

AN ACT

To amend sections 324.01, 324.03, 1332.24, 2317.02, 2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21, to amend sections 4931.11 (4931.05) and 4931.35 (4931.06) for the purpose of adopting new section numbers as shown in parentheses, to enact new sections 4927.03 and 4927.04 and sections 4927.05, 4927.06, 4927.07, 4927.08, 4927.09, 4927.11, 4927.12, 4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 4927.18, 4927.19, 4927.20, 4927.21, and 4931.01, and to repeal sections 4905.041, 4905.23, 4905.231, 4905.24, 4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 of the Revised Code to revise state regulation of telephone companies, remove telegraph companies from utility regulation, and

to create the Select Committee on Telecommunications
Regulatory Reform.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 324.01, 324.03, 1332.24, 2317.02, 2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 be amended, that sections 4931.11 (4931.05) and 4931.35 (4931.06) be amended for the purpose of adopting new section numbers as shown in parentheses, and that new sections 4927.03 and 4927.04 and sections 4927.05, 4927.06, 4927.07, 4927.08, 4927.09, 4927.11, 4927.12, 4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 4927.18, 4927.19, 4927.20, 4927.21, and 4931.01 of the Revised Code be enacted to read as follows:

Sec. 324.01. As used in sections 324.01 to 324.12 of the Revised Code:

(A) "Utility" means:

(1) An electric company, gas company, heating company, cooling company, telephone company, ~~telegraph company~~, or communications company supplying a utility service;

(2) Any municipal corporation, county, or other political subdivision, instrumentality, or agency of the state supplying a utility service;

(3) Any individual, firm, partnership, association, trust, joint-stock company, joint venture, corporation, nonprofit corporation, cooperative, receiver, assignee, trustee in bankruptcy, estate, trustee, or organization of any kind which owns or operates any office building, storeroom building, shopping center, apartment building, apartment hotel, condominium, or other multiple business or dwelling unit, and which sells, furnishes, or delivers a utility service to the tenants or occupants thereof, provided the charge for such utility service is separately stated.

(B) Any individual, firm, partnership, association, trust, joint-stock company, joint venture, corporation, municipal corporation, county, or other political subdivision, instrumentality, or agency of the state, nonprofit

corporation, cooperative, receiver, assignee, trustee in bankruptcy, estate, trustee, or organization of any kind:

(1) Is an electric company when supplying electricity for light, heat, cooling, or power purposes to customers within a county levying a utilities service tax;

(2) Is a gas company when supplying artificial gas or natural gas for light, heat, cooling, or power purposes to customers within a county levying a utilities service tax;

(3) Is a heating company when supplying water, steam, or air through pipes or tubing for heating purposes to customers within a county levying a utilities service tax;

(4) Is a cooling company when supplying water, steam, or air through pipes or tubing for cooling purposes to customers within a county levying a utilities service tax;

(5) Is a telephone company when transmitting telephonic messages to, from, or within a county levying a utilities service tax;

~~(6) Is a telegraph company when transmitting telegraphic messages to, from, or within a county levying a utilities service tax;~~

(7) Is a communications company when supplying the services described in section ~~4931.11~~ 4931.05 of the Revised Code, other than transmitting telephonic ~~or telegraphic~~ messages, to, from, or within a county levying a utilities service tax.

(C) "Utility service" means the supplying of water, steam, or air through pipes or tubing for heating or cooling purposes to customers within the county, the supplying of electricity, artificial gas, or natural gas to customers within the county, and the transmission of telephonic ~~or telegraphic~~ messages or the supplying of any of the services described in section ~~4931.11~~ 4931.05 of the Revised Code when the transmission or supplying originates from and is charged to or is received by and charged to a customer within the county.

(D) "Charge for utility service" means the amount charged to the customer for a utility service without deduction for any discount for early payment but after deducting the amount of any federal excise tax on such utility service, and excluding the amount paid for the purchase of appliances or other merchandise, and the amount paid for the installation of pipes, meters, poles, apparatus, instruments, switchboards, and other facilities by the utility for the purpose of rendering utility service to the customer if the charge therefor is separately stated by the utility in its bill to the customer and is not included in the basic rates charged to customers of the utility.

(E) "Customer" means any individual, firm, partnership, association,

trust, joint-stock company, joint venture, corporation, nonprofit corporation, cooperative, receiver, assignee, trustee in bankruptcy, estate, trustee, or organization of any kind receiving utility service from a utility, but does not include the United States, the state, any political subdivision of the state, or any agency or instrumentality of any of them.

(F) "Business" has the same meaning as in division (E) of section 5701.08 of the Revised Code.

Sec. 324.03. The utilities service tax shall not apply to the following:

(A) The first five dollars per month of any charge for utility service for each utility service rendered by a utility to a customer;

(B) The supplying of a utility service to a customer for resale; provided, that this division shall not include the supplying of a utility service to a utility as defined in division (A)(3) of section 324.01 of the Revised Code if the utility receiving the service when supplying the service to its customers does not separately state the charge therefor;

(C) The supplying of a utility service through a coin-operated device;

(D) Telephone service, ~~telegraph service~~, and services described in section ~~4931.11~~ 4931.05 of the Revised Code, to or from a point outside the state for which a separate charge is made;

(E) The supplying of a utility service not within the taxing power of the county under the constitution of the United States or the constitution of this state;

(F) The supplying of a utility service to a person engaged in business, for use or consumption in the production of tangible personal property.

For the purpose of the proper administration of the utilities service tax and to prevent the evasion of the tax, it is presumed that any supplying of utility service is subject to the tax until the contrary is shown.

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of the Revised Code, the director of commerce may issue to any person, or renew, a video service authorization, which authorization confers on the person the authority, subject to sections 1332.21 to 1332.34 of the Revised Code, to provide video service in its video service area; construct and operate a video service network in, along, across, or on public rights-of-way for the provision of video service; and, when necessary to provide that service, exercise the power of a ~~telegraph telephone~~ company under section 4931.04 of the Revised Code. The term of a video service authorization or authorization renewal shall be ten years.

(2) For the purposes of the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et seq., a video service authorization shall constitute a franchise under that law, and the

director shall be the sole franchising authority under that law for video service authorizations in this state.

(3) The director may impose upon and collect an annual assessment on video service providers. All money collected under division (A)(3) of this section shall be deposited to the credit of the division of administration fund created under section 121.08 of the Revised Code. The total amount assessed in a fiscal year shall not exceed the lesser of four hundred fifty thousand dollars or, as shall be determined annually by the director, the department's actual, current fiscal year administrative costs in carrying out its duties under sections 1332.21 to 1332.34 of the Revised Code. The director shall allocate that total amount proportionately among the video service providers to be assessed, using a formula based on subscriber counts as of the thirty-first day of December of the preceding calendar year, which counts shall be submitted to the director not later than the thirty-first day of January of each year, via a notarized statement signed by an authorized officer. Any information submitted by a video service provider to the director for the purpose of determining subscriber counts shall be considered trade secret information, shall not be disclosed except by court order, and shall not constitute a public record under section 149.43 of the Revised Code. On or about the first day of June of each year, the director shall send to each video service provider to be assessed written notice of its proportional amount of the total assessment. The provider shall pay that amount on a quarterly basis not later than forty-five days after the end of each calendar quarter. After the initial assessment, the director annually shall reconcile the amount collected with the total, current amount assessed pursuant to this section, and either shall charge each assessed video service provider its respective proportion of any insufficiency or proportionately credit the provider's next assessment for any excess collected.

(B)(1) The director may investigate alleged violations of or failures to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code, or complaints concerning any such violation or failure. Except as provided in this section, the director has no authority to regulate video service in this state, including, but not limited to, the rates, terms, or conditions of that service.

(2) In conducting an investigation under division (B)(1) of this section, the director, by subpoena, may compel witnesses to testify in relation to any matter over which the director has jurisdiction and may require the

production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the director, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify.

(C)(1) If the director finds that a person has violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code, and the person has failed to cure the violation or failure after reasonable, written notice and reasonable time to cure, the director may do any of the following:

(a) Apply to the court of common pleas of any county in this state for an order enjoining the activity or requiring compliance. Such an action shall be commenced not later than three years after the date the alleged violation or failure occurred or was reasonably discovered. Upon a showing by the director that the person has engaged in a violation or failure to comply, the court shall grant an injunction, restraining order, or other appropriate relief.

(b) Enter into a written assurance of voluntary compliance with the person;

(c) Pursuant to an adjudication under Chapter 119. of the Revised Code, assess a civil penalty in an amount determined by the director, including for any failure to comply with an assurance of voluntary compliance under division (C)(1)(b) of this section. The amount shall be not more than one thousand dollars for each day of violation or noncompliance, not to exceed a total of ten thousand dollars, counting all subscriber impacts as a single violation or act of noncompliance. In determining whether a civil penalty is appropriate under division (C)(1)(c) of this section, the director shall consider all of the following factors:

- (i) The seriousness of the noncompliance;
- (ii) The good faith efforts of the person to comply;
- (iii) The person's history of noncompliance;
- (iv) The financial resources of the person;
- (v) Any other matter that justice requires.

Civil penalties collected pursuant to division (C)(1)(c) of this section shall be deposited to the credit of the video service enforcement fund in the

state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under this section.

(2) Pursuant to an adjudication under Chapter 119. of the Revised Code, the director may revoke, in whole or in part, the video service authorization of any person that has repeatedly and knowingly violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code and that has failed to cure the violations or noncompliances after reasonable written notice and reasonable time to cure. Such person acts knowingly, regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

(3) The court shall conduct a de novo review in any appeal from an adjudication under division (C)(1)(c) or (C)(2) of this section.

(D) The public utilities commission has no authority over a video service provider in its offering of video service or a cable operator in its offering of cable or video service, or over any person in its offering of video service pursuant to a competitive video service agreement.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning a communication between a client who has since died and the deceased client's attorney if the communication is relevant to a dispute between parties who claim through that deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima facie showing of bad faith, fraud, or criminal misconduct by the client.

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test

that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery

under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal

shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except

when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice

to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications

relay service pursuant to section ~~4931.35~~ 4931.06 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, except as otherwise provided in this division. The testimonial privilege established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management

network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency

or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2917.21. (A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;

(2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

(3) During the telecommunication, violates section 2903.21 of the Revised Code;

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(B) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device

under the person's control, with purpose to abuse, threaten, or harass another person.

(C)(1) Whoever violates this section is guilty of telecommunications harassment.

(2) A violation of division (A)(1), (2), (3), or (5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense. If a violation of division (A)(4) of this section results in economic harm of five hundred dollars or more but less than five thousand dollars, telecommunications harassment is a felony of the fifth degree. If a violation of division (A)(4) of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, telecommunications harassment is a felony of the fourth degree. If a violation of division (A)(4) of this section results in economic harm of one hundred thousand dollars or more, telecommunications harassment is a felony of the third degree.

(D) No cause of action may be asserted in any court of this state against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunication service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section ~~or section 4931.31 of the Revised Code~~. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section ~~or section 4931.31 of the Revised Code~~.

(E) As used in this section:

(1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:

(a) All wages, salaries, or other compensation lost as a result of the

criminal conduct;

(b) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(2) "Caller" means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(3) "Telecommunication" and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(4) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(F) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

Sec. 2929.01. As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to division (A)(2) of this section, any facility other than an offender's home or residence in which an offender is assigned to live and that satisfies all of the following criteria:

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(b) It has received the appropriate license or certificate for any specialized education, training, treatment, habilitation, or other service that it provides from the government agency that is responsible for licensing or certifying that type of education, training, treatment, habilitation, or service.

(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.

(B) "Basic probation supervision" means a requirement that the offender maintain contact with a person appointed to supervise the offender in accordance with sanctions imposed by the court or imposed by the parole board pursuant to section 2967.28 of the Revised Code. "Basic probation supervision" includes basic parole supervision and basic post-release control

supervision.

(C) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and "unit dose" have the same meanings as in section 2925.01 of the Revised Code.

(D) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to 2301.58 of the Revised Code.

(E) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction that is not a jail term and that is described in section 2929.26, 2929.27, or 2929.28 of the Revised Code. "Community control sanction" includes probation if the sentence involved was imposed for a felony that was committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor that was committed prior to January 1, 2004.

(F) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(G) "Curfew" means a requirement that an offender during a specified period of time be at a designated place.

(H) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

(I) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(J) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(K) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(L) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury

caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(M) "Education or training" includes study at, or in conjunction with a program offered by, a university, college, or technical college or vocational study and also includes the completion of primary school, secondary school, and literacy curricula or their equivalent.

(N) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(O) "Halfway house" means a facility licensed by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders.

(P) "House arrest" means a period of confinement of an offender that is in the offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code and during which all of the following apply:

(1) The offender is required to remain in the offender's home or other specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board.

(2) The offender is required to report periodically to a person designated by the court or parole board.

(3) The offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board.

(Q) "Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision.

(R) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of this state.

(S) "Jail term" means the term in a jail that a sentencing court imposes or is authorized to impose pursuant to section 2929.24 or 2929.25 of the

Revised Code or pursuant to any other provision of the Revised Code that authorizes a term in a jail for a misdemeanor conviction.

(T) "Mandatory jail term" means the term in a jail that a sentencing court is required to impose pursuant to division (G) of section 1547.99 of the Revised Code, division (E) of section 2903.06 or division (D) of section 2903.08 of the Revised Code, division (E) or (G) of section 2929.24 of the Revised Code, division (B) of section 4510.14 of the Revised Code, or division (G) of section 4511.19 of the Revised Code or pursuant to any other provision of the Revised Code that requires a term in a jail for a misdemeanor conviction.

(U) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(V) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.

(W) "Major drug offender" means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least one thousand grams of hashish; at least one hundred grams of crack cocaine; at least one thousand grams of cocaine that is not crack cocaine; at least two thousand five hundred unit doses or two hundred fifty grams of heroin; at least five thousand unit doses of L.S.D. or five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; or at least one hundred times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

(X) "Mandatory prison term" means any of the following:

(1) Subject to division (X)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 2929.13 and division (D) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02,

2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 or 2929.142 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G)(2) of section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(3) The term in prison imposed pursuant to division (A) of section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code or pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(Y) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life.

(Z) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor.

(AA) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code.

(BB) "Prison term" includes either of the following sanctions for an offender:

(1) A stated prison term;

(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.20, 2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code.

(CC) "Repeat violent offender" means a person about whom both of the following apply:

(1) The person is being sentenced for committing or for complicity in committing any of the following:

(a) Aggravated murder, murder, any felony of the first or second degree that is an offense of violence, or an attempt to commit any of these offenses if the attempt is a felony of the first or second degree;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an

offense described in division (CC)(1)(a) of this section.

(2) The person previously was convicted of or pleaded guilty to an offense described in division (CC)(1)(a) or (b) of this section.

(DD) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 or 2929.24 to 2929.28 of the Revised Code.

(EE) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to an offense.

(FF) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14, 2929.142, or 2971.03 of the Revised Code or under section 2919.25 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest or house arrest with electronic monitoring imposed after earning credits pursuant to section 2967.193 of the Revised Code.

(GG) "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the offense committed by the offender and that includes a meeting in which the offender and the victim may discuss the offense, discuss restitution, and consider other sanctions for the offense.

(HH) "Fourth degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the fourth degree.

(II) "Mandatory term of local incarceration" means the term of sixty or one hundred twenty days in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility that a sentencing court may impose upon a person who is convicted of or pleads guilty to a fourth degree felony OVI offense pursuant to division (G)(1) of section 2929.13 of the Revised Code and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code.

(JJ) "Designated homicide, assault, or kidnapping offense," "violent sex offense," "sexual motivation specification," "sexually violent offense," "sexually violent predator," and "sexually violent predator specification" have the same meanings as in section 2971.01 of the Revised Code.

(KK) "Sexually oriented offense," "child-victim oriented offense," and "tier III sex offender/child-victim offender," have the same meanings as in

section 2950.01 of the Revised Code.

(LL) An offense is "committed in the vicinity of a child" if the offender commits the offense within thirty feet of or within the same residential unit as a child who is under eighteen years of age, regardless of whether the offender knows the age of the child or whether the offender knows the offense is being committed within thirty feet of or within the same residential unit as the child and regardless of whether the child actually views the commission of the offense.

(MM) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(NN) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.

(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.

(PP) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.

(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.

(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.

(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.

(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.

(UU) "Electronic monitoring device" means any of the following:

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(b) The device has a receiver that can receive continuously the signals

transmitted by a transmitter of the type described in division (UU)(1)(a) of this section, can transmit continuously those signals by a wireless or landline telephone connection to a central monitoring computer of the type described in division (UU)(1)(c) of this section, and can transmit continuously an appropriate signal to that central monitoring computer if the ~~receiver is~~ device has been turned off or altered without prior court approval or otherwise tampered with. The device is designed specifically for use in electronic monitoring, is not a converted wireless phone or another tracking device that is clearly not designed for electronic monitoring, and provides a means of text-based or voice communication with the person.

(c) The device has a central monitoring computer that can receive continuously the signals transmitted by a wireless or landline telephone connection by a receiver of the type described in division (UU)(1)(b) of this section and can monitor continuously the person to whom an electronic monitoring device of the type described in division (UU)(1)(a) of this section is attached.

(2) Any device that is not a device of the type described in division (UU)(1) of this section and that conforms with all of the following:

(a) The device includes a transmitter and receiver that can monitor and determine the location of a subject person at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(b) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to the electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(3) Any type of technology that can adequately track or determine the location of a subject person at any time and that is approved by the director of rehabilitation and correction, including, but not limited to, any satellite technology, voice tracking system, or retinal scanning system that is so approved.

(VV) "Non-economic loss" means nonpecuniary harm suffered by a victim of an offense as a result of or related to the commission of the offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and

any other intangible loss.

(WW) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(XX) "Continuous alcohol monitoring" means the ability to automatically test and periodically transmit alcohol consumption levels and tamper attempts at least every hour, regardless of the location of the person who is being monitored.

(YY) A person is "adjudicated a sexually violent predator" if the person is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that violent sex offense or if the person is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that designated homicide, assault, or kidnapping offense.

(ZZ) An offense is "committed in proximity to a school" if the offender commits the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises.

(AAA) "Human trafficking" means a scheme or plan to which all of the following apply:

(1) Its object is to compel a victim or victims to engage in sexual activity for hire, to engage in a performance that is obscene, sexually oriented, or nudity oriented, or to be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.

(2) It involves at least two felony offenses, whether or not there has been a prior conviction for any of the felony offenses, to which all of the following apply:

(a) Each of the felony offenses is a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code or is a violation of a law of any state other than this state that is substantially similar to any of the sections or divisions of the Revised Code identified in this division.

(b) At least one of the felony offenses was committed in this state.

(c) The felony offenses are related to the same scheme or plan, are not

isolated instances, and are not so closely related to each other and connected in time and place that they constitute a single event or transaction.

(BBB) "Material," "nudity," "obscene," "performance," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(CCC) "Material that is obscene, sexually oriented, or nudity oriented" means any material that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity.

(DDD) "Performance that is obscene, sexually oriented, or nudity oriented" means any performance that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity.

Sec. 4901.01. As used in sections 4901.01 to 4901.24, ~~inclusive,~~ of the Revised Code:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) ~~"Telegraph company," "telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," "interurban railroad company," and "motor propelled vehicle" have the meaning set forth in section 4905.03 of the Revised Code.~~

(C) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of the Revised Code.

(D) ~~"Motor transportation company" has the meaning set forth in sections 4905.03 and 4921.02 of the Revised Code.~~

(E) ~~"Trailer," "public highway," "fixed termini," "regular route," and "irregular route" have the meaning set forth in section 4921.02 of the Revised Code.~~

(F) ~~"Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the meaning set forth in section 4923.02 of the Revised Code.~~

Sec. 4901.02. (A) There is hereby created the public utilities commission of Ohio, by which name the commission may sue and be sued. The commission shall consist of five public utilities commissioners appointed by the governor with the advice and consent of the senate. The governor shall designate one of such commissioners to be the ~~chairman~~ chairperson of the commission. The ~~chairman~~ chairperson of the commission shall serve as ~~chairman~~ chairperson at the governor's pleasure.

The commissioners shall be selected from the lists of qualified persons submitted to the governor by the public utilities commission nominating council pursuant to section 4901.021 of the ~~Revised~~ Revised Code. Not more than three of said commissioners shall belong to or be affiliated with the same political party. The commission shall possess the powers and duties specified in, as well as all powers necessary and proper to carry out the purposes of Chapters 4901., 4903., 4905., 4907., 4909., 4921., ~~and 4923., and 4927.~~ of the Revised Code.

(B) A majority of the public utilities commissioners constitutes a quorum.

(C) The terms of office of public utilities commissioners shall be for five years, commencing on the eleventh day of April and ending on the tenth day of April, except that terms of the first commissioners shall be for one, two, three, four, and five years, respectively, as designated by the governor at the time of appointment. Each commissioner shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the commissioner was appointed. Any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which ~~he~~ the commissioner was appointed shall hold office for the remainder of such term. Any commissioner shall continue in office subsequent to the expiration date of the term for which ~~he~~ the commissioner was appointed until ~~his~~ the commissioner's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Each vacancy shall be filled by appointment within sixty days after the vacancy occurs.

(D) Public utilities commissioners shall have at least three years of experience in one or more of the following fields: economics, law, finance, accounting, engineering, physical or natural sciences, natural resources, or environmental studies. At least one commissioner shall be an attorney admitted to the practice of law in any state or the District of Columbia.

(E) The ~~chairman~~ chairperson of the commission shall be the head of the commission and its chief executive officer. The appointment or removal of employees of the commission or any division thereof, and all contracts for special service, are subject to the approval of the ~~chairman~~ chairperson. The ~~chairman~~ chairperson shall designate one of the commissioners to act as deputy ~~chairman~~ chairperson, who shall possess during the absence or disability of the ~~chairman~~ chairperson, all of the powers of the ~~chairman~~ chairperson.

Sec. 4901.11. The public utilities commission may procure all necessary books, maps, charts, stationery, instruments, office furniture, apparatus, and appliances, including telephone ~~and telegraph~~ service, and may purchase

from the interstate commerce commission blank forms for the use of railroads and other utilities in making their annual reports, necessary for the proper administration of the affairs of ~~said~~ the public utilities commission, which expenses shall be audited and paid in the same manner as other expenses.

Sec. 4901.15. The public utilities commission shall, whenever called upon by any officer, board, or commission of this state or any political subdivision of this state, furnish any data or information to such officer, board, or commission and shall aid or assist any such officer, board, or commission in performing ~~the official~~ the official duties of ~~his or its office~~. All officers, boards, or commissions of this state or any political subdivision of this state, shall furnish to the commission, upon request, any data or information ~~which that~~ which that will assist the commission in the discharge of the duties imposed upon it by Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925- 4927.~~ of the Revised Code.

Sec. 4901.22. Each of the public utilities commissioners, for the purposes mentioned in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925- 4927.~~ of the Revised Code, may administer oaths, certify to official acts, issue subpoenas, and compel the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony.

Sec. 4903.01. As used in sections 4903.01 to 4903.25, ~~inclusive,~~ of the Revised Code:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) ~~"Telegraph company," "telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," "interurban railroad company," and "motor propelled vehicle" have the meaning set forth in section 4905.03 of the Revised Code.~~

(C) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of the Revised Code.

(D) ~~"Motor transportation company" has the meaning set forth in sections 4905.03 and 4921.02 of the Revised Code.~~

(E) ~~"Trailer," "public highway," "fixed termini," "regular route," and "irregular route" have the meaning set forth in section 4921.02 of the Revised Code.~~

(F) ~~"Private motor carrier," "contract carrier by motor vehicle," "motor~~

~~vehicle," and "charter party trip" have the meaning set forth in section 4923.02 of the Revised Code.~~

Sec. 4903.20. All actions and proceedings in the supreme court under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., ~~and 4923., and 4927.~~ of the Revised Code, and all actions of proceedings to which the public utilities commission, power siting board, or this state is a party, and in which any question arises under ~~such~~ those chapters, or under or concerning any order or decision of the commission or the board, to reverse, vacate, or modify an order of the commission or the board, shall be taken up and disposed of by the court out of their order on the docket.

Sec. 4903.22. Except when otherwise provided by law, all processes in actions and proceedings in a court arising under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code shall be served, and the practice and rules of evidence in such actions and proceedings shall be the same, as in civil actions. A sheriff or other officer empowered to execute civil processes shall execute process issued under ~~such~~ those chapters and receive compensation therefor as prescribed by law for like services.

Sec. 4903.23. The public utilities commission or power siting board may charge and collect a fee, which shall not exceed cost, for furnishing any copy of any paper, record, testimony, or writing made, taken, or filed under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., ~~and 4923., and 4927.~~ of the Revised Code, except such transcript and other papers as are required to be filed in any court proceedings authorized in ~~such~~ those chapters, whether under seal and certified to or otherwise; and may charge and collect a fee for certifying a document, which shall not exceed that charged by the secretary of state under division (K) of section 111.16 of the Revised Code. All such fees, itemized, shall be paid into the state treasury on the first day of each month.

Upon application of any person and payment of the proper fee, the commission or board shall furnish certified copies under the seal of the commission or board of any order made by it, which order is prima-facie evidence in any court of the facts stated in such copies. The copies of schedules, classifications, and tariffs of rates, tolls, prices, rentals, regulations, practices, services, fares, and charges, and copies of all contracts, agreements, and arrangements between public utilities and railroads, or either, filed with the commission, and the statistics, tables, and figures contained in the annual or other reports of such companies made to the commission as required by ~~such~~ the chapters, shall be preserved as public records in the custody of the commission and shall be received as

prima-facie evidence of what they purport to be, for the purpose of investigations and prosecutions by the commission and in all judicial proceedings. Copies of and extracts from any of such schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records, certified by the commission under its seal, shall be received in evidence with like effect as the originals.

Sec. 4905.01. As used in this chapter:

(A) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of the Revised Code.

(B) "Motor transportation company" has the same meaning ~~set forth~~ as in sections 4905.03 and 4921.02 of the Revised Code.

(C) "Trailer;" and "public highway;" ~~"fixed termini," "regular route," and "irregular route"~~ have the same meanings ~~set forth~~ as in section 4921.02 of the Revised Code.

(D) "Private motor carrier;" ~~"contract carrier by motor vehicle," and "motor vehicle;" and "charter party trip"~~ have the same meanings ~~set forth~~ as in section 4923.02 of the Revised Code.

(E) "Ohio coal research and development costs" means all reasonable costs associated with a facility or project undertaken by a public utility for which a recommendation to allow the recovery of costs associated therewith has been made under division (B)(7) of section 1551.33 of the Revised Code, including, but not limited to, capital costs, such as costs of debt and equity; construction and operation costs; termination and retirement costs; costs of feasibility and marketing studies associated with the project; and the acquisition and delivery costs of Ohio coal used in the project, less any expenditures of grant moneys.

Sec. 4905.02. As used in this chapter, "public utility" includes every corporation, company, copartnership, person, or association, ~~their~~ the lessees, trustees, or receivers of the foregoing, defined in section 4905.03 of the Revised Code, including ~~all any~~ any public ~~utilities~~ utility that ~~operate their utilities~~ operates its utility not for profit, except the following:

(A) ~~Electric~~ An electric light ~~companies~~ company that ~~operate their utilities~~ operates its utility not for profit;

(B) ~~Public utilities~~ A public utility, other than a telephone ~~companies~~ company, that ~~are~~ is owned and operated exclusively by and solely for the ~~utilities'~~ utility's customers, including any consumer or group of consumers purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas exclusively by and solely for the consumer's or consumers' own intended use as the end user or end users and not for profit;

(C) ~~Public utilities~~ A public utility that ~~are~~ is owned or operated by any municipal corporation;

(D) ~~Railroads~~ A railroad as defined in sections 4907.02 and 4907.03 of the Revised Code;

(E) Any provider, including a telephone company, with respect to its provision of any of the following:

(1) Advanced services as defined in 47 C.F.R. 51.5;

(2) Broadband service, however defined or classified by the federal communications commission;

(3) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);

(4) Subject to division (A) of section 4927.03 of the Revised Code, internet protocol-enabled services as defined in section 4927.01 of the Revised Code;

(5) Subject to division (A) of section 4927.03 of the Revised Code, any telecommunications service as defined in section 4927.01 of the Revised Code to which both of the following apply:

(a) The service was not commercially available on the effective date of the amendment of this section by S.B. 162 of the 128th general assembly.

(b) The service employs technology that became available for commercial use only after the effective date of the amendment of this section by S.B. 162 of the 128th general assembly.

Sec. 4905.03. As used in this chapter:

(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:

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

(2) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state ~~and as such is a common carrier;~~

~~(3)~~(2) A motor transportation company, when engaged in the business of carrying and transporting persons or property or the business of providing or furnishing such transportation service, for hire, in or by motor-propelled vehicles of any kind, including trailers, for the public in general, over any public street, road, or highway in this state, except as provided in section 4921.02 of the Revised Code;

~~(4)~~(3) An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission service for electricity

delivered to consumers in this state, but excluding a regional transmission organization approved by the federal energy regulatory commission;

~~(5)~~(4) A gas company, when engaged in the business of supplying artificial gas for lighting, power, or heating purposes to consumers within this state or when engaged in the business of supplying artificial gas to gas companies or to natural gas companies within this state, but a producer engaged in supplying to one or more gas or natural gas companies, only such artificial gas as is manufactured by that producer as a by-product of some other process in which the producer is primarily engaged within this state is not thereby a gas company. All rates, rentals, tolls, schedules, charges of any kind, or agreements between any gas company and any other gas company or any natural gas company providing for the supplying of artificial gas and for compensation for the same are subject to the jurisdiction of the public utilities commission.

~~(6)~~(5) A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state. Notwithstanding the above, neither the delivery nor sale of Ohio-produced natural gas by a producer or gatherer under a public utilities commission-ordered exemption, adopted before, as to producers, or after, as to producers or gatherers, January 1, 1996, or the delivery or sale of Ohio-produced natural gas by a producer or gatherer of Ohio-produced natural gas, either to a lessor under an oil and gas lease of the land on which the producer's drilling unit is located, or the grantor incident to a right-of-way or easement to the producer or gatherer, shall cause the producer or gatherer to be a natural gas company for the purposes of this section.

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

Nothing in division (A)~~(6)~~(5) of this section limits the authority of the commission to enforce sections 4905.90 to 4905.96 of the Revised Code.

~~(7)~~(6) A pipe-line company, when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partly within this state;

~~(8)~~(7) A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

~~(9)~~(8) A heating or cooling company, when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating or cooling purposes;

~~(10)~~(9) A messenger company, when engaged in the business of supplying messengers for any purpose;

~~(11)~~(10) A street railway company, when engaged in the business of operating as a common carrier, a railway, wholly or partly within this state, with one or more tracks upon, along, above, or below any public road, street, alleyway, or ground, within any municipal corporation, operated by any motive power other than steam and not a part of an interurban railroad, whether the railway is termed street, inclined-plane, elevated, or underground railway;

~~(12)~~(11) A suburban railroad company, when engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad;

~~(13)~~(12) An interurban railroad company, when engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of municipal corporations, using electricity or other motive power than steam power for the transportation of passengers, packages, express matter, United States mail, baggage, and freight. Such an interurban railroad company is included in the term "railroad" as used in section 4907.02 of the Revised Code.

~~(14)~~(13) A sewage disposal system company, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within this state.

(B) "Motor-propelled vehicle" means any automobile, automobile truck, motor bus, or any other self-propelled vehicle not operated or driven upon fixed rails or tracks.

Sec. 4905.04. ~~(A)~~ The public utilities commission is hereby vested with the power and jurisdiction to supervise and regulate public utilities and railroads, to require all public utilities to furnish their products and render all

services exacted by the commission or by law, and to promulgate and enforce all orders relating to the protection, welfare, and safety of railroad employees and the traveling public, including the apportionment between railroads and the state and its political subdivisions of the cost of constructing protective devices at railroad grade crossings.

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

Sec. 4905.09. A substantial compliance by the public utilities commission with the requirements of Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code is sufficient to give effect to all its rules; ~~and orders, acts, and regulations.~~ ~~Such Those~~ rules; ~~and~~ orders; ~~acts, and regulations~~ shall not be declared inoperative, illegal, or void for an omission of a technical nature ~~in respect to such requirements.~~ ~~Such~~ And, those chapters do not affect, modify, or repeal any law fixing the rate ~~which that~~ a company operating a railroad may demand and receive for the transportation of passengers.

Sec. 4905.12. A railroad company ~~or telegraph company which that~~ violates section 4905.10, 4907.13, or 4907.15 of the Revised Code shall forfeit to the state one thousand dollars, and twenty-five dollars for each day ~~such the~~ company fails to comply with a requirement of any such sections ~~section.~~ ~~Such The~~ forfeiture does not release ~~such the~~ company from the assessment provided in section 4905.10 of the Revised Code.

Sec. 4905.14. (A)(1) Every public utility shall file an annual report with the public utilities commission. The report shall be filed at the time and in the form prescribed by the commission, shall be duly verified, and shall cover the yearly period fixed by the commission. The commission shall prescribe the character of the information to be embodied in the annual report, and shall furnish to each public utility a blank form for it. Every public utility also shall file a copy of the annual report with the office of the consumers' counsel; the copy shall be filed at the same time that the original is filed with the commission. If any annual report filed with the commission is defective or erroneous, the commission may order that it be amended within a prescribed time. Any amendments made pursuant to such an order shall be filed with the commission and with the office of the consumers' counsel. Each annual report filed with the commission shall be preserved in the office of the commission. The commission may, at any time, require specific answers to questions upon which it desires information.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of a telephone company, including a wireless service provider, the annual report shall be limited to information necessary for the commission to calculate the assessment provided for in section 4905.10 of the Revised Code. The commission shall protect any confidential information in every company and provider report.

(b) With respect to a telephone company subject to section 4905.71 of the Revised Code, the commission shall adopt rules that require such a telephone company to also include in the annual report information required by the commission to calculate pole attachment and conduit occupancy rates and any other information the commission determines necessary and requires by rule for the commission to fulfill its responsibility under section 4905.71 of the Revised Code.

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

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

(2) The pertinent details of supply contracts with pipeline companies and producers for the following twelve months that they have executed and the quantity of the gas that they will possess in storage and will be available for delivery as of the first day of July and the first day of November;

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

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

Sec. 4905.16. When and as required by the public utilities commission, every public utility shall file with it a copy of any contract, agreement, or arrangement, in writing, with any other public utility relating in any way to the construction, maintenance, or use of its plant or property, or to any service, rate, or charge.

~~Unless otherwise ordered by the commission each telephone company~~

~~shall file with the commission a copy of any contract, agreement, note, bond, or other arrangement entered into with any telephone management, service or operating company.~~

Sec. 4905.18. Every public utility shall carry a proper and adequate depreciation or deferred maintenance account, whenever the public utilities commission, after investigation, determines that a depreciation account can be reasonably required. The commission shall ascertain, determine, and prescribe what are proper and adequate charges for depreciation of the several classes of property for each public utility. ~~The public utility commission shall require every telephone company to carry a proper and adequate depreciation or deferred maintenance account and shall ascertain, determine, and prescribe what are proper and adequate charges in each exchange area of such company.~~ The charge for depreciation shall be such as will provide the amount required over the cost and expense of maintenance to keep the property of the public utility in a state of efficiency corresponding to the progress of the art or industry. The commission may prescribe such changes in such charges for depreciation as it finds necessary.

Sec. 4905.20. No railroad as defined in section 4907.02 of the Revised Code, operating any railroad in this state, and no public utility as defined in section 4905.02 of the Revised Code furnishing service or facilities within this state, shall abandon or be required to abandon or withdraw any main track or depot of a railroad, or main pipe line, gas line, ~~telegraph line, telephone toll line,~~ electric light line, water line, sewer line, steam pipe line, or any portion thereof, pumping station, generating plant, power station, sewage treatment plant, or service station of a public utility, or the service rendered thereby, ~~which that~~ has once been laid, constructed, opened, and used for public business, nor shall any such facility be closed for traffic or service thereon, therein, or thereover except as provided in section 4905.21 of the Revised Code. Any railroad or public utility violating this section shall forfeit and pay into the state treasury not less than one hundred dollars, nor more than one thousand dollars, and shall be subject to all other legal and equitable remedies for the enforcement of this section and section 4905.21 of the Revised Code.

Sec. 4905.21. Any railroad or any political subdivision desiring to abandon, close, or have abandoned, withdrawn, or closed for traffic or service all or any part of a main track or depot, and any public utility or political subdivision desiring to abandon or close, or have abandoned, withdrawn, or closed for traffic or service all or any part of any line, pumping station, generating plant, power station, sewage treatment plant, or

service station, referred to in section 4905.20 of the Revised Code, shall make application to the public utilities commission in writing. The commission shall thereupon cause reasonable notice of the application to be given, stating the time and place fixed by the commission for the hearing of the application.

Upon the hearing of the application, the commission shall ascertain the facts and make its findings thereon, and if such facts satisfy the commission that the proposed abandonment, withdrawal, or closing for traffic or service is reasonable, having due regard for the welfare of the public and the cost of operating the service or facility, it may allow such abandonment, withdrawal, or closing; otherwise it shall be denied, or if the facts warrant, the application may be granted in a modified form. If the application asks for the abandonment or withdrawal of any main track, main pipe line, gas line, ~~telegraph line, telephone toll line~~, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, service station, or the service rendered thereby, in such manner as can result in the permanent abandonment of service between any two points on such railroad, or of service and facilities of any such public utility, no application shall be granted unless the railroad or public utility has operated the track, pipe line, gas line, ~~telegraph line, telephone toll line~~, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, or service station for at least five years. ~~Such~~ The notice shall be given by publication in a newspaper of general circulation throughout any county or municipal corporation ~~which~~ that has granted a franchise to the railroad or public utility, under which the track, pipe line, gas line, ~~telegraph line, telephone toll line~~, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, or service station is operated or in which the same is located, once a week for two consecutive weeks before the hearing of the application. Notice of the hearing shall be given such county, municipal corporation, or public utility in the manner provided for the service of orders of the commission in section 4903.15 of the Revised Code. This section and section 4905.20 of the Revised Code do not apply to a gas company when it is removing or exchanging abandoned field lines.

This section applies to all service now rendered and facilities furnished or hereafter built and operated, and an order of the commission authorizing the abandonment or withdrawal of any such service or facility shall not affect rights and obligations of a railroad or public utility beyond the scope of the order, anything in its franchise to the contrary notwithstanding.

Sec. 4905.26. Upon complaint in writing against any public utility by any person, firm, or corporation, or upon the initiative or complaint of the public utilities commission, that any rate, fare, charge, toll, rental, schedule, classification, or service, or any joint rate, fare, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, or that any regulation, measurement, or practice affecting or relating to any service furnished by the public utility, or in connection with such service, is, or will be, in any respect unreasonable, unjust, insufficient, unjustly discriminatory, or unjustly preferential, or that any service is, or will be, inadequate or cannot be obtained, and, upon complaint of a public utility as to any matter affecting its own product or service, if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof. ~~Such~~ The notice shall be served not less than fifteen days before hearing and shall state the matters complained of. The commission may adjourn such hearing from time to time.

The parties to the complaint shall be entitled to be heard, represented by counsel, and to have process to enforce the attendance of witnesses.

~~Upon the filing of a complaint by one hundred subscribers or five per cent of the subscribers to any telephone exchange, whichever number be smaller, or by the legislative authority of any municipal corporation served by such telephone company that any regulation, measurement, standard of service, or practice affecting or relating to any service furnished by the telephone company, or in connection with such service is, or will be, in any respect unreasonable, unjust, discriminatory, or preferential, or that any service is, or will be, inadequate or cannot be obtained, the commission shall fix a time for the hearing of such complaint.~~

~~The hearing provided for in the next preceding paragraph shall be held in the county wherein resides the majority of the signers of such complaint, or wherein is located such municipal corporation. Notice of the date, time of day, and location of the hearing shall be served upon the telephone company complained of, upon each municipal corporation served by the telephone company in the county or counties affected, and shall be published for not less than two consecutive weeks in a newspaper of general circulation in the county or counties affected.~~

~~Such hearing shall be held not less than fifteen nor more than thirty days after the second publication of such notice.~~

Sec. 4905.30. ~~Every~~ (A) A public utility shall print and file with the

public utilities commission schedules showing all rates, joint rates, rentals, tolls, classifications, and charges for service of every kind furnished by it, and all rules and regulations affecting them. ~~Such~~ The schedules shall be plainly printed and kept open to public inspection. The commission may prescribe the form of every such schedule, and may prescribe, by order, changes in the form of such schedules. The commission may establish and modify rules and regulations for keeping such schedules open to public inspection. A copy of ~~such~~ the schedules, or so much thereof as the commission deems necessary for the use and information of the public, shall be printed in plain type and kept on file or posted in such places and in such manner as the commission orders.

(B) Division (A) of this section applies to a telephone company only regarding rates, joint rates, tolls, classifications, charges, rules, and regulations established pursuant to sections 4905.71, 4927.12, 4927.13, 4927.14, 4927.15, 4927.18, and 4931.47 of the Revised Code.

Sec. 4905.34. Except as provided in sections 4905.33 and 4905.35 and Chapter 4928. of the Revised Code, Chapters 4901., 4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the Revised Code do not prevent any public utility or railroad from granting any of its property for any public purpose, or granting reduced rates or free service of any kind to the United States, to the state or any political subdivision of the state, for charitable purposes, for fairs or expositions, to a law enforcement officer residing in free housing provided pursuant to section 3735.43 of the Revised Code, or to any officer or employee of such public utility or railroad or the officer's or employee's family. All contracts and agreements made or entered into by such public utility or railroad for such use, reduced rates, or free service are valid and enforceable at law. As used in this section, "employee" includes furloughed, pensioned, and superannuated employees.

Sec. 4905.40. (A) A public utility or a railroad may, when authorized by order of the public utilities commission, issue stocks, bonds, notes, and other evidences of indebtedness, payable at periods of more than twelve months after their date of issuance, when necessary:

(1) For the acquisition of property, the construction, completion, extension, renewal, or improvement of its facilities, or the improvement of its service; or

(2) For reorganization or readjustment of its indebtedness and capitalization, for the discharge or lawful refunding of its obligation, or for the reimbursement of moneys actually expended for such purposes from income or from any other moneys in the treasury of the public utility or railroad not secured or obtained from the issue of stocks, bonds, notes, or

other evidences of indebtedness of such public utility or railroad. No reimbursement of moneys expended for such purposes from income or other moneys in the treasury shall be authorized unless the applicant has kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount and purposes of such expenditures.

(B) Any public utility, subject to the jurisdiction of the commission, may, when authorized by the commission, issue shares of common capital stock to acquire or pay for shares of common capital stock of a public utility of this or an adjoining state whose property is so located as to permit the operation of the properties of such utilities as an integrated system if the applicant owns, or by this issue will acquire, not less than sixty-five per cent of the issued and outstanding common capital shares of the company whose shares are to be acquired, and if the consideration to be capitalized by the acquiring company does not exceed the par or stated value at which the shares so acquired were issued.

(C) Any bonds, notes, or other evidences of indebtedness payable at periods of more than twelve months after their date may be issued as provided in sections 4905.40 to 4905.43 of the Revised Code, regardless of the amount of the capital stock of the public utility or railroad, subject to the approval of the commission of the excess of such bonds, notes, or other evidences of indebtedness above the amount of the capital stock of such public utility or railroad.

(D) The commission shall authorize on the best terms obtainable such issues of stocks, bonds, and other evidences of indebtedness as are necessary to enable any public utility to comply with any contract made between such public utility and any municipal corporation prior to June 30, 1911.

(E) The commission may authorize a public utility that is an electric light company to issue equity securities, or debt securities having a term of more than twelve months from the date of issuance, for the purpose of yielding to the company the capacity to acquire a facility that produces fuel for the generation of electricity.

(F) In any proceeding under division (A)(1) of this section initiated by a public utility, the commission shall determine and set forth in its order:

(1) Whether the purpose to which the issue or any proceeds of it shall be applied was or is reasonably required by the utility to meet its present and prospective obligations to provide utility service;

(2) Whether the amount of the issue and the probable cost of such stocks, bonds, notes, or other evidences of indebtedness is just and reasonable;

(3) What effect, if any, the issuance of such stocks, bonds, notes, or

other evidences of indebtedness and the cost thereof will have upon the present and prospective revenue requirements of the utility.

(G) Sections 4905.40 to 4905.42 of the Revised Code do not apply to stocks, bonds, notes, or other evidence of indebtedness issued for the purpose of financing oil or natural gas drilling, producing, gathering, and associated activities and facilities by a producer which supplies to no more than twenty purchasers only such gas as is produced, gathered, or purchased by such producer within this state.

(H) Each public utility seeking authorization from the commission for the issuance of securities to finance the installation, construction, extension, or improvement of an air quality facility, as defined in section 3706.01 of the Revised Code, shall consider the availability of financing therefor from the Ohio air quality development authority and shall demonstrate to the commission that the proposed financing will be obtained on the best terms obtainable.

(I) This section does not apply to a telephone company.

Sec. 4905.402. (A) As used in this section:

(1) "Control" means the possession of the power to direct the management and policies of a domestic telephone company or a holding company of a domestic telephone company, or the management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but does not include the power that results from holding an official position or the possession of corporate office with the domestic company or utility or the holding company. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds with the power to vote proxies that constitute, twenty per cent or more of the total voting power of the domestic company or utility or the holding company.

(2) "Electric utility" has the same meaning as in section 4928.07 of the Revised Code.

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function.

(4) "Telephone company" means any company described in division (A)~~(2)~~(1) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code and provides basic local exchange service, as defined in section 4927.01 of the Revised Code.

(B) No person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company or of a domestic electric utility or a holding company controlling a domestic electric utility unless that person obtains the prior approval of the

public utilities commission under this section. To obtain approval the person shall file an application with the commission demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge. The application shall contain such information as the commission may require. If the commission considers a hearing necessary, it may fix a time and place for hearing. If, after review of the application and after any necessary hearing, the commission is satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the commission shall approve the application and make such order as it considers proper. If the commission fails to issue an order within thirty days of the filing of the application, or within twenty days of the conclusion of a hearing, if one is held, the application shall be deemed approved by operation of law.

(C) No domestic telephone company shall merge with another domestic telephone company unless the merging companies obtain the prior approval of the commission. An application seeking such approval shall be filed, processed, and decided in the manner provided for an application under division (B) of this section.

(D) The commission shall adopt such rules as it finds necessary to carry out the provisions of this section.

~~(D)~~(E) If it appears to the commission or to any person that may be adversely affected that any person is engaged in or about to engage in any acts or practices that would violate division (B) or (C) of this section or any provision of a rule adopted under this section, the attorney general, when directed to do so by the commission, or the person claiming to be adversely affected may bring an action in any court of common pleas that has jurisdiction and venue to enjoin such acts or practices and enforce compliance ~~with this section.~~ Upon a proper showing, the court shall grant, without bond, a restraining order or temporary or permanent injunction.

~~(E)~~(F) The courts of this state have jurisdiction over every person not a resident of or domiciled or authorized to do business in this state that files, or is prohibited from acting without first filing, an application under division (B) or (C) of this section, and over all actions involving such person arising out of violations of any provision of this section or of a rule adopted under this section. The secretary of state shall be the agent for service of process for any such person in any action, suit, or proceeding arising out of such violations of this section. Copies of all such lawful process shall be served upon the secretary of state and transmitted by certified mail, with return receipt requested, by the secretary of state to such person at the person's last

known address.

Sec. 4905.41. The proceedings for obtaining the authority of the public utilities commission for the issue of stocks, bonds, notes and other evidences of indebtedness, as provided in section 4905.40 of the Revised Code, shall be as follows:

(A) In case the stocks, bonds, notes, or other evidence of indebtedness are to be issued for money only, the public utility or railroad shall file with the commission a statement, signed and verified by the president or vice president and the secretary or treasurer of such public utility or railroad, setting forth:

(1) The amount and character of the stocks, bonds, or other evidence of indebtedness;

(2) The purposes for which they are to be issued;

(3) The terms upon which they are to be issued;

(4) The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;

(5) If the issue is desired for the purpose of the reimbursement of money expended from income, as provided by section 4905.40 of the Revised Code, the amount expended and when and for what purposes it was expended;

~~(6) If the application is filed by a telephone company, a statement that such company is not in violation of section 4905.23 of the Revised Code, and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code; or, if it is in violation thereof, that a portion or all of the proceeds will be used to correct such violation and that none of the proceeds will be used for expansion into or acquisition of any additional territory.~~

~~(7) Such other facts and information pertinent to the inquiry as the commission requires.~~

(B) If the stocks, bonds, notes, or other evidence of indebtedness are to be issued partly or wholly for property, services, or other consideration than money, the public utility or railroad shall file with the commission a statement, signed and verified by its president or vice president and its secretary, or treasurer setting forth:

(1) The amount and character of the stocks, bonds, or other evidence of indebtedness proposed to be issued;

(2) The purposes for which they are to be issued;

(3) The description and estimated value of the property or services for which they are to be issued;

(4) The terms on which they are to be issued or exchanged;

(5) The amount of money to be received in addition to the property, service, or other consideration;

~~(6) If the application is made by a telephone company, that the company is not in violation of section 4905.23 of the Revised Code and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code.~~

~~(7)~~ The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;

~~(8)~~⁽⁷⁾ Such other facts and information pertinent to the inquiry as the commission requires.

This section and section 4905.40 of the Revised Code do not apply to union depot companies organized and under contract prior to June 30, 1911, until the same are completed.

This section does not apply to a telephone company.

Sec. 4905.42. To determine whether it should issue the order referred to in section 4905.40 of the Revised Code, the public utilities commission shall hold such hearings, make such inquiries or investigations, and examine such witnesses, books, papers, documents, and contracts as it deems proper.

An order issued under this section shall fix the amount, character, and terms of any issue of stocks, bonds, notes, or other evidence of indebtedness, and the purposes to which the issue or any proceeds of it shall be applied, shall recite that the money, property, consideration, or labor procured or to be procured or paid for by such issue was or is reasonably required for the purposes specified in the order, and shall recite the value of any property, consideration, or service, as found by the commission, for which in whole or in part such issue is proposed to be made.

No public utility or railroad shall, without the consent of the commission, apply any such issue or its proceeds to any purpose not specified in the order. Such public utilities or railroads may issue notes for proper corporate purposes, payable at periods of not more than twelve months, without the consent of the commission, but no such notes shall, in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds, or by any evidence of indebtedness, running for more than twelve months, without the consent of the commission.

All stocks, bonds, notes, or other evidence of indebtedness issued by any public utility or railroad without the permission of the commission are void. No interstate railroad or public utility shall be required to apply to the commission for authority to issue stocks, bonds, notes, or other evidence of indebtedness for the acquisition of property, the construction, completion, extension, or improvement of its facilities, or the improvement or

maintenance of its service outside this state, or for authority for the discharge or refunding of obligations issued or incurred for such purposes or the reimbursement of moneys actually expended for such purposes outside this state.

No pipe-line company—when engaged in the business of transporting oil through pipes or tubing, either wholly or partly—within this state, shall be required to apply to the commission for authority to issue stocks, bonds, notes, or other evidence of indebtedness for the purpose of acquiring or paying for stocks, bonds, notes, or other evidence of indebtedness of any other corporation organized under the laws of this state, any other state, the District of Columbia, the United States, any territory of the United States, any foreign country, or otherwise.

No company that is both a pipe-line company engaged as such in the business of transporting natural gas through pipes or tubing in interstate commerce, wholly or partly within this state, and a natural gas company engaged as such in this state solely in the business of supplying natural gas to gas companies or to natural gas companies shall be required to apply to the commission for authority to issue stocks, bonds, notes, or other evidence of indebtedness.

This section does not apply to a telephone company.

Sec. 4905.45. Public utility or railroad corporations may, incident to the sale or pledge of bonds, notes, or other securities owned by them, jointly or severally indorse such securities and guarantee due payment of them, in any case in which such indorsement and guarantee is authorized by the public utilities commission or the interstate commerce commission.

This section does not apply to telephone companies.

Sec. 4905.46. ~~(A) No public utility or railroad shall declare any stock, bond, or scrip dividend or distribution, or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders, unless it is authorized to do so by the public utilities commission.~~

~~(B) No telephone company shall declare any cash, stock, bond, or scrip dividend or distribution, or divide the proceeds of the sale of any stock, bond, or scrip among its common or voting shareholders, while such telephone company is in violation of any order of the commission, or against which telephone company there exists a finding of inadequate service, except when the public utilities commission makes a finding after hearing and notice, as provided in section 4905.26 of the Revised Code, that such dividend or distribution will in no way postpone compliance with any order or affect the adequacy of service rendered or to be rendered by such telephone company. If a telephone company, while in violation of any order~~

~~of the commission, or against which there exists a finding of inadequate service, desires to declare a cash dividend or distribution without the consent of the commission, it shall set aside in a special reserve fund a sum of money equivalent to the amount necessary to pay the proposed dividend or distribution, which, while said company is in violation of said order or against which such finding exists, may be expended only with the consent of the commission. This section does not apply to telephone companies.~~

Sec. 4905.47. The public utilities commission shall not authorize the capitalization of any franchise or right to own, operate, or enjoy any franchise in excess of the amount, exclusive of any tax or annual charge, actually paid to any political subdivision of the state or county as the consideration for the grant of such franchise or right, nor shall the capital stock of a public utility or railroad corporation formed by the merger or consolidation of two or more corporations exceed the sum of the capital stock of the corporations consolidated or merged, at the par value of such stock, and such sum or any additional sum actually paid in cash. No contract for consolidation or lease shall be capitalized in the stock of any public utility or railroad corporation, and no such corporation shall issue any bonds against or as a lien upon any contract for consolidation or merger. The aggregate amount of the debt of such consolidated companies by reason of such consolidation shall not be increased.

This section does not apply to telephone companies.

Sec. 4905.51. Every public utility having any equipment on, over, or under any street or highway shall, subject to section 4951.04 of the Revised Code, for a reasonable compensation, permit the use of such equipment by any other public utility whenever the public utilities commission determines, as provided in section 4905.51 of the Revised Code, that public convenience, welfare, and necessity require such use or joint use, and that such use or joint use will not result in irreparable injury to the owner or other users of such equipment or any substantial detriment to the service to be rendered by such owners or other users.

In case of failure to agree upon such use or joint use, or upon the conditions or compensation for such use or joint use, any public utility may apply to the commission, and if after investigation the commission ascertains that the public convenience, welfare, and necessity require such use or joint use and that it would not result in irreparable injury to the owner or other users of such property or equipment or in any substantial detriment to the service to be rendered by such owner or other users, the commission shall direct that such use or joint use be permitted and prescribe reasonable conditions and compensation for such joint use.

Such use or joint use so ordered shall be permitted and such conditions and compensation so prescribed shall be the lawful conditions and compensation to be observed, followed, and paid, subject to recourse to the courts by any interested party as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code. The commission may revoke or revise any such order.

Sec. 4905.52. No officer, agent, or employee of a railroad company shall refuse to answer a question propounded to ~~him~~ the officer, agent, or employee by a public utilities commissioner in the course of an examination authorized by Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code. The property of the railroad company of which such person is an officer, agent, or employee, is liable to be taken in execution to satisfy the fines and costs in case of a violation of this section.

Sec. 4905.58. All prosecutions against a railroad ~~or telegraph company,~~ or an officer, agent, or employee thereof, under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923., ~~and 4925.~~ and other sections of the Revised Code for penalties involving imprisonment shall be by indictment.

Sec. 4905.59. If the public utilities commission, the officer requested by it, or a village solicitor or city director of law, when the cause of action arises in a municipal corporation, fails to prosecute a civil action for forfeiture against a railroad ~~or telegraph company,~~ or an officer, agent, or employee thereof as provided by law, the prosecuting attorney of the county in which a cause of action for forfeiture arises, upon the request of any taxpayer of the county, shall bring such action if ~~he~~ the prosecuting attorney is furnished with evidence ~~which that in his~~ the prosecuting attorney's judgment will sustain it. If the action fails, the costs of the action shall be adjudged against the county.

If a cause of action for forfeiture arises within a municipal corporation, and the commission, the officer requested by it, or the prosecuting attorney, fails to prosecute such action, the village solicitor or city director of law of the municipal corporation, when required by resolution of the legislative authority, shall institute the action and prosecute it to final judgment. If the action fails, the cost of the action shall be adjudged against the municipal corporation. The time for notice of appeal and giving a bond does not apply to cases within the meaning of this section.

Sec. 4905.61. If any public utility or railroad does, or causes to be done, any act or thing prohibited by Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code, or declared to be unlawful, or omits to do any act or thing required by ~~such~~ the provisions of those chapters, or by order of the public utilities commission, ~~such~~ the

public utility or railroad is liable to the person, firm, or corporation injured thereby in treble the amount of damages sustained in consequence of ~~such~~ the violation, failure, or omission. Any recovery under this section does not affect a recovery by the state for any penalty provided for in ~~such~~ the chapters.

Sec. 4905.63. ~~Companies~~ A company formed to acquire property or to transact business ~~which that~~ would be subject to Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925- 4927.~~ of the Revised Code, and ~~companies~~ a company owning or possessing franchises for any of the purposes contemplated in ~~such those~~ chapters, are subject to ~~such chapters~~ those chapters' provisions, although no property has been acquired, no business has been transacted, or no franchises have been exercised by ~~them~~ the company.

Sec. 4905.71. (A) Every telephone, ~~telegraph,~~ or electric light company; ~~which that~~ is a public utility as defined by section 4905.02 of the Revised Code; shall permit, upon reasonable terms and conditions and the payment of reasonable charges, the attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of same in conduit duct space, by any person or entity other than a public utility that is authorized and has obtained, under law, any necessary public or private authorization and permission to construct and maintain the attachment, so long as the attachment does not interfere, obstruct, or delay the service and operation of the telephone, ~~telegraph,~~ or electric light company, or create a hazard to safety. Every such telephone, ~~telegraph,~~ or electric light company shall file tariffs with the public utilities commission containing the charges, terms, and conditions established for such use.

(B) The ~~public utilities~~ commission shall regulate the justness and reasonableness of the charges, terms, and conditions contained in any such tariff, and may, upon complaint of any persons in which it appears that reasonable grounds for complaint are stated, or upon its own initiative, investigate such charges, terms, and conditions and conduct a hearing to establish just and reasonable charges, terms, and conditions, and to resolve any controversy ~~which that~~ may arise among the parties as to such attachment.

Sec. 4905.73. (A) The public utilities commission, upon complaint by any person or complaint or initiative of the commission, has jurisdiction under section 4905.26 of the Revised Code regarding any violation of division (B) of section 4905.72 of the Revised Code by a public utility.

(B) Upon complaint or initiative under division (A) of this section, if the commission finds, after notice and hearing pursuant to section 4905.26 of

the Revised Code, that a public utility has violated section 4905.72 of the Revised Code, the commission, by order, shall do all of the following:

- (1) Rescind the aggrieved consumer's change in service provider;
- (2) Require the public utility to absolve the aggrieved consumer of any liability for any charges assessed the consumer, or refund to the aggrieved consumer any charges collected from the consumer, by the public utility during the thirty-day period after the violation or failure to comply occurred or, where appropriate, during such other period after that occurrence as determined reasonable by the commission;
- (3) Require the public utility to refund or pay to the aggrieved consumer any fees paid or costs incurred by the consumer resulting from the change of the consumer's service provider or providers, or from the resumption of the consumer's service with the service provider or providers from which the consumer was switched;
- (4) Require the public utility to make the consumer whole regarding any bonuses or benefits, such as airline mileage or product discounts, to which the consumer is entitled, by restoring bonuses or benefits the consumer lost as a result of the violation or failure to comply and providing bonuses or benefits the consumer would have earned if not for the violation or failure to comply, or by providing something of equal value.

(C) In addition to the remedies under division (B) of this section, if the commission finds, after notice and hearing pursuant to section 4905.26 of the Revised Code, that a public utility has violated section 4905.72 of the Revised Code, the commission, by order, may impose any of the following remedies or forfeitures:

- (1) Require the public utility to comply or undertake any necessary corrective action;
- (2) Require the public utility to compensate the service provider or providers from which the aggrieved consumer was switched in the amount of all charges the consumer would have paid that particular service provider for the same or comparable service had the violation or failure to comply not occurred;
- (3) Require the public utility to compensate the service provider or providers from which the aggrieved consumer was switched for any costs that the particular service provider incurs as a result of making the consumer whole as provided in division (B)(4) of this section or of effecting the resumption of the consumer's service;
- (4) Assess upon the public utility forfeitures of not more than one thousand dollars for each day of each violation or failure to comply. However, if the commission finds that the public utility has engaged or is

engaging in a pattern or practice of committing any such violations or failures to comply, the commission may assess upon the public utility forfeitures of not more than five thousand dollars for each day of each violation or failure. Any forfeiture collected pursuant to this division shall be deposited into the state treasury to the credit of the general revenue fund.

(5) Require the public utility to file with the commission a security payable to the state in such amount and upon such terms as the commission determines necessary to ensure compliance and payment of any forfeitures assessed pursuant to division (C)(4) of this section;

(6) Rescind the public utility's authority to provide natural gas service or public telecommunications service within this state.

(D) Proceedings of the commission pursuant to division (B) or (C) of this section are governed by Chapter 4903. of the Revised Code.

(E) The commission may direct the attorney general to commence an action under section 4905.57 or 4905.60 of the Revised Code to enforce an order of the commission issued under division (B) or (C) of this section, including orders assessing forfeitures. Notwithstanding section 4905.57 of the Revised Code, an action authorized under this division may be brought in the court of common pleas of Franklin county or the court of common pleas of any county in which venue is proper under the Rules of Civil Procedure.

(F) The remedy available under section 4905.61 of the Revised Code may be applied to any violation of section 4905.72 of the Revised Code.

(G) The powers, remedies, forfeitures, and penalties provided by this section and section 4905.72 and division ~~(D)~~(C) of section 4905.99 of the Revised Code are in addition to any other power, remedy, forfeiture, or penalty provided by law.

Sec. 4905.84. (A) As used in this section:

(1) "Telecommunications relay service" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

(2) "TRS provider" means an entity selected by the public utilities commission as the provider of telecommunications relay service for this

state as part of the commission's intrastate telecommunications relay service program certified pursuant to federal law.

(B) For the sole purpose of funding telecommunications relay service, the commission shall, not earlier than January 1, 2009, impose on and collect from each service provider that is required under federal law to provide its customers access to telecommunications relay service an annual assessment to pay for costs incurred by the TRS provider for providing such service in Ohio. The commission shall determine the appropriate service providers to be assessed the telecommunications relay service costs, including telephone companies as defined in division (A)~~(2)~~(1) of section 4905.03 of the Revised Code, commercial mobile radio service providers, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to basic local exchange service as defined in section 4927.01 of the Revised Code.

(C) The assessment shall be allocated proportionately among the appropriate service providers using a competitively neutral formula established by the commission based on the number of retail intrastate customer access lines or their equivalent. The commission shall annually reconcile the funds collected with the actual costs of providing telecommunications relay service when it issues the assessment and shall either proportionately charge the service providers for any amounts not sufficient to cover the actual costs or proportionately credit amounts collected in excess of the actual costs. The total amount assessed from all service providers shall not exceed the total telecommunications relay service costs.

Each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of recovery may include, but is not limited to, a customer billing surcharge.

The commission shall deposit the money collected in the telecommunications relay service fund, which is hereby created in the state treasury, and shall use the money in that fund solely to compensate the TRS provider.

(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment.

(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. The commission may adopt such rules as it finds necessary to carry out this section. The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures.

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the Revised Code:

(A) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.

(B) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

(C) "Gathering lines" and the "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act and the rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act, including 49 C.F.R. part 192, as amended.

(D) "Intrastate pipe-line transportation" has the same meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as amended, but excludes the gathering of gas exempted by the Natural Gas Pipeline Safety Act.

(E) "Master-meter system" means a pipe-line system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants. Such pipe-line system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The term includes a master-meter system as defined in 49 C.F.R. 191.3, as amended. The term excludes a pipeline within a manufactured home, mobile home, or a building.

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., as amended.

(G) "Operator" means any of the following:

(1) A gas company or natural gas company as defined in section 4905.03 of the Revised Code, except that division (A)~~(6)~~(5) of that section does not authorize the public utilities commission to relieve any producer of gas, as a gas company or natural gas company, of compliance with sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code created under section 4905.91 of the Revised Code;

(2) A pipe-line company, as defined in section 4905.03 of the Revised Code, when engaged in the business of transporting gas by pipeline;

(3) A public utility that is excepted from the definition of "public utility" under division (B) or (C) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state;

(4) Any person that owns, operates, manages, controls, or leases any of the following:

(a) Intrastate pipe-line transportation facilities within this state;

(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act;

(c) A master-meter system within this state.

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer.

(H) "Operator of a master-meter system" means a person described under division (F)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code.

(I) "Person" means:

(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;

(2) Any trustee, receiver, assignee, or personal representative of persons defined in division (H)(1) of this section.

(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code.

(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable.

(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.

(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or delivered, measured in units per one thousand cubic feet:

(1) Residential sales;

(2) Commercial and industrial sales;

(3) Other sales to public authorities;

- (4) Interdepartmental sales;
- (5) Sales for resale;
- (6) Transportation of gas.

Sec. 4905.99. (A) Whoever violates section 4905.52 of the Revised Code shall be fined not less than fifty nor more than five hundred dollars.

(B) Whoever violates section 4905.56 of the Revised Code is guilty of a felony of the fifth degree.

~~(C) Coincident with the operation of section 4905.78 of the Revised Code, whoever violates that section is guilty of a misdemeanor of the fourth degree.~~

~~(D)~~ Whoever violates section 4905.74 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 4907.01. As used in sections 4907.01 to 4907.63, ~~inclusive,~~ of the Revised Code:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) ~~"Telegraph company," "telephone Telephone company," "electric light company," "gas company," "natural gas company," "pipe-line company," "water-works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," and "interurban railroad company;" and "motor-propelled vehicle"~~ have the meaning set forth same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of the Revised Code.

~~(D) "Motor transportation company," "trailer," "public Public highway;" "fixed termini," "regular route," and "irregular route" have~~ has the same meaning ~~set forth~~ as in sections 4905.03 and 4921.02 of the Revised Code.

~~(E) "Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the meaning set forth in section 4923.02 of the Revised Code.~~

Sec. 4907.14. Within thirty days after the election of the directors of a railroad ~~or telegraph company~~ doing business in this state, the secretary of ~~such companies~~ the railroad shall forward to the public utilities commission a list of the officers and directors thereof, giving the place of residence and post-office address of each. If a change occurs in the organization of the officers or board of directors of a railroad ~~or telegraph company~~, the secretary shall notify the commission of such change and the residence and post-office address of each of the officers and directors.

Sec. 4907.30. No railroad company owning or operating a railroad

wholly or partly within this state shall, directly or indirectly, issue or give a free ticket, free pass, or free transportation for passengers, except to:

(A) Its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law;

(B) Ministers of religion, traveling secretaries of railroad young men's or young women's ~~christian~~ Christian associations, inmates of hospitals and charitable institutions, and persons exclusively engaged in charitable work;

(C) Indigent, destitute, and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation;

(D) Residents of the national homes or state homes for disabled volunteer soldiers, and residents of veterans' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes;

(E) Necessary caretakers of livestock, poultry, and fruit;

(F) Employees on sleeping cars, ~~and or~~ express cars;

(G) Line workers of ~~telegraph and~~ telephone companies;

(H) Railway mail service employees, post-office inspectors, custom inspectors, and immigration inspectors;

(I) News carriers on trains, baggage agents, witnesses attending any legal investigation in which the railroad is interested, persons injured in wrecks, and physicians and nurses attending such persons.

As used in this section, "employee" includes furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, the remains of a person killed in the employment of a carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier, and "families" includes the families of such persons and also the surviving spouses and dependent children of employees who died while in the service of any common carrier.

Sec. 4909.01. As used in this chapter:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) "~~Telegraph company,~~" "~~telephone company,~~" "~~electric~~ Electric light company," "gas company," "natural gas company," "pipeline company," "water-works company," "sewage disposal system company," "~~heating or cooling company,~~" "~~messenger company,~~" and "street railway company;" "~~suburban railroad company,~~" "~~interurban railroad company,~~" and "~~motor propelled vehicle~~" have the same meanings ~~set forth~~ as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of

the Revised Code.

(D) "Motor transportation company" has the same meaning ~~set forth as~~ in sections 4905.03 and 4921.02 of the Revised Code.

~~(E) "Trailers," "public highway," "fixed termini," "regular route," and "irregular route" have the meanings set forth in section 4921.02 of the Revised Code.~~

~~(F) "Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the meanings set forth in section 4923.02 of the Revised Code.~~

Sec. 4909.02. All regulations, practices, and service of railroad companies ~~and telegraph companies~~ prescribed by the public utilities commission shall be in force and be prima-facie reasonable, unless suspended or found otherwise in an action brought for that purpose pursuant to Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code, or until changed or modified by the commission.

Sec. 4909.03. All rates, fares, charges, classifications, and joint rates of railroad companies ~~and telegraph companies~~ fixed by the public utilities commission shall be in force and be prima-facie lawful for two years from the day they take effect, or until changed or modified by the commission or by an order of a competent court in an action under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923., ~~and 4925.~~ of the Revised Code.

Sec. 4909.17. No rate, joint rate, toll, classification, charge, or rental, no change in any rate, joint rate, toll, classification, charge, or rental, and no regulation or practice affecting any rate, joint rate, toll, classification, charge, or rental of a public utility shall become effective until the public utilities commission, by order, determines it to be just and reasonable, except as provided in this section and sections 4909.18 and 4909.19 of the Revised Code. Such sections do not apply to any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of railroads, street and electric railways, motor transportation companies, ~~telegraph companies,~~ and pipe line companies. ~~Any change of any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of telegraph companies, may be made in the same manner as such changes may be made by railroad companies. All laws respecting such changes by railroad companies apply to such changes by telegraph companies.~~

Sec. 4911.01. As used in this chapter:

(A) "Public utility" means every one as defined in divisions (A)(1), ~~(2)~~ (3), (4), (5), (6), (7), (8), ~~(9)~~, and ~~(14)~~(13) of section 4905.03 of the Revised Code, including all public utilities that ~~operating~~ operate their utilities not

for profit, except the following:

- (1) Electric light companies that operate their utilities not for profit;
- (2) Public utilities, other than telephone companies, that are owned and operated exclusively by and solely for the utilities' customers;
- (3) Public utilities that are owned or operated by any municipal corporation;
- (4) Railroads as defined in sections 4907.02 and 4907.03 of the Revised Code.

(B) "Residential consumer" means urban, suburban, and rural patrons of public utilities insofar as their needs for utility services are limited to their residence.

Sec. 4921.01. As used in sections 4921.01 to 4921.32, ~~inclusive~~, of the Revised Code:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) ~~"Telegraph company," "telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street Street railway company," "suburban railroad company," "interurban railroad company," and "motor-propelled vehicle"~~ have the ~~meaning set forth~~ same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning ~~set forth~~ as in section 4907.02 of the Revised Code.

(D) "Motor transportation company" has the same meaning ~~set forth~~ as in sections 4905.03 and 4921.02 of the Revised Code.

(E) "Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the ~~meaning set forth~~ same meanings as in section 4923.02 of the Revised Code.

Sec. 4923.01. As used in sections 4923.01 to 4923.17, ~~inclusive~~, of the Revised Code:

(A) "Public utility" has the same meaning ~~set forth~~ as in section 4905.02 of the Revised Code.

(B) ~~"Telegraph company," "telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," "interurban railroad company," and "motor-propelled Motor-propelled vehicle"~~ have has the same meaning ~~set forth~~ as in section 4905.03 of the Revised Code.

~~(C) "Railroad" has the meaning set forth in section 4907.02 of the Revised Code.~~

~~(D)~~ "Motor transportation company" has the same meaning set forth as in sections 4905.03 and 4921.02 of the Revised Code.

~~(E)~~~~(D)~~ "Trailer," "public highway," ~~"fixed termini,"~~ and "regular route;" ~~and "irregular route"~~ have the meaning set forth same meanings as in section 4921.02 of the Revised Code.

Sec. 4927.01. (A) As used in this chapter:

~~(A)~~(1) "Basic local exchange service" means:

~~(1)~~—End residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that enable does both of the following:

(a) Enables a customer, over the primary line serving the customer's premises, to originate or receive voice communications within a local service area, and that consist as that area exists on the effective date of the amendment of this section by S.B. 162 of the 128th general assembly;

(b) Consists of all of the following services:

~~(a)~~(i) Local dial tone service;

~~(b)~~(ii) For residential end users, flat-rate telephone exchange service;

(iii) Touch tone dialing service;

~~(e)~~(iv) Access to and usage of 9-1-1 services, where such services are available;

~~(d)~~(v) Access to operator services and directory assistance;

~~(e)~~(vi) Provision of a telephone directory in any reasonable format for no additional charge and a listing in that directory, with reasonable accommodations made for private listings;

~~(f)~~(vii) Per call, caller identification blocking services;

~~(g)~~(viii) Access to telecommunications relay service; and

~~(h)~~(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.

(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.

(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local

exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

~~(B) "Cable television service" means any transmission of video or other programming service to subscribers and any subscriber interaction required for the selection of that video or other programming service.~~

~~(C)(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.~~

(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) On February 8, 1996, provided telephone exchange service in such area; and

(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or

(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in division (A)(5)(b)(i) of this section.

(6) "Internet protocol-enabled services" means any services, capabilities, functionalities, or applications that are provided using internet protocol or a successor protocol to enable an end user to send or receive communications in internet protocol format or a successor format, regardless of how any particular such service is classified by the federal communications commission, and includes voice over internet protocol service.

(7) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

(8) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete a call to another other telephone customer customers without being assessed long distance toll charges.

~~(D) "Public telecommunications service" means the transmission by a telephone company, by electromagnetic or other means, of signs, signals, writings, images, sounds, messages, or data originating and terminating in this state regardless of actual call routing, but does not include a system,~~

~~including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate or terminate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.~~

~~(E)(9) "Small business" means a nonresidential service customer with three or fewer service access lines.~~

~~(10) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.~~

~~(11) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.~~

~~(12) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.~~

~~(13) "Telephone company" means any a company described in division (A)(2)(1) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.~~

~~(14) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service.~~

~~(15) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.~~

~~(16) "Voice over internet protocol service" means a service that uses a broadband connection from an end user's location and enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such service that permits an end user to receive calls from and terminate calls to the public switched network.~~

~~(17) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61,~~

151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3. Under division (A)(17) of this section, commercial mobile radio service is specifically limited to mobile telephone, mobile cellular telephone, paging, personal communications services, and specialized mobile radio service provided by a common carrier in this state and excludes fixed wireless service.

(18) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions.

Sec. 4927.02. (A) It is the policy of this state to:

(1) Ensure the availability of adequate basic local exchange service to citizens throughout the state;

(2) Provide incentives for competing providers of telecommunications service to provide advanced, high-quality telecommunications service to citizens throughout the state;

(3) Rely primarily on market forces, where they are present and capable of supporting a healthy and sustainable, competitive telecommunications market exist, to maintain just and reasonable rates, rentals, tolls, and charges for public telecommunications service levels for telecommunications services at reasonable rates;

(3)(4) Encourage innovation in the telecommunications industry and the deployment of advanced telecommunications services;

(4)(5) Create a regulatory climate that provides incentives to create and maintain high technology jobs for Ohioans;

(6) Promote diversity and options in the supply of public telecommunications services and equipment throughout the state;

(5)(7) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of public telecommunications services where appropriate;

(6)(8) Consider the regulatory treatment of competing and functionally equivalent services in determining the scope of and, to the extent practicable, provide for equivalent regulation of all telephone companies and services that are subject to the jurisdiction of the public utilities commission;

(7)(9) Not unduly favor or advantage any provider and not unduly disadvantage providers of competing and functionally equivalent services; and

~~(8)~~(10) Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs.

(B) The public utilities commission shall consider the policy set forth in this section in carrying out ~~sections 4927.03 and 4927.04 of the Revised Code and in reducing or eliminating the regulation of telephone companies under those sections as to any public telecommunications service~~ this chapter.

Sec. 4927.03. (A) Except as provided in divisions (A) and (B) of section 4927.04 of the Revised Code and except to the extent required to exercise authority under federal law, the commission has no authority over any interconnected voice over internet protocol-enabled service or any telecommunications service that is not commercially available on the effective date of this section and that employs technology that became available for commercial use only after the effective date of this section, unless the commission, upon a finding that the exercise of the commission's authority is necessary for the protection, welfare, and safety of the public, adopts rules specifying the necessary regulation. A consumer purchase of a service that is not commercially available on the effective date of this section and that employs technology that became available for commercial use only after the effective date of this section shall constitute a consumer transaction for purposes of sections 1345.01 to 1345.13 of the Revised Code, notwithstanding any provision of those sections to the contrary, unless the commission exercises jurisdiction over the service in accordance with this division. Notwithstanding any contrary provision of Chapter 4911. of the Revised Code, to the extent that the commission adopts rules under division (A) of this section regarding any interconnected voice over internet protocol enabled service provided to residential customers or regarding any telecommunications service that is provided to residential customers, that is not commercially available on the effective date of this section, and that employs technology that became available for commercial use only after the effective date of this section, the office of the consumers' counsel shall have authority to assist and represent residential customers in the implementation and enforcement of those rules.

(B)(1) The commission has no authority over wireless service, resellers of wireless service, or wireless service providers, except as follows:

(a) As provided under sections 4905.84, 4931.40 to 4931.70, and 4931.99 of the Revised Code;

(b) With respect to division (C) of section 4927.15 of the Revised Code;

(c) As provided in divisions (B)(2), (3), and (4) of this section.

(2) The commission has authority over wireless service and wireless

service providers as follows, but only to the extent authorized by federal law, including federal regulations:

(a) To the extent that the commission carries out the acts described in divisions (A), (B), (C), (D), and (F) of section 4927.04 of the Revised Code;

(b) As provided in sections 4927.05, 4927.20, and 4927.21 of the Revised Code.

(3) The requirements of sections 4905.10, 4905.14, and 4911.18 of the Revised Code shall apply to a wireless service provider.

(4) The commission has such authority as is necessary to enforce division (B) of this section.

(C) For purposes of sections 4927.01 to 4927.21 of the Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to a telephone company or, as applicable, to an officer, employee, or agent of such company or provider, except to the extent necessary for the commission to carry out sections 4927.01 to 4927.21 of the Revised Code.

(D) Except as specifically authorized in sections 4927.01 to 4927.21 of the Revised Code, the commission has no authority over the quality of service and the service rates, terms, and conditions of telecommunications service provided to end users by a telephone company.

(E) The commission shall initially adopt the rules required by this chapter not later than one hundred twenty days after the effective date of this section. Subject to the authority granted to the commission under this chapter, the commission may adopt other rules, including rules regarding the removal from tariffs of services that were required to be filed in tariffs prior to the effective date of this section, as it finds necessary to carry out this chapter.

Sec. 4927.04. The public utilities commission has such power and jurisdiction as is reasonably necessary for it to perform the obligations authorized by or delegated to it under federal law, including federal regulations, which obligations include performing the acts of a state commission as defined in the "Communications Act of 1934," 48 Stat. 1064, 47 U.S.C. 153, as amended, and include, but are not limited to, carrying out any of the following:

(A) Rights and obligations under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 251, as amended;

(B) Authority to mediate and arbitrate disputes and approve agreements under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 252,

as amended:

(C) Administration of telephone numbers and number portability;

(D) Certification of telecommunications carriers eligible for universal-service funding under 47 U.S.C. 214(e);

(E) Administration of truth-in-billing;

(F) Administration of customer proprietary network information under 47 U.S.C. 222 and federal regulations adopted thereunder;

(G) Outage reporting consistent with federal requirements.

Except as provided in division (B) of section 4927.03 of the Revised Code, the commission has power and jurisdiction under this section over a telecommunications carrier to the extent necessary to perform the obligations described in this section. Nothing in this chapter limits the commission's authority under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151, et seq., as amended, including the commission's authority over the provision of universal-service funding.

Sec. 4927.05. (A)(1) No telephone company shall operate in this state without first obtaining a certificate from the public utilities commission, and no wireless service provider shall operate in this state without first being registered with the commission. A telephone company not holding such a certificate on the effective date of this section, or a wireless service provider not so registered on that date, shall file, respectively, a certification application or registration with the commission, each in the manner set forth in rules adopted by the commission. The application or registration shall include all of the following:

(a) The company's or provider's name and address;

(b) The name of a contact person and that person's contact information;

(c) A service description, including the general geographic areas served, but not maps of service areas;

(d) Evidence of registration with the secretary of state;

(e) Evidence of notice to the public utilities tax division of the department of taxation of the company's or provider's intent to provide service;

(f) As to a certification application, evidence of financial, technical, and managerial ability to provide adequate service to the public consistent with law.

Division (A)(1) of this section does not apply to any incumbent local exchange carrier with respect to its geographic service area as that area existed on the effective date of this section.

(2) The commission may suspend or reject the certification application of a telephone company if it finds, within thirty days after the application's

submission and based on the evidence provided under division (A)(1)(f) of this section, that the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service to the public consistent with law.

(B) If any of the filed information described in divisions (A)(1)(a) to (f) of this section changes, a telephone company shall update its certification and provide any necessary notice to customers, and a wireless service provider shall update its registration. The commission shall adopt rules governing the requirements of this division.

Sec. 4927.06. (A) No telephone company shall commit any unfair or deceptive act or practice in connection with the offering or provision of any telecommunications service in this state. A failure to comply with any of the following requirements shall constitute an unfair or deceptive act or practice by a telephone company:

(1) Any communication by the company, including, but not limited to, a solicitation, offer, or contract term or condition, shall be truthful, clear, conspicuous, and accurate in disclosing any material terms and conditions of service and any material exclusions or limitations. The public utilities commission may prescribe, by rule, a commission review process to determine when disclosing such information is not practicable, and therefore nondisclosure does not result in an unfair or deceptive act or practice.

(2) Any written service solicitation, marketing material, offer, contract, or agreement, as well as any written response from the company to a service-related inquiry or complaint that the company receives from a customer or others, shall disclose the company's name and contact information. The commission may prescribe, by rule, a commission review process to determine when disclosing such information is not practicable, and therefore nondisclosure does not result in an unfair or deceptive act or practice.

(3) The company shall inform its customers, as applicable and in any reasonable manner, of their rights and responsibilities concerning inside wire, the repair and maintenance of customer-owned equipment, and the use of a network interface device, and of any charges that the company imposes for a diagnostic visit, consistent with rules adopted by the public utilities commission.

(4) The company shall not commit any act, practice, or omission that the commission determines, by rulemaking under section 4927.03 of the Revised Code or adjudication under section 4927.21 of the Revised Code, constitutes an unfair or deceptive act or practice in connection with the offering or provision of telecommunications service in this state.

(B) The commission shall provide notice to all telephone companies specifying any act, practice, or omission that it prescribes pursuant to division (A)(4) of this section. No telephone company is liable for any act, practice, or omission absent that notice and adequate time for implementation.

(C) This section does not apply to wireless service. A consumer purchase of wireless service or a related product shall constitute a consumer transaction for purposes of sections 1345.01 to 1345.13 of the Revised Code, notwithstanding any provision of those sections to the contrary.

Sec. 4927.07. (A) A telephone company may withdraw any telecommunications service if it gives at least thirty days' prior notice to the public utilities commission and to its affected customers.

(B) A telephone company may abandon entirely telecommunications service in this state if it gives at least thirty days' prior notice to the commission, to its wholesale and retail customers, and to any telephone company wholesale provider of its services.

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

(1) Basic local exchange service provided by an incumbent local exchange carrier;

(2) Pole attachments under section 4905.71 of the Revised Code;

(3) Conduit occupancy under section 4905.71 of the Revised Code;

(4) Interconnection and resale agreements approved under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended.

(D) An incumbent local exchange carrier may not withdraw or abandon basic local exchange service.

(E) A telephone company may not, without first filing a request with the commission and obtaining commission approval, withdraw any tariff filed with the commission for pole attachments or conduit occupancy under section 4905.71 of the Revised Code or abandon service provided under that section.

Sec. 4927.08. (A) A telephone company providing basic local exchange service shall conduct its operations so as to ensure that the service is available, adequate, and reliable, consistent with applicable industry standards.

(B) The public utilities commission shall adopt rules prescribing the following standards for the provision of basic local exchange service, and shall adopt no other rules regarding that service except as expressly authorized in this chapter:

(1) Basic local exchange service shall be installed within five business days of the receipt by a telephone company of a completed application for that service.

(2) A basic local exchange service outage or service-affecting problem shall be repaired within seventy-two hours after it is reported to the telephone company, and the telephone company shall make reasonable efforts to repair a basic local exchange service outage within twenty-four hours, excluding Sundays and legal holidays, after the outage is reported to the telephone company.

(3)(a) Except as provided in division (B)(3)(b) of this section, if a basic local exchange service outage is reported to the telephone company and lasts more than seventy-two hours, the telephone company shall credit every affected customer, of which the telephone company is aware, in the amount of one month's charges for basic local exchange service.

(b) If the outage is caused by a customer, the telephone company may elect not to credit that customer.

(4) No telephone company shall establish a due date earlier than fourteen consecutive days after the date the bill is postmarked for a bill for basic local exchange service provided to end users.

(5) A telephone company may disconnect basic local exchange service for nonpayment of any amount past due on a billed account not earlier than fourteen days after the due date of the customer's bill, provided that the customer is given notice of the disconnection seven days before the disconnection.

(6) A telephone company may require a deposit, not to exceed two hundred thirty per cent of a reasonable estimate of one month's service charges, for the installation of basic local exchange service for any person that it determines, in its discretion, is not creditworthy.

(7) A telephone company shall, unless prevented from doing so by circumstances beyond the telephone company's control or unless the customer requests otherwise, reconnect a customer whose basic local exchange service was disconnected for nonpayment of past due charges not later than one business day after the day the earlier of the following occurs:

(a) The receipt by the telephone company of the full amount of past due charges;

(b) The receipt by the telephone company of the first payment under a mutually agreed-upon payment arrangement.

(C) The rules described in division (B) of this section shall provide for a waiver of the standards described in that division in circumstances determined appropriate by the commission.

Sec. 4927.09. Every telephone company providing telephone exchange service shall maintain access to 9-1-1 service on a residential customer's line for a minimum of fourteen consecutive days immediately following any disconnection for nonpayment of a customer's telephone exchange service.

Sec. 4927.11. (A) Except as otherwise provided in this section, an incumbent local exchange carrier shall provide basic local exchange service to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.

(B)(1) An incumbent local exchange carrier is not obligated to construct facilities and provide basic local exchange service, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other telecommunications service provider:

(a) Permits only one provider of telecommunications service to install the company's facilities or equipment during the construction or development phase of the multitenant real estate;

(b) Accepts or agrees to accept incentives or rewards that are offered by a telecommunications service provider to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other telecommunications service providers;

(c) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.

(2) A carrier not obligated to construct facilities and provide basic local exchange service pursuant to division (B)(1) of this section shall notify the public utilities commission of that fact within one hundred twenty days of receiving knowledge thereof.

(3) The commission by rule may establish a process for determining a necessary successor telephone company to provide service to real estate described in division (B)(1) of this section when the circumstances described in that division cease to exist.

(4) An incumbent local exchange carrier that receives a request from any person or entity to provide service under the circumstances described in division (B)(1) of this section shall, within fifteen days of such receipt, provide notice to the person or entity specifying whether the carrier will provide the requested service. If the carrier provides notice that it will not

serve the person or entity, the notice shall describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice. In resolving any such complaint, the commission's determination shall be limited to whether any circumstance described in divisions (B)(1)(a) to (c) of this section exists. Upon a finding by the commission that such a circumstance exists, the complaint shall be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy shall be provision by the carrier of the requested service within a reasonable time.

(C) An incumbent local exchange carrier may apply to the commission for a waiver from compliance with division (A) of this section. The application shall include, at a minimum, the reason for the requested waiver, the number of persons or entities who would be impacted by the waiver, and the alternatives that would be available to those persons or entities if the waiver were granted. The incumbent local exchange carrier applying for the waiver shall publish notice of the waiver application one time in a newspaper of general circulation throughout the service area identified in the application and shall provide additional notice to affected persons or entities as required by the commission in rules adopted under this division. The commission's rules shall define "affected" for purposes of this division. The commission shall afford such persons or entities a reasonable opportunity to comment to the commission on the application. This opportunity shall include a public hearing conducted in accordance with rules adopted under this division and conducted in the service area identified in the application. After a reasonable opportunity to comment has been provided, but not later than one hundred twenty days after the application is filed, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial. The commission shall adopt rules to implement division (C) of this section.

Sec. 4927.12. (A) As used in this section, "exchange area" means a geographical service area established by an incumbent local exchange carrier and approved by the public utilities commission.

(B) Subject to divisions (C), (D), and (E) of this section, and upon not less than thirty days' notice to the public utilities commission and to affected customers, an incumbent local exchange carrier may alter its rates for basic local exchange service.

(C) In addition to the requirements of division (B) of this section, all of the following apply to any upward alteration of rates for basic local exchange service made under that division:

(1) If the incumbent local exchange carrier, within twelve months prior to the effective date of this section, increased the carrier's rates for basic local exchange service for an exchange area, both of the following apply:

(a) The incumbent local exchange carrier may not alter the carrier's rates for basic local exchange service for the exchange area upward by any amount during the period that ends twelve months after the date of the last increase of the rates for basic local exchange service.

(b) In no event may the incumbent local exchange carrier, during the twelve-month period that begins immediately after the end date of the period described in division (C)(1)(a) of this section, and during any subsequent twelve-month period, alter the carrier's rates for basic local exchange service upward for the exchange area by more than the amount authorized for an annual increase in the rate for basic local exchange service by division (A) of rule 4901:1-4-11 of the Ohio Administrative Code as that rule existed on the effective date of this section.

(2) If the incumbent local exchange carrier did not, within twelve months prior to the effective date of this section, increase the carrier's rates for basic local exchange service for an exchange area, and if the commission has made a prior determination that the exchange area qualified for alternative regulation of basic local exchange service under Chapter 4901:1-4 of the Ohio Administrative Code as that chapter existed on the effective date of this section, in no event may the incumbent local exchange carrier, during the twelve-month period that begins on the effective date of this section, and during any subsequent twelve-month period, alter the carrier's rates for basic local exchange service upward for the exchange area by more than the amount described in division (C)(1)(b) of this section.

(3)(a) If the commission has not made a prior determination that the exchange area qualified for alternative regulation of basic local exchange service under Chapter 4901:1-4 of the Ohio Administrative Code as that chapter existed on the effective date of this section, an incumbent local exchange carrier may not alter its rates for basic local exchange service upward for that exchange area unless the carrier first applies to the commission and the commission determines that the application demonstrates that two or more alternative providers offer, in the exchange area, competing service to the basic local exchange service offered by an incumbent local exchange carrier in the exchange area, regardless of the technology and facilities used by the alternative provider, the alternative

provider's location, and the extent of the alternative provider's service area within the exchange area. An alternative provider includes a telephone company, including a wireless service provider, a telecommunications carrier, and a provider of internet protocol-enabled services, including voice over internet protocol.

(b) Upon the filing of an application under division (C)(3)(a) of this section, the commission shall be deemed to have found that the application meets the requirements of that division unless the commission, within thirty days after the filing of the application, issues an order finding that the requirements have not been met.

(c) In no event may an incumbent local exchange carrier that applies to the commission under division (C)(3)(a) of this section, during the twelve-month period that begins on the thirty-first day after the company files the application, and during any subsequent twelve-month period, alter the carrier's rates for basic local exchange service upward for the exchange area to which the application applies by more than the amount described in division (C)(1)(b) of this section.

(4) In no event may an incumbent local exchange carrier, before January 1, 2012, alter the carrier's rates for basic local exchange service upward for a customer receiving lifeline service under section 4927.13 of the Revised Code.

(D) Except as provided in division (E) of this section, no banking of upward rate alterations made under division (B) of this section is permitted.

(E) At any time and upon not less than thirty days' notice to the commission and to affected customers, an incumbent local exchange carrier owned and operated exclusively by and solely for its customers may alter its rates for basic local exchange service by any amount.

(F) The rates, terms, and conditions for basic local exchange service and for installation and reconnection fees for basic local exchange service shall be tariffed in the manner prescribed by rule adopted by the commission.

Sec. 4927.13. (A) An incumbent local exchange carrier that is an eligible telecommunications carrier under 47 C.F.R. 54.201 shall implement lifeline service throughout the carrier's traditional service area for its eligible residential customers.

(1) Lifeline service shall consist of all of the following:

(a) Flat-rate, monthly, primary access line service with touch-tone service, at a recurring discount to the monthly basic local exchange service rate that provides for the maximum contribution of federally available assistance;

(b) Not more than once per customer at a single address in a

twelve-month period, a waiver of all nonrecurring service order charges for establishing service;

(c) Free blocking of toll service, 900 service, and 976 service.

The carrier may offer to lifeline service customers any other services and bundles or packages of services at the prevailing prices, less the lifeline discount.

(2) The carrier also shall offer special payment arrangements to lifeline service customers that have past due bills for regulated local service charges, with the initial payment not to exceed twenty-five dollars before service is installed, and the balance for regulated local service charges to be paid over six, equal, monthly payments. Lifeline service customers with past due bills for toll service charges shall have toll restricted service until the past due toll service charges have been paid or until the customer establishes service with another toll service provider.

(3)(a) Every incumbent local exchange carrier required to implement lifeline service under division (A) of this section shall establish an annual marketing budget for promoting lifeline service and performing outreach regarding lifeline service. All funds allocated to this budget shall be spent for the promotion and marketing of lifeline service and outreach regarding lifeline service and only for those purposes and not for any administrative costs of implementing lifeline service. All activities relating to the promotion of, marketing of, and outreach regarding lifeline service shall be coordinated through a single advisory board composed of staff of the public utilities commission, the office of the consumers' counsel, consumer groups representing low-income constituents, two representatives from the Ohio association of community action agencies, and, except as provided in division (A)(3)(b) of this section, every incumbent local exchange carrier required to implement lifeline service under division (A) of this section. The public utilities commission may review and approve decisions of the advisory board in accordance with commission rules, including decisions on how the lifeline marketing, promotion, and outreach activities are implemented.

(b) Division (A)(3)(a) of this section does not apply to an incumbent local exchange carrier with fewer than fifty thousand access lines.

(4) All other aspects of the carrier's state-specific lifeline service shall be consistent with federal requirements.

(B) The rates, terms, and conditions for the carrier's lifeline service shall be tariffed in the manner prescribed by rule adopted by the public utilities commission.

(C)(1) Eligibility for lifeline service under division (A) of this section

shall be based on either of the following criteria:

(a) An individual's verifiable participation in any federal or state low-income assistance program, specified in rules adopted by the commission, that limits assistance based on household income;

(b) Other verification that an individual's household income is at or below one hundred fifty per cent of the federal poverty level.

The public utilities commission shall adopt rules establishing requirements for the implementation of automatic enrollment of eligible individuals for lifeline assistance. The public utilities commission shall work with the appropriate state agencies that administer federal or state low-income assistance programs and with carriers to negotiate and acquire information necessary to verify an individual's eligibility and the data necessary to automatically enroll eligible individuals for lifeline service. Every incumbent local exchange carrier required to implement lifeline service under division (A) of this section shall implement automatic enrollment in accordance with the applicable rules of the public utilities commission and to the extent that appropriate state agencies are able to accommodate the automatic enrollment.

(2) The carrier shall provide written notification if the carrier determines that an individual is not eligible for lifeline service and shall provide the individual an additional thirty days to prove eligibility.

(3) The carrier shall provide written customer notification if a customer's lifeline service is to be terminated due to failure to submit acceptable documentation for continued eligibility for that assistance and shall provide the customer an additional sixty days to submit acceptable documentation of continued eligibility or dispute the carrier's findings regarding termination of the lifeline service.

(D) An incumbent local exchange carrier required to implement lifeline service under division (A) of this section may recover from end users of the carrier's telecommunications service other than lifeline service customers, by a method approved by the public utilities commission, any lifeline service discounts and any other lifeline service expenses that the public utilities commission prescribes by rule and that are not recovered through federal or state funding, except for expenses incurred under division (A)(3)(a) of this section. A carrier seeking recovery of discounts or expenses shall, in accordance with rules adopted by the public utilities commission, apply to the public utilities commission for approval of the method of recovery. If the method of recovery includes a customer billing surcharge, the public utilities commission shall prescribe by rule how the surcharge is to be identified on customer bills.

(E) Every incumbent local exchange carrier required to implement lifeline service under division (A) of this section shall annually file with the public utilities commission a report that identifies the number of its customers who receive, at the time of the filing of the report, lifeline service.

Sec. 4927.14. The public utilities commission may adopt rules requiring any telephone company that is a telephone toll service provider to offer discounts for operator-assisted and direct-dial services for persons with communication disabilities.

Sec. 4927.15. (A) The rates, terms, and conditions for 9-1-1 service provided in this state by a telephone company or a telecommunications carrier and each of the following provided in this state by a telephone company shall be approved and tariffed in the manner prescribed by rule adopted by the public utilities commission and shall be subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission and, including, as to 9-1-1 service, sections 4931.40 to 4931.70 and 4931.99 of the Revised Code:

(1) Carrier access;

(2) N-1-1 services, other than 9-1-1 service;

(3) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code;

(4) Pay telephone access lines;

(5) Toll presubscription;

(6) Telecommunications relay service.

(B) The public utilities commission may order changes in a telephone company's rates for carrier access in this state subject to this division. In the event that the public utilities commission reduces a telephone company's rates for carrier access that are in effect on the effective date of this section, that reduction shall be on a revenue-neutral basis under terms and conditions established by the public utilities commission, and any resulting rate changes necessary to comply with division (B) or (C) of this section shall be in addition to any upward rate alteration made under section 4927.12 of the Revised Code.

(C) The public utilities commission has authority to address carrier access policy and to create and administer mechanisms for carrier access reform, including, but not limited to, high cost support.

Sec. 4927.16. (A) The public utilities commission shall not establish any requirements for the unbundling of network elements, for the resale of telecommunications service, or for network interconnection that exceed or are inconsistent with or prohibited by federal law, including federal

regulations.

(B) The commission shall not establish pricing for such unbundled elements, resale, or interconnection that is inconsistent with or prohibited by federal law, including federal regulations, and shall comply with federal law, including federal regulations, in establishing such pricing.

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 4927.12 of the Revised Code and, if applicable, under rules adopted by the public utilities commission for the pilot program for community-voicemail service created in S.B. 162 of the 128th general assembly, a telephone company shall provide at least fifteen days' advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service.

(B) A telephone company shall inform its customers of the commission's toll-free number and e-mail address on all bills and disconnection notices and any residential customers of the office of the consumers' counsel's toll-free number and e-mail address on all residential bills and disconnection notices.

Sec. 4927.18. The public utilities commission may adopt rules regarding the rates, terms, and conditions of intrastate telecommunications service initiated from a telephone instrument set aside for use by inmates or juvenile offenders by authorities of a secured correctional facility.

Sec. 4927.19. The public utilities commission may investigate or examine the books, records, or practices of any telephone company, but only to the extent of the commission's jurisdiction over the company under sections 4927.01 to 4927.21 of the Revised Code. Subject to that limitation, the commission may do any of the following:

(A) Through its commissioners or by inspectors or employees authorized by it, examine the books, records, contracts, documents, and papers of any such company for any purpose incidental to the commission's authority under those sections;

(B) By subpoena duces tecum, compel the production of such books, records, contracts, documents, and papers;

(C) Compel the attendance of such witnesses as it requires to give evidence in connection with such an investigation.

Sec. 4927.20. To the extent subject to the public utilities commission's jurisdiction under this chapter, all of the following shall comply with every order, direction, and requirement of the commission made under authority of this chapter:

(A) Every telephone company, including every wireless service

provider:

(B) Every telecommunications carrier:

(C) Every provider of internet protocol-enabled services, including voice over internet protocol.

Sec. 4927.21. (A) Any person may file with the public utilities commission, or the commission may initiate, a complaint against a telephone company other than a wireless service provider, alleging that any rate, practice, or service of the company is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any provision of sections 4927.01 to 4927.20 of the Revised Code or a rule or order adopted or issued under those sections. Any dispute between telephone companies, between telephone companies and wireless service providers, or between wireless service providers that is within the commission's jurisdiction under sections 4927.01 to 4927.20 of the Revised Code may be brought by a filing pursuant to this division.

(B) If it appears that reasonable grounds for complaint are stated by a complaint filed under division (A) of this section, the commission shall fix a time for hearing and shall notify complainants and the telephone company or wireless service provider thereof. The parties to the complaint shall be entitled to be heard, represented by counsel, and to have a process for the attendance of witnesses.

(C) If the commission after hearing in a proceeding under division (B) of this section makes a finding against the party complained of, the commission may do either or both of the following:

(1) Determine, but only to the extent authorized under sections 4927.01 to 4927.20 of the Revised Code, the rate, practice, or service thereafter to be adopted and observed, including any appropriate remedy for a complaint;

(2) Assess a forfeiture of not more than ten thousand dollars for each violation or failure. Each day's continuance of the violation or failure is a separate offense, and all occurrences of a violation or failure on each such day shall be deemed one violation. All forfeitures authorized under this section are cumulative, and a suit for and recovery of one does not bar the recovery of any other. Collected forfeitures shall be deposited into the state treasury to the credit of the general revenue fund. Actions to recover such forfeitures shall be prosecuted in the name of the state and shall be brought in the court of common pleas of any county in which the party complained of is located. The attorney general shall commence such actions and prosecute them when the commission directs.

(D) The commission also may suspend, rescind, or conditionally rescind the certification of a telephone company under section 4927.05 of the

Revised Code under either of the following circumstances:

(1) The commission determines, after notice and opportunity for hearing, that the telephone company has failed to comply with any provision of section 4905.10 or 4905.14 of the Revised Code.

(2) The commission determines in a proceeding under division (B) of this section that the telephone company has willfully or repeatedly failed to comply with any other applicable state or federal law.

(E) The commission has no authority to order credits to any customer of a telephone company, except in response to a complaint determined in accordance with this section.

(F) Upon request of the commission, the attorney general may commence and prosecute such action or proceeding in mandamus, by injunction, or by other appropriate civil remedy in the name of the state, as is directed by the commission, alleging any violation or noncompliance specified in division (A) of this section, and praying for such proper relief as the court may prescribe.

Sec. 4929.02. (A) It is the policy of this state to, throughout this state:

(1) Promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods;

(2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers;

(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;

(5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;

(6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment;

(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code;

(8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;

(9) Ensure that the risks and rewards of a natural gas company's offering of nonjurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of nonexempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this section;

(10) Facilitate the state's competitiveness in the global economy;

(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;

(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.

(B) The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code.

(C) Nothing in Chapter 4929. of the Revised Code shall be construed to alter the public utilities commission's construction or application of division (A)(~~6~~)(5) of section 4905.03 of the Revised Code.

Sec. 4931.01. As used in sections 4931.02 to 4931.05 of the Revised Code, "telephone company" has the same meaning as in section 4927.01 of the Revised Code.

Sec. 4931.02. (A) A ~~telegraph~~ telephone company may construct, own, use, and maintain ~~telegraph~~ telecommunications lines and facilities, whether described in its original articles of incorporation or not, and whether such lines or facilities are wholly within or partly beyond the limits of this state. It may join with another company or association in conducting, leasing, owning, using, or maintaining such lines or facilities, on terms agreed upon between the directors or managers of the respective companies. Such companies may own and hold any interest in such lines or facilities, or become lessees thereof on such terms as they agree upon, but no such company and the owner of rights of way shall contract for the exclusive use of such rights of way for ~~telegraphic~~ telecommunications purposes.

(B) A telephone company's lines and facilities shall not unreasonably interfere with the practical uses of the property on which they are located. A telephone company shall repair defective lines and facilities, which repairs shall be consistent with reasonable business practices and applicable industry standards.

Sec. 4931.03. (A) A ~~telegraph~~ or telephone company may do either of

the following in the unincorporated area of the township:

(1) Construct ~~telegraph or telephone lines~~ telecommunications lines or facilities upon and along any of the public roads and highways and across any waters within that area by the erection of the necessary fixtures, including posts, piers, or abutments for sustaining the cords or wires of those lines or facilities. ~~Those~~ The lines and facilities shall be constructed so as not to incommode the public in the use of the roads or highways, or endanger or injuriously interrupt the navigation of the waters.

(2) Construct ~~telegraph or telephone~~ telecommunications lines and ~~the fixtures necessary for containing and protecting those lines~~ facilities in such a manner as to protect them beneath the surface of any of the public roads and highways and beneath any waters within that area. Those lines and facilities shall be constructed so as not to incommode the public in the use of the roads or highways, or endanger or injuriously interrupt the navigation of the waters.

(B)(1) This section does not authorize the construction of a bridge across any waters within the state.

(2) Construction under this section is subject to section 5571.16 of the Revised Code, as applicable, and any other applicable law, including, but not limited to, any law requiring approval of the legislative authority, the county engineer, or the director of transportation.

Sec. 4931.04. A ~~telegraph~~ telephone company may enter upon any land held by an individual or a corporation, whether such land was acquired by purchase, appropriation, or by virtue of any provision in its charter, for the purpose of making preliminary examination and surveys, with a view to the location and construction of ~~telegraph~~ telecommunications lines and facilities, and may appropriate so much of such land in accordance with sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, as it deems necessary for the construction and maintenance of ~~its telegraph poles, cables, conduits, piers, abutments, wires, and other necessary fixtures, stations~~ those lines and facilities, and the right of way in, through, over, across, and under such lands and adjacent lands, sufficient to enable it to construct and repair ~~its~~ the lines and facilities.

Sec. ~~4931.14~~ 4931.05. Any company organized at any time to transact a ~~telegraph~~, telephone, or communications business may construct, reconstruct, own, use, lease, operate, maintain, and improve communications systems for the transmission of voices, sounds, writings, signs, signals, pictures, visions, images, or other forms of intelligence, as public utility services, by means of wire, cable, radio, radio relay, or other telecommunications facilities, methods, or media. Any such company has

the powers and is subject to the restrictions prescribed in sections 4931.02 to ~~4931.22~~ 4931.04 of the Revised Code, for ~~telegraph~~ or telephone companies.

Sec. ~~4931.35~~ 4931.06. (A) As used in this section and in sections 2317.02 and 2921.22 of the Revised Code:

(1) "Communications assistant" means a person who transliterates conversation from text to voice and from voice to text between the end users of a telecommunications relay service provided pursuant to this section or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225.

(2) "Communicative impairment" means deafness or speech impairment.

(3) "Deafness" means a hearing loss that prevents a person from being able to understand speech over the telephone.

(4) "Speech impairment" means a speech impairment that renders a person's speech unintelligible on the telephone.

(5) "Telecommunications relay service" means telephone transmission services that provide the ability for an individual who has a communicative impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a communicative impairment to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device.

(B) Any communication made by or to a person with a communicative impairment with the assistance of a communications assistant at a telecommunications relay service is confidential and privileged and shall not be disclosed by the communications assistant in any civil case or proceeding or in any legislative or administrative proceeding, unless the person making the communication and the person to whom the communication is made each waive the privilege of confidentiality or the obligation to divulge the communication is mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

(C) A communications assistant or a telecommunications relay service provider is not subject to criminal prosecution and is not liable in damages in any civil action on account of the act of transliterating or the content of any communication transliterated, or any injury, death, or loss to person or property allegedly arising from the act of transliterating or the content of any communication transliterated, between the end users of a

telecommunications relay service, except in cases of willful or wanton misconduct.

Sec. 4931.99. (A) Whoever violates division (D) of section 4931.49 of the Revised Code is guilty of a misdemeanor of the fourth degree.

~~(B) Whoever violates section 4931.25, 4931.26, 4931.27, 4931.30, or 4931.31 of the Revised Code is guilty of a misdemeanor of the third degree.~~

~~(C) Whoever violates section 4931.28 of the Revised Code is guilty of a felony of the fourth degree.~~

~~(D) Whoever violates section 4931.29 or division (B) of section 4931.35 4931.06 of the Revised Code is guilty of a misdemeanor in the first degree.~~

~~(E)(C)~~ Whoever violates division (E) or (F) of section 4931.49 or division (B)(2) of section 4931.66 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense and a felony of the fifth degree on each subsequent offense.

~~(F)(D)~~ Whoever violates section 4931.75 of the Revised Code is guilty of a minor misdemeanor for a first offense and a misdemeanor of the first degree on each subsequent offense.

Sec. 4933.14. (A) ~~and except~~ Except as otherwise provided in division (B) of this section ~~Sections, division (A) of section 4931.02 to 4931.22, and sections 4931.03, 4931.04, and 4933.13 to 4933.16 of the Revised Code~~ apply to a company organized for supplying public and private buildings, manufacturing establishments, streets, alleys, lanes, lands, squares, and public places with electric light and power, and to an automatic package carrier. ~~Every and except~~ Except as otherwise provided in division (B) of this section, every such company has the powers and is subject to the restrictions prescribed for a ~~telegraph~~ telephone company by ~~sections division (A) of section 4931.02 to 4931.22 and sections 4931.03 and 4931.04 of the Revised Code.~~

(B) ~~Sections Section 4931.04, 4931.06, 4931.07, 4931.12, and 4931.13 of the Revised Code~~ apply applies to a company organized for supplying electricity only if the company transmits or distributes electricity, and every such company has the powers and is subject to the restrictions prescribed for a ~~telegraph~~ telephone company by ~~those sections that section~~ except for the purpose of erecting, operating, or maintaining an electric generating station.

Sec. 4933.18. (A) In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves alleged tampering with a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment of a utility has been tampered with is prima-facie evidence that the person who is obligated to pay for the service rendered through the

meter, conduit, or attachment and is in possession or control of the meter, conduit, or attachment at the time the tampering occurred has caused the tampering with intent to commit a theft offense.

In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves the alleged reconnection of a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment disconnected by a utility has been reconnected without the consent of the utility is prima-facie evidence that the person in possession or control of the meter, conduit, or attachment at the time of the reconnection has reconnected the meter, conduit, or attachment with intent to commit a theft offense.

(B) As used in this section:

(1) "Utility" means any electric light company, gas company, natural gas company, pipe-line company, water-works company, or heating or cooling company, as defined by division (A)(~~3~~), (4), (5), (6), (7), or (8), ~~or~~ (~~9~~) of section 4905.03 of the Revised Code, its lessees, trustees, or receivers, or any similar utility owned or operated by a political subdivision.

(2) "Tamper" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter.

Sec. 4933.19. Each electric light company, gas company, natural gas company, pipe-line company, water-works company, or heating or cooling company, as defined by division (A)(~~3~~), (4), (5), (6), (7), or (8), ~~or~~ (~~9~~) of section 4905.03 of the Revised Code, or its lessees, trustees, or receivers, and each similar utility owned or operated by a political subdivision shall notify its customers, on an annual basis, that tampering with or bypassing a meter constitutes a theft offense that could result in the imposition of criminal sanctions.

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the Revised Code:

(A) "Cable operator," "cable service," and "franchise" have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.

(B) "Occupy or use" means, with respect to a public way, to place a tangible thing in a public way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services

provided by a cable operator.

(C) "Person" means any natural person, corporation, or partnership and also includes any governmental entity.

(D) "Public utility" means any company described in section 4905.03 of the Revised Code except in divisions (A)~~(3)~~(2) and ~~(10)~~(9) of that section, which company also is a public utility as defined in section 4905.02 of the Revised Code; and includes any electric supplier as defined in section 4933.81 of the Revised Code.

(E) "Public way" means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, and any other land dedicated or otherwise designated for a compatible public use, which, on or after the effective date of this section, is owned or controlled by a municipal corporation. "Public way" excludes a private easement.

(F) "Public way fee" means a fee levied to recover the costs incurred by a municipal corporation and associated with the occupancy or use of a public way.

Sec. 5515.01. The director of transportation may upon formal application being made to the director, grant a permit to any individual, firm, or corporation to use or occupy such portion of a road or highway on the state highway system as will not incommode the traveling public. Such permits, when granted, shall be upon the following conditions:

(A) The director may issue a permit to any individual, firm, or corporation for any use of a road or highway on the state highway system that is consistent with applicable federal law or federal regulations.

(B) Such location shall be changed as prescribed by the director when the director deems such change necessary for the convenience of the traveling public, or in connection with or contemplation of the construction, reconstruction, improvement, relocating, maintenance, or repair of such road or highway.

(C) The placing of objects or things shall be at a grade and in accordance with such plans, specifications, or both, as shall be first approved by the director.

(D) The road or highway in all respects shall be fully restored to its former condition of usefulness and at the expense of such individual, firm, or corporation.

(E) Such individual, firm, or corporation shall maintain all objects and things in a proper manner, promptly repair all damages resulting to such road or highway on account thereof, and in event of failure to so repair such

road or highway to pay to the state all costs and expenses ~~which~~ that may be expended by the director in repairing any damage.

(F) Such other conditions as may seem reasonable to the director, but no condition shall be prescribed ~~which~~ that imposes the payment of a money consideration for the privilege granted. Nothing in this division prohibits the director from requiring payment of money consideration for a lease, easement, license, or other interest in a transportation facility under control of the department of transportation.

(G) Permits may be revoked by the director at any time for a noncompliance with the conditions imposed.

(H) As a condition precedent to the issuance of any permit for telecommunications facilities or carbon capture and storage pipelines, the director shall require the applicant to provide proof it is party to a lease, easement, or license for the construction, placement, or operation of such facility or pipeline in or on a transportation facility.

Except as otherwise provided in this section and section 5501.311 of the Revised Code, Chapters 5501., 5503., 5511., 5513., 5515., 5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 5529., 5531., 5533., and 5535. of the Revised Code do not prohibit ~~telegraph, telephone, and electric light and power companies~~ from constructing, maintaining, and using ~~telegraph, telephone, or electric light and power lines~~ along and upon such roads or highways under ~~sections 4931.19,~~ section 4933.14, or other sections of the Revised Code, or to affect existing rights of any such companies, or to require such companies to obtain a permit from the director, except with respect to the location of poles, wires, conduits, and other equipment comprising lines on or beneath the surface of such road or highways.

This section does not prohibit steam or electric railroad companies from constructing tracks across such roads or highways, nor authorize the director to grant permission to any company owning, operating, controlling, or managing a steam railroad or interurban railway in this state to build a new line of railroad, or to change or alter the location of existing tracks across any road or highway on the state highway system at grade. No such company shall change the elevation of any of its tracks across such road or highway except in accordance with plans and specifications first approved by the director.

This section does not relieve any individual, firm, or corporation from the obligation of satisfying any claim or demand of an owner of lands abutting on such road or highway on the state highway system on account of placing in such road or highway a burden in addition to public travel.

Sec. 5733.57. (A) As used in this section:

(1) "Small telephone company" means a telephone company, existing as such as of January 1, 2003, with twenty-five thousand or fewer access lines ~~as shown on the company's annual report filed under section 4905.14 of the Revised Code~~ for the calendar year immediately preceding the tax year, and is an "incumbent local exchange carrier" under 47 U.S.C. 251(h).

(2) "Gross receipts tax amount" means the product obtained by multiplying four and three-fourths per cent by the amount of a small telephone company's taxable gross receipts, excluding the deduction of twenty-five thousand dollars, that the tax commissioner would have determined under section 5727.33 of the Revised Code for that small telephone company for the annual period ending on the thirtieth day of June of the calendar year immediately preceding the tax year, as that section applied in the measurement period from July 1, 2002, to June 30, 2003.

(3) "Applicable percentage" means one hundred per cent for tax year 2005; eighty per cent for tax year 2006; sixty per cent for tax year 2007; forty per cent for tax year 2008; twenty per cent for tax year 2009; and zero per cent for each subsequent tax year thereafter.

(4) "Applicable amount" means the amount resulting from subtracting the gross receipts tax amount from the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for the tax year, without regard to any credits available to the small telephone company.

(B)(1) Except as provided in division (B)(2) of this section, beginning in tax year 2005, a small telephone company is hereby allowed a nonrefundable credit against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the product obtained by multiplying the applicable percentage by the applicable amount. The credit shall be claimed in the order required by section 5733.98 of the Revised Code.

(2) If the applicable amount for a tax year is less than zero, a small telephone company shall not be allowed for that tax year the credit provided under this section.

Sec. 6101.17. The board of directors of a conservancy district, when it is necessary for the purposes of this chapter, shall have a dominant right of eminent domain over the right of eminent domain of railroad, ~~telegraph,~~ telephone, gas, water power, and other companies and corporations, and over townships, counties, and municipal corporations.

In the exercise of this right, due care shall be taken to do no unnecessary damage to other public utilities, and, in case of failure to agree upon the mode and terms of interference, not to interfere with their operation or usefulness beyond the actual necessities of the case, due regard being paid to

the other public interests involved.

Sec. 6115.21. The board of directors of a sanitary district, when it is necessary for the purposes of sections 6115.01 to 6115.79, ~~inclusive~~, of the Revised Code, shall have a dominant right of eminent domain over the right of eminent domain of railroad, ~~telegraph~~, telephone, gas, water power, and other companies and corporations, and over townships, counties, and municipal corporations.

In the exercise of this right due care shall be taken to do no unnecessary damage to other public utilities, and, in case of failure to agree upon the mode and terms of interference, not to interfere with their operation or usefulness beyond the actual necessities of the case, due regard being paid to the other public interests involved.

SECTION 2. That existing sections 324.01, 324.03, 1332.24, 2317.02, 2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.35, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 and sections 4905.041, 4905.23, 4905.231, 4905.24, 4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 of the Revised Code are hereby repealed.

SECTION 3. Coincident with the adoption of initial rules as provided for in section 4927.03 of the Revised Code as enacted by this act, the Public Utilities Commission shall rescind the following rules and shall file the requisite notice of the rescissions with the Legislative Service Commission and the Secretary of State within five days: Chapters 4901:1-4, 4901:1-5, and 4901:1-6 of the Ohio Administrative Code, except for Rule No. 4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and except for Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related definitions in Rule No. 4901:1-6-01. Rescission of these rules shall take effect as provided by law

and, notwithstanding any other provision of the Revised Code, is not subject to legislative review or invalidation. Except as provided in section 4927.12 of the Revised Code, the Public Utilities Commission shall not enforce on or after the effective date of this act against any telephone company as defined in section 4905.03 of the Revised Code as amended by this act any provision of any of the rules specified in this section, except for Rule No. 4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related definitions in Rule No. 4901:1-6-01.

SECTION 4. Any complaint filed pursuant to section 4905.26 of the Revised Code and pending on the effective date of Sections 1 and 2 of this act shall be determined by the Public Utilities Commission pursuant to the Revised Code as it existed immediately preceding that effective date.

SECTION 5. (A) There is hereby created the Select Committee on Telecommunications Regulatory Reform consisting of the following members:

(1) The chairperson and ranking minority member of the committee in the Senate to which legislation pertaining to public utilities is referred;

(2) The chairperson and ranking minority member of the committee in the House of Representatives to which legislation pertaining to public utilities is referred;

(3) The chairperson of the Public Utilities Commission or an officer or employee of the Commission who shall serve as the chairperson's designee;

(4) The Consumers' Counsel or an officer or employee of the Office of the Consumers' Counsel who shall serve as the designee of the Consumers' Counsel;

(5) One member appointed by the Governor, who is a member of the Governor's staff;

(6) One member appointed by the Governor who is a representative of the telecommunications industry.

(B) The Governor shall make appointments to the Committee not later than sixty days after the effective date of this section. Vacancies on the Committee shall be filled in the manner provided for original appointments.

(C) The members who serve as chairpersons of the House and Senate committees to which public utility legislation is referred shall serve as co-chairpersons of the Select Committee on Telecommunications Regulatory Reform. The Committee shall meet at the call of the

co-chairpersons who shall determine the time, meeting location, and agenda for each meeting of the Committee.

(D) The Committee shall study the impacts of S.B. 162 as enacted by the 128th General Assembly. The Committee's study shall include, but shall not be limited to, a review of both the economic benefits of the act and the act's impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, and carrier access to private property. The Committee's study shall also include a report on the Community-voicemail Service Pilot Program created in S.B. 162 of the 128th General Assembly. The Public Utilities Commission shall cooperate with the Committee as it performs its duties and shall provide reports and any other information requested by the Committee.

(E) The Committee may request assistance from the Legislative Service Commission.

(F) Not later than four years after the effective date of this section, the Committee shall submit a written report of its findings and recommendations to the General Assembly and the Governor. Upon submission of its report, the Committee shall cease to exist.

SECTION 6. (A) The Public Utilities Commission shall implement a Community-voicemail Service Pilot Program for individuals who are in a state of transition and have no access to traditional telephone exchange service or readily available alternatives, including the homeless, clients of battered-spouse programs, and displaced and returning veterans. The Commission shall establish a competitive bidding process to implement the program in at least one urban area and one rural area in this state. Not later than one year after the effective date of this section, the Commission shall select one or more vendors of community-voicemail service through that competitive bidding process. The vendor or vendors selected shall begin providing services under the program not later than 60 days after being officially notified of selection, unless the vendor or vendors apply to the Commission for an extension or extensions and the Commission grants the application or applications. The Commission shall grant an application for an extension if the applicant demonstrates good cause. The Commission shall determine the length of time for any extensions.

The Commission may not contract for the service if the total amount of expenditures under all contracts exceeds five hundred thousand dollars.

(B) For the sole purpose of funding the program implemented under this section, the Commission shall impose on and collect from each telephone

company that is a local exchange carrier an assessment to pay for costs incurred by vendors under any contract for the provision of the program in this state. The assessment shall be allocated proportionately based on the number of retail, intrastate, customer-access lines, or the equivalent, of each carrier.

(C) Each local exchange carrier that pays an assessment under division (B) of this section may not recover the cost of the assessment directly from customers through a billing surcharge.

(D) The Commission shall deposit the money collected under division (B) of this section in the Community-voicemail Service Pilot Program Fund, which is hereby created in the state treasury. The Commission shall use the money in that fund solely to compensate the vendors selected by the Commission to provide the service.

(E) The Commission shall take any measures that it considers necessary to protect the confidentiality of information provided to the Commission under this section by local exchange carriers required to pay the assessment.

(F) The Commission may assess a forfeiture of not more than one thousand dollars on any local exchange carrier that fails to comply with this section. Each day of continued violation of this section shall constitute a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(G) The Commission may adopt rules as it finds necessary to carry out this section, except that the Commission shall adopt rules specifying how recipients of services under the program are to be notified or educated of the program's termination.

(H) The program shall last for two years after the date that any services begin to be provided under the program. At the conclusion of the program, the Commission shall evaluate the effectiveness of the program, the costs and benefits of the program, and the availability of other options that may better serve the needs of individuals who are in a state of transition. The Commission shall report its findings, including any recommendations for continuation, expansion, or changes to the program, to the Select Committee on Telecommunications Regulatory Reform created in S.B. 162 of the 128th general assembly. The report shall be filed not later than 120 days after the conclusion of the program.

SECTION 7. Section 2917.21 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 565 and S.B. 215 of the 122nd General Assembly. Section 2929.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am.

Sub. H.B. 130 and Am. Sub. H.B. 280 of the 127th General Assembly. Section 4933.14 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 283 and S.B. 3 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of those sections in effect prior to the effective date of those sections as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 162

128th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____