

As Reported by the House Public Utilities Committee

124th General Assembly

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Sub. H. B. No. 9

**REPRESENTATIVES Setzer, Olman, Manning, Hollister, Goodman, Niehaus,
Hagan, Schmidt**

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; and to authorize Project 16
Temporary Heating Assistance for Warmth and to make 17
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 49

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.

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(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.

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

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(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:

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

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

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(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.

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

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

(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.

(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:

(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;

(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;

(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 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:

(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 142
registered or is exempt from registration under 15 U.S.C.A. 143
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 144

(ii) The class of securities is listed on the New York stock 145
exchange, the American stock exchange, or the NASDAQ national 146
market system; 147

(iii) The class of securities is a reported security as 148
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 149

(b) An issuer, or its subsidiary, that formerly had a class 150
of securities that met the criteria set forth in division 151
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 152
net worth in excess of one hundred million dollars, files or its 153
parent files with the securities and exchange commission an S.E.C. 154
form 10-K, and has continued in substantially the same business 155
since it had a class of securities that met the criteria in 156
division (B)(6)(a) of this section. As used in division (B)(6)(b) 157
of this section, "issuer" and "subsidiary" include the successor 158
to an issuer or subsidiary. 159

(7) A person soliciting a transaction regulated by the 160
commodity futures trading commission, if the person is registered 161
or temporarily registered for that activity with the commission 162
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 163
registration has not expired or been suspended or revoked; 164

(8) A person soliciting the sale of any book, record, audio 165
tape, compact disc, or video, if the person allows the purchaser 166
to review the merchandise for at least seven days and provides a 167
full refund within thirty days to a purchaser who returns the 168
merchandise or if the person solicits the sale on behalf of a 169
membership club operating in compliance with regulations adopted 170
by the federal trade commission in 16 C.F.R. 425; 171

(9) A supervised financial institution or its subsidiary. As 172

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

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

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

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

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

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

(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	232 233

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;

(19)(a) A person that, for at least one year, has been

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 293
solicitation are sold at the person's business premises, and at 294

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
registration and reporting requirements of Chapter 1716. of the

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 355

or magazine of general, paid circulation" excludes a periodical or 356
magazine circulated only as part of a membership package or given 357
as a free gift or prize from the publisher or person. 358

(23) A person that solicits the sale of food, as defined in 359
section 3715.01 of the Revised Code, or the sale of products of 360
horticulture, as defined in section 5739.01 of the Revised Code, 361
if the person does not intend the solicitation to result in, or 362
the solicitation actually does not result in, a sale that costs 363
the purchaser an amount greater than five hundred dollars. 364

(24) A funeral director licensed pursuant to Chapter 4717. of 365
the Revised Code when soliciting within the scope of that license, 366
if both of the following apply: 367

(a) The solicitation and sale are conducted in compliance 368
with 16 C.F.R. part 453, as adopted by the federal trade 369
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 370
the Revised Code; 371

(b) The person provides to the purchaser of any preneed 372
funeral contract a notice that clearly and conspicuously sets 373
forth the cancellation rights specified in division (G) of section 374
1107.33 of the Revised Code, and retains a copy of the notice 375
signed by the purchaser. 376

(25) A person, or affiliate thereof, licensed to sell or 377
issue Ohio instruments designated as travelers checks pursuant to 378
sections 1315.01 to 1315.11 of the Revised Code. 379

(26) A person that solicits sales from its previous 380
purchasers and meets all of the following requirements: 381

(a) The solicitation is made under the same business name 382
that was previously used to sell goods or services to the 383
purchaser; 384

(b) The person has, for a period of not less than three 385

years, operated a business under the same business name as that
used in connection with telephone solicitation;

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

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

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

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

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

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

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

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

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

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

Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of ~~the~~ this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within ~~the~~ this state by the commission by first

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 478
specified in the utility's, company's, cooperative's, or 479

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.

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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 every 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.

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

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(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 542
4929.20 of the Revised Code, to the extent of the supplier's or 543

aggregator's engagement in the business of supplying or arranging 544
for the supply in this state of any competitive retail natural gas 545
service for which it must be certified. 546

(E) Each public utilities commissioner shall receive a salary 547
fixed at the level set by pay range 49 under schedule E-2 of 548
section 124.152 of the Revised Code. 549

Sec. 4911.18. (A) For the sole purpose of maintaining and 550
administering the office of the consumers' counsel and exercising 551
the powers of the consumers' counsel under this chapter, an amount 552
equal to the appropriation to the office of the consumers' counsel 553
in each fiscal year shall be apportioned among and assessed 554
against each public utility within ~~the~~ this state, as defined in 555
section 4911.01 of the Revised Code, by first computing an 556
assessment as though it were to be made in proportion to the 557
intrastate gross earnings or receipts of the public utility for 558
the calendar year next preceding that in which the assessment is 559
made, excluding earnings or receipts from sales to other public 560
utilities for resale. The office may include in that first 561
computation any amount of a public utility's intrastate gross 562
earnings or receipts underreported in a prior year. In addition to 563
whatever penalties apply under the Revised Code to such 564
underreporting, the office shall assess the public utility 565
interest at the rate stated in division (A) of section 1343.01 of 566
the Revised Code. The office shall deposit any interest so 567
collected into the consumers' counsel operating fund. 568

The final computation of the assessment shall consist of 569
imposing upon each public utility whose assessment under the first 570
computation would have been fifty dollars or less an assessment of 571
fifty dollars and recomputing the assessment of the remaining 572
companies by apportioning an amount equal to the appropriation to 573
the office of consumers' counsel in each fiscal year less the 574

total amount to be recovered from those paying the minimum 575
assessment, in proportion to the intrastate gross earnings or 576
receipts of the remaining companies for the calendar year next 577
preceding that in which the assessments are made, excluding 578
earnings or receipts from sales to other public utilities for 579
resale. 580

In the case of an assessment based on intrastate gross 581
receipts under this section against a public utility that is an 582
electric utility as defined in section 4928.01 of the Revised 583
Code, or an electric services company, electric cooperative, or 584
governmental aggregator subject to certification under section 585
4928.08 of the Revised Code, such receipts shall be those 586
specified in the utility's, company's, cooperative's, or 587
aggregator's most recent report of intrastate gross receipts and 588
sales of kilowatt hours of electricity, filed with the public 589
utilities commission pursuant to division (F) of section 4928.06 590
of the Revised Code, and verified by the commission. 591

In the case of an assessment based on intrastate gross 592
receipts under this section against a retail natural gas supplier 593
or governmental aggregator subject to certification under section 594
4929.20 of the Revised Code, such receipts shall be those 595
specified in the supplier's or aggregator's most recent report of 596
intrastate gross receipts and sales of hundred cubic feet of 597
natural gas, filed with the commission pursuant to division (B) of 598
section 4929.23 of the Revised Code, and verified by the 599
commission. However, no retail natural gas supplier or 600
governmental aggregator shall be assessed under this section until 601
after the commission, pursuant to a proceeding under section 602
4905.26 or 4909.18 of the Revised Code, has removed from the base 603
rates of every natural gas company the amount of assessment under 604
this section that is attributable to the value of natural gas in 605
the base rates paid by those customers that do not purchase 606

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

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(2) In addition to a natural gas company as defined in 639
section 4929.01 of the Revised Code, a retail natural gas supplier 640
or governmental aggregator subject to certification under section 641
4929.20 of the Revised Code, to the extent of the supplier's or 642
aggregator's engagement in the business of supplying or arranging 643
for the supply in this state of any competitive retail natural gas 644
service for which it must be certified. 645

Sec. 4929.01. As used in this chapter: 646

(A) "Alternative rate plan" means a method, alternate to the 647
method of section 4909.15 of the Revised Code, for establishing 648
rates and charges, under which rates and charges may be 649
established for a commodity sales service or ancillary service 650
that is not exempt pursuant to section 4929.04 of the Revised Code 651
or for a distribution service. Alternative rate plans may include, 652
but are not limited to, methods that provide adequate and reliable 653
natural gas services and goods in this state; minimize the costs 654
and time expended in the regulatory process; tend to assess the 655
costs of any natural gas service or goods to the entity, service, 656
or goods that cause such costs to be incurred; afford rate 657
stability; promote and reward efficiency, quality of service, or 658
cost containment by a natural gas company; or provide sufficient 659
flexibility and incentives to the natural gas industry to achieve 660
high quality, technologically advanced, and readily available 661
natural gas services and goods at just and reasonable rates and 662
charges. Alternative rate plans also may include, but are not 663
limited to, automatic adjustments based on a specified index or 664
changes in a specified cost or costs. 665

(B) "Ancillary service" means a service that is ancillary to 666
the receipt or delivery of natural gas to consumers, including, 667
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 is part of an undertaking having more than three 722
locations within or outside of this state. "Mercantile customer" 723
excludes a customer for which a declaration under division (L)(2) 724
of this section is in effect pursuant to that division. 725

(2) A not-for-profit customer that consumes, other than for 726
residential use, more than five hundred thousand cubic feet of 727
natural gas per year at a single location within this state or is 728
part of an undertaking having more than three locations within or 729
outside this state may file a declaration under division (L)(2) of 730
this section with the public utilities commission. The declaration 731
shall take effect upon the date of filing, and by virtue of the 732

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

(M) "Retail natural gas service" means commodity sales 749
service, ancillary service, natural gas aggregation service, 750
natural gas marketing service, or natural gas brokerage service. 751

(N) "Retail natural gas supplier" means any person, as 752
defined in section 1.59 of the Revised Code, that is engaged on a 753
for-profit or not-for-profit basis in the business of supplying or 754
arranging for the supply of a competitive retail natural gas 755
service to consumers in this state that are not mercantile 756
customers. "Retail natural gas supplier" includes a marketer, 757
broker, or aggregator, but excludes a natural gas company, a 758
governmental aggregator, an entity described in division (B) or 759
(C) of section 4905.02 of the Revised Code, or a billing or 760
collection agent, and excludes a producer or gatherer of gas to 761
the extent such producer or gatherer is not a natural gas company 762
under section 4905.03 of the Revised Code. 763

Sec. 4929.20. (A) No retail natural gas supplier or 764

governmental aggregator shall provide a competitive retail natural 765
gas service on or after thirteen months following the effective 766
date of this section to a consumer in this state without first 767
being certified by the public utilities commission regarding its 768
managerial, technical, and financial capability to provide that 769
service and providing a financial guarantee sufficient to protect 770
customers and natural gas companies from default. Certification 771
shall be granted pursuant to procedures and standards the 772
commission shall prescribe in accordance with rules adopted under 773
section 4929.10 of the Revised Code. However, certification or 774
certification renewal shall be deemed approved thirty days after 775
the filing of an application with the commission unless the 776
commission suspends that approval for good cause shown. In the 777
case of such a suspension, the commission shall act to approve or 778
deny certification or certification renewal to the applicant not 779
later than ninety days after the date of the suspension. 780

(B) Capability standards adopted in rules pursuant to 781
division (A) of this section shall be sufficient to ensure 782
compliance with the minimum service requirements established under 783
section 4929.23 of the Revised Code and with section 4929.22 of 784
the Revised Code. The standards shall allow flexibility for 785
voluntary aggregation, to encourage market creativity in 786
responding to consumer needs and demands. The rules shall include 787
procedures for biennially renewing certification. 788

(C)(1) The commission may suspend, rescind, or conditionally 789
rescind the certification of any retail natural gas supplier or 790
governmental aggregator issued under this section if the 791
commission determines, after reasonable notice and opportunity for 792
hearing, that the retail natural gas supplier or governmental 793
aggregator has failed to comply with any applicable certification 794
standards prescribed in rules adopted pursuant to this section or 795
section 4929.22 of the Revised Code. 796

(2) An affected natural gas company may file an application 797
with the commission for approval of authority to recover in 798
accordance with division (C)(2) of this section incremental costs 799
reasonably and prudently incurred by the company in connection 800
with the commission's continuation, suspension, rescission, or 801
conditional rescission of a particular retail natural gas supplier 802
under division (C)(1) of this section. Upon the filing of such an 803
application, the commission shall conduct an audit of such 804
incremental costs as are specified in the application. Cost 805
recovery shall be through a rider on the base rates of customers 806
for which there is a choice of supplier of commodity sales service 807
as a result of revised schedules approved under division (B) of 808
section 4929.26 of the Revised Code, a rule or order adopted or 809
issued by the commission under Chapter 4905. of the Revised Code, 810
or an exemption granted by the commission under sections 4929.04 811
to 4929.08 of the Revised Code. The rider shall take effect ninety 812
days after the date of the application's filing unless the 813
commission, based on the audit results and for good cause shown, 814
sets the matter for hearing. After such an audit, the commission 815
shall approve the application, and authorize such cost recovery 816
rider effective on the date specified in the order, only for such 817
incremental costs as the commission determines were reasonably and 818
prudently incurred by the company in connection with the 819
continuation, suspension, rescission, or conditional rescission of 820
a retail natural gas supplier's certification under division 821
(C)(1) of this section. Any proceeding under division (C)(2) of 822
this section shall be governed by Chapter 4903. of the Revised 823
Code. 824

(D) No natural gas company, on and after the effective date 825
of initial rules adopted pursuant to division (A) of this section 826
to establish a certification system for retail natural gas 827
suppliers and governmental aggregators, shall knowingly distribute 828

natural gas, to a retail consumer in this state, for any retail 829
natural gas supplier or governmental aggregator that has not been 830
certified by the commission pursuant to this section. 831

Sec. 4929.21. (A)(1) Beginning on the effective date of 832
initial rules adopted pursuant to division (A) of section 4929.20 833
of the Revised Code to establish a certification system for retail 834
natural gas suppliers and governmental aggregators, no person 835
shall operate in this state as a retail natural gas supplier, 836
unless that person first does both of the following: 837

(a) Consents irrevocably to the jurisdiction of the courts of 838
this state and service of process in this state, including, 839
without limitation, service of summonses and subpoenas, for any 840
civil or criminal proceeding arising out of or relating to such 841
operation, by providing that irrevocable consent in accordance 842
with division (A)(4) of this section; 843

(b) Designates an agent authorized to receive that service of 844
process in this state, by filing with the public utilities 845
commission a document designating that agent. 846

(2) Beginning on the effective date of initial rules adopted 847
pursuant to division (A) of section 4929.20 of the Revised Code to 848
establish a certification system for retail natural gas suppliers 849
and governmental aggregators, no person shall continue to operate 850
as such retail natural gas supplier unless that person continues 851
to consent to such jurisdiction and service of process in this 852
state and continues to designate an agent as provided under this 853
division, by refileing in accordance with division (A)(4) of this 854
section the appropriate documents filed under division (A)(1) of 855
this section or, as applicable, the appropriate amended documents 856
filed under division (A)(3) of this section. Such refileing shall 857
occur during the month of December of every fourth year after the 858
initial filing of a document under division (A)(1) of this 859

section. 860

(3) If the address of the person filing a document under 861
division (A)(1) or (2) of this section changes, or if a person's 862
agent or the address of the agent changes, from that listed on the 863
most recently filed of such documents, the person shall file an 864
amended document containing the new information. 865

(4) The consent and designation required by divisions (A)(1), 866
(2), and (3) of this section shall be in writing, on forms 867
prescribed by the commission. The original of each such document 868
or amended document shall be legible and shall be filed with the 869
commission, with a copy filed with the office of the consumers' 870
counsel and with the attorney general's office. 871

(B) A person who enters this state pursuant to a summons, 872
subpoena, or other form of process authorized by this section is 873
not subject to arrest or service of process, whether civil or 874
criminal, in connection with other matters that arose before the 875
person's entrance into this state pursuant to such summons, 876
subpoena, or other form of process. 877

(C) Divisions (A) and (B) of this section do not apply to any 878
of the following: 879

(1) A corporation incorporated under the laws of this state 880
that has appointed a statutory agent pursuant to section 1701.07 881
or 1702.06 of the Revised Code; 882

(2) A foreign corporation licensed to transact business in 883
this state that has appointed a designated agent pursuant to 884
section 1703.041 of the Revised Code; 885

(3) Any other person that is a resident of this state or that 886
files consent to service of process and designates a statutory 887
agent pursuant to other laws of this state. 888

Sec. 4929.22. For the protection of consumers in this state, 889

the public utilities commission shall adopt rules under section 890
4929.10 of the Revised Code specifying the necessary minimum 891
service requirements of a retail natural gas supplier or 892
governmental aggregator subject to certification under section 893
4929.20 of the Revised Code regarding the marketing, solicitation, 894
sale, or provision, directly or through its billing and collection 895
agent, of any competitive retail natural gas service for which it 896
is subject to certification. Rules adopted under this section 897
shall include additional consumer protections concerning all of 898
the following: 899

(A) Contract disclosure. The rules shall include requirements 900
that a retail natural gas supplier or governmental aggregator 901
subject to certification under section 4929.20 of the Revised Code 902
do both of the following: 903

(1) Provide consumers with adequate, accurate, and 904
understandable pricing and terms and conditions of service, 905
including any switching fees, and with a document containing the 906
terms and conditions of pricing and service before the consumer 907
enters into the contract for service; 908

(2) Disclose the conditions under which a customer may 909
rescind a contract without penalty. 910

(B) Service qualification and termination. The rules shall 911
include a requirement that, before a consumer is eligible for 912
service from a retail natural gas supplier or governmental 913
aggregator, the consumer shall discharge, or enter into a plan to 914
discharge, all existing arrearages owed to or being billed by the 915
natural gas company from which the consumer presently is receiving 916
service. The rules also shall provide for disclosure of the terms 917
identifying how customers may switch or terminate service, 918
including any required notice and any penalties. 919

(C) Minimum content of customer bills. The rules shall 920

include all of the following requirements, which shall be 921
standardized: 922

(1) Price disclosure and disclosures of total billing units 923
for the billing period and historical annual usage; 924

(2) To the maximum extent practicable, separate listing of 925
each service component to enable a customer to recalculate its 926
bill for accuracy; 927

(3) Identification of the supplier of each service; 928

(4) Statement of where and how payment may be made and 929
provision of a toll-free or local customer assistance and 930
complaint number for the retail natural gas supplier or 931
governmental aggregator, as well as a consumer assistance 932
telephone number or numbers for state agencies, such as the 933
commission, the office of the consumers' counsel, and the attorney 934
general's office, with the available hours noted; 935

(5) Other than for the first billing after the effective date 936
of initial rules adopted pursuant to division (A) of section 937
4929.20 of the Revised Code to establish a certification system 938
for retail natural gas suppliers and governmental aggregators, 939
highlighting and clear explanation on each customer bill, for two 940
consecutive billing periods, of any changes in the rates, terms, 941
and conditions of service. 942

(D) Disconnection and service termination, including 943
requirements with respect to master-metered buildings. The rules 944
shall include policies and procedures that are consistent with 945
sections 4933.12 and 4933.122 of the Revised Code and the 946
commission's rules adopted under those sections, and that provide 947
for all of the following: 948

(1) Coordination between suppliers for the purpose of 949
maintaining service; 950

(2) The allocation of partial payments between suppliers when 951

<u>service components are jointly billed;</u>	952
<u>(3) A prohibition against switching, or authorizing the</u>	953
<u>switching of, a customer's supplier of competitive retail natural</u>	954
<u>gas service without the prior consent of the customer in</u>	955
<u>accordance with appropriate confirmation practices, which may</u>	956
<u>include independent, third-party verification procedures;</u>	957
<u>(4) A requirement of disclosure of the conditions under which</u>	958
<u>a customer may rescind a decision to switch its supplier without</u>	959
<u>penalty;</u>	960
<u>(5) Specification of any required notice and any penalty for</u>	961
<u>early termination of contract.</u>	962
<u>(E) Minimum service quality, safety, and reliability.</u>	963
<u>(F) Customer information. The rules shall include</u>	964
<u>requirements that a natural gas company make generic customer load</u>	965
<u>pattern information available to a retail natural gas supplier or</u>	966
<u>governmental aggregator on a comparable and nondiscriminatory</u>	967
<u>basis, and make customer information available to a retail natural</u>	968
<u>gas supplier or governmental aggregator on a comparable and</u>	969
<u>nondiscriminatory basis unless, as to customer information, the</u>	970
<u>customer objects. The rules shall ensure that each natural gas</u>	971
<u>company provide clear and frequent notice to its customers of the</u>	972
<u>right to object and of applicable procedures. The rules shall</u>	973
<u>establish the exact language that shall be used in all such</u>	974
<u>notices. The rules also shall require that, upon the request of a</u>	975
<u>governmental aggregator solely for purposes of the disclosure</u>	976
<u>required by division (C) of section 4929.25 or division (D) of</u>	977
<u>section 4929.27 of the Revised Code, a natural gas company or</u>	978
<u>retail natural gas supplier must provide the governmental</u>	979
<u>aggregator, in a timely manner and at such cost as the commission</u>	980
<u>shall provide for in the rules, with the billing names and</u>	981
<u>addresses of the customers of the company or supplier whose retail</u>	982

natural gas loads are to be included in the governmental aggregation. 983
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(G) Ohio office. The rules shall require that a retail natural gas supplier maintain an office and an employee in this state. 985
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Sec. 4929.23. (A) A retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code shall provide the public utilities commission with such information, regarding a competitive retail natural gas service for which it is subject to certification, as the commission considers necessary to carry out sections 4929.20 to 4929.24 of the Revised Code. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information. 988
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(B) The commission shall require each retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code to file an annual report of such receipts and sales from the provision of those competitive retail natural gas services for which it is subject to certification. For the purpose of the reports, sales of hundred cubic feet of natural gas are deemed to occur at the meter of the retail customer. 997
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Sec. 4929.24. (A)(1) The public utilities commission has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or complaint or initiative of the commission regarding the provision by a retail natural gas supplier subject to certification under section 4929.20 of the Revised Code of any service for which it is subject to certification. 1005
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(2) The commission also has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or 1012
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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

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4911.19 of the Revised Code, the consumers' counsel, upon 1046
reasonable grounds, may file with the commission under section 1047
4905.26 of the Revised Code a complaint for discovery if the 1048
recipient of an inquiry under section 4911.19 of the Revised Code 1049
fails to provide a response within the time specified in that 1050
section. 1051

(D) The commission's jurisdiction with respect to a natural 1052
gas company under Chapter 4905. of the Revised Code extends to any 1053
violation of division (D) of section 4929.20 or any failure to 1054
comply with division (B) of section 4929.29 of the Revised Code. 1055

Sec. 4929.25. (A)(1) The public utilities commission by order 1056
shall provide for a pilot program for governmental aggregations in 1057
accordance with this section, which program shall expire on April 1058
1, 2004. Under the program, the commission may authorize only 1059
pilot governmental aggregations under which competitive retail 1060
natural gas service for the retail natural gas loads within the 1061
area of a particular aggregation are aggregated automatically, 1062
subject to the opt-out requirements of division (C) of this 1063
section and termination on or before April 1, 2004. The commission 1064
may authorize different size aggregations as it determines 1065
reasonable given the customer base of a particular distribution 1066
company. However, each such aggregation shall reflect an 1067
appropriate mix of customers. Too, prior to April 1, 2003, the 1068
total number of distribution service customers of the natural gas 1069
company with the largest number of distribution service customers 1070
in this state that may be aggregated under this section shall not 1071
exceed fifty thousand customers. On or after April 1, 2003, the 1072
total number of such aggregated customers of that company shall 1073
not exceed one hundred fifty per cent of the original fifty 1074
thousand maximum. The commission shall apply these maximums 1075
proportionately with respect to aggregations under this section of 1076
distribution service customers of each other natural gas company. 1077

Under the pilot program, the legislative authority of a municipal corporation that has adopted a nonemergency ordinance providing for a pilot aggregation under this section, or the board of township trustees of a township or the board of county commissioners of a county that has adopted a nonemergency resolution providing for such aggregation, may apply to the commission for authority to provide the pilot aggregation. After notice and an opportunity for a hearing, the commission may approve the application if it determines that the pilot aggregation is in the public interest. Upon that determination, and subject to the opt-out requirements of division (C) of this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board automatically may aggregate competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service 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.

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

(i) The person is both a distribution service customer and a mercantile customer.

(ii) 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.

(iii) The person is supplied with commodity sales service as

part of a retail natural gas load aggregation provided for 1109
pursuant to a rule or order adopted or issued by the commission 1110
under this chapter or Chapter 4905. of the Revised Code. 1111

(B) Upon the applicable requisite authority under division 1112
(A) of this section, the legislative authority or board shall 1113
develop a plan of operation and governance for the pilot 1114
aggregation so authorized. Before adopting a plan under this 1115
division, the legislative authority or board shall hold at least 1116
two public hearings on the plan. Before the first hearing, the 1117
legislative authority or board shall publish notice of the 1118
hearings once a week for two consecutive weeks in a newspaper of 1119
general circulation in the jurisdiction. The notice shall 1120
summarize the plan and state the date, time, and location of each 1121
hearing. 1122

(C) No legislative authority or board, pursuant to an 1123
ordinance or resolution under division (A) of this section, shall 1124
aggregate any retail natural gas load located within its 1125
jurisdiction unless it in advance clearly discloses to the person 1126
whose retail natural gas load is to be so aggregated that the 1127
person will be enrolled automatically in the pilot aggregation and 1128
will remain so enrolled unless the person affirmatively elects by 1129
a stated procedure not to be so enrolled. The disclosure shall 1130
state prominently the rates, charges, and other terms and 1131
conditions of enrollment. The stated procedure shall allow any 1132
person enrolled in the aggregation the opportunity to opt out of 1133
the aggregation, without paying a switching fee. Any such person 1134
that opts out of the aggregation pursuant to the stated procedure 1135
shall default to the natural gas company providing distribution 1136
service for the person's retail natural gas load, until the person 1137
chooses an alternative supplier. 1138

(D)(1) With respect to a pilot governmental aggregation for a 1139
municipal corporation that is authorized pursuant to divisions (A) 1140

to (C) of this section, resolutions may be proposed by initiative 1141
or referendum petitions in accordance with sections 731.25 to 1142
731.41 of the Revised Code. 1143

(2) With respect to a pilot governmental aggregation for a 1144
township or the unincorporated area of a county, which aggregation 1145
is authorized pursuant to divisions (A) to (C) of this section, 1146
resolutions may be proposed by initiative or referendum petitions 1147
in accordance with sections 731.25 to 731.40 of the Revised Code, 1148
except that: 1149

(a) The petitions shall be filed, respectively, with the 1150
township clerk or the board of county commissioners, who shall 1151
perform those duties imposed under those sections upon the city 1152
auditor or village clerk. 1153

(b) The petitions shall contain the signatures of not less 1154
than ten per cent of the total number of electors in the township 1155
or the unincorporated area of the county, respectively, who voted 1156
for the office of governor at the preceding general election for 1157
that office in that area. 1158

(E) A governmental aggregator under division (A) of this 1159
section is not a public utility engaging in the wholesale purchase 1160
and resale of natural gas, and provision of the aggregated service 1161
is not a wholesale utility transaction. Such a governmental 1162
aggregator shall be subject to supervision and regulation by the 1163
public utilities commission only to the extent of any competitive 1164
retail natural gas service it provides and commission authority 1165
under this chapter. 1166

Sec. 4929.26. (A) Prior to April 1, 2004, the public 1167
utilities commission shall initiate a proceeding, which shall 1168
include one or more public hearings, for the purpose of 1169
determining whether it is in the public interest that governmental 1170
aggregation should occur as provided under section 4929.27 of the 1171

Revised Code. Upon the conclusion of the proceeding, the 1172
commission may issue an order that governmental aggregation should 1173
occur as provided under section 4929.27 of the Revised Code if the 1174
commission determines that such aggregation authority is in the 1175
public interest. The commission shall maintain a complete record 1176
of the proceeding and shall file with the record of the proceeding 1177
findings of fact and written opinions setting forth the reasons 1178
for its determination. 1179

(B)(1) On or after the issuance of an order under division 1180
(A) of this section finding that it is in the public interest that 1181
governmental aggregation should occur as provided under section 1182
4929.27 of the Revised Code and upon the filing of an application 1183
by a natural gas company in such form and pursuant to such 1184
procedures as shall be prescribed by rule of the commission under 1185
section 4929.10 of the Revised Code for the purpose of this 1186
division, the commission shall determine the total allowable 1187
amount of capacity and commodity costs of the company to be 1188
received as revenues under this division. Such amount shall be the 1189
just and reasonable costs of the company that the commission finds 1190
meet all of the following criteria: 1191

(a) The costs were prudently incurred. 1192

(b) The costs are legitimate, net, verifiable, and directly 1193
due to capacity and commodity obligations entered into by the 1194
natural gas company on behalf of the consumers that take commodity 1195
sales service through a particular governmental aggregator 1196
authorized under section 4929.27 of the Revised Code, in lieu of 1197
taking commodity sales service from the natural gas company after 1198
April 1, 2004. 1199

(c) The costs are otherwise unrecoverable. 1200

(d) The company would otherwise be entitled an opportunity to 1201
recover those costs. 1202

The commission shall not authorize such revenue opportunity 1203
for a company under this division without first setting the matter 1204
for hearing, giving notice of such hearing date to the company, 1205
and publishing notice of the hearing one time in a newspaper of 1206
general circulation in each county affected by the application. At 1207
such hearing, the company shall have the burden of demonstrating 1208
allowable costs under this division. 1209

(2) Upon the issuance of an order under division (B)(1) of 1210
this section determining any allowable capacity and commodity 1211
costs of a natural gas company, the company shall file with the 1212
commission under section 4905.30 of the Revised Code revised 1213
schedules allowing the recovery of such costs as the commission 1214
authorized in the order and containing such necessary and 1215
appropriate cost recovery mechanism or mechanisms as the 1216
commission prescribes in the order. Such mechanism or mechanisms 1217
shall recover the costs from customers for which there is a choice 1218
of supplier of commodity sales service as a result of revised 1219
schedules approved under division (B) of section 4929.29 of the 1220
Revised Code, a rule or order adopted or issued by the commission 1221
under Chapter 4905. of the Revised Code, or an exemption granted 1222
by the commission under sections 4929.04 to 4929.08 of the Revised 1223
Code. The commission shall act promptly to approve such revised 1224
schedules as it determines comply with the order. 1225

Sec. 4929.27. (A)(1) Only on or after the issuance of an 1226
order under division (A) of section 4929.26 of the Revised Code 1227
finding that it is in the public interest that governmental 1228
aggregation should occur as provided under this section, the 1229
legislative authority of a municipal corporation may adopt an 1230
ordinance, or the board of township trustees of a township or the 1231
board of county commissioners of a county may adopt a resolution, 1232
under which, in accordance with this section and except as 1233
otherwise provided in division (A)(2) of this section, the 1234

legislative authority or board may aggregate automatically, 1235
subject to the opt-out requirements of division (D) of this 1236
section, competitive retail natural gas service for the retail 1237
natural gas loads that are located, respectively, within the 1238
municipal corporation, township, or unincorporated area of the 1239
county and for which there is a choice of supplier of that service 1240
as a result of revised schedules approved under division (B) of 1241
section 4929.29 of the Revised Code, a rule or order adopted or 1242
issued by the commission under Chapter 4905. of the Revised Code, 1243
or an exemption granted by the commission under sections 4929.04 1244
to 4929.08 of the Revised Code. The legislative authority or board 1245
also may exercise its authority under this section jointly with 1246
any other such legislative authority or board. For the purpose of 1247
the aggregation, the legislative authority or board may enter into 1248
service agreements to facilitate the sale and purchase of the 1249
service for the retail natural gas loads. 1250

(2)(a) No aggregation under an ordinance or resolution 1251
adopted under division (A)(1) of this section shall include the 1252
retail natural gas load of any person that meets any of the 1253
following criteria: 1254

(i) The person is both a distribution service customer and a 1255
mercantile customer. 1256

(ii) The person is supplied with commodity sales service 1257
pursuant to a contract with a retail natural gas supplier that is 1258
in effect on the effective date of the ordinance or resolution. 1259

(iii) The person is supplied with commodity sales service as 1260
part of a retail natural gas load aggregation provided for 1261
pursuant to a rule or order adopted or issued by the commission 1262
under this chapter or Chapter 4905. of the Revised Code. 1263

(b) Nothing in division (A)(2)(a) of this section precludes a 1264
governmental aggregation under this section from permitting the 1265

retail natural gas load of a person described in division 1266
(A)(2)(a) of this section from being included in the aggregation 1267
upon the expiration of any contract or aggregation as described in 1268
division (A)(2)(a)(ii) or (iii) of this section or upon the person 1269
no longer being a customer as described in division (A)(2)(a)(i) 1270
of this section or qualifying to be included in an aggregation 1271
described under division (A)(2)(a)(iii) of this section. 1272

(B) An ordinance or resolution adopted under division (A) of 1273
this section shall direct the board of elections to submit the 1274
question of the authority to aggregate to the electors of the 1275
respective municipal corporation, township, or unincorporated area 1276
of a county at a special election on the day of the next primary 1277
or general election in the municipal corporation, township, or 1278
county. The legislative authority or board shall certify a copy of 1279
the ordinance or resolution to the board of elections not less 1280
than seventy-five days before the day of the special election. No 1281
ordinance or resolution adopted under division (A) of this section 1282
that provides for an election under this division shall take 1283
effect unless approved by a majority of the electors voting upon 1284
the ordinance or resolution at the election held pursuant to this 1285
division. 1286

(C) Upon the applicable requisite authority under divisions 1287
(A) and (B) of this section, the legislative authority or board 1288
shall develop a plan of operation and governance for the 1289
aggregation program so authorized. Before adopting a plan under 1290
this division, the legislative authority or board shall hold at 1291
least two public hearings on the plan. Before the first hearing, 1292
the legislative authority or board shall publish notice of the 1293
hearings once a week for two consecutive weeks in a newspaper of 1294
general circulation in the jurisdiction. The notice shall 1295
summarize the plan and state the date, time, and location of each 1296
hearing. 1297

(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 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 1330
or the unincorporated area of the county, respectively, who voted 1331
for the office of governor at the preceding general election for 1332
that office in that area. 1333

(F) A governmental aggregator under division (A) of this 1334
section is not a public utility engaging in the wholesale purchase 1335
and resale of natural gas, and provision of the aggregated service 1336
is not a wholesale utility transaction. A governmental aggregator 1337
shall be subject to supervision and regulation by the public 1338
utilities commission only to the extent of any competitive retail 1339
natural gas service it provides and commission authority under 1340
this chapter. 1341

Sec. 4929.28. (A)(1) The legislative authority of a municipal 1342
corporation may adopt an ordinance, or the board of township 1343
trustees of a township or the board of county commissioners of a 1344
county may adopt a resolution, under which, in accordance with 1345
this section and except as otherwise provided in division (A)(2) 1346
of this section, the legislative authority or board may aggregate, 1347
with the prior consent of each person whose retail natural gas 1348
load is proposed to be aggregated, competitive retail natural gas 1349
service for any such retail natural gas load that is located, 1350
respectively, within the municipal corporation, township, or 1351
unincorporated area of the county and for which there is a choice 1352
of supplier of that service as a result of revised schedules 1353
approved under division (B) of section 4929.29 of the Revised 1354
Code, a rule or order adopted or issued by the commission under 1355
Chapter 4905. of the Revised Code, or an exemption granted by the 1356
commission under sections 4929.04 to 4929.08 of the Revised Code. 1357
The legislative authority or board also may exercise such 1358
authority jointly with any other such legislative authority or 1359
board. For the purpose of the aggregation, the legislative 1360
authority or board may enter into service agreements to facilitate 1361

the sale and purchase of the service for the retail natural gas loads. 1362
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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: 1364
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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. 1368
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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. 1371
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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. 1375
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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 program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each hearing. 1382
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(C)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to division (A) 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. 1392
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(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to division (A) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.25 to 731.40 of the Revised Code, except that: 1397
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(a) The petitions shall be filed, respectively, with the township clerk or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk. 1403
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(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area. 1407
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(D) 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. 1412
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Sec. 4929.29. The legislative authority of a municipal corporation, the board of township trustees of a township, or the board of county commissioners of a county may petition the public 1420
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utilities commission to require a natural gas company with fifteen thousand or more customers in this state to provide, upon the effective date of an ordinance or resolution authorized and adopted under section 4929.27 or 4929.28 of the Revised Code, distribution service on a fully open, equal, and nondiscriminatory basis to consumers that are not mercantile customers and are within the area of the governmental aggregation and to which the company provides distribution service through distribution facilities it singly or jointly owns or operates; and a retail natural gas supplier may petition the commission to require a natural gas company with fifteen thousand or more customers in this state to so provide such fully open, equal, and nondiscriminatory service to all consumers that are not mercantile customers and to which the company provides distribution service through distribution facilities it singly or jointly owns or operates. Upon such application, the commission, after notice and opportunity for hearing and by order, may require that the company provide the service within the area specified in the petition, provided that the commission finds that the provision of the service within the area is in the public interest. The applicant shall have the burden of proof under this division. Chapter 4903. of the Revised Code shall apply to a proceeding under this division.

(B) Upon the issuance of an order under division (A) of this section requiring distribution service on a comparable and nondiscriminatory basis within the area specified in the order, the company shall file with the commission under section 4905.30 of the Revised Code revised schedules under which the company shall provide the service so ordered. The commission shall act promptly to approve the schedules.

Sec. 4935.03. (A) The public utilities commission shall adopt, and may amend or rescind, rules in accordance with section

111.15 of the Revised Code, with the approval of the governor, 1455
defining various foreseen types and levels of energy emergency 1456
conditions for critical shortages or interruptions in the supply 1457
of electric power, natural gas, coal, or individual petroleum 1458
fuels and specifying appropriate measures to be taken at each 1459
level or for each type of energy emergency as necessary to protect 1460
the public health or safety or prevent unnecessary or avoidable 1461
damage to property. The rules may prescribe different measures for 1462
each different type or level of declared energy emergency, and for 1463
any type or level shall empower the governor to: 1464

(1) Restrict the energy consumption of state and local 1465
government offices and industrial and commercial establishments; 1466

(2) Restrict or curtail public or private transportation or 1467
require or encourage the use of car pools or mass transit systems; 1468

(3) Order, during a declared energy emergency, any electric 1469
light, natural gas or gas, or pipeline company; any supplier 1470
subject to certification under section 4928.08 or 4929.20 of the 1471
Revised Code; electric power or gas utility that is owned by a 1472
municipal corporation or not for profit; coal producer or 1473
supplier; electric power producer or marketer; or petroleum fuel 1474
producer, refiner, wholesale distributor, or retail dealer to sell 1475
electricity, gas, coal, or petroleum fuel in order to alleviate 1476
hardship, or if possible to acquire or produce emergency supplies 1477
to meet emergency needs; 1478

(4) Order, during a declared energy emergency, other energy 1479
conservation or emergency energy production or distribution 1480
measures to be taken in order to alleviate hardship; 1481

(5) Mobilize emergency management, national guard, law 1482
enforcement, or emergency medical services. 1483

The rules shall be designed to protect the public health and 1484
safety and prevent unnecessary or avoidable damage to property. 1485

They shall encourage the equitable distribution of available
electric power and fuel supplies among all geographic regions in
the state.

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

(C) Energy emergency orders issued by the governor pursuant
to this section shall take effect immediately upon issuance, and
the person to whom the order is directed shall initiate compliance
measures immediately upon receiving the order. During an energy
emergency the attorney general or the prosecuting attorney of the
county where violation of a rule adopted or order issued under

this section occurs may bring an action for immediate injunction 1518
or other appropriate relief to secure prompt compliance. The court 1519
may issue an ex parte temporary order without notice which shall 1520
enforce the prohibitions, restrictions, or actions that are 1521
necessary to secure compliance with the rule or order. Compliance 1522
with rules or orders issued under this section is a matter of 1523
statewide concern. 1524

(D) During a declared energy emergency the governor may use 1525
the services, equipment, supplies, and facilities of existing 1526
departments, offices, and agencies of the state and of the 1527
political subdivisions thereof to the maximum extent practicable 1528
and necessary to meet the energy emergency, and the officers and 1529
personnel of all such departments, offices, and agencies shall 1530
cooperate with and extend such services and facilities to the 1531
governor upon request. 1532

(E) During an energy emergency declared under this section, 1533
no person shall violate any rule adopted or order issued under 1534
this section. Whoever violates this division is guilty of a minor 1535
misdemeanor on a first offense, and a misdemeanor of the first 1536
degree upon subsequent offenses or if the violation was purposely 1537
committed. 1538

Sec. 5727.01. As used in this chapter: 1539

(A) "Public utility" means each person referred to as a 1540
telephone company, telegraph company, electric company, natural 1541
gas company, pipe-line company, water-works company, water 1542
transportation company, heating company, rural electric company, 1543
railroad company, or combined company. 1544

(B) "Gross receipts" means the entire receipts for business 1545
done by any person from operations as a public utility, or 1546
incidental thereto, or in connection therewith, including any 1547
receipts received under Chapter 4928. of the Revised Code. The 1548

gross receipts for business done by an incorporated company 1549
engaged in operation as a public utility includes the entire 1550
receipts for business done by such company under the exercise of 1551
its corporate powers, whether from the operation as a public 1552
utility or from any other business. 1553

(C) "Rural electric company" means any nonprofit corporation, 1554
organization, association, or cooperative engaged in the business 1555
of supplying electricity to its members or persons owning an 1556
interest therein in an area the major portion of which is rural. 1557

(D) Any person: 1558

(1) Is a telegraph company when engaged in the business of 1559
transmitting telegraphic messages to, from, through, or in this 1560
state; 1561

(2) Is a telephone company when primarily engaged in the 1562
business of providing local exchange telephone service, excluding 1563
cellular radio service, in this state; 1564

(3) Is an electric company when engaged in the business of 1565
generating, transmitting, or distributing electricity within this 1566
state for use by others, but excludes a rural electric company; 1567

(4) Is a natural gas company when engaged in the business of 1568
supplying or distributing natural gas for lighting, power, or 1569
heating purposes to consumers within this state, excluding a 1570
person that is a governmental aggregator or retail natural gas 1571
supplier as defined in section 4929.01 of the Revised Code; 1572

(5) Is a pipe-line company when engaged in the business of 1573
transporting natural gas, oil, or coal or its derivatives through 1574
pipes or tubing, either wholly or partially within this state; 1575

(6) Is a water-works company when engaged in the business of 1576
supplying water through pipes or tubing, or in a similar manner, 1577
to consumers within this state; 1578

(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 certificate is in force, has been certified as part of the pollution control facility with respect to which the certificate has been issued;

(2) An item of tangible personal property that during the construction of a plant or facility and until the item is first

capable of operation, whether actually used in operation or not, 1610
is incorporated in or being held exclusively for incorporation in 1611
that plant or facility. 1612

(F) "Taxing district" means a municipal corporation of 1613
township, or part thereof, in which the aggregate rate of taxation 1614
is uniform. 1615

(G) "Telecommunications service" has the same meaning as in 1616
division (AA) of section 5739.01 of the Revised Code. 1617

(H) "Interexchange telecommunications company" means a person 1618
that is engaged in the business of transmitting telephonic 1619
messages to, from, through, or in this state, but that is not a 1620
telephone company. 1621

(I) "Sale and leaseback transaction" means a transaction in 1622
which a public utility or interexchange telecommunications company 1623
sells any tangible personal property to a person other than a 1624
public utility or interexchange telecommunications company and 1625
leases that property back from the buyer. 1626

(J) "Production equipment" means all taxable steam, nuclear, 1627
hydraulic, and other production plant equipment used to generate 1628
electricity. For tax years prior to 2001, "production equipment" 1629
includes taxable station equipment that is located at a production 1630
plant. 1631

(K) "Tax year" means the year for which property or gross 1632
receipts are subject to assessment under this chapter. This 1633
division does not limit the tax commissioner's ability to assess 1634
and value property or gross receipts outside the tax year. 1635

(L) "Combined company" means any person engaged in the 1636
activity of an electric company or rural electric company that is 1637
also engaged in the activity of a heating company or a natural gas 1638
company, or any combination thereof. 1639

Section 2. That existing sections 4719.01, 4905.10, 4911.18, 1640
4929.01, 4935.03, and 5727.01 of the Revised Code are hereby 1641
repealed. 1642

Section 3. Any person, as defined in section 1.59 of the 1643
Revised Code, that, prior to the effective date of initial rules 1644
adopted pursuant to division (A) of section 4929.20 of the Revised 1645
Code as enacted by this act to establish a certification system 1646
for retail natural gas suppliers and governmental aggregators, is 1647
engaged on a for-profit or not-for-profit basis in the business of 1648
supplying or arranging for the supply of natural gas commodity to 1649
consumers in this state as a result of a rule or order adopted or 1650
issued prior to the effective date of this act by the Public 1651
Utilities Commission under Chapter 4905. of the Revised Code, or 1652
any governmental aggregator authorized, prior to the effective 1653
date of such initial rules, to aggregate in accordance with 1654
section 4929.28 of the Revised Code as enacted by this act, may 1655
continue to engage in such business or aggregation until the 1656
Commission acts upon the person's or governmental aggregator's 1657
application under section 4929.20 of the Revised Code as enacted 1658
by this act, provided the person or governmental aggregator files 1659
an application with the Commission for certification in accordance 1660
with that section not later than ninety days after the effective 1661
date of the initial rules. 1662

Section 4. (A) Nothing in this act affects any arrangement or 1663
other contract to supply or arrange for the supply of commodity 1664
sales service or ancillary service, as defined in section 4929.01 1665
of the Revised Code as amended by this act, to a consumer in this 1666
state, which arrangement or contract was entered into prior to the 1667
effective date of initial rules adopted pursuant to division (A) 1668
of section 4929.20 of the Revised Code as enacted by this act and 1669

was authorized as a result of a rule or order adopted or issued by 1670
the Public Utilities Commission under Chapter 4905. of the Revised 1671
Code; and nothing in this act affects any rights or duties of any 1672
person under such an arrangement or contract for the term of the 1673
arrangement or contract. 1674

(B) Nothing in this act affects any governmental aggregation 1675
under section 4929.28 of the Revised Code that is authorized under 1676
that section prior to the effective date of initial rules adopted 1677
pursuant to division (A) of section 4929.20 of the Revised Code as 1678
enacted by this act; or any rights or duties of any party to the 1679
aggregation. 1680

Section 5. All items in this section are hereby appropriated 1681
as designated out of any moneys in the state treasury to the 1682
credit of the General Revenue Fund. For all appropriations made in 1683
this act, those in the first column are for fiscal year 2000 and 1684
those in the second column are for fiscal year 2001. The 1685
appropriations made in this act are in addition to any other 1686
appropriations made for the 1999-2001 biennium. 1687

JFS DEPARTMENT OF JOB AND FAMILY SERVICES 1688

GRF 600-437 Temporary Heating	\$	0	\$	20,000,000	1689
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Assistance for Warmth

TOTAL GRF General Revenue Fund	\$	0	\$	20,000,000	1690
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TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	20,000,000	1691
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TEMPORARY HEATING ASSISTANCE FOR WARMTH 1692

The foregoing appropriation item 600-437, Temporary Heating 1693
Assistance for Warmth, shall be used for Project Temporary Heating 1694
Assistance for Warmth, which is a program hereby authorized to 1695
provide assistance with the payment of winter heating expenses for 1696
persons not eligible for assistance under Title IV-A of the Social 1697
Security Act, and whose gross monthly income does not exceed 200 1698
per cent of the federal poverty guidelines, as established by the 1699

United States Secretary of Health and Human Services. The 1700
Department of Job and Family Services may provide funds for this 1701
program from this appropriation to county departments of job and 1702
family services to make one-time payments of 50 per cent of the 1703
primary heating bills incurred between October 1, 2000, and April 1704
1, 2001, for any heating fuel on behalf of eligible households, 1705
not to exceed \$250. The Department of Job and Family Services may 1706
issue guidelines for the implementation of this program. Total 1707
expenditures for this program shall not exceed \$20,000,000. 1708

Within the limits set forth in this act, the Director of 1709
Budget and Management shall establish accounts indicating the 1710
source and amount of funds for each appropriation made in this 1711
act, and shall determine the form and manner in which 1712
appropriation accounts shall be maintained. Expenditures from 1713
appropriations contained in this act shall be accounted for as 1714
though made in Am. Sub. H.B. 283 of the 123rd General Assembly. 1715
The appropriations made in this act are subject to all provisions 1716
of Am. Sub. H.B. 283 of the 123rd General Assembly that are 1717
generally applicable to such appropriations. 1718

Section 6. Sections 5 and 6 of this act are not subject to 1719
the referendum. Therefore, under Ohio Constitution, Article II, 1720
Section 1d and section 1.471 of the Revised Code, Sections 5 and 6 1721
of this act go into immediate effect when this act becomes law. 1722