

**As Passed by the House**

**124th General Assembly**

**Regular Session**

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**Am. Sub. H. B. No. 9**

**REPRESENTATIVES Setzer, Olman, Manning, Hollister, Goodman, Niehaus,  
Hagan, Schmidt, Womer Benjamin, Metzger, Carey, Kilbane, Peterson, Evans,  
Jolivette, Salerno**

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**A B I L L**

To amend sections 4719.01, 4905.10, 4911.18, 4929.01, 1  
4935.03, and 5727.01 and to enact sections 4929.20 2  
to 4929.29 of the Revised Code to subject 3  
governmental aggregators and certain retail natural 4  
gas suppliers to certification by the Public 5  
Utilities Commission; to authorize governmental 6  
aggregation for competitive retail natural gas 7  
services under specified circumstances, including 8  
under a pilot program; to authorize the Commission 9  
to require a natural gas company to provide 10  
distribution service on a fully open, equal, and 11  
nondiscriminatory basis to its nonmercantile 12  
distribution customers generally upon application 13  
of a retail gas supplier or within the area of a 14  
governmental aggregation upon application of a 15  
governmental aggregator; to authorize Project 16  
Temporary Heating Assistance for Warmth; and to 17  
make an appropriation. 18

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

**Section 1.** That sections 4719.01, 4905.10, 4911.18, 4929.01, 19

4935.03, and 5727.01 be amended and sections 4929.20, 4929.21, 20  
4929.22, 4929.23, 4929.24, 4929.25, 4929.26, 4929.27, 4929.28, and 21  
4929.29 of the Revised Code be enacted to read as follows: 22

**Sec. 4719.01.** (A) As used in sections 4719.01 to 4719.18 of 23  
the Revised Code: 24

(1) "Affiliate" means a business entity that is owned by, 25  
operated by, controlled by, or under common control with another 26  
business entity. 27

(2) "Communication" means a written or oral notification or 28  
advertisement that meets both of the following criteria, as 29  
applicable: 30

(a) The notification or advertisement is transmitted by or on 31  
behalf of the seller of goods or services and by or through any 32  
printed, audio, video, cinematic, telephonic, or electronic means. 33

(b) In the case of a notification or advertisement other than 34  
by telephone, either of the following conditions is met: 35

(i) The notification or advertisement is followed by a 36  
telephone call from a telephone solicitor or salesperson. 37

(ii) The notification or advertisement invites a response by 38  
telephone, and, during the course of that response, a telephone 39  
solicitor or salesperson attempts to make or makes a sale of goods 40  
or services. As used in division (A)(2)(b)(ii) of this section, 41  
"invites a response by telephone" excludes the mere listing or 42  
inclusion of a telephone number in a notification or 43  
advertisement. 44

(3) "Gift, award, or prize" means anything of value that is 45  
offered or purportedly offered, or given or purportedly given by 46  
chance, at no cost to the receiver and with no obligation to 47  
purchase goods or services. As used in this division, "chance" 48

includes a situation in which a person is guaranteed to receive an  
item and, at the time of the offer or purported offer, the  
telephone solicitor does not identify the specific item that the  
person will receive.

(4) "Goods or services" means any real property or any  
tangible or intangible personal property, or services of any kind  
provided or offered to a person. "Goods or services" includes, but  
is not limited to, advertising; labor performed for the benefit of  
a person; personal property intended to be attached to or  
installed in any real property, regardless of whether it is so  
attached or installed; timeshare estates or licenses; and extended  
service contracts.

(5) "Purchaser" means a person that is solicited to become or  
does become financially obligated as a result of a telephone  
solicitation.

(6) "Salesperson" means an individual who is employed,  
appointed, or authorized by a telephone solicitor to make  
telephone solicitations but does not mean any of the following:

(a) An individual who comes within one of the exemptions in  
division (B) of this section;

(b) An individual employed, appointed, or authorized by a  
person who comes within one of the exemptions in division (B) of  
this section;

(c) An individual under a written contract with a person who  
comes within one of the exemptions in division (B) of this  
section, if liability for all transactions with purchasers is  
assumed by the person so exempted.

(7) "Telephone solicitation" means a communication to a  
person that meets both of the following criteria:

(a) The communication is initiated by or on behalf of a

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telephone solicitor or by a salesperson.

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(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.

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(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

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(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

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(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

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(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

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(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the

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purchaser rather than during the telephone solicitation. However,  
if the person, following the telephone solicitation, causes  
another person to collect the payment of any money, this exemption  
does not apply.

(4) A licensed securities, commodities, or investment broker,  
dealer, investment advisor, or associated person when making a  
telephone solicitation within the scope of the person's license.  
As used in division (B)(4) of this section, "licensed securities,  
commodities, or investment broker, dealer, investment advisor, or  
associated person" means a person subject to licensure or  
registration as such by the securities and exchange commission;  
the National Association of Securities Dealers or other  
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by  
the division of securities under Chapter 1707. of the Revised  
Code; or by an official or agency of any other state of the United  
States.

(5)(a) A person primarily engaged in soliciting the sale of a  
newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper  
of general circulation" includes, but is not limited to, both of  
the following:

(i) A newspaper that is a daily law journal designated as an  
official publisher of court calendars pursuant to section 2701.09  
of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five  
per cent editorial, non-advertising content, exclusive of inserts,  
measured relative to total publication space, and an audited  
circulation to at least fifty per cent of the households in the  
newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of  
securities to which all of the following apply:

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(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).

(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.

(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

(9) A supervised financial institution or its subsidiary. As 172  
used in division (B)(9) of this section, "supervised financial 173  
institution" means a bank, trust company, savings and loan 174  
association, savings bank, credit union, industrial loan company, 175  
consumer finance lender, commercial finance lender, or institution 176  
described in section 2(c)(2)(F) of the "Bank Holding Company Act 177  
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 178  
official or agency of the United States, this state, or any other 179  
state of the United States; or a licensee or registrant under 180  
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 181  
1321.83 of the Revised Code. 182

(10)(a) An insurance company, association, or other 183  
organization that is licensed or authorized to conduct business in 184  
this state by the superintendent of insurance pursuant to Title 185  
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 186  
when soliciting within the scope of its license or authorization. 187

(b) A licensed insurance broker, agent, or solicitor when 188  
soliciting within the scope of the person's license. As used in 189  
division (B)(10)(b) of this section, "licensed insurance broker, 190  
agent, or solicitor" means any person licensed as an insurance 191  
broker, agent, or solicitor by the superintendent of insurance 192  
pursuant to Title XXXIX of the Revised Code. 193

(11) A person soliciting the sale of services provided by a 194  
cable television system operating under authority of a 195  
governmental franchise or permit; 196

(12) A person soliciting a business-to-business sale under 197  
which any of the following conditions are met: 198

(a) The telephone solicitor has been operating continuously 199  
for at least three years under the same business name under which 200  
it solicits purchasers, and at least fifty-one per cent of its 201  
gross dollar volume of sales consists of repeat sales to existing 202

customers to whom it has made sales under the same business name.	203
(b) The purchaser business intends to resell the goods purchased.	204 205
(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.	206 207 208
(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.	209 210 211 212 213 214 215 216
(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:	217 218 219
(a) It includes all of the following:	220
(i) The business address of the seller;	221
(ii) A written description or illustration of each good or service offered for sale;	222 223
(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy;	224 225 226
(b) One of the following applies:	227
(i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households;	228 229 230 231



(ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.

(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;

(15) A college or university or any other public or private institution of higher education in this state;

(16) A public utility, as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, that if the utility or supplier is subject to regulation by the public utilities commission, or ~~its~~ the affiliate of the utility or supplier;

(17) A travel agency or tour promoter that is registered in compliance with section 1333.96 of the Revised Code when soliciting within the scope of the agency's or promoter's registration;

(18) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the

good or cancels the service;	263
(19)(a) A person that, for at least one year, has been	264
operating a retail business under the same name as that used in	265
connection with telephone solicitation and both of the following	266
occur on a continuing basis:	267
(i) The person either displays goods and offers them for	268
retail sale at the person's business premises or offers services	269
for sale and provides them at the person's business premises.	270
(ii) At least fifty-one per cent of the person's gross dollar	271
volume of retail sales involves purchases of goods or services at	272
the person's business premises.	273
(b) An affiliate of a person that meets the requirements in	274
division (B)(19)(a) of this section if the affiliate meets all of	275
the following requirements:	276
(i) The affiliate has operated a retail business for a period	277
of less than one year;	278
(ii) The affiliate either displays goods and offers them for	279
retail sale at the affiliate's business premises or offers	280
services for sale and provides them at the affiliate's business	281
premises;	282
(iii) At least fifty-one per cent of the affiliate's gross	283
dollar volume of retail sales involves purchases of goods or	284
services at the affiliate's business premises.	285
(c) A person that, for a period of less than one year, has	286
been operating a retail business in this state under the same name	287
as that used in connection with telephone solicitation, as long as	288
all of the following requirements are met:	289
(i) The person either displays goods and offers them for	290
retail sale at the person's business premises or offers services	291
for sale and provides them at the person's business premises;	292

(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310.

(20) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of this section.

(b) The person is an affiliate of one or more exempt persons and makes telephone solicitations on behalf of only the exempt persons of which it is an affiliate.

(c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising

council, or a professional solicitor in compliance with the 324  
registration and reporting requirements of Chapter 1716. of the 325  
Revised Code; and meets all of the following requirements: 326

(i) The person has operated under the same ownership, 327  
control, and business name for at least five years, and the person 328  
receives at least fifty-one per cent of its gross revenues from 329  
written telephone solicitation contracts with persons who come 330  
within the exemption in division (B)(2) of this section; 331

(ii) The person does not conduct a prize promotion or offer 332  
the sale of an investment opportunity; and 333

(iii) The person conducts all telephone solicitation 334  
activities according to sections 310.3, 310.4, and 310.5 of the 335  
telemarketing sales rules adopted by the federal trade commission 336  
in 16 C.F.R. part 310. 337

(21) A person that is a licensed real estate salesperson or 338  
broker under Chapter 4735. of the Revised Code when soliciting 339  
within the scope of the person's license; 340

(22)(a) Either of the following: 341

(i) A publisher that solicits the sale of the publisher's 342  
periodical or magazine of general, paid circulation, or a person 343  
that solicits a sale of that nature on behalf of a publisher under 344  
a written agreement directly between the publisher and the person. 345

(ii) A publisher that solicits the sale of the publisher's 346  
periodical or magazine of general, paid circulation, or a person 347  
that solicits a sale of that nature as authorized by a publisher 348  
under a written agreement directly with a publisher's 349  
clearinghouse provided the person is a resident of Ohio for more 350  
than three years and initiates all telephone solicitations from 351  
Ohio and the person conducts the solicitation and sale in 352  
compliance with 16 C.F.R. Part 310, as adopted by the federal 353  
trade commission. 354

(b) As used in division (B)(22) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

(23) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

(24) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(25) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.11 of the Revised Code.

(26) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three 385  
years, operated a business under the same business name as that 386  
used in connection with telephone solicitation; 387

(c) The person does not conduct a prize promotion or offer 388  
the sale of an investment opportunity; 389

(d) The person conducts all telephone solicitation activities 390  
according to sections 310.3, 310.4, and 310.5 of the telemarketing 391  
sales rules adopted by the federal trade commission in 16 C.F.R. 392  
part 310; 393

(e) Neither the person nor any of its principals has been 394  
convicted of, pleaded guilty to, or has entered a plea of no 395  
contest for a felony or a theft offense as defined in sections 396  
2901.02 and 2913.01 of the Revised Code or similar law of another 397  
state or of the United States; 398

(f) Neither the person nor any of its principals has had 399  
entered against them an injunction or a final judgment or order, 400  
including an agreed judgment or order, an assurance of voluntary 401  
compliance, or any similar instrument, in any civil or 402  
administrative action involving engaging in a pattern of corrupt 403  
practices, fraud, theft, embezzlement, fraudulent conversion, or 404  
misappropriation of property; the use of any untrue, deceptive, or 405  
misleading representation; or the use of any unfair, unlawful, 406  
deceptive, or unconscionable trade act or practice. 407

(27) An institution defined as a home health agency in 408  
section 3701.88 of the Revised Code, that conducts all telephone 409  
solicitation activities according to sections 310.3, 310.4, and 410  
310.5 of the telemarketing sales rules adopted by the federal 411  
trade commission in 16 C.F.R. part 310, and engages in telephone 412  
solicitation only within the scope of the institution's 413  
certification, accreditation, contract with the department of 414  
aging, or status as a home health agency; and that meets one of 415

the following requirements: 416

(a) The institution is certified as a provider of home health 417  
services under Title XVIII of the Social Security Act, 49 Stat. 418  
620, 42 U.S.C. 301, as amended; and is registered with the 419  
department of health pursuant to division (B) of section 3701.88 420  
of the Revised Code; 421

(b) The institution is accredited by either the joint 422  
commission on accreditation of health care organizations or the 423  
community health accreditation program; 424

(c) The institution is providing PASSPORT services under the 425  
direction of the Ohio department of aging under section 173.40 of 426  
the Revised Code; 427

(d) An affiliate of an institution that meets the 428  
requirements of division (B)(27)(a), (b), or (c) of this section 429  
when offering for sale substantially the same goods and services 430  
as those that are offered by the institution that meets the 431  
requirements of division (B)(27)(a), (b), or (c) of this section. 432

(28) A person licensed to provide a hospice care program by 433  
the department of health pursuant to section 3712.04 of the 434  
Revised Code when conducting telephone solicitations within the 435  
scope of the person's license and according to sections 310.3, 436  
310.4, and 310.5 of the telemarketing sales rules adopted by the 437  
federal trade commission in 16 C.F.R. part 310. 438

**Sec. 4905.10.** (A) For the sole purpose of maintaining and 439  
administering the public utilities commission and exercising its 440  
supervision and jurisdiction over the railroads and public 441  
utilities of ~~the~~ this state, an amount equivalent to the 442  
appropriation from the public utilities fund created under 443  
division (B) of this section to the public utilities commission 444  
for railroad and public utilities regulation in each fiscal year 445

shall be apportioned among and assessed against each railroad and 446  
public utility within ~~the~~ this state by the commission by first 447  
computing an assessment as though it were to be made in proportion 448  
to the intrastate gross earnings or receipts, excluding earnings 449  
or receipts from sales to other public utilities for resale, of 450  
the railroad or public utility for the calendar year next 451  
preceding that in which the assessment is made. The commission may 452  
include in that first computation any amount of a railroad's or 453  
public utility's intrastate gross earnings or receipts that were 454  
underreported in a prior year. In addition to whatever penalties 455  
apply under the Revised Code to such underreporting, the 456  
commission shall assess the railroad or public utility interest at 457  
the rate stated in division (A) of section 1343.01 of the Revised 458  
Code. The commission shall deposit any interest so collected into 459  
the public utilities fund. 460

The final computation of the assessment shall consist of 461  
imposing upon each railroad and public utility whose assessment 462  
under the first computation would have been fifty dollars or less 463  
an assessment of fifty dollars and recomputing the assessments of 464  
the remaining railroads and public utilities by apportioning an 465  
amount equal to the appropriation to the public utilities 466  
commission for administration of the utilities division in each 467  
fiscal year less the total amount to be recovered from those 468  
paying the minimum assessment, in proportion to the intrastate 469  
gross earnings or receipts of the remaining railroads and public 470  
utilities for the calendar year next preceding that in which the 471  
assessments are made. 472

In the case of an assessment based on intrastate gross 473  
receipts under this section against a public utility that is an 474  
electric utility as defined in section 4928.01 of the Revised 475  
Code, or an electric services company, electric cooperative, or 476  
governmental aggregator subject to certification under section 477



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. However, no retail natural gas supplier or  
governmental aggregator shall be assessed under this section until  
after the commission, pursuant to a proceeding under section  
4905.26 or 4909.18 of the Revised Code, has removed from the base  
rates of a natural gas company the amount of assessment under this  
section that is attributable to the value of natural gas in the  
base rates paid by those customers that do not purchase natural  
gas from the natural gas company.

(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

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assessable against them for the ensuing calendar year. The 510  
assessments for such calendar year shall be reduced 511  
correspondingly. 512

(C) Within five days after the beginning of each fiscal year, 513  
the director of budget and management shall transfer from the 514  
general revenue fund to the public utilities fund an amount 515  
sufficient for maintaining and administering the public utilities 516  
commission and exercising its supervision and jurisdiction over 517  
the railroads and public utilities of the state during the first 518  
four months of the fiscal year. The director shall transfer the 519  
same amount back to the general revenue fund from the public 520  
utilities fund at such time as the director determines that the 521  
balance of the public utilities fund is sufficient to support the 522  
appropriations from the fund for the fiscal year. The director may 523  
transfer less than that amount if the director determines that the 524  
revenues of the public utilities fund during the fiscal year will 525  
be insufficient to support the appropriations from the fund for 526  
the fiscal year, in which case the amount not paid back to the 527  
general revenue fund shall be payable to the general revenue fund 528  
in future fiscal years. 529

(D) For the purpose of this section only, "public utility" 530  
includes, ~~in:~~ 531

(1) In addition to an electric utility as defined in section 532  
4928.01 of the Revised Code, an electric services company, an 533  
electric cooperative, or a governmental aggregator subject to 534  
certification under section 4928.08 of the Revised Code, to the 535  
extent of the company's, cooperative's, or aggregator's engagement 536  
in the business of supplying or arranging for the supply in this 537  
state of any retail electric service for which it must be so 538  
certified; 539

(2) In addition to a natural gas company as defined in 540  
section 4929.01 of the Revised Code, a retail natural gas supplier 541

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 service for which it must be certified.

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

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

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The final computation of the assessment shall consist of imposing upon each public utility whose assessment under the first computation would have been fifty dollars or less an assessment of fifty dollars and recomputing the assessment of the remaining

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companies by apportioning an amount equal to the appropriation to  
the office of consumers' counsel in each fiscal year less the  
total amount to be recovered from those paying the minimum  
assessment, in proportion to the intrastate gross earnings or  
receipts of the remaining companies for the calendar year next  
preceding that in which the assessments are made, excluding  
earnings or receipts from sales to other public utilities for  
resale.

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In the case of an assessment based on intrastate gross  
receipts under this section against a public utility that is an  
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 public  
utilities commission pursuant to division (F) of section 4928.06  
of the Revised Code, and verified by the commission.

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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. However, no retail natural gas supplier or  
governmental aggregator shall be assessed under this section until  
after the commission, pursuant to a proceeding under section  
4905.26 or 4909.18 of the Revised Code, has removed from the base  
rates of a natural gas company the amount of assessment under this

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section that is attributable to the value of natural gas in the  
base rates paid by those customers that do not purchase natural  
gas from the natural gas company.

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(B) On or before the first day of October in each year, the office of consumers' counsel shall notify each public utility of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the consumers' counsel operating fund, which is hereby created. Any such amounts paid into the fund but not expended by the office shall be credited ratably by the office to the 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, after first deducting any deficits accumulated from prior years. The assessments for such calendar year shall be reduced correspondingly.

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

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(D) As used in this section, "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

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state of any retail electric service for which it must be so certified;

(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 service for which it must be certified.

**Sec. 4929.01.** As used in this chapter:

(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. 668

(C) "Commodity sales service" means the sale of natural gas 669  
to consumers, exclusive of any distribution or ancillary service. 670

(D) "Comparable service" means any regulated service or goods 671  
whose availability, quality, price, terms, and conditions are the 672  
same as or better than those of the services or goods that the 673  
natural gas company provides to a person with which it is 674  
affiliated or which it controls, or, as to any consumer, that the 675  
natural gas company offers to that consumer as part of a bundled 676  
service that includes both regulated and exempt services or goods. 677

(E) "Consumer" means any person or association of persons 678  
purchasing, delivering, storing, or transporting, or seeking to 679  
purchase, deliver, store, or transport, natural gas, including 680  
industrial consumers, commercial consumers, and residential 681  
consumers, but not including natural gas companies. 682

(F) "Distribution service" means the delivery of natural gas 683  
to a consumer at the consumer's facilities, by and through the 684  
instrumentalities and facilities of a natural gas company, 685  
regardless of the party having title to the natural gas. 686

(G) "Natural gas company" means a natural gas company, as 687  
defined in section 4905.03 of the Revised Code, that is a public 688  
utility as defined in section 4905.02 of the Revised Code and 689  
excludes a retail natural gas supplier. 690

(H) "Person," except as provided in division (N) of this 691  
section, has the same meaning as in section 1.59 of the Revised 692  
Code, and includes this state and any political subdivision, 693  
agency, or other instrumentality of this state and includes the 694  
United States and any agency or other instrumentality of the 695  
United States. 696

(I) "Billing or collection agent" means a fully independent 697  
agent, not affiliated with or otherwise controlled by a retail 698

natural gas supplier or governmental aggregator subject to 699  
certification under section 4929.20 of the Revised Code, to the 700  
extent that the agent is under contract with such supplier or 701  
aggregator solely to provide billing and collection for 702  
competitive retail natural gas service on behalf of the supplier 703  
or aggregator. 704

(J) "Competitive retail natural gas service" means any retail 705  
natural gas service that may be competitively offered to consumers 706  
in this state as a result of revised schedules approved under 707  
division (B) of section 4929.29 of the Revised Code, a rule or 708  
order adopted or issued by the public utilities commission under 709  
Chapter 4905. of the Revised Code, or an exemption granted by the 710  
commission under sections 4929.04 to 4929.08 of the Revised Code. 711

(K) "Governmental aggregator" means a legislative authority 713  
of a municipal corporation, a board of township trustees, or a 714  
board of county commissioners acting as an aggregator for the 715  
provision of competitive retail natural gas service under 716  
authority conferred under section 4929.25, 4929.27, or 4929.28 of 717  
the Revised Code. 718

(L)(1) "Mercantile customer" means a customer that consumes, 719  
other than for residential use, more than five hundred thousand 720  
cubic feet of natural gas per year at a single location within 721  
this state or consumes natural gas, other than for residential 722  
use, as part of an undertaking having more than three locations 723  
within or outside of this state. "Mercantile customer" excludes a 724  
customer for which a declaration under division (L)(2) of this 725  
section is in effect pursuant to that division. 726

(2) A not-for-profit customer that consumes, other than for 727  
residential use, more than five hundred thousand cubic feet of 728  
natural gas per year at a single location within this state or is 729  
part of an undertaking having more than three locations within or 730



outside this state may file a declaration under division (L)(2) of 731  
this section with the public utilities commission. The declaration 732  
shall take effect upon the date of filing, and by virtue of the 733  
declaration, the customer is not a mercantile customer for the 734  
purposes of this section and sections 4929.20 to 4929.29 of the 735  
Revised Code or the purposes of a governmental natural gas 736  
aggregation or arrangement or other contract entered into after 737  
the declaration's effective date for the supply or arranging of 738  
the supply of natural gas to the customer to a location within 739  
this state. The customer may file a rescission of the declaration 740  
with the commission at any time. The rescission shall not affect 741  
any governmental natural gas aggregation or arrangement or other 742  
contract entered into by the customer prior to the date of the 743  
filing of the rescission and shall have effect only with respect 744  
to any subsequent such aggregation or arrangement or other 745  
contract. The commission shall prescribe rules under section 746  
4929.10 of the Revised Code specifying the form of the declaration 747  
or a rescission and procedures by which a declaration or 748  
rescission may be filed. 749

(M) "Retail natural gas service" means commodity sales 750  
service, ancillary service, natural gas aggregation service, 751  
natural gas marketing service, or natural gas brokerage service. 752

(N) "Retail natural gas supplier" means any person, as 753  
defined in section 1.59 of the Revised Code, that is engaged on a 754  
for-profit or not-for-profit basis in the business of supplying or 755  
arranging for the supply of a competitive retail natural gas 756  
service to consumers in this state that are not mercantile 757  
customers. "Retail natural gas supplier" includes a marketer, 758  
broker, or aggregator, but excludes a natural gas company, a 759  
governmental aggregator, an entity described in division (B) or 760  
(C) of section 4905.02 of the Revised Code, or a billing or 761  
collection agent, and excludes a producer or gatherer of gas to 762

the extent such producer or gatherer is not a natural gas company  
under section 4905.03 of the Revised Code.

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Sec. 4929.20. (A) No retail natural gas supplier or  
governmental aggregator shall provide a competitive retail natural  
gas service on or after thirteen months following the effective  
date of this section to a consumer in this state without first  
being certified by the public utilities commission regarding its  
managerial, technical, and financial capability to provide that  
service and providing a financial guarantee sufficient to protect  
customers and natural gas companies from default. Certification  
shall be granted pursuant to procedures and standards the  
commission shall prescribe in accordance with rules adopted under  
section 4929.10 of the Revised Code. However, certification or  
certification renewal shall be deemed approved thirty days after  
the filing of an application with the commission unless the  
commission suspends that approval for good cause shown. In the  
case of such a suspension, the commission shall act to approve or  
deny certification or certification renewal to the applicant not  
later than ninety days after the date of the suspension.

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

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

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hearing, that the retail natural gas supplier or governmental  
aggregator has failed to comply with any applicable certification  
standards prescribed in rules adopted pursuant to this section or  
section 4929.22 of the Revised Code.

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(2) An affected natural gas company may file an application  
with the commission for approval of authority to recover in  
accordance with division (C)(2) of this section incremental costs  
reasonably and prudently incurred by the company in connection  
with the commission's continuation, suspension, rescission, or  
conditional rescission of a particular retail natural gas supplier  
under division (C)(1) of this section. Upon the filing of such an  
application, the commission shall conduct an audit of such  
incremental costs as are specified in the application. Cost  
recovery shall be through a rider on the base rates of customers  
for which there is a choice of supplier of commodity sales service  
as a result of revised schedules approved under division (B) of  
section 4929.26 of the Revised Code, 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 rider shall take effect ninety  
days after the date of the application's filing unless the  
commission, based on the audit results and for good cause shown,  
sets the matter for hearing. After such an audit, the commission  
shall approve the application, and authorize such cost recovery  
rider effective on the date specified in the order, only for such  
incremental costs as the commission determines were reasonably and  
prudently incurred by the company in connection with the  
continuation, suspension, rescission, or conditional rescission of  
a retail natural gas supplier's certification under division  
(C)(1) of this section. Any proceeding under division (C)(2) of  
this section shall be governed by Chapter 4903. of the Revised  
Code.

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(D) No natural gas company, on and after thirteen months following the effective date of this section, shall knowingly distribute natural gas, to a retail consumer in this state, for any retail natural gas supplier or governmental aggregator that has not been certified by the commission pursuant to this section.

**Sec. 4929.21.** (A)(1) Beginning on 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, no person shall operate in this state as a retail natural gas supplier, unless that person first does both of the following:

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

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

(2) Beginning on 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, no person shall continue to operate as such retail natural gas supplier unless that person continues to consent to such jurisdiction and service of process in this state and continues to designate an agent as provided under this division, by refiling in accordance with division (A)(4) of this section the appropriate documents filed under division (A)(1) of this section or, as applicable, the appropriate amended documents filed under division (A)(3) of this section. Such refiling shall

occur during the month of December of every fourth year after the 857  
initial filing of a document under division (A)(1) of this 858  
section. 859

(3) If the address of the person filing a document under 860  
division (A)(1) or (2) of this section changes, or if a person's 861  
agent or the address of the agent changes, from that listed on the 862  
most recently filed of such documents, the person shall file an 863  
amended document containing the new information. 864

(4) The consent and designation required by divisions (A)(1), 865  
(2), and (3) of this section shall be in writing, on forms 866  
prescribed by the commission. The original of each such document 867  
or amended document shall be legible and shall be filed with the 868  
commission, with a copy filed with the office of the consumers' 869  
counsel and with the attorney general's office. 870

(B) A person who enters this state pursuant to a summons, 871  
subpoena, or other form of process authorized by this section is 872  
not subject to arrest or service of process, whether civil or 873  
criminal, in connection with other matters that arose before the 874  
person's entrance into this state pursuant to such summons, 875  
subpoena, or other form of process. 876

(C) Divisions (A) and (B) of this section do not apply to any 877  
of the following: 878

(1) A corporation incorporated under the laws of this state 879  
that has appointed a statutory agent pursuant to section 1701.07 880  
or 1702.06 of the Revised Code; 881

(2) A foreign corporation licensed to transact business in 882  
this state that has appointed a designated agent pursuant to 883  
section 1703.041 of the Revised Code; 884

(3) Any other person that is a resident of this state or that 885  
files consent to service of process and designates a statutory 886  
agent pursuant to other laws of this state. 887

Sec. 4929.22. For the protection of consumers in this state, 888  
the public utilities commission shall adopt rules under section 889  
4929.10 of the Revised Code specifying the necessary minimum 890  
service requirements of a retail natural gas supplier or 891  
governmental aggregator subject to certification under section 892  
4929.20 of the Revised Code regarding the marketing, solicitation, 893  
sale, or provision, directly or through its billing and collection 894  
agent, of any competitive retail natural gas service for which it 895  
is subject to certification. Rules adopted under this section 896  
shall include additional consumer protections concerning all of 897  
the following: 898

(A) Contract disclosure. The rules shall include requirements 899  
that a retail natural gas supplier or governmental aggregator 900  
subject to certification under section 4929.20 of the Revised Code 901  
do both of the following: 902

(1) Provide consumers with adequate, accurate, and 903  
understandable pricing and terms and conditions of service, 904  
including any switching fees, and with a document containing the 905  
terms and conditions of pricing and service before the consumer 906  
enters into the contract for service; 907

(2) Disclose the conditions under which a customer may 908  
rescind a contract without penalty. 909

(B) Service qualification and termination. The rules shall 910  
include a requirement that, before a consumer is eligible for 911  
service from a retail natural gas supplier or governmental 912  
aggregator, the consumer shall discharge, or enter into a plan to 913  
discharge, all existing arrearages owed to or being billed by the 914  
natural gas company from which the consumer presently is receiving 915  
service. The rules also shall provide for disclosure of the terms 916  
identifying how customers may switch or terminate service, 917  
including any required notice and any penalties. 918

(C) Minimum content of customer bills. The rules shall 919  
include all of the following requirements, which shall be 920  
standardized: 921

(1) Price disclosure and disclosures of total billing units 922  
for the billing period and historical annual usage; 923

(2) To the maximum extent practicable, separate listing of 924  
each service component to enable a customer to recalculate its 925  
bill for accuracy; 926

(3) Identification of the supplier of each service; 927

(4) Statement of where and how payment may be made and 928  
provision of a toll-free or local customer assistance and 929  
complaint number for the retail natural gas supplier or 930  
governmental aggregator, as well as a consumer assistance 931  
telephone number or numbers for state agencies, such as the 932  
commission, the office of the consumers' counsel, and the attorney 933  
general's office, with the available hours noted; 934

(5) Other than for the first billing after the effective date 935  
of initial rules adopted pursuant to division (A) of section 936  
4929.20 of the Revised Code to establish a certification system 937  
for retail natural gas suppliers and governmental aggregators, 938  
highlighting and clear explanation on each customer bill, for two 939  
consecutive billing periods, of any changes in the rates, terms, 940  
and conditions of service. 941

(D) Disconnection and service termination, including 942  
requirements with respect to master-metered buildings. The rules 943  
shall include policies and procedures that are consistent with 944  
sections 4933.12 and 4933.122 of the Revised Code and the 945  
commission's rules adopted under those sections, and that provide 946  
for all of the following: 947

(1) Coordination between suppliers for the purpose of 948  
maintaining service; 949

(2) The allocation of partial payments between suppliers when service components are jointly billed; 950  
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(3) 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; 952  
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(4) A requirement of disclosure of the conditions under which a customer may rescind a decision to switch its supplier without penalty; 957  
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(5) Specification of any required notice and any penalty for early termination of contract. 960  
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(E) Minimum service quality, safety, and reliability. 962

(F) Customer information. The rules shall include requirements that a natural gas company make generic customer load pattern information available to a retail natural gas supplier or governmental aggregator on a comparable and nondiscriminatory basis, and make customer information available to a retail natural gas supplier or governmental aggregator on a comparable and nondiscriminatory basis unless, as to customer information, the customer objects. The rules shall ensure that each natural gas company 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. The rules also shall require that, upon the request of a governmental aggregator solely for purposes of the disclosure required by division (C) of section 4929.25 or division (D) of section 4929.27 of the Revised Code, a natural gas company or retail natural gas supplier must provide the governmental aggregator, in a timely manner and at such cost as the commission shall provide for in the rules, with the billing names and 963  
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addresses of the customers of the company or supplier whose retail 981  
natural gas loads are to be included in the governmental 982  
aggregation. 983

(G) Ohio office. The rules shall require that a retail 984  
natural gas supplier maintain an office and an employee in this 983  
state. 985  
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**Sec. 4929.23.** (A) A retail natural gas supplier or 987  
governmental aggregator subject to certification under section 988  
4929.20 of the Revised Code shall provide the public utilities 989  
commission with such information, regarding a competitive retail 990  
natural gas service for which it is subject to certification, as 991  
the commission considers necessary to carry out sections 4929.20 992  
to 4929.24 of the Revised Code. The commission shall take such 993  
measures as it considers necessary to protect the confidentiality 994  
of any such information. 995

(B) The commission shall require each retail natural gas 996  
supplier or governmental aggregator subject to certification under 997  
section 4929.20 of the Revised Code to file an annual report of 998  
such receipts and sales from the provision of those competitive 999  
retail natural gas services for which it is subject to 1000  
certification. For the purpose of the reports, sales of hundred 1001  
cubic feet of natural gas are deemed to occur at the meter of the 1002  
retail customer. 1003

**Sec. 4929.24.** (A)(1) The public utilities commission has 1004  
jurisdiction under section 4905.26 of the Revised Code, upon 1005  
complaint of any person or complaint or initiative of the 1006  
commission regarding the provision by a retail natural gas 1007  
supplier subject to certification under section 4929.20 of the 1008  
Revised Code of any service for which it is subject to 1009  
certification. 1010

(2) The commission also has jurisdiction under section 1011

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 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.

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(B) In addition to its authority under division (C)(1) of  
section 4929.20 of the Revised Code and to any other remedies  
provided by law, the commission, after reasonable notice and  
opportunity for hearing in accordance with section 4905.26 of the  
Revised Code, may do any of the following:

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

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

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

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(2) In addition to the authority conferred under section 4911.19 of the Revised Code, the consumers' counsel, upon reasonable grounds, may file with the commission under section 4905.26 of the Revised Code a complaint for discovery if the recipient of an inquiry under section 4911.19 of the Revised Code fails to provide a response within the time specified in that section. 1044  
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(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 4929.29 of the Revised Code. 1051  
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**Sec. 4929.25.** (A)(1) The public utilities commission by order shall provide for a pilot program for governmental aggregations in accordance with this section, which program shall expire on April 1, 2004. Under the program, the commission may authorize only pilot governmental aggregations under which competitive retail natural gas service for the retail natural gas loads within the area of a particular aggregation are aggregated automatically, subject to the opt-out requirements of division (C) of this section and termination on or before April 1, 2004. The commission may authorize different size aggregations as it determines reasonable given the customer base of a particular distribution company. However, each such aggregation shall reflect an appropriate mix of customers. Too, prior to April 1, 2003, the total number of distribution service customers of the natural gas company with the largest number of distribution service customers in this state that may be aggregated under this section shall not exceed fifty thousand customers. On or after April 1, 2003, the total number of such aggregated customers of that company shall not exceed one hundred fifty per cent of the original fifty thousand maximum. The commission shall apply these maximums proportionately with respect to aggregations under this section of 1055  
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distribution service customers of each other natural gas company. 1076  
Under the pilot program, the legislative authority of a municipal 1077  
corporation that has adopted a nonemergency ordinance providing 1078  
for a pilot aggregation under this section, or the board of 1079  
township trustees of a township or the board of county 1080  
commissioners of a county that has adopted a nonemergency 1081  
resolution providing for such aggregation, may apply to the 1082  
commission for authority to provide the pilot aggregation. After 1083  
notice and an opportunity for a hearing, the commission may 1084  
approve the application if it determines that the pilot 1085  
aggregation is in the public interest. Upon that determination, 1086  
and subject to the opt-out requirements of division (C) of this 1087  
section and except as otherwise provided in division (A)(2) of 1088  
this section, the legislative authority or board automatically may 1089  
aggregate competitive retail natural gas service for the retail 1090  
natural gas loads that are located, respectively, within the 1091  
municipal corporation, township, or unincorporated area of the 1092  
county and for which there is a choice of supplier of that service 1093  
as a result of revised schedules approved under division (B) of 1094  
section 4929.29 of the Revised Code, a rule or order adopted or 1095  
issued by the commission under Chapter 4905. of the Revised Code, 1096  
or an exemption granted by the commission under sections 4929.04 1097  
to 4929.08 of the Revised Code. 1098

(2)(a) No pilot governmental aggregation under division 1099  
(A)(1) of this section shall include the retail natural gas load 1100  
of a person that meets any of the following criteria: 1101

(i) The person is both a distribution service customer and a 1102  
mercantile customer on the date of commencement of service to the 1103  
aggregated load, or the person becomes a distribution service 1104  
customer after that date and also is a mercantile customer. 1105

(ii) The person is supplied with commodity sales service 1106

pursuant to a contract with a retail natural gas supplier that is  
in effect on the effective date of the ordinance or resolution.

(iii) The person is supplied with commodity sales service as  
part of a retail natural gas load aggregation provided for  
pursuant to a rule or order adopted or issued by the commission  
under this chapter or Chapter 4905. of the Revised Code.

(B) Upon the applicable requisite authority under division  
(A) of this section, the legislative authority or board shall  
develop a plan of operation and governance for the pilot  
aggregation 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.

(C) No legislative authority or board, pursuant to an  
ordinance or resolution under division (A) of this section, shall  
aggregate any retail natural gas load located within its  
jurisdiction unless it in advance clearly discloses to the person  
whose retail natural gas load is to be so aggregated that the  
person will be enrolled automatically in the pilot aggregation 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 the opportunity to opt out of  
the aggregation, without paying a switching fee. Any such person  
that opts out of the aggregation pursuant to the stated procedure  
shall default to the natural gas company providing distribution  
service for the person's retail natural gas load, until the person

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chooses an alternative supplier. 1139

(D)(1) With respect to a pilot governmental aggregation for a 1140  
municipal corporation that is authorized pursuant to divisions (A) 1141  
to (C) of this section, resolutions may be proposed by initiative 1142  
or referendum petitions in accordance with sections 731.25 to 1143  
731.41 of the Revised Code. 1144

(2) With respect to a pilot governmental aggregation for a 1145  
township or the unincorporated area of a county, which aggregation 1146  
is authorized pursuant to divisions (A) to (C) of this section, 1147  
resolutions may be proposed by initiative or referendum petitions 1148  
in accordance with sections 731.25 to 731.40 of the Revised Code, 1149  
except that: 1150

(a) The petitions shall be filed, respectively, with the 1151  
township clerk or the board of county commissioners, who shall 1152  
perform those duties imposed under those sections upon the city 1153  
auditor or village clerk. 1154

(b) The petitions shall contain the signatures of not less 1155  
than ten per cent of the total number of electors in the township 1156  
or the unincorporated area of the county, respectively, who voted 1157  
for the office of governor at the preceding general election for 1158  
that office in that area. 1159

(E) A governmental aggregator under division (A) of this 1160  
section is not a public utility engaging in the wholesale purchase 1161  
and resale of natural gas, and provision of the aggregated service 1162  
is not a wholesale utility transaction. Such a governmental 1163  
aggregator shall be subject to supervision and regulation by the 1164  
public utilities commission only to the extent of any competitive 1165  
retail natural gas service it provides and commission authority 1166  
under this chapter. 1167

**Sec. 4929.26.** (A) Prior to April 1, 2004, the public 1168

utilities commission shall initiate a proceeding, which shall 1169  
include one or more public hearings, for the purpose of 1170  
determining whether it is in the public interest that governmental 1171  
aggregation should occur as provided under section 4929.27 of the 1172  
Revised Code. Upon the conclusion of the proceeding, the 1173  
commission may issue an order that governmental aggregation should 1174  
occur as provided under section 4929.27 of the Revised Code if the 1175  
commission determines that such aggregation authority is in the 1176  
public interest. The commission shall maintain a complete record 1177  
of the proceeding and shall file with the record of the proceeding 1178  
findings of fact and written opinions setting forth the reasons 1179  
for its determination. 1180

(B)(1) On or after the issuance of an order under division 1181  
(A) of this section finding that it is in the public interest that 1182  
governmental aggregation should occur as provided under section 1183  
4929.27 of the Revised Code and upon the filing of an application 1184  
by a natural gas company in such form and pursuant to such 1185  
procedures as shall be prescribed by rule of the commission under 1186  
section 4929.10 of the Revised Code for the purpose of this 1187  
division, the commission shall determine the total allowable 1188  
amount of capacity and commodity costs of the company to be 1189  
received as revenues under this division. Such amount shall be the 1190  
just and reasonable costs of the company that the commission finds 1191  
meet all of the following criteria: 1192

(a) The costs were prudently incurred. 1193

(b) The costs are legitimate, net, verifiable, and directly 1194  
due to capacity and commodity obligations entered into by the 1195  
natural gas company on behalf of the consumers that take commodity 1196  
sales service through a particular governmental aggregator 1197  
authorized under section 4929.27 of the Revised Code, in lieu of 1198  
taking commodity sales service from the natural gas company after 1199

April 1, 2004.

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(c) The costs are otherwise unrecoverable.

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(d) The company would otherwise be entitled an opportunity to  
recover those costs.

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The commission shall not authorize such revenue opportunity  
for a company under this division without first setting the matter  
for hearing, giving notice of such hearing date to the company,  
and publishing notice of the hearing one time in a newspaper of  
general circulation in each county affected by the application. At  
such hearing, the company shall have the burden of demonstrating  
allowable costs under this division.

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(2) Upon the issuance of an order under division (B)(1) of  
this section determining any allowable capacity and commodity  
costs of a natural gas company, the company shall file with the  
commission under section 4905.30 of the Revised Code revised  
schedules allowing the recovery of such costs as the commission  
authorized in the order and containing such necessary and  
appropriate cost recovery mechanism or mechanisms as the  
commission prescribes in the order. Such mechanism or mechanisms  
shall recover the costs from customers for which there is a choice  
of supplier of commodity sales service as a result of revised  
schedules approved under division (B) of section 4929.29 of the  
Revised Code, 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 commission shall act promptly to approve such revised  
schedules as it determines comply with the order.

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**Sec. 4929.27.** (A)(1) Only on or after the issuance of an  
order under division (A) of section 4929.26 of the Revised Code  
finding that it is in the public interest that governmental  
aggregation should occur as provided under this section, the

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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 and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, 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 as a result of revised schedules approved under division (B) of section 4929.29 of the Revised Code, 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 its authority under this section 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 loads.

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(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets any of the following criteria:

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(i) The person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer.

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(ii) The person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is

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in effect on the effective date of the ordinance or resolution. 1262

(iii) The person is supplied with commodity sales service as 1263  
part of a retail natural gas load aggregation provided for 1264  
pursuant to a rule or order adopted or issued by the commission 1265  
under this chapter or Chapter 4905. of the Revised Code. 1266

(b) Nothing in division (A)(2)(a) of this section precludes a 1267  
governmental aggregation under this section from permitting the 1268  
retail natural gas load of a person described in division 1269  
(A)(2)(a) of this section from being included in the aggregation 1270  
upon the expiration of any contract or aggregation as described in 1271  
division (A)(2)(a)(ii) or (iii) of this section or upon the person 1272  
no longer being a customer as described in division (A)(2)(a)(i) 1273  
of this section or qualifying to be included in an aggregation 1274  
described under division (A)(2)(a)(iii) of this section. 1275

(B) An ordinance or resolution adopted under division (A) of 1276  
this section shall direct the board of elections to submit the 1277  
question of the authority to aggregate to the electors of the 1278  
respective municipal corporation, township, or unincorporated area 1279  
of a county at a special election on the day of the next primary 1280  
or general election in the municipal corporation, township, or 1281  
county. The legislative authority or board shall certify a copy of 1282  
the ordinance or resolution to the board of elections not less 1283  
than seventy-five days before the day of the special election. No 1284  
ordinance or resolution adopted under division (A) of this section 1285  
that provides for an election under this division shall take 1286  
effect unless approved by a majority of the electors voting upon 1287  
the ordinance or resolution at the election held pursuant to this 1288  
division. 1289

(C) Upon the applicable requisite authority under divisions 1290  
(A) and (B) of this section, the legislative authority or board 1291  
shall develop a plan of operation and governance for the 1292  
aggregation program so authorized. Before adopting a plan under 1293

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.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section, shall aggregate any retail natural gas load located within its jurisdiction unless it in advance clearly discloses to the person whose retail natural gas load is to be so aggregated that the person will be enrolled automatically in the aggregation 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 the opportunity to opt out of the aggregation every two years, without paying a switching fee. Any such person that opts out of the aggregation pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

(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.

(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

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in accordance with sections 731.25 to 731.40 of the Revised Code,  
except that:

(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.

(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  
that office in that area.

(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  
this chapter.

**Sec. 4929.28.** (A)(1) 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 and except as otherwise provided in division (A)(2)  
of this section, the legislative authority or board may aggregate,  
with the prior consent of each person whose retail natural gas  
load is proposed to be aggregated, competitive retail natural gas  
service for any such retail natural gas load that is 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 as a result of revised schedules

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approved under division (B) of section 4929.29 of the Revised Code, 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 loads. 1357  
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(2)(a) No aggregation an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets either of the following criteria: 1367  
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(i) The person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution. 1371  
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(ii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code. 1374  
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(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(i) or (ii) of this section or upon the person no longer qualifying to be included in such an aggregation. 1378  
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(B) Upon the applicable requisite authority under division (A) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation 1385  
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program so authorized. Before adopting a plan under this division, 1388  
the legislative authority or board shall hold at least two public 1389  
hearings on the plan. Before the first hearing, the legislative 1390  
authority or board shall publish notice of the hearings once a 1391  
week for two consecutive weeks in a newspaper of general 1392  
circulation in the jurisdiction. The notice shall summarize the 1393  
plan and state the date, time, and location of each hearing. 1394

(C)(1) With respect to a governmental aggregation for a 1395  
municipal corporation that is authorized pursuant to division (A) 1396  
of this section, resolutions may be proposed by initiative or 1397  
referendum petitions in accordance with sections 731.25 to 731.41 1398  
of the Revised Code. 1399

(2) With respect to a governmental aggregation for a township 1400  
or the unincorporated area of a county, which aggregation is 1401  
authorized pursuant to division (A) of this section, resolutions 1402  
may be proposed by initiative or referendum petitions in 1403  
accordance with sections 731.25 to 731.40 of the Revised Code, 1404  
except that: 1405

(a) The petitions shall be filed, respectively, with the 1406  
township clerk or the board of county commissioners, who shall 1407  
perform those duties imposed under those sections upon the city 1408  
auditor or village clerk. 1409

(b) The petitions shall contain the signatures of not less 1410  
than ten per cent of the total number of electors in the township 1411  
or the unincorporated area of the county, respectively, who voted 1412  
for the office of governor at the preceding general election for 1413  
that office in that area. 1414

(D) A governmental aggregator under division (A) of this 1415  
section is not a public utility engaging in the wholesale purchase 1416  
and resale of natural gas, and provision of the aggregated service 1417  
is not a wholesale utility transaction. A governmental aggregator 1418

shall be subject to supervision and regulation by the public 1419  
utilities commission only to the extent of any competitive retail 1420  
natural gas service it provides and commission authority under 1421  
this chapter. 1422

**Sec. 4929.29.** (A) The legislative authority of a municipal 1423  
corporation, the board of township trustees of a township, or the 1424  
board of county commissioners of a county may petition the public 1425  
utilities commission to require a natural gas company with fifteen 1426  
thousand or more customers in this state to provide, upon the 1427  
effective date of an ordinance or resolution authorized and 1428  
adopted under section 4929.27 or 4929.28 of the Revised Code, 1429  
distribution service on a fully open, equal, and nondiscriminatory 1430  
basis to consumers that are not mercantile customers and are 1431  
within the area of the governmental aggregation and to which the 1432  
company provides distribution service through distribution 1433  
facilities it singly or jointly owns or operates; and a retail 1434  
natural gas supplier may petition the commission to require a 1435  
natural gas company with fifteen thousand or more customers in 1436  
this state to so provide such fully open, equal, and 1437  
nondiscriminatory service to all consumers that are not mercantile 1438  
customers and to which the company provides distribution service 1439  
through distribution facilities it singly or jointly owns or 1440  
operates. Upon such application, the commission, after notice and 1441  
opportunity for hearing and by order, may require that the company 1442  
provide the service within the area specified in the petition, 1443  
provided that the commission finds that the provision of the 1444  
service within the area is in the public interest. The applicant 1445  
shall have the burden of proof under this division. Chapter 4903. 1446  
of the Revised Code shall apply to a proceeding under this 1447  
division. 1448

(B) Upon the issuance of an order under division (A) of this 1449  
section requiring distribution service on a comparable and 1450

nondiscriminatory basis within the area specified in the order, 1451  
the company shall file with the commission under section 4905.30 1452  
of the Revised Code revised schedules under which the company 1453  
shall provide the service so ordered. The commission shall act 1454  
promptly to approve the schedules. 1455

**Sec. 4935.03.** (A) The public utilities commission shall 1456  
adopt, and may amend or rescind, rules in accordance with section 1457  
111.15 of the Revised Code, with the approval of the governor, 1458  
defining various foreseen types and levels of energy emergency 1459  
conditions for critical shortages or interruptions in the supply 1460  
of electric power, natural gas, coal, or individual petroleum 1461  
fuels and specifying appropriate measures to be taken at each 1462  
level or for each type of energy emergency as necessary to protect 1463  
the public health or safety or prevent unnecessary or avoidable 1464  
damage to property. The rules may prescribe different measures for 1465  
each different type or level of declared energy emergency, and for 1466  
any type or level shall empower the governor to: 1467

(1) Restrict the energy consumption of state and local 1468  
government offices and industrial and commercial establishments; 1469

(2) Restrict or curtail public or private transportation or 1470  
require or encourage the use of car pools or mass transit systems; 1471

(3) Order, during a declared energy emergency, any electric 1472  
light, natural gas or gas, or pipeline company; any supplier 1473  
subject to certification under section 4928.08 or 4929.20 of the 1474  
Revised Code; electric power or gas utility that is owned by a 1475  
municipal corporation or not for profit; coal producer or 1476  
supplier; electric power producer or marketer; or petroleum fuel 1477  
producer, refiner, wholesale distributor, or retail dealer to sell 1478  
electricity, gas, coal, or petroleum fuel in order to alleviate 1479  
hardship, or if possible to acquire or produce emergency supplies 1480  
to meet emergency needs; 1481



(4) Order, during a declared energy emergency, other energy 1482  
conservation or emergency energy production or distribution 1483  
measures to be taken in order to alleviate hardship; 1484

(5) Mobilize emergency management, national guard, law 1485  
enforcement, or emergency medical services. 1486

The rules shall be designed to protect the public health and 1487  
safety and prevent unnecessary or avoidable damage to property. 1488  
They shall encourage the equitable distribution of available 1489  
electric power and fuel supplies among all geographic regions in 1490  
the state. 1491

(B) The governor may, after consultation with the ~~chairman~~ 1492  
chairperson of the commission, declare an energy emergency by 1493  
filing with the secretary of state a written declaration of an 1494  
energy emergency at any time ~~he~~ the governor finds that the 1495  
health, safety, or welfare of the residents of this state or of 1496  
one or more counties of this state is so imminently and 1497  
substantially threatened by an energy shortage that immediate 1498  
action of state government is necessary to prevent loss of life, 1499  
protect the public health or safety, and prevent unnecessary or 1500  
avoidable damage to property. The declaration shall state the 1501  
counties, utility service areas, or fuel market areas affected, or 1502  
its statewide effect, and what fuels or forms of energy are in 1503  
critically short supply. An energy emergency goes into immediate 1504  
effect upon filing and continues in effect for the period 1505  
prescribed in the declaration, but not more than thirty days. At 1506  
the end of any thirty-day or shorter energy emergency, the 1507  
governor may issue another declaration extending the emergency. 1508  
The general assembly may by concurrent resolution terminate any 1509  
declaration of an energy emergency. The emergency is terminated at 1510  
the time of filing of the concurrent resolution with the secretary 1511  
of state. When an energy emergency is declared, the commission 1512  
shall implement the measures which it determines are appropriate 1513

for the type and level of emergency in effect. 1514

(C) Energy emergency orders issued by the governor pursuant 1515  
to this section shall take effect immediately upon issuance, and 1516  
the person to whom the order is directed shall initiate compliance 1517  
measures immediately upon receiving the order. During an energy 1518  
emergency the attorney general or the prosecuting attorney of the 1519  
county where violation of a rule adopted or order issued under 1520  
this section occurs may bring an action for immediate injunction 1521  
or other appropriate relief to secure prompt compliance. The court 1522  
may issue an ex parte temporary order without notice which shall 1523  
enforce the prohibitions, restrictions, or actions that are 1524  
necessary to secure compliance with the rule or order. Compliance 1525  
with rules or orders issued under this section is a matter of 1526  
statewide concern. 1527

(D) During a declared energy emergency the governor may use 1528  
the services, equipment, supplies, and facilities of existing 1529  
departments, offices, and agencies of the state and of the 1530  
political subdivisions thereof to the maximum extent practicable 1531  
and necessary to meet the energy emergency, and the officers and 1532  
personnel of all such departments, offices, and agencies shall 1533  
cooperate with and extend such services and facilities to the 1534  
governor upon request. 1535

(E) During an energy emergency declared under this section, 1536  
no person shall violate any rule adopted or order issued under 1537  
this section. Whoever violates this division is guilty of a minor 1538  
misdemeanor on a first offense, and a misdemeanor of the first 1539  
degree upon subsequent offenses or if the violation was purposely 1540  
committed. 1541

**Sec. 5727.01.** As used in this chapter: 1542

(A) "Public utility" means each person referred to as a 1543  
telephone company, telegraph company, electric company, natural 1544

gas company, pipe-line company, water-works company, water  
transportation company, heating company, rural electric company,  
railroad company, or combined company.

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

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

(D) Any person:

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

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

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

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

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

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

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

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

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

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

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

(1) An item of tangible personal property that for the period subsequent to the effective date of an air, water, or noise

pollution control certificate and continuing so long as the 1607  
certificate is in force, has been certified as part of the 1608  
pollution control facility with respect to which the certificate 1609  
has been issued; 1610

(2) An item of tangible personal property that during the 1611  
construction of a plant or facility and until the item is first 1612  
capable of operation, whether actually used in operation or not, 1613  
is incorporated in or being held exclusively for incorporation in 1614  
that plant or facility. 1615

(F) "Taxing district" means a municipal corporation of 1616  
township, or part thereof, in which the aggregate rate of taxation 1617  
is uniform. 1618

(G) "Telecommunications service" has the same meaning as in 1619  
division (AA) of section 5739.01 of the Revised Code. 1620

(H) "Interexchange telecommunications company" means a person 1621  
that is engaged in the business of transmitting telephonic 1622  
messages to, from, through, or in this state, but that is not a 1623  
telephone company. 1624

(I) "Sale and leaseback transaction" means a transaction in 1625  
which a public utility or interexchange telecommunications company 1626  
sells any tangible personal property to a person other than a 1627  
public utility or interexchange telecommunications company and 1628  
leases that property back from the buyer. 1629

(J) "Production equipment" means all taxable steam, nuclear, 1630  
hydraulic, and other production plant equipment used to generate 1631  
electricity. For tax years prior to 2001, "production equipment" 1632  
includes taxable station equipment that is located at a production 1633  
plant. 1634

(K) "Tax year" means the year for which property or gross 1635  
receipts are subject to assessment under this chapter. This 1636  
division does not limit the tax commissioner's ability to assess 1637

and value property or gross receipts outside the tax year. 1638

(L) "Combined company" means any person engaged in the 1639  
activity of an electric company or rural electric company that is 1640  
also engaged in the activity of a heating company or a natural gas 1641  
company, or any combination thereof. 1642

**Section 2.** That existing sections 4719.01, 4905.10, 4911.18, 1643  
4929.01, 4935.03, and 5727.01 of the Revised Code are hereby 1644  
repealed. 1645

**Section 3.** Any person, as defined in section 1.59 of the 1646  
Revised Code, that, prior to the effective date of section 4929.20 1647  
of the Revised Code as enacted by this act, is engaged on a 1648  
for-profit or not-for-profit basis in the business of supplying or 1649  
arranging for the supply of natural gas commodity to consumers in 1650  
this state as a result of a rule or order adopted or issued by the 1651  
Public Utilities Commission prior to that effective date under 1652  
Chapter 4905. of the Revised Code, or any governmental aggregator 1653  
authorized, prior to that effective date, to aggregate in 1654  
accordance with section 4929.28 of the Revised Code as enacted by 1655  
this act, may continue to engage in such business or aggregation 1656  
until the person's or governmental aggregator's initial 1657  
application for certification under division (A) of section 1658  
4929.20 of the Revised Code as enacted by this act is approved or 1659  
denied pursuant to that division. 1660

**Section 4.** (A) Nothing in this act affects any arrangement or 1661  
other contract to supply or arrange for the supply of commodity 1662  
sales service or ancillary service, as defined in section 4929.01 1663  
of the Revised Code as amended by this act, to a consumer in this 1664  
state, which arrangement or contract was entered into prior to the 1665  
effective date of initial rules adopted pursuant to division (A) 1666  
of section 4929.20 of the Revised Code as enacted by this act and 1667

was authorized as a result of a rule or order adopted or issued by 1668  
the Public Utilities Commission under Chapter 4905. of the Revised 1669  
Code; and nothing in this act affects any rights or duties of any 1670  
person under such an arrangement or contract for the term of the 1671  
arrangement or contract. 1672

(B) Nothing in this act affects any governmental aggregation 1673  
under section 4929.28 of the Revised Code that is authorized under 1674  
that section prior to the effective date of initial rules adopted 1675  
pursuant to division (A) of section 4929.20 of the Revised Code as 1676  
enacted by this act; or any rights or duties of any party to the 1677  
aggregation. 1678

**Section 5.** All items in this section are hereby appropriated 1679  
as designated out of any moneys in the state treasury to the 1680  
credit of the General Revenue Fund. For all appropriations made in 1681  
this act, those in the first column are for fiscal year 2000 and 1682  
those in the second column are for fiscal year 2001. The 1683  
appropriations made in this act are in addition to any other 1684  
appropriations made for the 1999-2001 biennium. 1685

JFS DEPARTMENT OF JOB AND FAMILY SERVICES 1686

GRF 600-437 Temporary Heating	\$	0	\$	20,000,000	1687
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Assistance for Warmth

TOTAL GRF General Revenue Fund	\$	0	\$	20,000,000	1688
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TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	20,000,000	1689
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TEMPORARY HEATING ASSISTANCE FOR WARMTH 1690

The foregoing appropriation item 600-437, Temporary Heating 1691  
Assistance for Warmth, shall be used for Project Temporary Heating 1692  
Assistance for Warmth, which is a program hereby authorized to 1693  
provide assistance with the payment of winter heating expenses for 1694  
persons not eligible for assistance under Title IV-A of the Social 1695  
Security Act, and whose gross monthly income does not exceed 200 1696  
per cent of the federal poverty guidelines, as established by the 1697

United States Secretary of Health and Human Services. The 1698  
Department of Job and Family Services may provide funds for this 1699  
program from this appropriation to county departments of job and 1700  
family services to make one-time payments of 50 per cent of the 1701  
primary heating bills incurred between October 1, 2000, and April 1702  
1, 2001, for any heating fuel on behalf of eligible households, 1703  
not to exceed \$250. The Department of Job and Family Services may 1704  
issue guidelines for the implementation of this program. Total 1705  
expenditures for this program shall not exceed \$20,000,000. 1706

Within the limits set forth in this act, the Director of 1707  
Budget and Management shall establish accounts indicating the 1708  
source and amount of funds for each appropriation made in this 1709  
act, and shall determine the form and manner in which 1710  
appropriation accounts shall be maintained. Expenditures from 1711  
appropriations contained in this act shall be accounted for as 1712  
though made in Am. Sub. H.B. 283 of the 123rd General Assembly. 1713  
The appropriations made in this act are subject to all provisions 1714  
of Am. Sub. H.B. 283 of the 123rd General Assembly that are 1715  
generally applicable to such appropriations. 1716

**Section 6.** Sections 5 and 6 of this act are not subject to 1717  
the referendum. Therefore, under Ohio Constitution, Article II, 1718  
Section 1d and section 1.471 of the Revised Code, Sections 5 and 6 1719  
of this act go into immediate effect when this act becomes law. 1720