gas supplier or governmental aggregator that has not been 341
certified by the commission pursuant to this section. 342

Sec. 4929.21. (A)(1) Beginning on the effective date of 343
initial rules adopted pursuant to division (A) of section 4929.20 344
of the Revised Code to establish a certification system for retail 345
natural gas suppliers and governmental aggregators, no person 346
shall operate in this state as a retail natural gas supplier, 347
unless that person first does both of the following: 348

(a) Consents irrevocably to the jurisdiction of the courts of 349
this state and service of process in this state, including, 350
without limitation, service of summonses and subpoenas, for any 351
civil or criminal proceeding arising out of or relating to such 352
operation, by providing that irrevocable consent in accordance 353
with division (A)(4) of this section; 354

(b) Designates an agent authorized to receive that service of 355
process in this state, by filing with the public utilities 356
commission a document designating that agent. 357

(2) Beginning on the effective date of initial rules adopted 358
pursuant to division (A) of section 4929.20 of the Revised Code to 359
establish a certification system for retail natural gas suppliers 360
and governmental aggregators, no person shall continue to operate 361
as such retail natural gas supplier unless that person continues 362
to consent to such jurisdiction and service of process in this 363
state and continues to designate an agent as provided under this 364
division, by refileing in accordance with division (A)(4) of this 365
section the appropriate documents filed under division (A)(1) of 366
this section or, as applicable, the appropriate amended documents 367

filed under division (A)(3) of this section. Such refiling shall 368
occur during the month of December of every fourth year after the 369
initial filing of a document under division (A)(1) of this 370
section. 371

(3) If the address of the person filing a document under 372
division (A)(1) or (2) of this section changes, or if a person's 373
agent or the address of the agent changes, from that listed on the 374
most recently filed of such documents, the person shall file an 375
amended document containing the new information. 376

(4) The consent and designation required by divisions (A)(1), 377
(2), and (3) of this section shall be in writing, on forms 378
prescribed by the commission. The original of each such document 379
or amended document shall be legible and shall be filed with the 380
commission, with a copy filed with the office of the consumers' 381
counsel and with the attorney general's office. 382

(B) A person who enters this state pursuant to a summons, 383
subpoena, or other form of process authorized by this section is 384
not subject to arrest or service of process, whether civil or 385
criminal, in connection with other matters that arose before the 386
person's entrance into this state pursuant to such summons, 387
subpoena, or other form of process. 388

(C) Divisions (A) and (B) of this section do not apply to any 389
of the following: 390

(1) A corporation incorporated under the laws of this state 391
that has appointed a statutory agent pursuant to section 1701.07 392
or 1702.06 of the Revised Code; 393

(2) A foreign corporation licensed to transact business in 394
this state that has appointed a designated agent pursuant to 395
section 1703.041 of the Revised Code; 396

(3) Any other person that is a resident of this state or that 397
files consent to service of process and designates a statutory 398

agent pursuant to other laws of this state. 399

Sec. 4929.22. For the protection of consumers in this state, 400
the public utilities commission shall adopt rules under section 401
4929.10 of the Revised Code specifying the necessary minimum 402
service requirements of a retail natural gas supplier or 403
governmental aggregator subject to certification under section 404
4929.20 of the Revised Code regarding the provision, directly or 405
through its billing and collection agent, of any competitive 406
retail natural gas service for which it is subject to 407
certification. Rules adopted under this section shall include a 408
prohibition against unfair, deceptive, and unconscionable acts and 409
practices in the marketing, solicitation, and sale of such a 410
competitive retail natural gas service and in the administration 411
of any contract for service, and also shall include additional 412
consumer protections concerning all of the following: 413

(A) Contract disclosure. The rules shall include requirements 414
that a retail natural gas supplier or governmental aggregator 415
subject to certification under section 4929.20 of the Revised Code 416
do both of the following: 417

(1) Provide consumers with adequate, accurate, and 418
understandable pricing and terms and conditions of service, 419
including any switching fees, and with a document containing the 420
terms and conditions of pricing and service before the consumer 421
enters into the contract for service; 422

(2) Disclose the conditions under which a customer may 423
rescind a contract without penalty. 424

(B) Service termination. The rules shall include disclosure 425
of the terms identifying how customers may switch or terminate 426
service, including any required notice and any penalties. 427

(C) Minimum content of customer bills. The rules shall 428
include all of the following requirements, which shall be 429

<u>standardized:</u>	430
<u>(1) Price disclosure and disclosures of total billing units for the billing period and historical annual usage;</u>	431
<u>(2) To the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy;</u>	432
<u>(3) Identification of the supplier of each service;</u>	433
<u>(4) Statement of where and how payment may be made and provision of a toll-free or local customer assistance and complaint number for the retail natural gas supplier or governmental aggregator, as well as a consumer assistance telephone number or numbers for state agencies, such as the commission, the office of the consumers' counsel, and the attorney general's office, with the available hours noted;</u>	434
<u>(5) Other than for the first billing after the effective date of initial rules adopted pursuant to division (A) of section 4929.20 of the Revised Code to establish a certification system for retail natural gas suppliers and governmental aggregators, highlighting and clear explanation on each customer bill, for two consecutive billing periods, of any changes in the rates, terms, and conditions of service.</u>	435
<u>(D) Disconnection and service termination, including requirements with respect to master-metered buildings. The rules shall include policies and procedures that are consistent with sections 4933.12 and 4933.122 of the Revised Code and the commission's rules adopted under those sections, and that provide for all of the following:</u>	436
<u>(1) Coordination between suppliers for the purpose of maintaining service;</u>	437
<u>(2) The allocation of partial payments between suppliers when service components are jointly billed;</u>	438

(3) A prohibition against blocking, or authorizing the blocking of, customer access to a noncompetitive retail natural gas service when a customer is delinquent in payments to the retail natural gas supplier for a competitive retail natural gas service; 461
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(4) A prohibition against switching, or authorizing the switching of, a customer's supplier of competitive retail natural gas service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures. 466
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(5) A requirement of disclosure of the conditions under which a customer may rescind a decision to switch its supplier without penalty; 471
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(6) Specification of any required notice and any penalty for early termination of contract. 474
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(E) Minimum service quality, safety, and reliability. 476

(F) Customer information. The rules shall include requirements that the retail natural gas supplier or governmental aggregator make generic customer load pattern information available to other retail natural gas suppliers, governmental aggregators, or natural gas companies on a comparable and nondiscriminatory basis, and make customer-specific information available to other retail natural gas suppliers, governmental aggregators, or natural gas companies on a comparable and nondiscriminatory basis unless, as to customer-specific information, the customer objects. The rules shall ensure that each retail natural gas supplier or governmental aggregator provide clear and frequent notice to its customers of the right to object and of applicable procedures. The rules shall establish the exact language that shall be used in all such notices. 477
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Sec. 4929.23. (A) A retail natural gas supplier or 491

governmental aggregator subject to certification under section 4929.20 of the Revised Code shall provide the public utilities commission with such information, regarding a competitive retail natural gas service for which it is subject to certification, as the commission considers necessary to carry out sections 4929.20 to 4929.26 of the Revised Code. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.

(B) The commission shall require each retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code to file an annual report of such receipts and sales from the provision of those competitive retail natural gas services for which it is subject to certification. For the purpose of the reports, sales of hundred cubic feet of natural gas are deemed to occur at the meter of the retail customer.

Sec. 4929.24. (A)(1) The public utilities commission has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or complaint or initiative of the commission regarding the provision by a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code of any service for which it is subject to certification.

(2) The commission also has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or complaint or initiative of the commission to determine whether a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code has violated or failed to comply with any provision of sections 4929.20 to 4929.23 of the Revised Code regarding a competitive retail natural gas service for which it is subject to certification or any rule or order adopted or issued by the

commission for purposes of those sections. 524

(B) In addition to its authority under division (C) of 525
section 4929.20 of the Revised Code and to any other remedies 526
provided by law, the commission, after reasonable notice and 527
opportunity for hearing in accordance with section 4905.26 of the 528
Revised Code, may do any of the following: 529

(1) Order rescission of a contract, or restitution to 530
customers, in any complaint brought pursuant to division (A)(1) or 531
(2) of this section; 532

(2) Order any remedy or forfeiture provided under sections 533
4905.54 to 4905.60 and 4905.64 of the Revised Code upon a finding 534
under division (A)(2) of this section that the retail natural gas 535
supplier or governmental aggregator subject to certification under 536
section 4929.20 of the Revised Code has violated or failed to 537
comply, regarding a competitive retail natural gas service for 538
which it is subject to certification, with any provision of 539
sections 4929.20 to 4929.23 of the Revised Code or any rule or 540
order adopted or issued under those sections. 541

(C)(1) In addition to the authority conferred under section 542
4911.15 of the Revised Code, the consumers' counsel may file a 543
complaint under division (A)(1) or (2) of this section on behalf 544
of residential consumers in this state or appear before the 545
commission as a representative of those consumers pursuant to any 546
complaint filed under division (A)(1) or (2) of this section. 547

(2) In addition to the authority conferred under section 548
4911.19 of the Revised Code, the consumers' counsel, upon 549
reasonable grounds, may file with the commission under section 550
4905.26 of the Revised Code a complaint for discovery if the 551
recipient of an inquiry under section 4911.19 of the Revised Code 552
fails to provide a response within the time specified in that 553
section. 554

(D) The commission's jurisdiction with respect to a natural gas company under Chapter 4905. of the Revised Code extends to any violation of division (D) of section 4929.20 or any failure to comply with division (B) of section 4929.26 of the Revised Code. 555
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Sec. 4929.25. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section, the legislative authority or board may aggregate competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service pursuant to revised schedules approved under division (B) of section 4929.26 of the Revised Code or as a result of a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas load centers. An ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior consent of each person owning, occupying, controlling, or using a retail natural gas load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this section. 559
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(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation will occur automatically as described in that division, the ordinance or 584
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resolution shall direct the board of elections to submit the
question of the authority to aggregate to the electors of the
respective municipal corporation, township, or unincorporated area
of a county at a special election on the day of the next primary
or general election in the municipal corporation, township, or
county. The legislative authority or board shall certify a copy of
the ordinance or resolution to the board of elections not less
than seventy-five days before the day of the special election. No
ordinance or resolution adopted under division (A) of this section
that provides for an election under this division shall take
effect unless approved by a majority of the electors voting upon
the ordinance or resolution at the election held pursuant to this
division.

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(C) Upon the applicable requisite authority under divisions
(A) and (B) of this section, the legislative authority or board
shall develop a plan of operation and governance for the
aggregation program so authorized. Before adopting a plan under
this division, the legislative authority or board shall hold at
least two public hearings on the plan. Before the first hearing,
the legislative authority or board shall publish notice of the
hearings once a week for two consecutive weeks in a newspaper of
general circulation in the jurisdiction. The notice shall
summarize the plan and state the date, time, and location of each
hearing.

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(D) No legislative authority or board, pursuant to an
ordinance or resolution under divisions (A) and (B) of this
section that provides for automatic aggregation as described in
division (A) of this section, shall aggregate the retail natural
gas load of any retail natural gas load center located within its
jurisdiction unless it in advance clearly discloses to the person
owning, occupying, controlling, or using the load center that the
person will be enrolled automatically in the aggregation program

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and will remain so enrolled unless the person affirmatively elects
by a stated procedure not to be so enrolled. The disclosure shall
state prominently the rates, charges, and other terms and
conditions of enrollment. The stated procedure shall allow any
person enrolled in the aggregation program the opportunity to opt
out of the program every two years, without paying a switching
fee. Any such person that opts out of the aggregation program
pursuant to the stated procedure shall default to such provision
of the service within the person's service area as shall be
specified pursuant to rule or order adopted or issued by the
commission under this chapter, until the person chooses an
alternative supplier.

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(E)(1) With respect to a governmental aggregation for a
municipal corporation that is authorized pursuant to divisions (A)
to (D) of this section, resolutions may be proposed by initiative
or referendum petitions in accordance with sections 731.25 to
731.41 of the Revised Code.

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(2) With respect to a governmental aggregation for a township
or the unincorporated area of a county, which aggregation is
authorized pursuant to divisions (A) to (D) of this section,
resolutions may be proposed by initiative or referendum petitions
in accordance with sections 731.25 to 731.40 of the Revised Code,
except that:

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

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

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that office in that area.

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(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail natural gas service it provides and commission authority under sections 4929.20 to 4929.25 of the Revised Code. The commission has authority under section 4929.10 of the Revised Code to adopt such rules as it considers necessary to carry out this section.

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Sec. 4929.26. A governmental aggregator may petition the public utilities commission to require a natural gas company to provide natural gas distribution service on a comparable and nondiscriminatory basis to consumers that are within the company's service area in this state and also are within the area of the governmental aggregation; and a retail natural gas supplier may petition the commission to require the provision of such service to all consumers within the company's service area. Upon such application, the commission, after notice and opportunity for hearing and by order, may require that the company provide the service within the area specified in the petition, provided that the commission finds that the provision of the service within the area is in the public interest. The applicant shall have the burden of proof under this division. Chapter 4903. of the Revised Code shall apply to a proceeding under this division.

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(B) Upon the issuance of an order under division (A) of this section requiring distribution service on a comparable and nondiscriminatory basis within the area specified in the order, the company shall file with the commission under section 4905.30

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of the Revised Code revised schedules under which the company 682
shall provide the service so ordered. The commission shall act 683
promptly to approve the schedules. 684

Section 2. That existing sections 4905.10, 4911.18, and 685
4929.01 of the Revised Code are hereby repealed. 686

Section 3. Any person, as defined in section 1.59 of the 687
Revised Code, that, prior to the effective date of initial rules 688
adopted pursuant to division (A) of section 4929.20 of the Revised 689
Code as enacted by this act to establish a certification system 690
for retail natural gas suppliers and governmental aggregators, is 691
engaged on a for-profit or not-for-profit basis in the business of 692
supplying or arranging for the supply of natural gas commodity to 693
consumers in this state as a result of a rule or order adopted or 694
issued prior to the effective date of this act by the Public 695
Utilities Commission under Chapter 4905. of the Revised Code, may 696
continue to engage in such business until the Commission acts upon 697
the person's application under section 4929.20 of the Revised Code 698
as enacted by this act, provided the person files an application 699
with the Commission for certification in accordance with that 700
section not later than ninety days after the effective date of the 701
initial rules. 702