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Sub. S. B. No. 162

Senator Buehrer

Cosponsors: Senators Gibbs, Gillmor, Grendell, Patton, Seitz, Stewart,

Wagoner, Harris, Jones, Kearney, Strahorn, Wilson, Widener, Turner,

Schiavoni, Miller, R., Hughes

Representatives Bacon, Beck, Belcher, Book, Boyd, Carney, Coley, Combs,

Daniels, DeGeeter, Domenick, Driehaus, Dyer, Evans, Fende, Gardner,

Garland, Gerberry, Goyal, Grossman, Hackett, Hagan, Harris, Harwood,

Heard, Hite, Hottinger, Koziura, Letson, Newcomb, O'Farrell, Patten, Phillips,

Pillich, Pryor, Ruhl, Szollosi, Weddington, Williams, B., Yuko

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A B I L L

To amend sections 324.01, 324.03, 1332.24, 2317.02,	1
2917.21, 2929.01, 4901.01, 4901.02, 4901.11,	2
4901.15, 4901.22, 4903.01, 4903.20, 4903.22,	3
4903.23, 4905.01, 4905.02, 4905.03, 4905.04,	4
4905.09, 4905.12, 4905.14, 4905.16, 4905.18,	5
4905.20, 4905.21, 4905.26, 4905.30, 4905.34,	6
4905.40, 4905.402, 4905.41, 4905.42, 4905.45,	7
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4905.59, 4905.61, 4905.63, 4905.71, 4905.73,	9
4905.84, 4905.90, 4905.99, 4907.01, 4907.14,	10
4907.30, 4909.01, 4909.02, 4909.03, 4909.17,	11
4911.01, 4921.01, 4923.01, 4927.01, 4927.02,	12
4929.02, 4931.02, 4931.03, 4931.04, 4931.11,	13
4931.99, 4933.14, 4933.18, 4933.19, 4939.01,	14
5515.01, 5733.57, 6101.17, and 6115.21, to amend	15
sections 4931.11 (4931.05) and 4931.35 (4931.06)	16

for the purpose of adopting new section numbers as 17
shown in parentheses, to enact new sections 18
4927.03 and 4927.04 and sections 4927.05, 4927.06, 19
4927.07, 4927.08, 4927.09, 4927.11, 4927.12, 20
4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 21
4927.18, 4927.19, 4927.20, 4927.21, and 4931.01, 22
and to repeal sections 4905.041, 4905.23, 23
4905.231, 4905.24, 4905.241, 4905.242, 4905.243, 24
4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 25
4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 26
4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 27
4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 28
4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 29
4931.30, and 4931.31 of the Revised Code to revise 30
state regulation of telephone companies, remove 31
telegraph companies from utility regulation, and 32
to create the Select Committee on 33
Telecommunications Regulatory Reform. 34

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

Section 1. That sections 324.01, 324.03, 1332.24, 2317.02, 35
2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 36
4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 37
4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 38
4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4905.41, 39
4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 40
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4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 42
4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 43
4931.02, 4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 44
4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 be 45
amended, that sections 4931.11 (4931.05) and 4931.35 (4931.06) be 46

amended for the purpose of adopting new section numbers as shown 47
in parentheses, and that new sections 4927.03 and 4927.04 and 48
sections 4927.05, 4927.06, 4927.07, 4927.08, 4927.09, 4927.11, 49
4927.12, 4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 4927.18, 50
4927.19, 4927.20, 4927.21, and 4931.01 of the Revised Code be 51
enacted to read as follows: 52

Sec. 324.01. As used in sections 324.01 to 324.12 of the 53
Revised Code: 54

(A) "Utility" means: 55

(1) An electric company, gas company, heating company, 56
cooling company, telephone company, ~~telegraph company~~, or 57
communications company supplying a utility service; 58

(2) Any municipal corporation, county, or other political 59
subdivision, instrumentality, or agency of the state supplying a 60
utility service; 61

(3) Any individual, firm, partnership, association, trust, 62
joint-stock company, joint venture, corporation, nonprofit 63
corporation, cooperative, receiver, assignee, trustee in 64
bankruptcy, estate, trustee, or organization of any kind which 65
owns or operates any office building, storeroom building, shopping 66
center, apartment building, apartment hotel, condominium, or other 67
multiple business or dwelling unit, and which sells, furnishes, or 68
delivers a utility service to the tenants or occupants thereof, 69
provided the charge for such utility service is separately stated. 70

(B) Any individual, firm, partnership, association, trust, 71
joint-stock company, joint venture, corporation, municipal 72
corporation, county, or other political subdivision, 73
instrumentality, or agency of the state, nonprofit corporation, 74
cooperative, receiver, assignee, trustee in bankruptcy, estate, 75
trustee, or organization of any kind: 76

(1) Is an electric company when supplying electricity for	77
light, heat, cooling, or power purposes to customers within a	78
county levying a utilities service tax;	79
(2) Is a gas company when supplying artificial gas or natural	80
gas for light, heat, cooling, or power purposes to customers	81
within a county levying a utilities service tax;	82
(3) Is a heating company when supplying water, steam, or air	83
through pipes or tubing for heating purposes to customers within a	84
county levying a utilities service tax;	85
(4) Is a cooling company when supplying water, steam, or air	86
through pipes or tubing for cooling purposes to customers within a	87
county levying a utilities service tax;	88
(5) Is a telephone company when transmitting telephonic	89
messages to, from, or within a county levying a utilities service	90
tax;	91
(6) Is a telegraph company when transmitting telegraphic	92
messages to, from, or within a county levying a utilities service	93
tax;	94
(7) Is a communications company when supplying the services	95
described in section 4931.11 <u>4931.05</u> of the Revised Code, other	96
than transmitting telephonic or telegraphic messages, to, from, or	97
within a county levying a utilities service tax.	98
(C) "Utility service" means the supplying of water, steam, or	99
air through pipes or tubing for heating or cooling purposes to	100
customers within the county, the supplying of electricity,	101
artificial gas, or natural gas to customers within the county, and	102
the transmission of telephonic or telegraphic messages or the	103
supplying of any of the services described in section 4931.11	104
<u>4931.05</u> of the Revised Code when the transmission or supplying	105
originates from and is charged to or is received by and charged to	106
a customer within the county.	107

(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 139
coin-operated device; 140

(D) Telephone service, ~~telegraph service~~, and services 141
described in section ~~4931.11~~ 4931.05 of the Revised Code, to or 142
from a point outside the state for which a separate charge is 143
made; 144

(E) The supplying of a utility service not within the taxing 145
power of the county under the constitution of the United States or 146
the constitution of this state; 147

(F) The supplying of a utility service to a person engaged in 148
business, for use or consumption in the production of tangible 149
personal property. 150

For the purpose of the proper administration of the utilities 151
service tax and to prevent the evasion of the tax, it is presumed 152
that any supplying of utility service is subject to the tax until 153
the contrary is shown. 154

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of 155
the Revised Code, the director of commerce may issue to any 156
person, or renew, a video service authorization, which 157
authorization confers on the person the authority, subject to 158
sections 1332.21 to 1332.34 of the Revised Code, to provide video 159
service in its video service area; construct and operate a video 160
service network in, along, across, or on public rights-of-way for 161
the provision of video service; and, when necessary to provide 162
that service, exercise the power of a ~~telegraph~~ telephone company 163
under section 4931.04 of the Revised Code. The term of a video 164
service authorization or authorization renewal shall be ten years. 165

(2) For the purposes of the "Cable Communications Policy Act 166
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 167
seq., a video service authorization shall constitute a franchise 168

under that law, and the director shall be the sole franchising 169
authority under that law for video service authorizations in this 170
state. 171

(3) The director may impose upon and collect an annual 172
assessment on video service providers. All money collected under 173
division (A)(3) of this section shall be deposited to the credit 174
of the division of administration fund created under section 175
121.08 of the Revised Code. The total amount assessed in a fiscal 176
year shall not exceed the lesser of four hundred fifty thousand 177
dollars or, as shall be determined annually by the director, the 178
department's actual, current fiscal year administrative costs in 179
carrying out its duties under sections 1332.21 to 1332.34 of the 180
Revised Code. The director shall allocate that total amount 181
proportionately among the video service providers to be assessed, 182
using a formula based on subscriber counts as of the thirty-first 183
day of December of the preceding calendar year, which counts shall 184
be submitted to the director not later than the thirty-first day 185
of January of each year, via a notarized statement signed by an 186
authorized officer. Any information submitted by a video service 187
provider to the director for the purpose of determining subscriber 188
counts shall be considered trade secret information, shall not be 189
disclosed except by court order, and shall not constitute a public 190
record under section 149.43 of the Revised Code. On or about the 191
first day of June of each year, the director shall send to each 192
video service provider to be assessed written notice of its 193
proportional amount of the total assessment. The provider shall 194
pay that amount on a quarterly basis not later than forty-five 195
days after the end of each calendar quarter. After the initial 196
assessment, the director annually shall reconcile the amount 197
collected with the total, current amount assessed pursuant to this 198
section, and either shall charge each assessed video service 199
provider its respective proportion of any insufficiency or 200
proportionately credit the provider's next assessment for any 201

excess collected. 202

(B)(1) The director may investigate alleged violations of or 203
failures to comply with division (A) of section 1332.23, division 204
(A) of this section, division (C) of section 1332.25, division (C) 205
or (D) of section 1332.26, division (A), (B), or (C) of section 206
1332.27, division (A) of section 1332.28, division (A) or (B) of 207
section 1332.29, or section 1332.30 or 1332.31 of the Revised 208
Code, or complaints concerning any such violation or failure. 209
Except as provided in this section, the director has no authority 210
to regulate video service in this state, including, but not 211
limited to, the rates, terms, or conditions of that service. 212

(2) In conducting an investigation under division (B)(1) of 213
this section, the director, by subpoena, may compel witnesses to 214
testify in relation to any matter over which the director has 215
jurisdiction and may require the production of any book, record, 216
or other document pertaining to that matter. If a person fails to 217
file any statement or report, obey any subpoena, give testimony, 218
produce any book, record, or other document as required by a 219
subpoena, or permit photocopying of any book, record, or other 220
document subpoenaed, the court of common pleas of any county in 221
this state, upon application made to it by the director, shall 222
compel obedience by attachment proceedings for contempt, as in the 223
case of disobedience of the requirements of a subpoena issued from 224
the court or a refusal to testify. 225

(C)(1) If the director finds that a person has violated or 226
failed to comply with division (A) of section 1332.23, division 227
(A) of this section, division (C) of section 1332.25, division (C) 228
or (D) of section 1332.26, division (A), (B), or (C) of section 229
1332.27, division (A) of section 1332.28, division (A) or (B) of 230
section 1332.29, or section 1332.30 or 1332.31 of the Revised 231
Code, and the person has failed to cure the violation or failure 232
after reasonable, written notice and reasonable time to cure, the 233

director may do any of the following:	234
(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.	235 236 237 238 239 240 241 242
(b) Enter into a written assurance of voluntary compliance with the person;	243 244
(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:	245 246 247 248 249 250 251 252 253 254
(i) The seriousness of the noncompliance;	255
(ii) The good faith efforts of the person to comply;	256
(iii) The person's history of noncompliance;	257
(iv) The financial resources of the person;	258
(v) Any other matter that justice requires.	259
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	260 261 262 263

duties under this section. 264

(2) Pursuant to an adjudication under Chapter 119. of the 265
Revised Code, the director may revoke, in whole or in part, the 266
video service authorization of any person that has repeatedly and 267
knowingly violated or failed to comply with division (A) of 268
section 1332.23, division (A) of this section, division (C) of 269
section 1332.25, division (C) or (D) of section 1332.26, division 270
(A), (B), or (C) of section 1332.27, division (A) of section 271
1332.28, division (A) or (B) of section 1332.29, or section 272
1332.30 or 1332.31 of the Revised Code and that has failed to cure 273
the violations or noncompliances after reasonable written notice 274
and reasonable time to cure. Such person acts knowingly, 275
regardless of the person's purpose, when the person is aware that 276
the person's conduct will probably cause a certain result or will 277
probably be of a certain nature. A person has knowledge of 278
circumstances when the person is aware that such circumstances 279
probably exist. 280

(3) The court shall conduct a de novo review in any appeal 281
from an adjudication under division (C)(1)(c) or (C)(2) of this 282
section. 283

(D) The public utilities commission has no authority over a 284
video service provider in its offering of video service or a cable 285
operator in its offering of cable or video service, or over any 286
person in its offering of video service pursuant to a competitive 287
video service agreement. 288

Sec. 2317.02. The following persons shall not testify in 289
certain respects: 290

(A)(1) An attorney, concerning a communication made to the 291
attorney by a client in that relation or the attorney's advice to 292
a client, except that the attorney may testify by express consent 293
of the client or, if the client is deceased, by the express 294

consent of the surviving spouse or the executor or administrator 295
of the estate of the deceased client. However, if the client 296
voluntarily testifies or is deemed by section 2151.421 of the 297
Revised Code to have waived any testimonial privilege under this 298
division, the attorney may be compelled to testify on the same 299
subject. 300

The testimonial privilege established under this division 301
does not apply concerning a communication between a client who has 302
since died and the deceased client's attorney if the communication 303
is relevant to a dispute between parties who claim through that 304
deceased client, regardless of whether the claims are by testate 305
or intestate succession or by inter vivos transaction, and the 306
dispute addresses the competency of the deceased client when the 307
deceased client executed a document that is the basis of the 308
dispute or whether the deceased client was a victim of fraud, 309
undue influence, or duress when the deceased client executed a 310
document that is the basis of the dispute. 311

(2) An attorney, concerning a communication made to the 312
attorney by a client in that relationship or the attorney's advice 313
to a client, except that if the client is an insurance company, 314
the attorney may be compelled to testify, subject to an in camera 315
inspection by a court, about communications made by the client to 316
the attorney or by the attorney to the client that are related to 317
the attorney's aiding or furthering an ongoing or future 318
commission of bad faith by the client, if the party seeking 319
disclosure of the communications has made a prima facie showing of 320
bad faith, fraud, or criminal misconduct by the client. 321

(B)(1) A physician or a dentist concerning a communication 322
made to the physician or dentist by a patient in that relation or 323
the physician's or dentist's advice to a patient, except as 324
otherwise provided in this division, division (B)(2), and division 325
(B)(3) of this section, and except that, if the patient is deemed 326

by section 2151.421 of the Revised Code to have waived any 327
testimonial privilege under this division, the physician may be 328
compelled to testify on the same subject. 329

The testimonial privilege established under this division 330
does not apply, and a physician or dentist may testify or may be 331
compelled to testify, in any of the following circumstances: 332

(a) In any civil action, in accordance with the discovery 333
provisions of the Rules of Civil Procedure in connection with a 334
civil action, or in connection with a claim under Chapter 4123. of 335
the Revised Code, under any of the following circumstances: 336

(i) If the patient or the guardian or other legal 337
representative of the patient gives express consent; 338

(ii) If the patient is deceased, the spouse of the patient or 339
the executor or administrator of the patient's estate gives 340
express consent; 341

(iii) If a medical claim, dental claim, chiropractic claim, 342
or optometric claim, as defined in section 2305.113 of the Revised 343
Code, an action for wrongful death, any other type of civil 344
action, or a claim under Chapter 4123. of the Revised Code is 345
filed by the patient, the personal representative of the estate of 346
the patient if deceased, or the patient's guardian or other legal 347
representative. 348

(b) In any civil action concerning court-ordered treatment or 349
services received by a patient, if the court-ordered treatment or 350
services were ordered as part of a case plan journalized under 351
section 2151.412 of the Revised Code or the court-ordered 352
treatment or services are necessary or relevant to dependency, 353
neglect, or abuse or temporary or permanent custody proceedings 354
under Chapter 2151. of the Revised Code. 355

(c) In any criminal action concerning any test or the results 356
of any test that determines the presence or concentration of 357

alcohol, a drug of abuse, a combination of them, a controlled 358
substance, or a metabolite of a controlled substance in the 359
patient's whole blood, blood serum or plasma, breath, urine, or 360
other bodily substance at any time relevant to the criminal 361
offense in question. 362

(d) In any criminal action against a physician or dentist. In 363
such an action, the testimonial privilege established under this 364
division does not prohibit the admission into evidence, in 365
accordance with the Rules of Evidence, of a patient's medical or 366
dental records or other communications between a patient and the 367
physician or dentist that are related to the action and obtained 368
by subpoena, search warrant, or other lawful means. A court that 369
permits or compels a physician or dentist to testify in such an 370
action or permits the introduction into evidence of patient 371
records or other communications in such an action shall require 372
that appropriate measures be taken to ensure that the 373
confidentiality of any patient named or otherwise identified in 374
the records is maintained. Measures to ensure confidentiality that 375
may be taken by the court include sealing its records or deleting 376
specific information from its records. 377

(e)(i) If the communication was between a patient who has 378
since died and the deceased patient's physician or dentist, the 379
communication is relevant to a dispute between parties who claim 380
through that deceased patient, regardless of whether the claims 381
are by testate or intestate succession or by inter vivos 382
transaction, and the dispute addresses the competency of the 383
deceased patient when the deceased patient executed a document 384
that is the basis of the dispute or whether the deceased patient 385
was a victim of fraud, undue influence, or duress when the 386
deceased patient executed a document that is the basis of the 387
dispute. 388

(ii) If neither the spouse of a patient nor the executor or 389

administrator of that patient's estate gives consent under 390
division (B)(1)(a)(ii) of this section, testimony or the 391
disclosure of the patient's medical records by a physician, 392
dentist, or other health care provider under division (B)(1)(e)(i) 393
of this section is a permitted use or disclosure of protected 394
health information, as defined in 45 C.F.R. 160.103, and an 395
authorization or opportunity to be heard shall not be required. 396

(iii) Division (B)(1)(e)(i) of this section does not require 397
a mental health professional to disclose psychotherapy notes, as 398
defined in 45 C.F.R. 164.501. 399

(iv) An interested person who objects to testimony or 400
disclosure under division (B)(1)(e)(i) of this section may seek a 401
protective order pursuant to Civil Rule 26. 402

(v) A person to whom protected health information is 403
disclosed under division (B)(1)(e)(i) of this section shall not 404
use or disclose the protected health information for any purpose 405
other than the litigation or proceeding for which the information 406
was requested and shall return the protected health information to 407
the covered entity or destroy the protected health information, 408
including all copies made, at the conclusion of the litigation or 409
proceeding. 410

(2)(a) If any law enforcement officer submits a written 411
statement to a health care provider that states that an official 412
criminal investigation has begun regarding a specified person or 413
that a criminal action or proceeding has been commenced against a 414
specified person, that requests the provider to supply to the 415
officer copies of any records the provider possesses that pertain 416
to any test or the results of any test administered to the 417
specified person to determine the presence or concentration of 418
alcohol, a drug of abuse, a combination of them, a controlled 419
substance, or a metabolite of a controlled substance in the 420
person's whole blood, blood serum or plasma, breath, or urine at 421

any time relevant to the criminal offense in question, and that 422
conforms to section 2317.022 of the Revised Code, the provider, 423
except to the extent specifically prohibited by any law of this 424
state or of the United States, shall supply to the officer a copy 425
of any of the requested records the provider possesses. If the 426
health care provider does not possess any of the requested 427
records, the provider shall give the officer a written statement 428
that indicates that the provider does not possess any of the 429
requested records. 430

(b) If a health care provider possesses any records of the 431
type described in division (B)(2)(a) of this section regarding the 432
person in question at any time relevant to the criminal offense in 433
question, in lieu of personally testifying as to the results of 434
the test in question, the custodian of the records may submit a 435
certified copy of the records, and, upon its submission, the 436
certified copy is qualified as authentic evidence and may be 437
admitted as evidence in accordance with the Rules of Evidence. 438
Division (A) of section 2317.422 of the Revised Code does not 439
apply to any certified copy of records submitted in accordance 440
with this division. Nothing in this division shall be construed to 441
limit the right of any party to call as a witness the person who 442
administered the test to which the records pertain, the person 443
under whose supervision the test was administered, the custodian 444
of the records, the person who made the records, or the person 445
under whose supervision the records were made. 446

(3)(a) If the testimonial privilege described in division 447
(B)(1) of this section does not apply as provided in division 448
(B)(1)(a)(iii) of this section, a physician or dentist may be 449
compelled to testify or to submit to discovery under the Rules of 450
Civil Procedure only as to a communication made to the physician 451
or dentist by the patient in question in that relation, or the 452
physician's or dentist's advice to the patient in question, that 453

related causally or historically to physical or mental injuries 454
that are relevant to issues in the medical claim, dental claim, 455
chiropractic claim, or optometric claim, action for wrongful 456
death, other civil action, or claim under Chapter 4123. of the 457
Revised Code. 458

(b) If the testimonial privilege described in division (B)(1) 459
of this section does not apply to a physician or dentist as 460
provided in division (B)(1)(c) of this section, the physician or 461
dentist, in lieu of personally testifying as to the results of the 462
test in question, may submit a certified copy of those results, 463
and, upon its submission, the certified copy is qualified as 464
authentic evidence and may be admitted as evidence in accordance 465
with the Rules of Evidence. Division (A) of section 2317.422 of 466
the Revised Code does not apply to any certified copy of results 467
submitted in accordance with this division. Nothing in this 468
division shall be construed to limit the right of any party to 469
call as a witness the person who administered the test in 470
question, the person under whose supervision the test was 471
administered, the custodian of the results of the test, the person 472
who compiled the results, or the person under whose supervision 473
the results were compiled. 474

(4) The testimonial privilege described in division (B)(1) of 475
this section is not waived when a communication is made by a 476
physician to a pharmacist or when there is communication between a 477
patient and a pharmacist in furtherance of the physician-patient 478
relation. 479

(5)(a) As used in divisions (B)(1) to (4) of this section, 480
"communication" means acquiring, recording, or transmitting any 481
information, in any manner, concerning any facts, opinions, or 482
statements necessary to enable a physician or dentist to diagnose, 483
treat, prescribe, or act for a patient. A "communication" may 484
include, but is not limited to, any medical or dental, office, or 485

hospital communication such as a record, chart, letter, 486
memorandum, laboratory test and results, x-ray, photograph, 487
financial statement, diagnosis, or prognosis. 488

(b) As used in division (B)(2) of this section, "health care 489
provider" means a hospital, ambulatory care facility, long-term 490
care facility, pharmacy, emergency facility, or health care 491
practitioner. 492

(c) As used in division (B)(5)(b) of this section: 493

(i) "Ambulatory care facility" means a facility that provides 494
medical, diagnostic, or surgical treatment to patients who do not 495
require hospitalization, including a dialysis center, ambulatory 496
surgical facility, cardiac catheterization facility, diagnostic 497
imaging center, extracorporeal shock wave lithotripsy center, home 498
health agency, inpatient hospice, birthing center, radiation 499
therapy center, emergency facility, and an urgent care center. 500
"Ambulatory health care facility" does not include the private 501
office of a physician or dentist, whether the office is for an 502
individual or group practice. 503

(ii) "Emergency facility" means a hospital emergency 504
department or any other facility that provides emergency medical 505
services. 506

(iii) "Health care practitioner" has the same meaning as in 507
section 4769.01 of the Revised Code. 508

(iv) "Hospital" has the same meaning as in section 3727.01 of 509
the Revised Code. 510

(v) "Long-term care facility" means a nursing home, 511
residential care facility, or home for the aging, as those terms 512
are defined in section 3721.01 of the Revised Code; an adult care 513
facility, as defined in section 3722.01 of the Revised Code; a 514
nursing facility or intermediate care facility for the mentally 515
retarded, as those terms are defined in section 5111.20 of the 516

Revised Code; a facility or portion of a facility certified as a 517
skilled nursing facility under Title XVIII of the "Social Security 518
Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 519

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 520
the Revised Code. 521

(d) As used in divisions (B)(1) and (2) of this section, 522
"drug of abuse" has the same meaning as in section 4506.01 of the 523
Revised Code. 524

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 525
apply to doctors of medicine, doctors of osteopathic medicine, 526
doctors of podiatry, and dentists. 527

(7) Nothing in divisions (B)(1) to (6) of this section 528
affects, or shall be construed as affecting, the immunity from 529
civil liability conferred by section 307.628 of the Revised Code 530
or the immunity from civil liability conferred by section 2305.33 531
of the Revised Code upon physicians who report an employee's use 532
of a drug of abuse, or a condition of an employee other than one 533
involving the use of a drug of abuse, to the employer of the 534
employee in accordance with division (B) of that section. As used 535
in division (B)(7) of this section, "employee," "employer," and 536
"physician" have the same meanings as in section 2305.33 of the 537
Revised Code. 538

(C)(1) A cleric, when the cleric remains accountable to the 539
authority of that cleric's church, denomination, or sect, 540
concerning a confession made, or any information confidentially 541
communicated, to the cleric for a religious counseling purpose in 542
the cleric's professional character. The cleric may testify by 543
express consent of the person making the communication, except 544
when the disclosure of the information is in violation of a sacred 545
trust and except that, if the person voluntarily testifies or is 546
deemed by division (A)(4)(c) of section 2151.421 of the Revised 547

Code to have waived any testimonial privilege under this division, 548
the cleric may be compelled to testify on the same subject except 549
when disclosure of the information is in violation of a sacred 550
trust. 551

(2) As used in division (C) of this section: 552

(a) "Cleric" means a member of the clergy, rabbi, priest, 553
Christian Science practitioner, or regularly ordained, accredited, 554
or licensed minister of an established and legally cognizable 555
church, denomination, or sect. 556

(b) "Sacred trust" means a confession or confidential 557
communication made to a cleric in the cleric's ecclesiastical 558
capacity in the course of discipline enjoined by the church to 559
which the cleric belongs, including, but not limited to, the 560
Catholic Church, if both of the following apply: 561

(i) The confession or confidential communication was made 562
directly to the cleric. 563

(ii) The confession or confidential communication was made in 564
the manner and context that places the cleric specifically and 565
strictly under a level of confidentiality that is considered 566
inviolable by canon law or church doctrine. 567

(D) Husband or wife, concerning any communication made by one 568
to the other, or an act done by either in the presence of the 569
other, during coverture, unless the communication was made, or act 570
done, in the known presence or hearing of a third person competent 571
to be a witness; and such rule is the same if the marital relation 572
has ceased to exist; 573

(E) A person who assigns a claim or interest, concerning any 574
matter in respect to which the person would not, if a party, be 575
permitted to testify; 576

(F) A person who, if a party, would be restricted under 577

section 2317.03 of the Revised Code, when the property or thing is 578
sold or transferred by an executor, administrator, guardian, 579
trustee, heir, devisee, or legatee, shall be restricted in the 580
same manner in any action or proceeding concerning the property or 581
thing. 582

(G)(1) A school guidance counselor who holds a valid educator 583
license from the state board of education as provided for in 584
section 3319.22 of the Revised Code, a person licensed under 585
Chapter 4757. of the Revised Code as a professional clinical 586
counselor, professional counselor, social worker, independent 587
social worker, marriage and family therapist or independent 588
marriage and family therapist, or registered under Chapter 4757. 589
of the Revised Code as a social work assistant concerning a 590
confidential communication received from a client in that relation 591
or the person's advice to a client unless any of the following 592
applies: 593

(a) The communication or advice indicates clear and present 594
danger to the client or other persons. For the purposes of this 595
division, cases in which there are indications of present or past 596
child abuse or neglect of the client constitute a clear and 597
present danger. 598

(b) The client gives express consent to the testimony. 599

(c) If the client is deceased, the surviving spouse or the 600
executor or administrator of the estate of the deceased client 601
gives express consent. 602

(d) The client voluntarily testifies, in which case the 603
school guidance counselor or person licensed or registered under 604
Chapter 4757. of the Revised Code may be compelled to testify on 605
the same subject. 606

(e) The court in camera determines that the information 607
communicated by the client is not germane to the counselor-client, 608

marriage and family therapist-client, or social worker-client 609
relationship. 610

(f) A court, in an action brought against a school, its 611
administration, or any of its personnel by the client, rules after 612
an in-camera inspection that the testimony of the school guidance 613
counselor is relevant to that action. 614

(g) The testimony is sought in a civil action and concerns 615
court-ordered treatment or services received by a patient as part 616
of a case plan journalized under section 2151.412 of the Revised 617
Code or the court-ordered treatment or services are necessary or 618
relevant to dependency, neglect, or abuse or temporary or 619
permanent custody proceedings under Chapter 2151. of the Revised 620
Code. 621

(2) Nothing in division (G)(1) of this section shall relieve 622
a school guidance counselor or a person licensed or registered 623
under Chapter 4757. of the Revised Code from the requirement to 624
report information concerning child abuse or neglect under section 625
2151.421 of the Revised Code. 626

(H) A mediator acting under a mediation order issued under 627
division (A) of section 3109.052 of the Revised Code or otherwise 628
issued in any proceeding for divorce, dissolution, legal 629
separation, annulment, or the allocation of parental rights and 630
responsibilities for the care of children, in any action or 631
proceeding, other than a criminal, delinquency, child abuse, child 632
neglect, or dependent child action or proceeding, that is brought 633
by or against either parent who takes part in mediation in 634
accordance with the order and that pertains to the mediation 635
process, to any information discussed or presented in the 636
mediation process, to the allocation of parental rights and 637
responsibilities for the care of the parents' children, or to the 638
awarding of parenting time rights in relation to their children; 639

(I) A communications assistant, acting within the scope of 640
the communication assistant's authority, when providing 641
telecommunications relay service pursuant to section ~~4931.35~~ 642
4931.06 of the Revised Code or Title II of the "Communications Act 643
of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 644
communication made through a telecommunications relay service. 645
Nothing in this section shall limit the obligation of a 646
communications assistant to divulge information or testify when 647
mandated by federal law or regulation or pursuant to subpoena in a 648
criminal proceeding. 649

Nothing in this section shall limit any immunity or privilege 650
granted under federal law or regulation. 651

(J)(1) A chiropractor in a civil proceeding concerning a 652
communication made to the chiropractor by a patient in that 653
relation or the chiropractor's advice to a patient, except as 654
otherwise provided in this division. The testimonial privilege 655
established under this division does not apply, and a chiropractor 656
may testify or may be compelled to testify, in any civil action, 657
in accordance with the discovery provisions of the Rules of Civil 658
Procedure in connection with a civil action, or in connection with 659
a claim under Chapter 4123. of the Revised Code, under any of the 660
following circumstances: 661

(a) If the patient or the guardian or other legal 662
representative of the patient gives express consent. 663

(b) If the patient is deceased, the spouse of the patient or 664
the executor or administrator of the patient's estate gives 665
express consent. 666

(c) If a medical claim, dental claim, chiropractic claim, or 667
optometric claim, as defined in section 2305.113 of the Revised 668
Code, an action for wrongful death, any other type of civil 669
action, or a claim under Chapter 4123. of the Revised Code is 670

filed by the patient, the personal representative of the estate of 671
the patient if deceased, or the patient's guardian or other legal 672
representative. 673

(2) If the testimonial privilege described in division (J)(1) 674
of this section does not apply as provided in division (J)(1)(c) 675
of this section, a chiropractor may be compelled to testify or to 676
submit to discovery under the Rules of Civil Procedure only as to 677
a communication made to the chiropractor by the patient in 678
question in that relation, or the chiropractor's advice to the 679
patient in question, that related causally or historically to 680
physical or mental injuries that are relevant to issues in the 681
medical claim, dental claim, chiropractic claim, or optometric 682
claim, action for wrongful death, other civil action, or claim 683
under Chapter 4123. of the Revised Code. 684

(3) The testimonial privilege established under this division 685
does not apply, and a chiropractor may testify or be compelled to 686
testify, in any criminal action or administrative proceeding. 687

(4) As used in this division, "communication" means 688
acquiring, recording, or transmitting any information, in any 689
manner, concerning any facts, opinions, or statements necessary to 690
enable a chiropractor to diagnose, treat, or act for a patient. A 691
communication may include, but is not limited to, any 692
chiropractic, office, or hospital communication such as a record, 693
chart, letter, memorandum, laboratory test and results, x-ray, 694
photograph, financial statement, diagnosis, or prognosis. 695

(K)(1) Except as provided under division (K)(2) of this 696
section, a critical incident stress management team member 697
concerning a communication received from an individual who 698
receives crisis response services from the team member, or the 699
team member's advice to the individual, during a debriefing 700
session. 701

(2) The testimonial privilege established under division 702
(K)(1) of this section does not apply if any of the following are 703
true: 704

(a) The communication or advice indicates clear and present 705
danger to the individual who receives crisis response services or 706
to other persons. For purposes of this division, cases in which 707
there are indications of present or past child abuse or neglect of 708
the individual constitute a clear and present danger. 709

(b) The individual who received crisis response services 710
gives express consent to the testimony. 711

(c) If the individual who received crisis response services 712
is deceased, the surviving spouse or the executor or administrator 713
of the estate of the deceased individual gives express consent. 714

(d) The individual who received crisis response services 715
voluntarily testifies, in which case the team member may be 716
compelled to testify on the same subject. 717

(e) The court in camera determines that the information 718
communicated by the individual who received crisis response 719
services is not germane to the relationship between the individual 720
and the team member. 721

(f) The communication or advice pertains or is related to any 722
criminal act. 723

(3) As used in division (K) of this section: 724

(a) "Crisis response services" means consultation, risk 725
assessment, referral, and on-site crisis intervention services 726
provided by a critical incident stress management team to 727
individuals affected by crisis or disaster. 728

(b) "Critical incident stress management team member" or 729
"team member" means an individual specially trained to provide 730
crisis response services as a member of an organized community or 731

local crisis response team that holds membership in the Ohio
critical incident stress management network. 732
733

(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. 734
735
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(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. 737
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(2) Division (L)(1) of this section applies to an employee
assistance professional who meets either or both of the following
requirements: 743
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745

(a) Is certified by the employee assistance certification
commission to engage in the employee assistance profession; 746
747

(b) Has education, training, and experience in all of the
following: 748
749

(i) Providing workplace-based services designed to address
employer and employee productivity issues; 750
751

(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; 752
753
754
755

(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; 756
757
758
759

(iv) Selecting and evaluating available community resources; 760

(v) Making appropriate referrals; 761

(vi) Local and national employee assistance agreements;	762
(vii) Client confidentiality.	763
(3) Division (L)(1) of this section does not apply to any of the following:	764 765
(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;	766 767 768 769
(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;	770 771 772
(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;	773 774 775
(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;	776 777 778
(e) A civil or criminal malpractice action brought against the employee assistance professional;	779 780
(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;	781 782 783
(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.	784 785
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:	786 787 788 789 790

(1) Fails to identify the caller to the recipient of the 791
telecommunication and makes the telecommunication with purpose to 792
harass or abuse any person at the premises to which the 793
telecommunication is made, whether or not actual communication 794
takes place between the caller and a recipient; 795

(2) Describes, suggests, requests, or proposes that the 796
caller, the recipient of the telecommunication, or any other 797
person engage in sexual activity, and the recipient or another 798
person at the premises to which the telecommunication is made has 799
requested, in a previous telecommunication or in the immediate 800
telecommunication, that the caller not make a telecommunication to 801
the recipient or to the premises to which the telecommunication is 802
made; 803

(3) During the telecommunication, violates section 2903.21 of 804
the Revised Code; 805

(4) Knowingly states to the recipient of the 806
telecommunication that the caller intends to cause damage to or 807
destroy public or private property, and the recipient, any member 808
of the recipient's family, or any other person who resides at the 809
premises to which the telecommunication is made owns, leases, 810
resides, or works in, will at the time of the destruction or 811
damaging be near or in, has the responsibility of protecting, or 812
insures the property that will be destroyed or damaged; 813

(5) Knowingly makes the telecommunication to the recipient of 814
the telecommunication, to another person at the premises to which 815
the telecommunication is made, or to those premises, and the 816
recipient or another person at those premises previously has told 817
the caller not to make a telecommunication to those premises or to 818
any persons at those premises. 819

(B) No person shall make or cause to be made a 820
telecommunication, or permit a telecommunication to be made from a 821

telecommunications device under the person's control, with purpose 822
to abuse, threaten, or harass another person. 823

(C)(1) Whoever violates this section is guilty of 824
telecommunications harassment. 825

(2) A violation of division (A)(1), (2), (3), or (5) or (B) 826
of this section is a misdemeanor of the first degree on a first 827
offense and a felony of the fifth degree on each subsequent 828
offense. 829

(3) Except as otherwise provided in division (C)(3) of this 830
section, a violation of division (A)(4) of this section is a 831
misdemeanor of the first degree on a first offense and a felony of 832
the fifth degree on each subsequent offense. If a violation of 833
division (A)(4) of this section results in economic harm of five 834
hundred dollars or more but less than five thousand dollars, 835
telecommunications harassment is a felony of the fifth degree. If 836
a violation of division (A)(4) of this section results in economic 837
harm of five thousand dollars or more but less than one hundred 838
thousand dollars, telecommunications harassment is a felony of the 839
fourth degree. If a violation of division (A)(4) of this section 840
results in economic harm of one hundred thousand dollars or more, 841
telecommunications harassment is a felony of the third degree. 842

(D) No cause of action may be asserted in any court of this 843
state against any provider of a telecommunications service or 844
information service, or against any officer, employee, or agent of 845
a telecommunication service or information service, for any 846
injury, death, or loss to person or property that allegedly arises 847
out of the provider's, officer's, employee's, or agent's provision 848
of information, facilities, or assistance in accordance with the 849
terms of a court order that is issued in relation to the 850
investigation or prosecution of an alleged violation of this 851
section ~~or section 4931.31 of the Revised Code~~. A provider of a 852
telecommunications service or information service, or an officer, 853

employee, or agent of a telecommunications service or information 854
service, is immune from any civil or criminal liability for 855
injury, death, or loss to person or property that allegedly arises 856
out of the provider's, officer's, employee's, or agent's provision 857
of information, facilities, or assistance in accordance with the 858
terms of a court order that is issued in relation to the 859
investigation or prosecution of an alleged violation of this 860
section ~~or section 4931.31 of the Revised Code.~~ 861

(E) As used in this section: 862

(1) "Economic harm" means all direct, incidental, and 863
consequential pecuniary harm suffered by a victim as a result of 864
criminal conduct. "Economic harm" includes, but is not limited to, 865
all of the following: 866

(a) All wages, salaries, or other compensation lost as a 867
result of the criminal conduct; 868

(b) The cost of all wages, salaries, or other compensation 869
paid to employees for time those employees are prevented from 870
working as a result of the criminal conduct; 871

(c) The overhead costs incurred for the time that a business 872
is shut down as a result of the criminal conduct; 873

(d) The loss of value to tangible or intangible property that 874
was damaged as a result of the criminal conduct. 875

(2) "Caller" means the person described in division (A) of 876
this section who makes or causes to be made a telecommunication or 877
who permits a telecommunication to be made from a 878
telecommunications device under that person's control. 879

(3) "Telecommunication" and "telecommunications device" have 880
the same meanings as in section 2913.01 of the Revised Code. 881

(4) "Sexual activity" has the same meaning as in section 882
2907.01 of the Revised Code. 883

(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 914
community-based correctional facility and program or district 915
community-based correctional facility and program developed 916
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 917

(E) "Community control sanction" means a sanction that is not 918
a prison term and that is described in section 2929.15, 2929.16, 919
2929.17, or 2929.18 of the Revised Code or a sanction that is not 920
a jail term and that is described in section 2929.26, 2929.27, or 921
2929.28 of the Revised Code. "Community control sanction" includes 922
probation if the sentence involved was imposed for a felony that 923
was committed prior to July 1, 1996, or if the sentence involved 924
was imposed for a misdemeanor that was committed prior to January 925
1, 2004. 926

(F) "Controlled substance," "marihuana," "schedule I," and 927
"schedule II" have the same meanings as in section 3719.01 of the 928
Revised Code. 929

(G) "Curfew" means a requirement that an offender during a 930
specified period of time be at a designated place. 931

(H) "Day reporting" means a sanction pursuant to which an 932
offender is required each day to report to and leave a center or 933
other approved reporting location at specified times in order to 934
participate in work, education or training, treatment, and other 935
approved programs at the center or outside the center. 936

(I) "Deadly weapon" has the same meaning as in section 937
2923.11 of the Revised Code. 938

(J) "Drug and alcohol use monitoring" means a program under 939
which an offender agrees to submit to random chemical analysis of 940
the offender's blood, breath, or urine to determine whether the 941
offender has ingested any alcohol or other drugs. 942

(K) "Drug treatment program" means any program under which a 943
person undergoes assessment and treatment designed to reduce or 944

completely eliminate the person's physical or emotional reliance 945
upon alcohol, another drug, or alcohol and another drug and under 946
which the person may be required to receive assessment and 947
treatment on an outpatient basis or may be required to reside at a 948
facility other than the person's home or residence while 949
undergoing assessment and treatment. 950

(L) "Economic loss" means any economic detriment suffered by 951
a victim as a direct and proximate result of the commission of an 952
offense and includes any loss of income due to lost time at work 953
because of any injury caused to the victim, and any property loss, 954
medical cost, or funeral expense incurred as a result of the 955
commission of the offense. "Economic loss" does not include 956
non-economic loss or any punitive or exemplary damages. 957

(M) "Education or training" includes study at, or in 958
conjunction with a program offered by, a university, college, or 959
technical college or vocational study and also includes the 960
completion of primary school, secondary school, and literacy 961
curricula or their equivalent. 962

(N) "Firearm" has the same meaning as in section 2923.11 of 963
the Revised Code. 964

(O) "Halfway house" means a facility licensed by the division 965
of parole and community services of the department of 966
rehabilitation and correction pursuant to section 2967.14 of the 967
Revised Code as a suitable facility for the care and treatment of 968
adult offenders. 969

(P) "House arrest" means a period of confinement of an 970
offender that is in the offender's home or in other premises 971
specified by the sentencing court or by the parole board pursuant 972
to section 2967.28 of the Revised Code and during which all of the 973
following apply: 974

(1) The offender is required to remain in the offender's home 975

or other specified premises for the specified period of 976
confinement, except for periods of time during which the offender 977
is at the offender's place of employment or at other premises as 978
authorized by the sentencing court or by the parole board. 979

(2) The offender is required to report periodically to a 980
person designated by the court or parole board. 981

(3) The offender is subject to any other restrictions and 982
requirements that may be imposed by the sentencing court or by the 983
parole board. 984

(Q) "Intensive probation supervision" means a requirement 985
that an offender maintain frequent contact with a person appointed 986
by the court, or by the parole board pursuant to section 2967.28 987
of the Revised Code, to supervise the offender while the offender 988
is seeking or maintaining necessary employment and participating 989
in training, education, and treatment programs as required in the 990
court's or parole board's order. "Intensive probation supervision" 991
includes intensive parole supervision and intensive post-release 992
control supervision. 993

(R) "Jail" means a jail, workhouse, minimum security jail, or 994
other residential facility used for the confinement of alleged or 995
convicted offenders that is operated by a political subdivision or 996
a combination of political subdivisions of this state. 997

(S) "Jail term" means the term in a jail that a sentencing 998
court imposes or is authorized to impose pursuant to section 999
2929.24 or 2929.25 of the Revised Code or pursuant to any other 1000
provision of the Revised Code that authorizes a term in a jail for 1001
a misdemeanor conviction. 1002

(T) "Mandatory jail term" means the term in a jail that a 1003
sentencing court is required to impose pursuant to division (G) of 1004
section 1547.99 of the Revised Code, division (E) of section 1005
2903.06 or division (D) of section 2903.08 of the Revised Code, 1006

division (E) or (G) of section 2929.24 of the Revised Code, 1007
division (B) of section 4510.14 of the Revised Code, or division 1008
(G) of section 4511.19 of the Revised Code or pursuant to any 1009
other provision of the Revised Code that requires a term in a jail 1010
for a misdemeanor conviction. 1011

(U) "Delinquent child" has the same meaning as in section 1012
2152.02 of the Revised Code. 1013

(V) "License violation report" means a report that is made by 1014
a sentencing court, or by the parole board pursuant to section 1015
2967.28 of the Revised Code, to the regulatory or licensing board 1016
or agency that issued an offender a professional license or a 1017
license or permit to do business in this state and that specifies 1018
that the offender has been convicted of or pleaded guilty to an 1019
offense that may violate the conditions under which the offender's 1020
professional license or license or permit to do business in this 1021
state was granted or an offense for which the offender's 1022
professional license or license or permit to do business in this 1023
state may be revoked or suspended. 1024

(W) "Major drug offender" means an offender who is convicted 1025
of or pleads guilty to the possession of, sale of, or offer to 1026
sell any drug, compound, mixture, preparation, or substance that 1027
consists of or contains at least one thousand grams of hashish; at 1028
least one hundred grams of crack cocaine; at least one thousand 1029
grams of cocaine that is not crack cocaine; at least two thousand 1030
five hundred unit doses or two hundred fifty grams of heroin; at 1031
least five thousand unit doses of L.S.D. or five hundred grams of 1032
L.S.D. in a liquid concentrate, liquid extract, or liquid 1033
distillate form; or at least one hundred times the amount of any 1034
other schedule I or II controlled substance other than marihuana 1035
that is necessary to commit a felony of the third degree pursuant 1036
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 1037
Code that is based on the possession of, sale of, or offer to sell 1038

the controlled substance. 1039

(X) "Mandatory prison term" means any of the following: 1040

(1) Subject to division (X)(2) of this section, the term in 1041
prison that must be imposed for the offenses or circumstances set 1042
forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 1043
2929.13 and division (D) of section 2929.14 of the Revised Code. 1044
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 1045
and 2925.11 of the Revised Code, unless the maximum or another 1046
specific term is required under section 2929.14 or 2929.142 of the 1047
Revised Code, a mandatory prison term described in this division 1048
may be any prison term authorized for the level of offense. 1049

(2) The term of sixty or one hundred twenty days in prison 1050
that a sentencing court is required to impose for a third or 1051
fourth degree felony OVI offense pursuant to division (G)(2) of 1052
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 1053
of the Revised Code or the term of one, two, three, four, or five 1054
years in prison that a sentencing court is required to impose 1055
pursuant to division (G)(2) of section 2929.13 of the Revised 1056
Code. 1057

(3) The term in prison imposed pursuant to division (A) of 1058
section 2971.03 of the Revised Code for the offenses and in the 1059
circumstances described in division (F)(11) of section 2929.13 of 1060
the Revised Code or pursuant to division (B)(1)(a), (b), or (c), 1061
(B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 1062
2971.03 of the Revised Code and that term as modified or 1063
terminated pursuant to section 2971.05 of the Revised Code. 1064

(Y) "Monitored time" means a period of time during which an 1065
offender continues to be under the control of the sentencing court 1066
or parole board, subject to no conditions other than leading a 1067
law-abiding life. 1068

(Z) "Offender" means a person who, in this state, is 1069

convicted of or pleads guilty to a felony or a misdemeanor. 1070

(AA) "Prison" means a residential facility used for the 1071
confinement of convicted felony offenders that is under the 1072
control of the department of rehabilitation and correction but 1073
does not include a violation sanction center operated under 1074
authority of section 2967.141 of the Revised Code. 1075

(BB) "Prison term" includes either of the following sanctions 1076
for an offender: 1077

(1) A stated prison term; 1078

(2) A term in a prison shortened by, or with the approval of, 1079
the sentencing court pursuant to section 2929.20, 2967.26, 1080
5120.031, 5120.032, or 5120.073 of the Revised Code. 1081

(CC) "Repeat violent offender" means a person about whom both 1082
of the following apply: 1083

(1) The person is being sentenced for committing or for 1084
complicity in committing any of the following: 1085

(a) Aggravated murder, murder, any felony of the first or 1086
second degree that is an offense of violence, or an attempt to 1087
commit any of these offenses if the attempt is a felony of the 1088
first or second degree; 1089

(b) An offense under an existing or former law of this state, 1090
another state, or the United States that is or was substantially 1091
equivalent to an offense described in division (CC)(1)(a) of this 1092
section. 1093

(2) The person previously was convicted of or pleaded guilty 1094
to an offense described in division (CC)(1)(a) or (b) of this 1095
section. 1096

(DD) "Sanction" means any penalty imposed upon an offender 1097
who is convicted of or pleads guilty to an offense, as punishment 1098
for the offense. "Sanction" includes any sanction imposed pursuant 1099

to any provision of sections 2929.14 to 2929.18 or 2929.24 to 1100
2929.28 of the Revised Code. 1101

(EE) "Sentence" means the sanction or combination of 1102
sanctions imposed by the sentencing court on an offender who is 1103
convicted of or pleads guilty to an offense. 1104

(FF) "Stated prison term" means the prison term, mandatory 1105
prison term, or combination of all prison terms and mandatory 1106
prison terms imposed by the sentencing court pursuant to section 1107
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 1108
2919.25 of the Revised Code. "Stated prison term" includes any 1109
credit received by the offender for time spent in jail awaiting 1110
trial, sentencing, or transfer to prison for the offense and any 1111
time spent under house arrest or house arrest with electronic 1112
monitoring imposed after earning credits pursuant to section 1113
2967.193 of the Revised Code. 1114

(GG) "Victim-offender mediation" means a reconciliation or 1115
mediation program that involves an offender and the victim of the 1116
offense committed by the offender and that includes a meeting in 1117
which the offender and the victim may discuss the offense, discuss 1118
restitution, and consider other sanctions for the offense. 1119

(HH) "Fourth degree felony OVI offense" means a violation of 1120
division (A) of section 4511.19 of the Revised Code that, under 1121
division (G) of that section, is a felony of the fourth degree. 1122

(II) "Mandatory term of local incarceration" means the term 1123
of sixty or one hundred twenty days in a jail, a community-based 1124
correctional facility, a halfway house, or an alternative 1125
residential facility that a sentencing court may impose upon a 1126
person who is convicted of or pleads guilty to a fourth degree 1127
felony OVI offense pursuant to division (G)(1) of section 2929.13 1128
of the Revised Code and division (G)(1)(d) or (e) of section 1129
4511.19 of the Revised Code. 1130

(JJ) "Designated homicide, assault, or kidnapping offense," 1131
"violent sex offense," "sexual motivation specification," 1132
"sexually violent offense," "sexually violent predator," and 1133
"sexually violent predator specification" have the same meanings 1134
as in section 2971.01 of the Revised Code. 1135

(KK) "Sexually oriented offense," "child-victim oriented 1136
offense," and "tier III sex offender/child-victim offender," have 1137
the same meanings as in section 2950.01 of the Revised Code. 1138

(LL) An offense is "committed in the vicinity of a child" if 1139
the offender commits the offense within thirty feet of or within 1140
the same residential unit as a child who is under eighteen years 1141
of age, regardless of whether the offender knows the age of the 1142
child or whether the offender knows the offense is being committed 1143
within thirty feet of or within the same residential unit as the 1144
child and regardless of whether the child actually views the 1145
commission of the offense. 1146

(MM) "Family or household member" has the same meaning as in 1147
section 2919.25 of the Revised Code. 1148

(NN) "Motor vehicle" and "manufactured home" have the same 1149
meanings as in section 4501.01 of the Revised Code. 1150

(OO) "Detention" and "detention facility" have the same 1151
meanings as in section 2921.01 of the Revised Code. 1152

(PP) "Third degree felony OVI offense" means a violation of 1153
division (A) of section 4511.19 of the Revised Code that, under 1154
division (G) of that section, is a felony of the third degree. 1155

(QQ) "Random drug testing" has the same meaning as in section 1156
5120.63 of the Revised Code. 1157

(RR) "Felony sex offense" has the same meaning as in section 1158
2967.28 of the Revised Code. 1159

(SS) "Body armor" has the same meaning as in section 1160

2941.1411 of the Revised Code. 1161

(TT) "Electronic monitoring" means monitoring through the use 1162
of an electronic monitoring device. 1163

(UU) "Electronic monitoring device" means any of the 1164
following: 1165

(1) Any device that can be operated by electrical or battery 1166
power and that conforms with all of the following: 1167

(a) The device has a transmitter that can be attached to a 1168
person, that will transmit a specified signal to a receiver of the 1169
type described in division (UU)(1)(b) of this section if the 1170
transmitter is removed from the person, turned off, or altered in 1171
any manner without prior court approval in relation to electronic 1172
monitoring or without prior approval of the department of 1173
rehabilitation and correction in relation to the use of an 1174
electronic monitoring device for an inmate on transitional control 1175
or otherwise is tampered with, that can transmit continuously and 1176
periodically a signal to that receiver when the person is within a 1177
specified distance from the receiver, and that can transmit an 1178
appropriate signal to that receiver if the person to whom it is 1179
attached travels a specified distance from that receiver. 1180

(b) The device has a receiver that can receive continuously 1181
the signals transmitted by a transmitter of the type described in 1182
division (UU)(1)(a) of this section, can transmit continuously 1183
those signals by a wireless or landline telephone connection to a 1184
central monitoring computer of the type described in division 1185
(UU)(1)(c) of this section, and can transmit continuously an 1186
appropriate signal to that central monitoring computer if the 1187
~~receiver is~~ device has been turned off or altered without prior 1188
court approval or otherwise tampered with. The device is designed 1189
specifically for use in electronic monitoring, is not a converted 1190
wireless phone or another tracking device that is clearly not 1191

designed for electronic monitoring, and provides a means of 1192
text-based or voice communication with the person. 1193

(c) The device has a central monitoring computer that can 1194
receive continuously the signals transmitted by a wireless or 1195
landline telephone connection by a receiver of the type described 1196
in division (UU)(1)(b) of this section and can monitor 1197
continuously the person to whom an electronic monitoring device of 1198
the type described in division (UU)(1)(a) of this section is 1199
attached. 1200

(2) Any device that is not a device of the type described in 1201
division (UU)(1) of this section and that conforms with all of the 1202
following: 1203

(a) The device includes a transmitter and receiver that can 1204
monitor and determine the location of a subject person at any 1205
time, or at a designated point in time, through the use of a 1206
central monitoring computer or through other electronic means. 1207

(b) The device includes a transmitter and receiver that can 1208
determine at any time, or at a designated point in time, through 1209
the use of a central monitoring computer or other electronic means 1210
the fact that the transmitter is turned off or altered in any 1211
manner without prior approval of the court in relation to the 1212
electronic monitoring or without prior approval of the department 1213
of rehabilitation and correction in relation to the use of an 1214
electronic monitoring device for an inmate on transitional control 1215
or otherwise is tampered with. 1216

(3) Any type of technology that can adequately track or 1217
determine the location of a subject person at any time and that is 1218
approved by the director of rehabilitation and correction, 1219
including, but not limited to, any satellite technology, voice 1220
tracking system, or retinal scanning system that is so approved. 1221

(VV) "Non-economic loss" means nonpecuniary harm suffered by 1222

a victim of an offense as a result of or related to the commission 1223
of the offense, including, but not limited to, pain and suffering; 1224
loss of society, consortium, companionship, care, assistance, 1225
attention, protection, advice, guidance, counsel, instruction, 1226
training, or education; mental anguish; and any other intangible 1227
loss. 1228

(WW) "Prosecutor" has the same meaning as in section 2935.01 1229
of the Revised Code. 1230

(XX) "Continuous alcohol monitoring" means the ability to 1231
automatically test and periodically transmit alcohol consumption 1232
levels and tamper attempts at least every hour, regardless of the 1233
location of the person who is being monitored. 1234

(YY) A person is "adjudicated a sexually violent predator" if 1235
the person is convicted of or pleads guilty to a violent sex 1236
offense and also is convicted of or pleads guilty to a sexually 1237
violent predator specification that was included in the 1238
indictment, count in the indictment, or information charging that 1239
violent sex offense or if the person is convicted of or pleads 1240
guilty to a designated homicide, assault, or kidnapping offense 1241
and also is convicted of or pleads guilty to both a sexual 1242
motivation specification and a sexually violent predator 1243
specification that were included in the indictment, count in the 1244
indictment, or information charging that designated homicide, 1245
assault, or kidnapping offense. 1246

(ZZ) An offense is "committed in proximity to a school" if 1247
the offender commits the offense in a school safety zone or within 1248
five hundred feet of any school building or the boundaries of any 1249
school premises, regardless of whether the offender knows the 1250
offense is being committed in a school safety zone or within five 1251
hundred feet of any school building or the boundaries of any 1252
school premises. 1253

(AAA) "Human trafficking" means a scheme or plan to which all 1254
of the following apply: 1255

(1) Its object is to compel a victim or victims to engage in 1256
sexual activity for hire, to engage in a performance that is 1257
obscene, sexually oriented, or nudity oriented, or to be a model 1258
or participant in the production of material that is obscene, 1259
sexually oriented, or nudity oriented. 1260

(2) It involves at least two felony offenses, whether or not 1261
there has been a prior conviction for any of the felony offenses, 1262
to which all of the following apply: 1263

(a) Each of the felony offenses is a violation of section 1264
2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or 1265
(2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) 1266
of section 2919.22 of the Revised Code or is a violation of a law 1267
of any state other than this state that is substantially similar 1268
to any of the sections or divisions of the Revised Code identified 1269
in this division. 1270

(b) At least one of the felony offenses was committed in this 1271
state. 1272

(c) The felony offenses are related to the same scheme or 1273
plan, are not isolated instances, and are not so closely related 1274
to each other and connected in time and place that they constitute 1275
a single event or transaction. 1276

(BBB) "Material," "nudity," "obscene," "performance," and 1277
"sexual activity" have the same meanings as in section 2907.01 of 1278
the Revised Code. 1279

(CCC) "Material that is obscene, sexually oriented, or nudity 1280
oriented" means any material that is obscene, that shows a person 1281
participating or engaging in sexual activity, masturbation, or 1282
bestiality, or that shows a person in a state of nudity. 1283

(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 1313
consent of the senate. The governor shall designate one of such 1314
commissioners to be the ~~chairman~~ chairperson of the commission. 1315
The ~~chairman~~ chairperson of the commission shall serve as ~~chairman~~ 1316
chairperson at the governor's pleasure. The commissioners shall be 1317
selected from the lists of qualified persons submitted to the 1318
governor by the public utilities commission nominating council 1319
pursuant to section 4901.021 of the ~~bRevised~~ Revised Code. Not 1320
more than three of said commissioners shall belong to or be 1321
affiliated with the same political party. The commission shall 1322
possess the powers and duties specified in, as well as all powers 1323
necessary and proper to carry out the purposes of Chapters 4901., 1324
4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the 1325
Revised Code. 1326

(B) A majority of the public utilities commissioners 1327
constitutes a quorum. 1328

(C) The terms of office of public utilities commissioners 1329
shall be for five years, commencing on the eleventh day of April 1330
and ending on the tenth day of April, except that terms of the 1331
first commissioners shall be for one, two, three, four, and five 1332
years, respectively, as designated by the governor at the time of 1333
appointment. Each commissioner shall hold office from the date of 1334
~~his~~ appointment until the end of the term for which ~~he~~ the 1335
commissioner was appointed. Any commissioner appointed to fill a 1336
vacancy occurring prior to the expiration of the term for which ~~he~~ 1337
the commissioner was appointed shall hold office for the remainder 1338
of such term. Any commissioner shall continue in office subsequent 1339
to the expiration date of the term for which ~~he~~ the commissioner 1340
was appointed until ~~his~~ the commissioner's successor takes office, 1341
or until a period of sixty days has elapsed, whichever occurs 1342
first. Each vacancy shall be filled by appointment within sixty 1343
days after the vacancy occurs. 1344

(D) Public utilities commissioners shall have at least three 1345
years of experience in one or more of the following fields: 1346
economics, law, finance, accounting, engineering, physical or 1347
natural sciences, natural resources, or environmental studies. At 1348
least one commissioner shall be an attorney admitted to the 1349
practice of law in any state or the District of Columbia. 1350

(E) The ~~chairman~~ chairperson of the commission shall be the 1351
head of the commission and its chief executive officer. The 1352
appointment or removal of employees of the commission or any 1353
division thereof, and all contracts for special service, are 1354
subject to the approval of the ~~chairman~~ chairperson. The ~~chairman~~ 1355
chairperson shall designate one of the commissioners to act as 1356
deputy ~~chairman~~ chairperson, who shall possess during the absence 1357
or disability of the ~~chairman~~ chairperson, all of the powers of 1358
the ~~chairman~~ chairperson. 1359

Sec. 4901.11. The public utilities commission may procure all 1360
necessary books, maps, charts, stationery, instruments, office 1361
furniture, apparatus, and appliances, including telephone ~~and~~ 1362
~~telegraph~~ service, and may purchase from the interstate commerce 1363
commission blank forms for the use of railroads and other 1364
utilities in making their annual reports, necessary for the proper 1365
administration of the affairs of ~~said~~ the public utilities 1366
commission, which expenses shall be audited and paid in the same 1367
manner as other expenses. 1368

Sec. 4901.15. The public utilities commission shall, whenever 1369
called upon by any officer, board, or commission of this state or 1370
any political subdivision of this state, furnish any data or 1371
information to such officer, board, or commission and shall aid or 1372
assist any such officer, board, or commission in performing ~~the~~ 1373
official duties ~~of his or its office~~. All officers, boards, or 1374
commissions of this state or any political subdivision of this 1375

state, shall furnish to the commission, upon request, any data or 1376
information ~~which~~ that will assist the commission in the discharge 1377
of the duties imposed upon it by Chapters 4901., 4903., 4905., 1378
4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code. 1379

Sec. 4901.22. Each of the public utilities commissioners, for 1380
the purposes mentioned in Chapters 4901., 4903., 4905., 4907., 1381
4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code, may 1382
administer oaths, certify to official acts, issue subpoenas, and 1383
compel the attendance of witnesses and the production of papers, 1384
waybills, books, accounts, documents, and testimony. 1385

Sec. 4903.01. As used in sections 4903.01 to 4903.25, 1386
~~inclusive,~~ of the Revised Code: 1387

(A) "Public utility" has the same meaning ~~set forth~~ as in 1388
section 4905.02 of the Revised Code. 1389

(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.~~ 1390
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(C) "Railroad" has the same meaning ~~set forth~~ as in section 1397
4907.02 of the Revised Code. 1398

(D) ~~"Motor transportation company" has the meaning set forth
in sections 4905.03 and 4921.02 of the Revised Code.~~ 1399
1400

(E) ~~"Trailer," "public highway," "fixed termini," "regular
route," and "irregular route" have the meaning set forth in
section 4921.02 of the Revised Code.~~ 1401
1402
1403

(F) ~~"Private motor carrier," "contract carrier by motor~~ 1404

vehicle," "motor vehicle," and "charter party trip" have the 1405
meaning set forth in section 4923.02 of the Revised Code. 1406

Sec. 4903.20. All actions and proceedings in the supreme 1407
court under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 1408
4921., ~~and 4923., and 4927.~~ of the Revised Code, and all actions 1409
of proceedings to which the public utilities commission, power 1410
siting board, or this state is a party, and in which any question 1411
arises under ~~such~~ those chapters, or under or concerning any order 1412
or decision of the commission or the board, to reverse, vacate, or 1413
modify an order of the commission or the board, shall be taken up 1414
and disposed of by the court out of their order on the docket. 1415

Sec. 4903.22. Except when otherwise provided by law, all 1416
processes in actions and proceedings in a court arising under 1417
Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., 4923., 1418
and ~~4925- 4927.~~ of the Revised Code shall be served, and the 1419
practice and rules of evidence in such actions and proceedings 1420
shall be the same, as in civil actions. A sheriff or other officer 1421
empowered to execute civil processes shall execute process issued 1422
under ~~such~~ those chapters and receive compensation therefor as 1423
prescribed by law for like services. 1424

Sec. 4903.23. The public utilities commission or power siting 1425
board may charge and collect a fee, which shall not exceed cost, 1426
for furnishing any copy of any paper, record, testimony, or 1427
writing made, taken, or filed under Chapters 4901., 4903., 4905., 1428
4906., 4907., 4909., 4921., ~~and 4923., and 4927.~~ of the Revised 1429
Code, except such transcript and other papers as are required to 1430
be filed in any court proceedings authorized in ~~such~~ those 1431
chapters, whether under seal and certified to or otherwise; and 1432
may charge and collect a fee for certifying a document, which 1433
shall not exceed that charged by the secretary of state under 1434

division (K) of section 111.16 of the Revised Code. All such fees, 1435
itemized, shall be paid into the state treasury on the first day 1436
of each month. 1437

Upon application of any person and payment of the proper fee, 1438
the commission or board shall furnish certified copies under the 1439
seal of the commission or board of any order made by it, which 1440
order is prima-facie evidence in any court of the facts stated in 1441
such copies. The copies of schedules, classifications, and tariffs 1442
of rates, tolls, prices, rentals, regulations, practices, 1443
services, fares, and charges, and copies of all contracts, 1444
agreements, and arrangements between public utilities and 1445
railroads, or either, filed with the commission, and the 1446
statistics, tables, and figures contained in the annual or other 1447
reports of such companies made to the commission as required by 1448
~~such~~ the chapters, shall be preserved as public records in the 1449
custody of the commission and shall be received as prima-facie 1450
evidence of what they purport to be, for the purpose of 1451
investigations and prosecutions by the commission and in all 1452
judicial proceedings. Copies of and extracts from any of such 1453
schedules, classifications, tariffs, contracts, agreements, 1454
arrangements, or reports, made public records, certified by the 1455
commission under its seal, shall be received in evidence with like 1456
effect as the originals. 1457

Sec. 4905.01. As used in this chapter: 1458

(A) "Railroad" has the same meaning ~~set forth~~ as in section 1459
4907.02 of the Revised Code. 1460

(B) "Motor transportation company" has the same meaning ~~set~~ 1461
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 1462

(C) "Trailer~~,"~~ and "public highway~~,"~~ "~~fixed termini,~~" 1463
"~~regular route,~~" and "~~irregular route~~" have the same meanings ~~set~~ 1464
~~forth~~ as in section 4921.02 of the Revised Code. 1465

(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 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 <u>A public utility that are is</u> owned or operated by any municipal corporation;	1497 1498
(D) Railroads <u>A railroad</u> as defined in sections 4907.02 and 4907.03 of the Revised Code;	1499 1500
(E) <u>Any provider, including a telephone company, with respect to its provision of any of the following:</u>	1501 1502
<u>(1) Advanced services as defined in 47 C.F.R. 51.5;</u>	1503
<u>(2) Broadband service, however defined or classified by the federal communications commission;</u>	1504 1505
<u>(3) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);</u>	1506 1507
<u>(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;</u>	1508 1509 1510
<u>(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:</u>	1511 1512 1513
<u>(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.</u>	1514 1515 1516
<u>(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.</u>	1517 1518 1519
Sec. 4905.03. As used in this chapter:	1520
(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:	1521 1522 1523
(1) A telegraph company, when engaged in the business of transmitting telegraphic messages to, from, through, or in this	1524 1525

state;	1526
(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;	1527 1528 1529
(3) <u>(2)</u> 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;	1530 1531 1532 1533 1534 1535 1536
(4) <u>(3)</u> 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;	1537 1538 1539 1540 1541 1542
(5) <u>(4)</u> 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.	1543 1544 1545 1546 1547 1548 1549 1550 1551 1552 1553 1554 1555 1556

~~(6)~~(5) A natural gas company, when engaged in the business of 1557
supplying natural gas for lighting, power, or heating purposes to 1558
consumers within this state. Notwithstanding the above, neither 1559
the delivery nor sale of Ohio-produced natural gas by a producer 1560
or gatherer under a public utilities commission-ordered exemption, 1561
adopted before, as to producers, or after, as to producers or 1562
gatherers, January 1, 1996, or the delivery or sale of 1563
Ohio-produced natural gas by a producer or gatherer of 1564
Ohio-produced natural gas, either to a lessor under an oil and gas 1565
lease of the land on which the producer's drilling unit is 1566
located, or the grantor incident to a right-of-way or easement to 1567
the producer or gatherer, shall cause the producer or gatherer to 1568
be a natural gas company for the purposes of this section. 1569

All rates, rentals, tolls, schedules, charges of any kind, or 1570
agreements between a natural gas company and other natural gas 1571
companies or gas companies providing for the supply of natural gas 1572
and for compensation for the same are subject to the jurisdiction 1573
of the public utilities commission. The commission, upon 1574
application made to it, may relieve any producer or gatherer of 1575
natural gas, defined in this section as a gas company or a natural 1576
gas company, of compliance with the obligations imposed by this 1577
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 1578
of the Revised Code, so long as the producer or gatherer is not 1579
affiliated with or under the control of a gas company or a natural 1580
gas company engaged in the transportation or distribution of 1581
natural gas, or so long as the producer or gatherer does not 1582
engage in the distribution of natural gas to consumers. 1583

Nothing in division (A)~~(6)~~(5) of this section limits the 1584
authority of the commission to enforce sections 4905.90 to 4905.96 1585
of the Revised Code. 1586

~~(7)~~(6) A pipe-line company, when engaged in the business of 1587
transporting natural gas, oil, or coal or its derivatives through 1588

pipes or tubing, either wholly or partly within this state;	1589
(8) <u>(7)</u> 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;	1590 1591 1592
(9) <u>(8)</u> 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;	1593 1594 1595
(10) <u>(9)</u> A messenger company, when engaged in the business of supplying messengers for any purpose;	1596 1597
(11) <u>(10)</u> 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;	1598 1599 1600 1601 1602 1603 1604 1605
(12) <u>(11)</u> 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;	1606 1607 1608 1609 1610
(13) <u>(12)</u> 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	1611 1612 1613 1614 1615 1616 1617 1618 1619

company is included in the term "railroad" as used in section 1620
4907.02 of the Revised Code. 1621

~~(14)~~(13) A sewage disposal system company, when engaged in 1622
the business of sewage disposal services through pipes or tubing, 1623
and treatment works, or in a similar manner, within this state. 1624

(B) "Motor-propelled vehicle" means any automobile, 1625
automobile truck, motor bus, or any other self-propelled vehicle 1626
not operated or driven upon fixed rails or tracks. 1627

Sec. 4905.04. ~~(A)~~ The public utilities commission is hereby 1628
vested with the power and jurisdiction to supervise and regulate 1629
public utilities and railroads, to require all public utilities to 1630
furnish their products and render all services exacted by the 1631
commission or by law, and to promulgate and enforce all orders 1632
relating to the protection, welfare, and safety of railroad 1633
employees and the traveling public, including the apportionment 1634
between railroads and the state and its political subdivisions of 1635
the cost of constructing protective devices at railroad grade 1636
crossings. 1637

~~(B) Subject to sections 4905.041 and 4905.042 of the Revised 1638
Code, division (A) of this section includes such power and 1639
jurisdiction as is reasonably necessary for the commission to 1640
perform pursuant to federal law, including federal regulations, 1641
the acts of a state commission as defined in 47 U.S.C. 153. 1642~~

Sec. 4905.09. A substantial compliance by the public 1643
utilities commission with the requirements of Chapters 4901., 1644
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1645
Revised Code is sufficient to give effect to all its rules, and 1646
~~orders, acts, and regulations. Such~~ Those rules, and orders, ~~acts,~~ 1647
~~and regulations~~ shall not be declared inoperative, illegal, or 1648
void for an omission of a technical nature ~~in respect to such~~ 1649

requirements. ~~Such~~ And, those chapters do not affect, modify, or 1650
repeal any law fixing the rate ~~which~~ that a company operating a 1651
railroad may demand and receive for the transportation of 1652
passengers. 1653

Sec. 4905.12. A railroad company ~~or telegraph company which~~ 1654
that violates section 4905.10, 4907.13, or 4907.15 of the Revised 1655
Code shall forfeit to the state one thousand dollars, and 1656
twenty-five dollars for each day ~~such~~ the company fails to comply 1657
with a requirement of any such ~~sections~~ section. ~~Such~~ The 1658
forfeiture does not release ~~such~~ the company from the assessment 1659
provided in section 4905.10 of the Revised Code. 1660

Sec. 4905.14. (A)(1) Every public utility shall file an 1661
annual report with the public utilities commission. The report 1662
shall be filed at the time and in the form prescribed by the 1663
commission, shall be duly verified, and shall cover the yearly 1664
period fixed by the commission. The commission shall prescribe the 1665
character of the information to be embodied in the annual report, 1666
and shall furnish to each public utility a blank form for it. 1667
Every public utility also shall file a copy of the annual report 1668
with the office of the consumers' counsel; the copy shall be filed 1669
at the same time that the original is filed with the commission. 1670
If any annual report filed with the commission is defective or 1671
erroneous, the commission may order that it be amended within a 1672
prescribed time. Any amendments made pursuant to such an order 1673
shall be filed with the commission and with the office of the 1674
consumers' counsel. Each annual report filed with the commission 1675
shall be preserved in the office of the commission. The commission 1676
may, at any time, require specific answers to questions upon which 1677
it desires information. 1678

(2)(a) Except as provided in division (A)(2)(b) of this 1679
section, in the case of a telephone company, including a wireless 1680

service provider, the annual report shall be limited to 1681
information necessary for the commission to calculate the 1682
assessment provided for in section 4905.10 of the Revised Code. 1683
The commission shall protect any confidential information in every 1684
company and provider report. 1685

(b) With respect to a telephone company subject to section 1686
4905.71 of the Revised Code, the commission shall adopt rules that 1687
require such a telephone company to also include in the annual 1688
report information required by the commission to calculate pole 1689
attachment and conduit occupancy rates and any other information 1690
the commission determines necessary and requires by rule for the 1691
commission to fulfill its responsibility under section 4905.71 of 1692
the Revised Code. 1693

(B) On the first day of July and the first day of November of 1694
each year, each gas company and natural gas company shall file 1695
with the commission a report in quintuplicate stating: 1696

(1) The total demand, stated in terms of cubic feet, that the 1697
company projects will be expected of the company for the following 1698
twelve months; 1699

(2) The pertinent details of supply contracts with pipeline 1700
companies and producers for the following twelve months that they 1701
have executed and the quantity of the gas that they will possess 1702
in storage and will be available for delivery as of the first day 1703
of July and the first day of November; 1704

(3) Where it appears from a comparison of the information 1705
reported in division (B)(1) of this section with that reported in 1706
division (B)(2) of this section that the total demand projected by 1707
the company for the twelve months following the date of the report 1708
will exceed the ability of the company to furnish it, the means 1709
which the company intends to employ in order to prevent any 1710
interruption or curtailment of service. 1711

~~(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. 1743

Sec. 4905.20. No railroad as defined in section 4907.02 of 1744
the Revised Code, operating any railroad in this state, and no 1745
public utility as defined in section 4905.02 of the Revised Code 1746
furnishing service or facilities within this state, shall abandon 1747
or be required to abandon or withdraw any main track or depot of a 1748
railroad, or main pipe line, gas line, ~~telegraph line, telephone~~ 1749
~~toll line,~~ electric light line, water line, sewer line, steam pipe 1750
line, or any portion thereof, pumping station, generating plant, 1751
power station, sewage treatment plant, or service station of a 1752
public utility, or the service rendered thereby, ~~which~~ that has 1753
once been laid, constructed, opened, and used for public business, 1754
nor shall any such facility be closed for traffic or service 1755
thereon, therein, or thereover except as provided in section 1756
4905.21 of the Revised Code. Any railroad or public utility 1757
violating this section shall forfeit and pay into the state 1758
treasury not less than one hundred dollars, nor more than one 1759
thousand dollars, and shall be subject to all other legal and 1760
equitable remedies for the enforcement of this section and section 1761
4905.21 of the Revised Code. 1762

Sec. 4905.21. Any railroad or any political subdivision 1763
desiring to abandon, close, or have abandoned, withdrawn, or 1764
closed for traffic or service all or any part of a main track or 1765
depot, and any public utility or political subdivision desiring to 1766
abandon or close, or have abandoned, withdrawn, or closed for 1767
traffic or service all or any part of any line, pumping station, 1768
generating plant, power station, sewage treatment plant, or 1769
service station, referred to in section 4905.20 of the Revised 1770
Code, shall make application to the public utilities commission in 1771
writing. The commission shall thereupon cause reasonable notice of 1772
the application to be given, stating the time and place fixed by 1773

the commission for the hearing of the application. 1774

Upon the hearing of the application, the commission shall 1775
ascertain the facts and make its findings thereon, and if such 1776
facts satisfy the commission that the proposed abandonment, 1777
withdrawal, or closing for traffic or service is reasonable, 1778
having due regard for the welfare of the public and the cost of 1779
operating the service or facility, it may allow such abandonment, 1780
withdrawal, or closing; otherwise it shall be denied, or if the 1781
facts warrant, the application may be granted in a modified form. 1782
If the application asks for the abandonment or withdrawal of any 1783
main track, main pipe line, gas line, ~~telegraph line, telephone~~ 1784
~~toll line~~, electric light line, water line, sewer line, steam pipe 1785
line, pumping station, generating plant, power station, sewage 1786
treatment plant, service station, or the service rendered thereby, 1787
in such manner as can result in the permanent abandonment of 1788
service between any two points on such railroad, or of service and 1789
facilities of any such public utility, no application shall be 1790
granted unless the railroad or public utility has operated the 1791
track, pipe line, gas line, ~~telegraph line, telephone toll line,~~ 1792
electric light line, water line, sewer line, steam pipe line, 1793
pumping station, generating plant, power station, sewage treatment 1794
plant, or service station for at least five years. ~~Such~~ The notice 1795
shall be given by publication in a newspaper of general 1796
circulation throughout any county or municipal corporation ~~which~~ 1797
that has granted a franchise to the railroad or public utility, 1798
under which the track, pipe line, gas line, ~~telegraph line,~~ 1799
~~telephone toll line,~~ electric light line, water line, sewer line, 1800
steam pipe line, pumping station, generating plant, power station, 1801
sewage treatment plant, or service station is operated or in which 1802
the same is located, once a week for two consecutive weeks before 1803
the hearing of the application. Notice of the hearing shall be 1804
given such county, municipal corporation, or public utility in the 1805
manner provided for the service of orders of the commission in 1806

section 4903.15 of the Revised Code. This section and section 1807
4905.20 of the Revised Code do not apply to a gas company when it 1808
is removing or exchanging abandoned field lines. 1809

This section applies to all service now rendered and 1810
facilities furnished or hereafter built and operated, and an order 1811
of the commission authorizing the abandonment or withdrawal of any 1812
such service or facility shall not affect rights and obligations 1813
of a railroad or public utility beyond the scope of the order, 1814
anything in its franchise to the contrary notwithstanding. 1815

Sec. 4905.26. Upon complaint in writing against any public 1816
utility by any person, firm, or corporation, or upon the 1817
initiative or complaint of the public utilities commission, that 1818
any rate, fare, charge, toll, rental, schedule, classification, or 1819
service, or any joint rate, fare, charge, toll, rental, schedule, 1820
classification, or service rendered, charged, demanded, exacted, 1821
or proposed to be rendered, charged, demanded, or exacted, is in 1822
any respect unjust, unreasonable, unjustly discriminatory, 1823
unjustly preferential, or in violation of law, or that any 1824
regulation, measurement, or practice affecting or relating to any 1825
service furnished by the public utility, or in connection with 1826
such service, is, or will be, in any respect unreasonable, unjust, 1827
insufficient, unjustly discriminatory, or unjustly preferential, 1828
or that any service is, or will be, inadequate or cannot be 1829
obtained, and, upon complaint of a public utility as to any matter 1830
affecting its own product or service, if it appears that 1831
reasonable grounds for complaint are stated, the commission shall 1832
fix a time for hearing and shall notify complainants and the 1833
public utility thereof. ~~Such~~ The notice shall be served not less 1834
than fifteen days before hearing and shall state the matters 1835
complained of. The commission may adjourn such hearing from time 1836
to time. 1837

The parties to the complaint shall be entitled to be heard, 1838
represented by counsel, and to have process to enforce the 1839
attendance of witnesses. 1840

~~Upon the filing of a complaint by one hundred subscribers or 1841
five per cent of the subscribers to any telephone exchange, 1842
whichever number be smaller, or by the legislative authority of 1843
any municipal corporation served by such telephone company that 1844
any regulation, measurement, standard of service, or practice 1845
affecting or relating to any service furnished by the telephone 1846
company, or in connection with such service is, or will be, in any 1847
respect unreasonable, unjust, discriminatory, or preferential, or 1848
that any service is, or will be, inadequate or cannot be obtained, 1849
the commission shall fix a time for the hearing of such complaint. 1850~~

~~The hearing provided for in the next preceding paragraph 1851
shall be held in the county wherein resides the majority of the 1852
signers of such complaint, or wherein is located such municipal 1853
corporation. Notice of the date, time of day, and location of the 1854
hearing shall be served upon the telephone company complained of, 1855
upon each municipal corporation served by the telephone company in 1856
the county or counties affected, and shall be published for not 1857
less than two consecutive weeks in a newspaper of general 1858
circulation in the county or counties affected. 1859~~

~~Such hearing shall be held not less than fifteen nor more 1860
than thirty days after the second publication of such notice. 1861~~

Sec. 4905.30. ~~Every~~ (A) A public utility shall print and file 1862
with the public utilities commission schedules showing all rates, 1863
joint rates, rentals, tolls, classifications, and charges for 1864
service of every kind furnished by it, and all rules and 1865
regulations affecting them. ~~Such~~ The schedules shall be plainly 1866
printed and kept open to public inspection. The commission may 1867
prescribe the form of every such schedule, and may prescribe, by 1868

order, changes in the form of such schedules. The commission may 1869
establish and modify rules and regulations for keeping such 1870
schedules open to public inspection. A copy of ~~such~~ the schedules, 1871
or so much thereof as the commission deems necessary for the use 1872
and information of the public, shall be printed in plain type and 1873
kept on file or posted in such places and in such manner as the 1874
commission orders. 1875

(B) Division (A) of this section applies to a telephone 1876
company only regarding rates, joint rates, tolls, classifications, 1877
charges, rules, and regulations established pursuant to sections 1878
4905.71, 4927.12, 4927.13, 4927.14, 4927.15, 4927.18, and 4931.47 1879
of the Revised Code. 1880

Sec. 4905.34. Except as provided in sections 4905.33 and 1881
4905.35 and Chapter 4928. of the Revised Code, Chapters 4901., 1882
4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the 1883
Revised Code do not prevent any public utility or railroad from 1884
granting any of its property for any public purpose, or granting 1885
reduced rates or free service of any kind to the United States, to 1886
the state or any political subdivision of the state, for 1887
charitable purposes, for fairs or expositions, to a law 1888
enforcement officer residing in free housing provided pursuant to 1889
section 3735.43 of the Revised Code, or to any officer or employee 1890
of such public utility or railroad or the officer's or employee's 1891
family. All contracts and agreements made or entered into by such 1892
public utility or railroad for such use, reduced rates, or free 1893
service are valid and enforcible at law. As used in this section, 1894
"employee" includes furloughed, pensioned, and superannuated 1895
employees. 1896

Sec. 4905.40. (A) A public utility or a railroad may, when 1897
authorized by order of the public utilities commission, issue 1898
stocks, bonds, notes, and other evidences of indebtedness, payable 1899

at periods of more than twelve months after their date of 1900
issuance, when necessary: 1901

(1) For the acquisition of property, the construction, 1902
completion, extension, renewal, or improvement of its facilities, 1903
or the improvement of its service; or 1904

(2) For reorganization or readjustment of its indebtedness 1905
and capitalization, for the discharge or lawful refunding of its 1906
obligation, or for the reimbursement of moneys actually expended 1907
for such purposes from income or from any other moneys in the 1908
treasury of the public utility or railroad not secured or obtained 1909
from the issue of stocks, bonds, notes, or other evidences of 1910
indebtedness of such public utility or railroad. No reimbursement 1911
of moneys expended for such purposes from income or other moneys 1912
in the treasury shall be authorized unless the applicant has kept 1913
its accounts and vouchers of such expenditures in such manner as 1914
to enable the commission to ascertain the amount and purposes of 1915
such expenditures. 1916

(B) Any public utility, subject to the jurisdiction of the 1917
commission, may, when authorized by the commission, issue shares 1918
of common capital stock to acquire or pay for shares of common 1919
capital stock of a public utility of this or an adjoining state 1920
whose property is so located as to permit the operation of the 1921
properties of such utilities as an integrated system if the 1922
applicant owns, or by this issue will acquire, not less than 1923
sixty-five per cent of the issued and outstanding common capital 1924
shares of the company whose shares are to be acquired, and if the 1925
consideration to be capitalized by the acquiring company does not 1926
exceed the par or stated value at which the shares so acquired 1927
were issued. 1928

(C) Any bonds, notes, or other evidences of indebtedness 1929
payable at periods of more than twelve months after their date may 1930
be issued as provided in sections 4905.40 to 4905.43 of the 1931

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 1963
issued for the purpose of financing oil or natural gas drilling, 1964
producing, gathering, and associated activities and facilities by 1965
a producer which supplies to no more than twenty purchasers only 1966
such gas as is produced, gathered, or purchased by such producer 1967
within this state. 1968

(H) Each public utility seeking authorization from the 1969
commission for the issuance of securities to finance the 1970
installation, construction, extension, or improvement of an air 1971
quality facility, as defined in section 3706.01 of the Revised 1972
Code, shall consider the availability of financing therefor from 1973
the Ohio air quality development authority and shall demonstrate 1974
to the commission that the proposed financing will be obtained on 1975
the best terms obtainable. 1976

(I) This section does not apply to a telephone company. 1977

Sec. 4905.402. (A) As used in this section: 1978

(1) "Control" means the possession of the power to direct the 1979
management and policies of a domestic telephone company or a 1980
holding company of a domestic telephone company, or the management 1981
and policies of a domestic electric utility or a holding company 1982
of a domestic electric utility, through the ownership of voting 1983
securities, by contract, or otherwise, but does not include the 1984
power that results from holding an official position or the 1985
possession of corporate office with the domestic company or 1986
utility or the holding company. Control is presumed to exist if 1987
any person, directly or indirectly, owns, controls, holds the 1988
power to vote, or holds with the power to vote proxies that 1989
constitute, twenty per cent or more of the total voting power of 1990
the domestic company or utility or the holding company. 1991

(2) "Electric utility" has the same meaning as in section 1992
4928.07 of the Revised Code. 1993

(3) "Holding company" excludes any securities broker performing the usual and customary broker's function. 1994
1995

(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. 1996
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(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. 2001
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(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 2022
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provided for an application under division (B) of this section. 2026

(D) The commission shall adopt such rules as it finds 2027
necessary to carry out the provisions of this section. 2028

~~(D)~~(E) If it appears to the commission or to any person that 2029
may be adversely affected that any person is engaged in or about 2030
to engage in any acts or practices that would violate division (B) 2031
or (C) of this section or any provision of a rule adopted under 2032
this section, the attorney general, when directed to do so by the 2033
commission, or the person claiming to be adversely affected may 2034
bring an action in any court of common pleas that has jurisdiction 2035
and venue to enjoin such acts or practices and enforce compliance 2036
~~with this section~~. Upon a proper showing, the court shall grant, 2037
without bond, a restraining order or temporary or permanent 2038
injunction. 2039

~~(E)~~(F) The courts of this state have jurisdiction over every 2040
person not a resident of or domiciled or authorized to do business 2041
in this state that files, or is prohibited from acting without 2042
first filing, an application under division (B) or (C) of this 2043
section, and over all actions involving such person arising out of 2044
violations of any provision of this section or of a rule adopted 2045
under this section. The secretary of state shall be the agent for 2046
service of process for any such person in any action, suit, or 2047
proceeding arising out of such violations ~~of this section~~. Copies 2048
of all such lawful process shall be served upon the secretary of 2049
state and transmitted by certified mail, with return receipt 2050
requested, by the secretary of state to such person at the 2051
person's last known address. 2052

Sec. 4905.41. The proceedings for obtaining the authority of 2053
the public utilities commission for the issue of stocks, bonds, 2054
notes and other evidences of indebtedness, as provided in section 2055
4905.40 of the Revised Code, shall be as follows: 2056

(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 2087
treasurer setting forth: 2088

(1) The amount and character of the stocks, bonds, or other 2089
evidence of indebtedness proposed to be issued; 2090

(2) The purposes for which they are to be issued; 2091

(3) The description and estimated value of the property or 2092
services for which they are to be issued; 2093

(4) The terms on which they are to be issued or exchanged; 2094

(5) The amount of money to be received in addition to the 2095
property, service, or other consideration; 2096

~~(6) If the application is made by a telephone company, that 2097
the company is not in violation of section 4905.23 of the Revised 2098
Code and is not in violation of any order of the commission made 2099
under sections 4905.231 and 4905.381 of the Revised Code. 2100~~

~~(7) The total assets and liabilities and an income statement 2101
of the public utility or railroad in such detail as the commission 2102
requires; 2103~~

~~(8)~~(7) Such other facts and information pertinent to the 2104
inquiry as the commission requires. 2105

This section and section 4905.40 of the Revised Code do not 2106
apply to union depot companies organized and under contract prior 2107
to June 30, 1911, until the same are completed. 2108

This section does not apply to a telephone company. 2109

Sec. 4905.42. To determine whether it should issue the order 2110
referred to in section 4905.40 of the Revised Code, the public 2111
utilities commission shall hold such hearings, make such inquiries 2112
or investigations, and examine such witnesses, books, papers, 2113
documents, and contracts as it deems proper. 2114

An order issued under this section shall fix the amount, 2115

character, and terms of any issue of stocks, bonds, notes, or 2116
other evidence of indebtedness, and the purposes to which the 2117
issue or any proceeds of it shall be applied, shall recite that 2118
the money, property, consideration, or labor procured or to be 2119
procured or paid for by such issue was or is reasonably required 2120
for the purposes specified in the order, and shall recite the 2121
value of any property, consideration, or service, as found by the 2122
commission, for which in whole or in part such issue is proposed 2123
to be made. 2124

No public utility or railroad shall, without the consent of 2125
the commission, apply any such issue or its proceeds to any 2126
purpose not specified in the order. Such public utilities or 2127
railroads may issue notes for proper corporate purposes, payable 2128
at periods of not more than twelve months, without the consent of 2129
the commission, but no such notes shall, in whole or in part, 2130
directly or indirectly, be refunded by any issue of stocks or 2131
bonds, or by any evidence of indebtedness, running for more than 2132
twelve months, without the consent of the commission. 2133

All stocks, bonds, notes, or other evidence of indebtedness 2134
issued by any public utility or railroad without the permission of 2135
the commission are void. No interstate railroad or public utility 2136
shall be required to apply to the commission for authority to 2137
issue stocks, bonds, notes, or other evidence of indebtedness for 2138
the acquisition of property, the construction, completion, 2139
extension, or improvement of its facilities, or the improvement or 2140
maintenance of its service outside this state, or for authority 2141
for the discharge or refunding of obligations issued or incurred 2142
for such purposes or the reimbursement of moneys actually expended 2143
for such purposes outside this state. 2144

No pipe-line company—when engaged in the business of 2145
transporting oil through pipes or tubing, either wholly or 2146
partly—within this state, shall be required to apply to the 2147

commission for authority to issue stocks, bonds, notes, or other 2148
evidence of indebtedness for the purpose of acquiring or paying 2149
for stocks, bonds, notes, or other evidence of indebtedness of any 2150
other corporation organized under the laws of this state, any 2151
other state, the District of Columbia, the United States, any 2152
territory of the United States, any foreign country, or otherwise. 2153

No company that is both a pipe-line company engaged as such 2154
in the business of transporting natural gas through pipes or 2155
tubing in interstate commerce, wholly or partly within this state, 2156
and a natural gas company engaged as such in this state solely in 2157
the business of supplying natural gas to gas companies or to 2158
natural gas companies shall be required to apply to the commission 2159
for authority to issue stocks, bonds, notes, or other evidence of 2160
indebtedness. 2161

This section does not apply to a telephone company. 2162

Sec. 4905.45. Public utility or railroad corporations may, 2163
incident to the sale or pledge of bonds, notes, or other 2164
securities owned by them, jointly or severally indorse such 2165
securities and guarantee due payment of them, in any case in which 2166
such indorsement and guarantee is authorized by the public 2167
utilities commission or the interstate commerce commission. 2168

This section does not apply to telephone companies. 2169

Sec. 4905.46. (A) No public utility or railroad shall declare 2170
any stock, bond, or scrip dividend or distribution, or divide the 2171
proceeds of the sale of any stock, bond, or scrip among its 2172
stockholders, unless it is authorized to do so by the public 2173
utilities commission. 2174

~~(B) No telephone company shall declare any cash, stock, bond,~~ 2175
~~or scrip dividend or distribution, or divide the proceeds of the~~ 2176
~~sale of any stock, bond, or scrip among its common or voting~~ 2177

~~shareholders, while such telephone company is in violation of any 2178
order of the commission, or against which telephone company there 2179
exists a finding of inadequate service, except when the public 2180
utilities commission makes a finding after hearing and notice, as 2181
provided in section 4905.26 of the Revised Code, that such 2182
dividend or distribution will in no way postpone compliance with 2183
any order or affect the adequacy of service rendered or to be 2184
rendered by such telephone company. If a telephone company, while 2185
in violation of any order of the commission, or against which 2186
there exists a finding of inadequate service, desires to declare a 2187
cash dividend or distribution without the consent of the 2188
commission, it shall set aside in a special reserve fund a sum of 2189
money equivalent to the amount necessary to pay the proposed 2190
dividend or distribution, which, while said company is in 2191
violation of said order or against which such finding exists, may 2192
be expended only with the consent of the commission This section 2193
does not apply to telephone companies. 2194~~

Sec. 4905.47. The public utilities commission shall not 2195
authorize the capitalization of any franchise or right to own, 2196
operate, or enjoy any franchise in excess of the amount, exclusive 2197
of any tax or annual charge, actually paid to any political 2198
subdivision of the state or county as the consideration for the 2199
grant of such franchise or right, nor shall the capital stock of a 2200
public utility or railroad corporation formed by the merger or 2201
consolidation of two or more corporations exceed the sum of the 2202
capital stock of the corporations consolidated or merged, at the 2203
par value of such stock, and such sum or any additional sum 2204
actually paid in cash. No contract for consolidation or lease 2205
shall be capitalized in the stock of any public utility or 2206
railroad corporation, and no such corporation shall issue any 2207
bonds against or as a lien upon any contract for consolidation or 2208
merger. The aggregate amount of the debt of such consolidated 2209

companies by reason of such consolidation shall not be increased. 2210

This section does not apply to telephone companies. 2211

Sec. 4905.51. Every public utility having any equipment on, 2212
over, or under any street or highway shall, subject to section 2213
4951.04 of the Revised Code, for a reasonable compensation, permit 2214
the use of such equipment by any other public utility whenever the 2215
public utilities commission determines, as provided in section 2216
4905.51 of the Revised Code, that public convenience, welfare, and 2217
necessity require such use or joint use, and that such use or 2218
joint use will not result in irreparable injury to the owner or 2219
other users of such equipment or any substantial detriment to the 2220
service to be rendered by such owners or other users. 2221

In case of failure to agree upon such use or joint use, or 2222
upon the conditions or compensation for such use or joint use, any 2223
public utility may apply to the commission, and if after 2224
investigation the commission ascertains that the public 2225
convenience, welfare, and necessity require such use or joint use 2226
and that it would not result in irreparable injury to the owner or 2227
other users of such property or equipment or in any substantial 2228
detriment to the service to be rendered by such owner or other 2229
users, the commission shall direct that such use or joint use be 2230
permitted and prescribe reasonable conditions and compensation for 2231
such joint use. 2232

Such use or joint use so ordered shall be permitted and such 2233
conditions and compensation so prescribed shall be the lawful 2234
conditions and compensation to be observed, followed, and paid, 2235
subject to recourse to the courts by any interested party as 2236
provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 2237
4923., and ~~4925.~~ 4927. of the Revised Code. The commission may 2238
revoke or revise any such order. 2239

Sec. 4905.52. No officer, agent, or employee of a railroad 2240
company shall refuse to answer a question propounded to ~~him~~ the 2241
officer, agent, or employee by a public utilities commissioner in 2242
the course of an examination authorized by Chapters 4901., 4903., 2243
4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised 2244
Code. The property of the railroad company of which such person is 2245
an officer, agent, or employee, is liable to be taken in execution 2246
to satisfy the fines and costs in case of a violation of this 2247
section. 2248

Sec. 4905.58. All prosecutions against a railroad ~~or~~ 2249
~~telegraph company,~~ or an officer, agent, or employee thereof, 2250
under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 2251
4923., ~~and 4925.~~ and other sections of the Revised Code for 2252
penalties involving imprisonment shall be by indictment. 2253

Sec. 4905.59. If the public utilities commission, the officer 2254
requested by it, or a village solicitor or city director of law, 2255
when the cause of action arises in a municipal corporation, fails 2256
to prosecute a civil action for forfeiture against a railroad ~~or~~ 2257
~~telegraph company,~~ or an officer, agent, or employee thereof as 2258
provided by law, the prosecuting attorney of the county in which a 2259
cause of action for forfeiture arises, upon the request of any 2260
taxpayer of the county, shall bring such action if ~~he~~ the 2261
prosecuting attorney is furnished with evidence ~~which~~ that in ~~his~~ 2262
the prosecuting attorney's judgment will sustain it. If the action 2263
fails, the costs of the action shall be adjudged against the 2264
county. 2265

If a cause of action for forfeiture arises within a municipal 2266
corporation, and the commission, the officer requested by it, or 2267
the prosecuting attorney, fails to prosecute such action, the 2268
village solicitor or city director of law of the municipal 2269

corporation, when required by resolution of the legislative 2270
authority, shall institute the action and prosecute it to final 2271
judgment. If the action fails, the cost of the action shall be 2272
adjudged against the municipal corporation. The time for notice of 2273
appeal and giving a bond does not apply to cases within the 2274
meaning of this section. 2275

Sec. 4905.61. If any public utility or railroad does, or 2276
causes to be done, any act or thing prohibited by Chapters 4901., 2277
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 2278
Revised Code, or declared to be unlawful, or omits to do any act 2279
or thing required by ~~such~~ the provisions of those chapters, or by 2280
order of the public utilities commission, ~~such~~ the public utility 2281
or railroad is liable to the person, firm, or corporation injured 2282
thereby in treble the amount of damages sustained in consequence 2283
of ~~such~~ the violation, failure, or omission. Any recovery under 2284
this section does not affect a recovery by the state for any 2285
penalty provided for in ~~such~~ the chapters. 2286

Sec. 4905.63. ~~Companies~~ A company formed to acquire property 2287
or to transact business ~~which~~ that would be subject to Chapters 2288
4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. 2289
of the Revised Code, and ~~companies~~ a company owning or possessing 2290
franchises for any of the purposes contemplated in ~~such~~ those 2291
chapters, ~~are~~ are subject to ~~such~~ those chapters' provisions, 2292
although no property has been acquired, no business has been 2293
transacted, or no franchises have been exercised by ~~them~~ the 2294
company. 2295

Sec. 4905.71. (A) Every telephone, ~~telegraph,~~ or electric 2296
light company, ~~which~~ that is a public utility as defined by 2297
section 4905.02 of the Revised Code, ~~shall~~ shall permit, upon reasonable 2298
terms and conditions and the payment of reasonable charges, the 2299

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; 2331

(2) Require the public utility to absolve the aggrieved 2332
consumer of any liability for any charges assessed the consumer, 2333
or refund to the aggrieved consumer any charges collected from the 2334
consumer, by the public utility during the thirty-day period after 2335
the violation or failure to comply occurred or, where appropriate, 2336
during such other period after that occurrence as determined 2337
reasonable by the commission; 2338

(3) Require the public utility to refund or pay to the 2339
aggrieved consumer any fees paid or costs incurred by the consumer 2340
resulting from the change of the consumer's service provider or 2341
providers, or from the resumption of the consumer's service with 2342
the service provider or providers from which the consumer was 2343
switched; 2344

(4) Require the public utility to make the consumer whole 2345
regarding any bonuses or benefits, such as airline mileage or 2346
product discounts, to which the consumer is entitled, by restoring 2347
bonuses or benefits the consumer lost as a result of the violation 2348
or failure to comply and providing bonuses or benefits the 2349
consumer would have earned if not for the violation or failure to 2350
comply, or by providing something of equal value. 2351

(C) In addition to the remedies under division (B) of this 2352
section, if the commission finds, after notice and hearing 2353
pursuant to section 4905.26 of the Revised Code, that a public 2354
utility has violated section 4905.72 of the Revised Code, the 2355
commission, by order, may impose any of the following remedies or 2356
forfeitures: 2357

(1) Require the public utility to comply or undertake any 2358
necessary corrective action; 2359

(2) Require the public utility to compensate the service 2360
provider or providers from which the aggrieved consumer was 2361

switched in the amount of all charges the consumer would have paid 2362
that particular service provider for the same or comparable 2363
service had the violation or failure to comply not occurred; 2364

(3) Require the public utility to compensate the service 2365
provider or providers from which the aggrieved consumer was 2366
switched for any costs that the particular service provider incurs 2367
as a result of making the consumer whole as provided in division 2368
(B)(4) of this section or of effecting the resumption of the 2369
consumer's service; 2370

(4) Assess upon the public utility forfeitures of not more 2371
than one thousand dollars for each day of each violation or 2372
failure to comply. However, if the commission finds that the 2373
public utility has engaged or is engaging in a pattern or practice 2374
of committing any such violations or failures to comply, the 2375
commission may assess upon the public utility forfeitures of not 2376
more than five thousand dollars for each day of each violation or 2377
failure. Any forfeiture collected pursuant to this division shall 2378
be deposited into the state treasury to the credit of the general 2379
revenue fund. 2380

(5) Require the public utility to file with the commission a 2381
security payable to the state in such amount and upon such terms 2382
as the commission determines necessary to ensure compliance and 2383
payment of any forfeitures assessed pursuant to division (C)(4) of 2384
this section; 2385

(6) Rescind the public utility's authority to provide natural 2386
gas service or public telecommunications service within this 2387
state. 2388

(D) Proceedings of the commission pursuant to division (B) or 2389
(C) of this section are governed by Chapter 4903. of the Revised 2390
Code. 2391

(E) The commission may direct the attorney general to 2392

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. 2424

(B) For the sole purpose of funding telecommunications relay 2425
service, the commission shall, not earlier than January 1, 2009, 2426
impose on and collect from each service provider that is required 2427
under federal law to provide its customers access to 2428
telecommunications relay service an annual assessment to pay for 2429
costs incurred by the TRS provider for providing such service in 2430
Ohio. The commission shall determine the appropriate service 2431
providers to be assessed the telecommunications relay service 2432
costs, including telephone companies as defined in division 2433
(A)~~(2)~~(1) of section 4905.03 of the Revised Code, commercial 2434
mobile radio service providers, and providers of advanced services 2435
or internet protocol-enabled services that are competitive with or 2436
functionally equivalent to basic local exchange service as defined 2437
in section 4927.01 of the Revised Code. 2438

(C) The assessment shall be allocated proportionately among 2439
the appropriate service providers using a competitively neutral 2440
formula established by the commission based on the number of 2441
retail intrastate customer access lines or their equivalent. The 2442
commission shall annually reconcile the funds collected with the 2443
actual costs of providing telecommunications relay service when it 2444
issues the assessment and shall either proportionately charge the 2445
service providers for any amounts not sufficient to cover the 2446
actual costs or proportionately credit amounts collected in excess 2447
of the actual costs. The total amount assessed from all service 2448
providers shall not exceed the total telecommunications relay 2449
service costs. 2450

Each service provider that pays the assessment shall be 2451
permitted to recover the cost of the assessment. The method of 2452
recovery may include, but is not limited to, a customer billing 2453
surcharge. 2454

The commission shall deposit the money collected in the 2455

telecommunications relay service fund, which is hereby created in 2456
the state treasury, and shall use the money in that fund solely to 2457
compensate the TRS provider. 2458

(D) The commission shall take such measures as it considers 2459
necessary to protect the confidentiality of information provided 2460
to the commission pursuant to this section by service providers 2461
required to pay the assessment. 2462

(E) The commission may assess a forfeiture of not more than 2463
one thousand dollars on any service provider failing to comply 2464
with this section. Each day's continuance of such failure is a 2465
separate offense. The forfeiture shall be recovered in accordance 2466
with sections 4905.55 to 4905.60 of the Revised Code. 2467

(F) The jurisdiction and authority granted to the commission 2468
by this section is limited to the administration and enforcement 2469
of this section. The commission may adopt such rules as it finds 2470
necessary to carry out this section. The commission shall adopt 2471
rules under section 111.15 of the Revised Code to establish the 2472
assessment amounts and procedures. 2473

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the 2474
Revised Code: 2475

(A) "Contiguous property" includes, but is not limited to, a 2476
manufactured home park as defined in section 3733.01 of the 2477
Revised Code; a public or publicly subsidized housing project; an 2478
apartment complex; a condominium complex; a college or university; 2479
an office complex; a shopping center; a hotel; an industrial park; 2480
and a race track. 2481

(B) "Gas" means natural gas, flammable gas, or gas which is 2482
toxic or corrosive. 2483

(C) "Gathering lines" and the "gathering of gas" have the 2484
same meaning as in the Natural Gas Pipeline Safety Act and the 2485

rules adopted by the United States department of transportation 2486
pursuant to the Natural Gas Pipeline Safety Act, including 49 2487
C.F.R. part 192, as amended. 2488

(D) "Intrastate pipe-line transportation" has the same 2489
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 2490
amended, but excludes the gathering of gas exempted by the Natural 2491
Gas Pipeline Safety Act. 2492

(E) "Master-meter system" means a pipe-line system that 2493
distributes gas within a contiguous property for which the system 2494
operator purchases gas for resale to consumers, including tenants. 2495
Such pipe-line system supplies consumers who purchase the gas 2496
directly through a meter, or by paying rent, or by other means. 2497
The term includes a master-meter system as defined in 49 C.F.R. 2498
191.3, as amended. The term excludes a pipeline within a 2499
manufactured home, mobile home, or a building. 2500

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 2501
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 2502
et seq., as amended. 2503

(G) "Operator" means any of the following: 2504

(1) A gas company or natural gas company as defined in 2505
section 4905.03 of the Revised Code, except that division 2506
(A)~~(6)~~(5) of that section does not authorize the public utilities 2507
commission to relieve any producer of gas, as a gas company or 2508
natural gas company, of compliance with sections 4905.90 to 2509
4905.96 of the Revised Code or the pipe-line safety code created 2510
under section 4905.91 of the Revised Code; 2511

(2) A pipe-line company, as defined in section 4905.03 of the 2512
Revised Code, when engaged in the business of transporting gas by 2513
pipeline; 2514

(3) A public utility that is excepted from the definition of 2515
"public utility" under division (B) or (C) of section 4905.02 of 2516

the Revised Code, when engaged in supplying or transporting gas by pipeline within this state;	2517 2518
(4) Any person that owns, operates, manages, controls, or leases any of the following:	2519 2520
(a) Intrastate pipe-line transportation facilities within this state;	2521 2522
(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act;	2523 2524
(c) A master-meter system within this state.	2525
"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.	2526 2527 2528
(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.	2529 2530 2531 2532 2533
(I) "Person" means:	2534
(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;	2535 2536 2537
(2) Any trustee, receiver, assignee, or personal representative of persons defined in division (H)(1) of this section.	2538 2539 2540
(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.	2541 2542 2543 2544 2545
(K) "Safety inspection" means any inspection, survey, or	2546

testing of a master-meter system which is authorized or required 2547
by sections 4905.90 to 4905.96 of the Revised Code and the 2548
pipe-line safety code. The term includes, but is not limited to, 2549
leak surveys, inspection of regulators and critical valves, and 2550
monitoring of cathodic protection systems, where applicable. 2551

(L) "Safety-related condition" means any safety-related 2552
condition defined in 49 C.F.R. 191.23, as amended. 2553

(M) "Total Mcfs of gas it supplied or delivered" means the 2554
sum of the following volumes of gas that an operator supplied or 2555
delivered, measured in units per one thousand cubic feet: 2556

(1) Residential sales; 2557

(2) Commercial and industrial sales; 2558

(3) Other sales to public authorities; 2559

(4) Interdepartmental sales; 2560

(5) Sales for resale; 2561

(6) Transportation of gas. 2562

Sec. 4905.99. (A) Whoever violates section 4905.52 of the 2563
Revised Code shall be fined not less than fifty nor more than five 2564
hundred dollars. 2565

(B) Whoever violates section 4905.56 of the Revised Code is 2566
guilty of a felony of the fifth degree. 2567

~~(C) Coincident with the operation of section 4905.78 of the 2568
Revised Code, whoever violates that section is guilty of a 2569
misdemeanor of the fourth degree. 2570~~

~~(D) Whoever violates section 4905.74 of the Revised Code is 2571
guilty of a misdemeanor of the third degree. 2572~~

Sec. 4907.01. As used in sections 4907.01 to 4907.63~~7~~ 2573
~~inclusive,~~ of the Revised Code: 2574

(A) "Public utility" has the same meaning ~~set forth as~~ in section 4905.02 of the Revised Code. 2575
2576

(B) ~~"Telegraph company," "telephone Telephone company,"~~ 2577
~~"electric light company," "gas company," "natural gas company,"~~ 2578
~~"pipe line company," "water works company," "sewage disposal~~ 2579
~~system company," "heating or cooling company," "messenger~~ 2580
~~company," "street railway company," "suburban railroad company,"~~ 2581
and "interurban railroad company," and "motor propelled vehicle" 2582
have the ~~meaning set forth~~ same meanings as in section 4905.03 of 2583
the Revised Code. 2584

(C) "Railroad" has the same meaning ~~set forth as~~ in section 4907.02 of the Revised Code. 2585
2586

(D) ~~"Motor transportation company," "trailer," "public Public~~ 2587
~~highway," "fixed termini," "regular route," and "irregular route"~~ 2588
have has the same meaning ~~set forth as~~ in sections 4905.03 and 2589
4921.02 of the Revised Code. 2590

~~(E) "Private motor carrier," "contract carrier by motor~~ 2591
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2592
~~meaning set forth in section 4923.02 of the Revised Code.~~ 2593

Sec. 4907.14. Within thirty days after the election of the 2594
directors of a railroad ~~or telegraph company~~ doing business in 2595
this state, the secretary of ~~such companies~~ the railroad shall 2596
forward to the public utilities commission a list of the officers 2597
and directors thereof, giving the place of residence and 2598
post-office address of each. If a change occurs in the 2599
organization of the officers or board of directors of a railroad 2600
~~or telegraph company~~, the secretary shall notify the commission of 2601
such change and the residence and post-office address of each of 2602
the officers and directors. 2603

Sec. 4907.30. No railroad company owning or operating a 2604

railroad wholly or partly within this state shall, directly or 2605
indirectly, issue or give a free ticket, free pass, or free 2606
transportation for passengers, except to: 2607

(A) Its employees and their families, its officers, agents, 2608
surgeons, physicians, and attorneys at law; 2609

(B) Ministers of religion, traveling secretaries of railroad 2610
young men's or young women's ~~christian~~ Christian associations, 2611
inmates of hospitals and charitable institutions, and persons 2612
exclusively engaged in charitable work; 2613

(C) Indigent, destitute, and homeless persons, and to such 2614
persons when transported by charitable societies or hospitals, and 2615
the necessary agents employed in such transportation; 2616

(D) Residents of the national homes or state homes for 2617
disabled volunteer soldiers, and residents of veterans' homes, 2618
including those about to enter and those returning home after 2619
discharge, and boards of managers of such homes; 2620

(E) Necessary caretakers of livestock, poultry, and fruit; 2621

(F) Employees on sleeping cars, ~~and~~ or express cars; 2622

(G) Line workers of ~~telegraph and~~ telephone companies; 2623

(H) Railway mail service employees, post-office inspectors, 2624
custom inspectors, and immigration inspectors; 2625

(I) News carriers on trains, baggage agents, witnesses 2626
attending any legal investigation in which the railroad is 2627
interested, persons injured in wrecks, and physicians and nurses 2628
attending such persons. 2629

As used in this section, "employee" includes furloughed, 2630
pensioned, and superannuated employees, persons who have become 2631
disabled or infirm in the service of any such common carrier, the 2632
remains of a person killed in the employment of a carrier, and 2633
ex-employees traveling for the purpose of entering the service of 2634

any such common carrier, and "families" includes the families of 2635
such persons and also the surviving spouses and dependent children 2636
of employees who died while in the service of any common carrier. 2637

Sec. 4909.01. As used in this chapter: 2638

(A) "Public utility" has the same meaning ~~set forth~~ as in 2639
section 4905.02 of the Revised Code. 2640

(B) ~~"Telegraph company," "telephone company," "electric~~ 2641
Electric light company," "gas company," "natural gas company," 2642
"pipeline company," "water-works company," "sewage disposal system 2643
company," ~~"heating or cooling company," "messenger company," and~~ 2644
~~"street railway company," "suburban railroad company," "interurban~~ 2645
~~railroad company," and "motor propelled vehicle"~~ have the same 2646
meanings ~~set forth~~ as in section 4905.03 of the Revised Code. 2647

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2648
4907.02 of the Revised Code. 2649

(D) "Motor transportation company" has the same meaning ~~set~~ 2650
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 2651

~~(E) "Trailers," "public highway," "fixed termini," "regular~~ 2652
~~route," and "irregular route" have the meanings set forth in~~ 2653
~~section 4921.02 of the Revised Code.~~ 2654

~~(F) "Private motor carrier," "contract carrier by motor~~ 2655
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2656
~~meanings set forth in section 4923.02 of the Revised Code.~~ 2657

Sec. 4909.02. All regulations, practices, and service of 2658
railroad companies ~~and telegraph companies~~ prescribed by the 2659
public utilities commission shall be in force and be prima-facie 2660
reasonable, unless suspended or found otherwise in an action 2661
brought for that purpose pursuant to Chapters 4901., 4903., 4905., 2662
4907., 4909., 4921., and 4923. of the Revised Code, or until 2663

changed or modified by the commission. 2664

Sec. 4909.03. All rates, fares, charges, classifications, and 2665
joint rates of railroad companies ~~and telegraph companies~~ fixed by 2666
the public utilities commission shall be in force and be 2667
prima-facie lawful for two years from the day they take effect, or 2668
until changed or modified by the commission or by an order of a 2669
competent court in an action under Chapters 4901., 4903., 4905., 2670
4907., 4909., 4921., and 4923., ~~and 4925.~~ of the Revised Code. 2671

Sec. 4909.17. No rate, joint rate, toll, classification, 2672
charge, or rental, no change in any rate, joint rate, toll, 2673
classification, charge, or rental, and no regulation or practice 2674
affecting any rate, joint rate, toll, classification, charge, or 2675
rental of a public utility shall become effective until the public 2676
utilities commission, by order, determines it to be just and 2677
reasonable, except as provided in this section and sections 2678
4909.18 and 4909.19 of the Revised Code. Such sections do not 2679
apply to any rate, joint rate, toll, classification, charge, or 2680
rental, or any regulation or practice affecting the same, of 2681
railroads, street and electric railways, motor transportation 2682
companies, ~~telegraph companies,~~ and pipe line companies. ~~Any~~ 2683
~~change of any rate, joint rate, toll, classification, charge, or~~ 2684
~~rental, or any regulation or practice affecting the same, of~~ 2685
~~telegraph companies, may be made in the same manner as such~~ 2686
~~changes may be made by railroad companies. All laws respecting~~ 2687
~~such changes by railroad companies apply to such changes by~~ 2688
~~telegraph companies.~~ 2689

Sec. 4911.01. As used in this chapter: 2690

(A) "Public utility" means every one as defined in divisions 2691
(A)(1), ~~(2)~~ (3), (4), (5), (6), (7), (8), ~~(9)~~, and ~~(14)~~ (13) of 2692
section 4905.03 of the Revised Code, including all public 2693

utilities that ~~operating~~ operate their utilities not for profit, 2694
except the following: 2695

(1) Electric light companies that operate their utilities not 2696
for profit; 2697

(2) Public utilities, other than telephone companies, that 2698
are owned and operated exclusively by and solely for the 2699
utilities' customers; 2700

(3) Public utilities that are owned or operated by any 2701
municipal corporation; 2702

(4) Railroads as defined in sections 4907.02 and 4907.03 of 2703
the Revised Code. 2704

(B) "Residential consumer" means urban, suburban, and rural 2705
patrons of public utilities insofar as their needs for utility 2706
services are limited to their residence. 2707

Sec. 4921.01. As used in sections 4921.01 to 4921.32~~7~~ 2708
~~inclusive,~~ of the Revised Code: 2709

(A) "Public utility" has the same meaning ~~set forth~~ as in 2710
section 4905.02 of the Revised Code. 2711

(B) "~~Telegraph company," "telephone company," "electric light~~ 2712
~~company," "gas company," "natural gas company," "pipe-line~~ 2713
~~company," "water works company," "sewage disposal system company,"~~ 2714
~~"heating or cooling company," "messenger company," "street Street~~ 2715
railway company," "~~suburban railroad company,~~" "interurban 2716
railroad company," and "motor-propelled vehicle" have the ~~meaning~~ 2717
~~set forth~~ same meanings as in section 4905.03 of the Revised Code. 2718

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2719
4907.02 of the Revised Code. 2720

(D) "Motor transportation company" has the same meaning ~~set~~ 2721
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 2722

(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 2752
access and usage is not part of a bundle or package of services, 2753
that ~~enable~~ does both of the following: 2754

(a) Enables a customer, ~~over the primary line serving the~~ 2755
~~customer's premises,~~ to originate or receive voice communications 2756
within a local service area, ~~and that consist~~ as that area exists 2757
on the effective date of the amendment of this section by S.B. 162 2758
of the 128th general assembly; 2759

(b) Consists of all of the following services: 2760

~~(a)~~(i) Local dial tone service; 2761

~~(b)~~(ii) For residential end users, flat-rate telephone 2762
exchange service; 2763

(iii) Touch tone dialing service; 2764

~~(c)~~(iv) Access to and usage of 9-1-1 services, where such 2765
services are available; 2766

~~(d)~~(v) Access to operator services and directory assistance; 2767

~~(e)~~(vi) Provision of a telephone directory in any reasonable 2768
format for no additional charge and a listing in that directory, 2769
with reasonable accommodations made for private listings; 2770

~~(f)~~(vii) Per call, caller identification blocking services; 2771

~~(g)~~(viii) Access to telecommunications relay service; and 2772

~~(h)~~(ix) Access to toll presubscription, interexchange or toll 2773
providers or both, and networks of other telephone companies. 2774

(2) "Bundle or package of services" means one or more 2775
telecommunications services or other services offered together as 2776
one service option at a single price. 2777

(3) "Carrier access" means access to and usage of telephone 2778
company-provided facilities that enable end user customers 2779
originating or receiving voice grade, data, or image 2780

communications, over a local exchange telephone company network 2781
operated within a local service area, to access interexchange or 2782
other networks and includes special access. 2783

~~(B) "Cable television service" means any transmission of 2784
video or other programming service to subscribers and any 2785
subscriber interaction required for the selection of that video or 2786
other programming service. 2787~~

~~(C)(4) "Federal poverty level" means the income level 2788
represented by the poverty guidelines as revised annually by the 2789
United States department of health and human services in 2790
accordance with section 673(2) of the "Omnibus Reconciliation Act 2791
of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family 2792
size equal to the size of the family of the person whose income is 2793
being determined. 2794~~

(5) "Incumbent local exchange carrier" means, with respect to 2795
an area, the local exchange carrier that: 2796

(a) On February 8, 1996, provided telephone exchange service 2797
in such area; and 2798

(b)(i) On February 8, 1996, was deemed to be a member of the 2799
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 2800

(ii) Is a person or entity that, on or after February 8, 2801
1996, became a successor or assign of a member described in 2802
division (A)(5)(b)(i) of this section. 2803

(6) "Internet protocol-enabled services" means any services, 2804
capabilities, functionalities, or applications that are provided 2805
using internet protocol or a successor protocol to enable an end 2806
user to send or receive communications in internet protocol format 2807
or a successor format, regardless of how any particular such 2808
service is classified by the federal communications commission, 2809
and includes voice over internet protocol service. 2810

(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 calls 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 2842
classes of users as to be effectively available directly to the 2843
public, regardless of the facilities used. 2844

(13) "Telephone company" means ~~any~~ a company described in 2845
division (A)~~(2)~~(1) of section 4905.03 of the Revised Code that is 2846
a public utility under section 4905.02 of the Revised Code. 2847

(14) "Telephone exchange service" means telecommunications 2848
service that is within a telephone exchange, or within a connected 2849
system of telephone exchanges within the same exchange area 2850
operated to furnish to subscribers intercommunicating service of 2851
the character ordinarily furnished by a single exchange, and that 2852
is covered by the exchange service charge; or comparable service 2853
provided through a system of switches, transmission equipment, or 2854
other facilities, or combination thereof, by which a customer can 2855
originate and terminate a telecommunications service. 2856

(15) "Telephone toll service" means telephone service between 2857
stations in different exchange areas for which there is made a 2858
separate charge not included in contracts with customers for 2859
exchange service. 2860

(16) "Voice over internet protocol service" means a service 2861
that uses a broadband connection from an end user's location and 2862
enables real-time, two-way, voice communications that originate or 2863
terminate from the user's location using internet protocol or a 2864
successor protocol, including, but not limited to, any such 2865
service that permits an end user to receive calls from and 2866
terminate calls to the public switched network. 2867

(17) "Wireless service" means federally licensed commercial 2868
mobile service as defined in the "Telecommunications Act of 1996," 2869
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 2870
commercial mobile radio service in 47 C.F.R. 20.3. Under division 2871
(A)(17) of this section, commercial mobile radio service is 2872

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. 2873
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2875
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(18) "Wireless service provider" means a facilities-based
provider of wireless service to one or more end users in this
state. 2877
2878
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(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. 2880
2881
2882
2883

Sec. 4927.02. (A) It is the policy of this state to: 2884

(1) Ensure the availability of adequate basic local exchange
service to citizens throughout the state; 2885
2886

(2) Provide incentives for competing providers of
telecommunications service to provide advanced, high-quality
telecommunications service to citizens throughout the state; 2887
2888
2889

(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; 2890
2891
2892
2893
2894
2895

~~(3)~~(4) Encourage innovation in the telecommunications
industry and the deployment of advanced telecommunications
services; 2896
2897
2898

~~(4)~~(5) Create a regulatory climate that provides incentives
to create and maintain high technology jobs for Ohioans; 2899
2900

(6) Promote diversity and options in the supply of ~~public~~
telecommunications services and equipment throughout the state; 2901
2902

~~(5)(7)~~ Recognize the continuing emergence of a competitive 2903
telecommunications environment through flexible regulatory 2904
treatment of ~~public~~ telecommunications services where appropriate; 2905

~~(6)(8)~~ Consider the regulatory treatment of competing and 2906
functionally equivalent services ~~in determining the scope of and,~~ 2907
to the extent practicable, provide for equivalent regulation of 2908
all telephone companies and services ~~that are subject to the~~ 2909
~~jurisdiction of the public utilities commission;~~ 2910

~~(7)(9)~~ Not unduly favor or advantage any provider and not 2911
unduly disadvantage providers of competing and functionally 2912
equivalent services; and 2913

~~(8)(10)~~ Protect the affordability of telephone service for 2914
low-income subscribers through the continuation of federal 2915
lifeline assistance programs. 2916

(B) The public utilities commission shall consider the policy 2917
set forth in this section in carrying out ~~sections 4927.03 and~~ 2918
~~4927.04 of the Revised Code and in reducing or eliminating the~~ 2919
~~regulation of telephone companies under those sections as to any~~ 2920
~~public telecommunications service~~ this chapter. 2921

Sec. 4927.03. (A) Except as provided in divisions (A) and (B) 2922
of section 4927.04 of the Revised Code and except to the extent 2923
required to exercise authority under federal law, the commission 2924
has no authority over any interconnected voice over internet 2925
protocol-enabled service or any telecommunications service that is 2926
not commercially available on the effective date of this section 2927
and that employs technology that became available for commercial 2928
use only after the effective date of this section, unless the 2929
commission, upon a finding that the exercise of the commission's 2930
authority is necessary for the protection, welfare, and safety of 2931
the public, adopts rules specifying the necessary regulation. A 2932
consumer purchase of a service that is not commercially available 2933

on the effective date of this section and that employs technology 2934
that became available for commercial use only after the effective 2935
date of this section shall constitute a consumer transaction for 2936
purposes of sections 1345.01 to 1345.13 of the Revised Code, 2937
notwithstanding any provision of those sections to the contrary, 2938
unless the commission exercises jurisdiction over the service in 2939
accordance with this division. Notwithstanding any contrary 2940
provision of Chapter 4911. of the Revised Code, to the extent that 2941
the commission adopts rules under division (A) of this section 2942
regarding any interconnected voice over internet protocol enabled 2943
service provided to residential customers or regarding any 2944
telecommunications service that is provided to residential 2945
customers, that is not commercially available on the effective 2946
date of this section, and that employs technology that became 2947
available for commercial use only after the effective date of this 2948
section, the office of the consumers' counsel shall have authority 2949
to assist and represent residential customers in the 2950
implementation and enforcement of those rules. 2951

(B)(1) The commission has no authority over wireless service, 2952
resellers of wireless service, or wireless service providers, 2953
except as follows: 2954

(a) As provided under sections 4905.84, 4931.40 to 4931.70, 2955
and 4931.99 of the Revised Code; 2956

(b) With respect to division (C) of section 4927.15 of the 2957
Revised Code; 2958

(c) As provided in divisions (B)(2), (3), and (4) of this 2959
section. 2960

(2) The commission has authority over wireless service and 2961
wireless service providers as follows, but only to the extent 2962
authorized by federal law, including federal regulations: 2963

(a) To the extent that the commission carries out the acts 2964

described in divisions (A), (B), (C), (D), and (F) of section 2965
4927.04 of the Revised Code; 2966

(b) As provided in sections 4927.05, 4927.20, and 4927.21 of 2967
the Revised Code. 2968

(3) The requirements of sections 4905.10, 4905.14, and 2969
4911.18 of the Revised Code shall apply to a wireless service 2970
provider. 2971

(4) The commission has such authority as is necessary to 2972
enforce division (B) of this section. 2973

(C) For purposes of sections 4927.01 to 4927.21 of the 2974
Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 2975
4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 2976
4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 2977
4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 2978
4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to 2979
a telephone company or, as applicable, to an officer, employee, or 2980
agent of such company or provider, except to the extent necessary 2981
for the commission to carry out sections 4927.01 to 4927.21 of the 2982
Revised Code. 2983

(D) Except as specifically authorized in sections 4927.01 to 2984
4927.21 of the Revised Code, the commission has no authority over 2985
the quality of service and the service rates, terms, and 2986
conditions of telecommunications service provided to end users by 2987
a telephone company. 2988

(E) The commission shall initially adopt the rules required 2989
by this chapter not later than one hundred twenty days after the 2990
effective date of this section. Subject to the authority granted 2991
to the commission under this chapter, the commission may adopt 2992
other rules, including rules regarding the removal from tariffs of 2993
services that were required to be filed in tariffs prior to the 2994
effective date of this section, as it finds necessary to carry out 2995

this chapter. 2996

Sec. 4927.04. The public utilities commission has such power 2997
and jurisdiction as is reasonably necessary for it to perform the 2998
obligations authorized by or delegated to it under federal law, 2999
including federal regulations, which obligations include 3000
performing the acts of a state commission as defined in the 3001
"Communications Act of 1934," 48 Stat. 1064, 47 U.S.C. 153, as 3002
amended, and include, but are not limited to, carrying out any of 3003
the following: 3004

(A) Rights and obligations under the "Telecommunications Act 3005
of 1996," 110 Stat. 56, 47 U.S.C. 251, as amended; 3006

(B) Authority to mediate and arbitrate disputes and approve 3007
agreements under the "Telecommunications Act of 1996," 110 Stat. 3008
56, 47 U.S.C. 252, as amended; 3009

(C) Administration of telephone numbers and number 3010
portability; 3011

(D) Certification of telecommunications carriers eligible for 3012
universal-service funding under 47 U.S.C. 214(e); 3013

(E) Administration of truth-in-billing; 3014

(F) Administration of customer proprietary network 3015
information under 47 U.S.C. 222 and federal regulations adopted 3016
thereunder; 3017

(G) Outage reporting consistent with federal requirements. 3018

Except as provided in division (B) of section 4927.03 of the 3019
Revised Code, the commission has power and jurisdiction under this 3020
section over a telecommunications carrier to the extent necessary 3021
to perform the obligations described in this section. Nothing in 3022
this chapter limits the commission's authority under the 3023
"Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151, et 3024
seq., as amended, including the commission's authority over the 3025

provision of universal-service funding. 3026

Sec. 4927.05. (A)(1) No telephone company shall operate in 3027
this state without first obtaining a certificate from the public 3028
utilities commission, and no wireless service provider shall 3029
operate in this state without first being registered with the 3030
commission. A telephone company not holding such a certificate on 3031
the effective date of this section, or a wireless service provider 3032
not so registered on that date, shall file, respectively, a 3033
certification application or registration with the commission, 3034
each in the manner set forth in rules adopted by the commission. 3035
The application or registration shall include all of the 3036
following: 3037

(a) The company's or provider's name and address; 3038

(b) The name of a contact person and that person's contact 3039
information; 3040

(c) A service description, including the general geographic 3041
areas served, but not maps of service areas; 3042

(d) Evidence of registration with the secretary of state; 3043

(e) Evidence of notice to the public utilities tax division 3044
of the department of taxation of the company's or provider's 3045
intent to provide service; 3046

(f) As to a certification application, evidence of financial, 3047
technical, and managerial ability to provide adequate service to 3048
the public consistent with law. 3049

Division (A)(1) of this section does not apply to any 3050
incumbent local exchange carrier with respect to its geographic 3051
service area as that area existed on the effective date of this 3052
section. 3053

(2) The commission may suspend or reject the certification 3054
application of a telephone company if it finds, within thirty days 3055

after the application's submission and based on the evidence 3056
provided under division (A)(1)(f) of this section, that the 3057
applicant lacks financial, technical, or managerial ability 3058
sufficient to provide adequate service to the public consistent 3059
with law. 3060

(B) If any of the filed information described in divisions 3061
(A)(1)(a) to (f) of this section changes, a telephone company 3062
shall update its certification and provide any necessary notice to 3063
customers, and a wireless service provider shall update its 3064
registration. The commission shall adopt rules governing the 3065
requirements of this division. 3066

Sec. 4927.06. (A) No telephone company shall commit any 3067
unfair or deceptive act or practice in connection with the 3068
offering or provision of any telecommunications service in this 3069
state. A failure to comply with any of the following requirements 3070
shall constitute an unfair or deceptive act or practice by a 3071
telephone company: 3072

(1) Any communication by the company, including, but not 3073
limited to, a solicitation, offer, or contract term or condition, 3074
shall be truthful, clear, conspicuous, and accurate in disclosing 3075
any material terms and conditions of service and any material 3076
exclusions or limitations. The public utilities commission may 3077
prescribe, by rule, a commission review process to determine when 3078
disclosing such information is not practicable, and therefore 3079
nondisclosure does not result in an unfair or deceptive act or 3080
practice. 3081

(2) Any written service solicitation, marketing material, 3082
offer, contract, or agreement, as well as any written response 3083
from the company to a service-related inquiry or complaint that 3084
the company receives from a customer or others, shall disclose the 3085
company's name and contact information. The commission may 3086

prescribe, by rule, a commission review process to determine when 3087
disclosing such information is not practicable, and therefore 3088
nondisclosure does not result in an unfair or deceptive act or 3089
practice. 3090

(3) The company shall inform its customers, as applicable and 3091
in any reasonable manner, of their rights and responsibilities 3092
concerning inside wire, the repair and maintenance of 3093
customer-owned equipment, and the use of a network interface 3094
device, and of any charges that the company imposes for a 3095
diagnostic visit, consistent with rules adopted by the public 3096
utilities commission. 3097

(4) The company shall not commit any act, practice, or 3098
omission that the commission determines, by rulemaking under 3099
section 4927.03 of the Revised Code or adjudication under section 3100
4927.21 of the Revised Code, constitutes an unfair or deceptive 3101
act or practice in connection with the offering or provision of 3102
telecommunications service in this state. 3103

(B) The commission shall provide notice to all telephone 3104
companies specifying any act, practice, or omission that it 3105
prescribes pursuant to division (A)(4) of this section. No 3106
telephone company is liable for any act, practice, or omission 3107
absent that notice and adequate time for implementation. 3108

(C) This section does not apply to wireless service. A 3109
consumer purchase of wireless service or a related product shall 3110
constitute a consumer transaction for purposes of sections 1345.01 3111
to 1345.13 of the Revised Code, notwithstanding any provision of 3112
those sections to the contrary. 3113

Sec. 4927.07. (A) A telephone company may withdraw any 3114
telecommunications service if it gives at least thirty days' prior 3115
notice to the public utilities commission and to its affected 3116
customers. 3117

(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. 3118
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(C) Divisions (A) and (B) of this section do not apply to any of the following: 3123
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(1) Basic local exchange service provided by an incumbent local exchange carrier; 3125
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(2) Pole attachments under section 4905.71 of the Revised Code; 3127
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(3) Conduit occupancy under section 4905.71 of the Revised Code; 3129
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(4) Interconnection and resale agreements approved under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended. 3131
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(D) An incumbent local exchange carrier may not withdraw or abandon basic local exchange service. 3134
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(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. 3136
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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. 3141
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(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 3145
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that service except as expressly authorized in this chapter: 3148

(1) Basic local exchange service shall be installed within 3149
five business days of the receipt by a telephone company of a 3150
completed application for that service. 3151

(2) A basic local exchange service outage or 3152
service-affecting problem shall be repaired within seventy-two 3153
hours after it is reported to the telephone company, and the 3154
telephone company shall make reasonable efforts to repair a basic 3155
local exchange service outage within twenty-four hours, excluding 3156
Sundays and legal holidays, after the outage is reported to the 3157
telephone company. 3158

(3)(a) Except as provided in division (B)(3)(b) of this 3159
section, if a basic local exchange service outage is reported to 3160
the telephone company and lasts more than seventy-two hours, the 3161
telephone company shall credit every affected customer, of which 3162
the telephone company is aware, in the amount of one month's 3163
charges for basic local exchange service. 3164

(b) If the outage is caused by a customer, the telephone 3165
company may elect not to credit that customer. 3166

(4) No telephone company shall establish a due date earlier 3167
than fourteen consecutive days after the date the bill is 3168
postmarked for a bill for basic local exchange service provided to 3169
end users. 3170

(5) A telephone company may disconnect basic local exchange 3171
service for nonpayment of any amount past due on a billed account 3172
not earlier than fourteen days after the due date of the 3173
customer's bill, provided that the customer is given notice of the 3174
disconnection seven days before the disconnection. 3175

(6) A telephone company may require a deposit, not to exceed 3176
two hundred thirty per cent of a reasonable estimate of one 3177
month's service charges, for the installation of basic local 3178

exchange service for any person that it determines, in its 3179
discretion, is not creditworthy. 3180

(7) A telephone company shall, unless prevented from doing so 3181
by circumstances beyond the telephone company's control or unless 3182
the customer requests otherwise, reconnect a customer whose basic 3183
local exchange service was disconnected for nonpayment of past due 3184
charges not later than one business day after the day the earlier 3185
of the following occurs: 3186

(a) The receipt by the telephone company of the full amount 3187
of past due charges; 3188

(b) The receipt by the telephone company of the first payment 3189
under a mutually agreed-upon payment arrangement. 3190

(C) The rules described in division (B) of this section shall 3191
provide for a waiver of the standards described in that division 3192
in circumstances determined appropriate by the commission. 3193

Sec. 4927.09. Every telephone company providing telephone 3194
exchange service shall maintain access to 9-1-1 service on a 3195
residential customer's line for a minimum of fourteen consecutive 3196
days immediately following any disconnection for nonpayment of a 3197
customer's telephone exchange service. 3198

Sec. 4927.11. (A) Except as otherwise provided in this 3199
section, an incumbent local exchange carrier shall provide basic 3200
local exchange service to all persons or entities in its service 3201
area requesting that service, and that service shall be provided 3202
on a reasonable and nondiscriminatory basis. 3203

(B)(1) An incumbent local exchange carrier is not obligated 3204
to construct facilities and provide basic local exchange service, 3205
or any other telecommunications service, to the occupants of 3206
multitenant real estate, including, but not limited to, 3207
apartments, condominiums, subdivisions, office buildings, or 3208

office parks, if the owner, operator, or developer of the 3209
multitenant real estate does any of the following to the benefit 3210
of any other telecommunications service provider: 3211

(a) Permits only one provider of telecommunications service 3212
to install the company's facilities or equipment during the 3213
construction or development phase of the multitenant real estate; 3214

(b) Accepts or agrees to accept incentives or rewards that 3215
are offered by a telecommunications service provider to the owner, 3216
operator, developer, or occupants of the multitenant real estate 3217
and are contingent on the provision of telecommunications service 3218
by that provider to the occupants, to the exclusion of services 3219
provided by other telecommunications service providers; 3220

(c) Collects from the occupants of the multitenant real 3221
estate any charges for the provision of telecommunications service 3222
to the occupants, including charges collected through rents, fees, 3223
or dues. 3224

(2) A carrier not obligated to construct facilities and 3225
provide basic local exchange service pursuant to division (B)(1) 3226
of this section shall notify the public utilities commission of 3227
that fact within one hundred twenty days of receiving knowledge 3228
thereof. 3229

(3) The commission by rule may establish a process for 3230
determining a necessary successor telephone company to provide 3231
service to real estate described in division (B)(1) of this 3232
section when the circumstances described in that division cease to 3233
exist. 3234

(4) An incumbent local exchange carrier that receives a 3235
request from any person or entity to provide service under the 3236
circumstances described in division (B)(1) of this section shall, 3237
within fifteen days of such receipt, provide notice to the person 3238
or entity specifying whether the carrier will provide the 3239

requested service. If the carrier provides notice that it will not 3240
serve the person or entity, the notice shall describe the person's 3241
or entity's right to file a complaint with the commission under 3242
section 4927.21 of the Revised Code within thirty days after 3243
receipt of the notice. In resolving any such complaint, the 3244
commission's determination shall be limited to whether any 3245
circumstance described in divisions (B)(1)(a) to (c) of this 3246
section exists. Upon a finding by the commission that such a 3247
circumstance exists, the complaint shall be dismissed. Upon a 3248
finding that such circumstances do not exist, the person's or 3249
entity's sole remedy shall be provision by the carrier of the 3250
requested service within a reasonable time. 3251

(C) An incumbent local exchange carrier may apply to the 3252
commission for a waiver from compliance with division (A) of this 3253
section. The application shall include, at a minimum, the reason 3254
for the requested waiver, the number of persons or entities who 3255
would be impacted by the waiver, and the alternatives that would 3256
be available to those persons or entities if the waiver were 3257
granted. The incumbent local exchange carrier applying for the 3258
waiver shall publish notice of the waiver application one time in 3259
a newspaper of general circulation throughout the service area 3260
identified in the application and shall provide additional notice 3261
to affected persons or entities as required by the commission in 3262
rules adopted under this division. The commission's rules shall 3263
define "affected" for purposes of this division. The commission 3264
shall afford such persons or entities a reasonable opportunity to 3265
comment to the commission on the application. This opportunity 3266
shall include a public hearing conducted in accordance with rules 3267
adopted under this division and conducted in the service area 3268
identified in the application. After a reasonable opportunity to 3269
comment has been provided, but not later than one hundred twenty 3270
days after the application is filed, the commission either shall 3271
issue an order granting the waiver if, upon investigation, it 3272

finds the waiver to be just, reasonable, and not contrary to the 3273
public interest, and that the applicant demonstrates a financial 3274
hardship or an unusual technical limitation, or shall issue an 3275
order denying the waiver based on a failure to meet those 3276
standards and specifying the reasons for the denial. The 3277
commission shall adopt rules to implement division (C) of this 3278
section. 3279

Sec. 4927.12. (A) As used in this section, "exchange area" 3280
means a geographical service area established by an incumbent 3281
local exchange carrier and approved by the public utilities 3282
commission. 3283

(B) Subject to divisions (C), (D), and (E) of this section, 3284
and upon not less than thirty days' notice to the public utilities 3285
commission and to affected customers, an incumbent local exchange 3286
carrier may alter its rates for basic local exchange service. 3287

(C) In addition to the requirements of division (B) of this 3288
section, all of the following apply to any upward alteration of 3289
rates for basic local exchange service made under that division: 3290

(1) If the incumbent local exchange carrier, within twelve 3291
months prior to the effective date of this section, increased the 3292
carrier's rates for basic local exchange service for an exchange 3293
area, both of the following apply: 3294

(a) The incumbent local exchange carrier may not alter the 3295
carrier's rates for basic local exchange service for the exchange 3296
area upward by any amount during the period that ends twelve 3297
months after the date of the last increase of the rates for basic 3298
local exchange service. 3299

(b) In no event may the incumbent local exchange carrier, 3300
during the twelve-month period that begins immediately after the 3301
end date of the period described in division (C)(1)(a) of this 3302

section, and during any subsequent twelve-month period, alter the 3303
carrier's rates for basic local exchange service upward for the 3304
exchange area by more than the amount authorized for an annual 3305
increase in the rate for basic local exchange service by division 3306
(A) of rule 4901:1-4-11 of the Ohio Administrative Code as that 3307
rule existed on the effective date of this section. 3308

(2) If the incumbent local exchange carrier did not, within 3309
twelve months prior to the effective date of this section, 3310
increase the carrier's rates for basic local exchange service for 3311
an exchange area, and if the commission has made a prior 3312
determination that the exchange area qualified for alternative 3313
regulation of basic local exchange service under Chapter 4901:1-4 3314
of the Ohio Administrative Code as that chapter existed on the 3315
effective date of this section, in no event may the incumbent 3316
local exchange carrier, during the twelve-month period that begins 3317
on the effective date of this section, and during any subsequent 3318
twelve-month period, alter the carrier's rates for basic local 3319
exchange service upward for the exchange area by more than the 3320
amount described in division (C)(1)(b) of this section. 3321

(3)(a) If the commission has not made a prior determination 3322
that the exchange area qualified for alternative regulation of 3323
basic local exchange service under Chapter 4901:1-4 of the Ohio 3324
Administrative Code as that chapter existed on the effective date 3325
of this section, an incumbent local exchange carrier may not alter 3326
its rates for basic local exchange service upward for that 3327
exchange area unless the carrier first applies to the commission 3328
and the commission determines that the application demonstrates 3329
that two or more alternative providers offer, in the exchange 3330
area, competing service to the basic local exchange service 3331
offered by an incumbent local exchange carrier in the exchange 3332
area, regardless of the technology and facilities used by the 3333
alternative provider, the alternative provider's location, and the 3334

extent of the alternative provider's service area within the 3335
exchange area. An alternative provider includes a telephone 3336
company, including a wireless service provider, a 3337
telecommunications carrier, and a provider of internet 3338
protocol-enabled services, including voice over internet protocol. 3339

(b) Upon the filing of an application under division 3340
(C)(3)(a) of this section, the commission shall be deemed to have 3341
found that the application meets the requirements of that division 3342
unless the commission, within thirty days after the filing of the 3343
application, issues an order finding that the requirements have 3344
not been met. 3345

(c) In no event may an incumbent local exchange carrier that 3346
applies to the commission under division (C)(3)(a) of this 3347
section, during the twelve-month period that begins on the 3348
thirty-first day after the company files the application, and 3349
during any subsequent twelve-month period, alter the carrier's 3350
rates for basic local exchange service upward for the exchange 3351
area to which the application applies by more than the amount 3352
described in division (C)(1)(b) of this section. 3353

(4) In no event may an incumbent local exchange carrier, 3354
before January 1, 2012, alter the carrier's rates for basic local 3355
exchange service upward for a customer receiving lifeline service 3356
under section 4927.13 of the Revised Code. 3357

(D) Except as provided in division (E) of this section, no 3358
banking of upward rate alterations made under division (B) of this 3359
section is permitted. 3360

(E) At any time and upon not less than thirty days' notice to 3361
the commission and to affected customers, an incumbent local 3362
exchange carrier owned and operated exclusively by and solely for 3363
its customers may alter its rates for basic local exchange service 3364
by any amount. 3365

(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. 3366
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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. 3370
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(1) Lifeline service shall consist of all of the following: 3374

(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; 3375
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(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; 3379
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(c) Free blocking of toll service, 900 service, and 976 service. 3382
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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. 3384
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(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 3387
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provider. 3396

(3)(a) Every incumbent local exchange carrier required to 3397
implement lifeline service under division (A) of this section 3398
shall establish an annual marketing budget for promoting lifeline 3399
service and performing outreach regarding lifeline service. All 3400
funds allocated to this budget shall be spent for the promotion 3401
and marketing of lifeline service and outreach regarding lifeline 3402
service and only for those purposes and not for any administrative 3403
costs of implementing lifeline service. All activities relating to 3404
the promotion of, marketing of, and outreach regarding lifeline 3405
service shall be coordinated through a single advisory board 3406
composed of staff of the public utilities commission, the office 3407
of the consumers' counsel, consumer groups representing low-income 3408
constituents, two representatives from the Ohio association of 3409
community action agencies, and, except as provided in division 3410
(A)(3)(b) of this section, every incumbent local exchange carrier 3411
required to implement lifeline service under division (A) of this 3412
section. The public utilities commission may review and approve 3413
decisions of the advisory board in accordance with commission 3414
rules, including decisions on how the lifeline marketing, 3415
promotion, and outreach activities are implemented. 3416

(b) Division (A)(3)(a) of this section does not apply to an 3417
incumbent local exchange carrier with fewer than fifty thousand 3418
access lines. 3419

(4) All other aspects of the carrier's state-specific 3420
lifeline service shall be consistent with federal requirements. 3421

(B) The rates, terms, and conditions for the carrier's 3422
lifeline service shall be tariffed in the manner prescribed by 3423
rule adopted by the public utilities commission. 3424

(C)(1) Eligibility for lifeline service under division (A) of 3425
this section shall be based on either of the following criteria: 3426

(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; 3427
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(b) Other verification that an individual's household income is at or below one hundred fifty per cent of the federal poverty level. 3431
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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. 3434
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(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. 3448
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(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. 3452
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(D) An incumbent local exchange carrier required to implement 3459
lifeline service under division (A) of this section may recover 3460
from end users of the carrier's telecommunications service other 3461
than lifeline service customers, by a method approved by the 3462
public utilities commission, any lifeline service discounts and 3463
any other lifeline service expenses that the public utilities 3464
commission prescribes by rule and that are not recovered through 3465
federal or state funding, except for expenses incurred under 3466
division (A)(3)(a) of this section. A carrier seeking recovery of 3467
discounts or expenses shall, in accordance with rules adopted by 3468
the public utilities commission, apply to the public utilities 3469
commission for approval of the method of recovery. If the method 3470
of recovery includes a customer billing surcharge, the public 3471
utilities commission shall prescribe by rule how the surcharge is 3472
to be identified on customer bills. 3473

(E) Every incumbent local exchange carrier required to 3474
implement lifeline service under division (A) of this section 3475
shall annually file with the public utilities commission a report 3476
that identifies the number of its customers who receive, at the 3477
time of the filing of the report, lifeline service. 3478

Sec. 4927.14. The public utilities commission may adopt rules 3479
requiring any telephone company that is a telephone toll service 3480
provider to offer discounts for operator-assisted and direct-dial 3481
services for persons with communication disabilities. 3482

Sec. 4927.15. (A) The rates, terms, and conditions for 9-1-1 3483
service provided in this state by a telephone company or a 3484
telecommunications carrier and each of the following provided in 3485
this state by a telephone company shall be approved and tariffed 3486
in the manner prescribed by rule adopted by the public utilities 3487
commission and shall be subject to the applicable laws, including 3488
rules or regulations adopted and orders issued by the commission 3489

<u>or the federal communications commission and, including, as to</u>	3490
<u>9-1-1 service, sections 4931.40 to 4931.70 and 4931.99 of the</u>	3491
<u>Revised Code:</u>	3492
<u>(1) Carrier access;</u>	3493
<u>(2) N-1-1 services, other than 9-1-1 service;</u>	3494
<u>(3) Pole attachments and conduit occupancy under section</u>	3495
<u>4905.71 of the Revised Code;</u>	3496
<u>(4) Pay telephone access lines;</u>	3497
<u>(5) Toll presubscription;</u>	3498
<u>(6) Telecommunications relay service.</u>	3499
<u>(B) The public utilities commission may order changes in a</u>	3500
<u>telephone company's rates for carrier access in this state subject</u>	3501
<u>to this division. In the event that the public utilities</u>	3502
<u>commission reduces a telephone company's rates for carrier access</u>	3503
<u>that are in effect on the effective date of this section, that</u>	3504
<u>reduction shall be on a revenue-neutral basis under terms and</u>	3505
<u>conditions established by the public utilities commission, and any</u>	3506
<u>resulting rate changes necessary to comply with division (B) or</u>	3507
<u>(C) of this section shall be in addition to any upward rate</u>	3508
<u>alteration made under section 4927.12 of the Revised Code.</u>	3509
<u>(C) The public utilities commission has authority to address</u>	3510
<u>carrier access policy and to create and administer mechanisms for</u>	3511
<u>carrier access reform, including, but not limited to, high cost</u>	3512
<u>support.</u>	3513
<u>Sec. 4927.16. (A) The public utilities commission shall not</u>	3514
<u>establish any requirements for the unbundling of network elements,</u>	3515
<u>for the resale of telecommunications service, or for network</u>	3516
<u>interconnection that exceed or are inconsistent with or prohibited</u>	3517
<u>by federal law, including federal regulations.</u>	3518

(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 3549
authorized by it, examine the books, records, contracts, 3550
documents, and papers of any such company for any purpose 3551
incidental to the commission's authority under those sections; 3552

(B) By subpoena duces tecum, compel the production of such 3553
books, records, contracts, documents, and papers; 3554

(C) Compel the attendance of such witnesses as it requires to 3555
give evidence in connection with such an investigation. 3556

Sec. 4927.20. To the extent subject to the public utilities 3557
commission's jurisdiction under this chapter, all of the following 3558
shall comply with every order, direction, and requirement of the 3559
commission made under authority of this chapter: 3560

(A) Every telephone company, including every wireless service 3561
provider; 3562

(B) Every telecommunications carrier; 3563

(C) Every provider of internet protocol-enabled services, 3564
including voice over internet protocol. 3565

Sec. 4927.21. (A) Any person may file with the public 3566
utilities commission, or the commission may initiate, a complaint 3567
against a telephone company other than a wireless service 3568
provider, alleging that any rate, practice, or service of the 3569
company is unjust, unreasonable, unjustly discriminatory, or in 3570
violation of or noncompliance with any provision of sections 3571
4927.01 to 4927.20 of the Revised Code or a rule or order adopted 3572
or issued under those sections. Any dispute between telephone 3573
companies, between telephone companies and wireless service 3574
providers, or between wireless service providers that is within 3575
the commission's jurisdiction under sections 4927.01 to 4927.20 of 3576
the Revised Code may be brought by a filing pursuant to this 3577
division. 3578

(B) If it appears that reasonable grounds for complaint are 3579
stated by a complaint filed under division (A) of this section, 3580
the commission shall fix a time for hearing and shall notify 3581
complainants and the telephone company or wireless service 3582
provider thereof. The parties to the complaint shall be entitled 3583
to be heard, represented by counsel, and to have a process for the 3584
attendance of witnesses. 3585

(C) If the commission after hearing in a proceeding under 3586
division (B) of this section makes a finding against the party 3587
complained of, the commission may do either or both of the 3588
following: 3589

(1) Determine, but only to the extent authorized under 3590
sections 4927.01 to 4927.20 of the Revised Code, the rate, 3591
practice, or service thereafter to be adopted and observed, 3592
including any appropriate remedy for a complaint; 3593

(2) Assess a forfeiture of not more than ten thousand dollars 3594
for each violation or failure. Each day's continuance of the 3595
violation or failure is a separate offense, and all occurrences of 3596
a violation or failure on each such day shall be deemed one 3597
violation. All forfeitures authorized under this section are 3598
cumulative, and a suit for and recovery of one does not bar the 3599
recovery of any other. Collected forfeitures shall be deposited 3600
into the state treasury to the credit of the general revenue fund. 3601
Actions to recover such forfeitures shall be prosecuted in the 3602
name of the state and shall be brought in the court of common 3603
pleas of any county in which the party complained of is located. 3604
The attorney general shall commence such actions and prosecute 3605
them when the commission directs. 3606

(D) The commission also may suspend, rescind, or 3607
conditionally rescind the certification of a telephone company 3608
under section 4927.05 of the Revised Code under either of the 3609
following circumstances: 3610

(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. 3611
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(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. 3614
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(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. 3618
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(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. 3621
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Sec. 4929.02. (A) It is the policy of this state to, 3628
throughout this state: 3629

(1) Promote the availability to consumers of adequate, 3630
reliable, and reasonably priced natural gas services and goods; 3631

(2) Promote the availability of unbundled and comparable 3632
natural gas services and goods that provide wholesale and retail 3633
consumers with the supplier, price, terms, conditions, and quality 3634
options they elect to meet their respective needs; 3635

(3) Promote diversity of natural gas supplies and suppliers, 3636
by giving consumers effective choices over the selection of those 3637
supplies and suppliers; 3638

(4) Encourage innovation and market access for cost-effective 3639
supply- and demand-side natural gas services and goods; 3640

(5) Encourage cost-effective and efficient access to	3641
information regarding the operation of the distribution systems of	3642
natural gas companies in order to promote effective customer	3643
choice of natural gas services and goods;	3644
(6) Recognize the continuing emergence of competitive natural	3645
gas markets through the development and implementation of flexible	3646
regulatory treatment;	3647
(7) Promote an expeditious transition to the provision of	3648
natural gas services and goods in a manner that achieves effective	3649
competition and transactions between willing buyers and willing	3650
sellers to reduce or eliminate the need for regulation of natural	3651
gas services and goods under Chapters 4905. and 4909. of the	3652
Revised Code;	3653
(8) Promote effective competition in the provision of natural	3654
gas services and goods by avoiding subsidies flowing to or from	3655
regulated natural gas services and goods;	3656
(9) Ensure that the risks and rewards of a natural gas	3657
company's offering of nonjurisdictional and exempt services and	3658
goods do not affect the rates, prices, terms, or conditions of	3659
nonexempt, regulated services and goods of a natural gas company	3660
and do not affect the financial capability of a natural gas	3661
company to comply with the policy of this state specified in this	3662
section;	3663
(10) Facilitate the state's competitiveness in the global	3664
economy;	3665
(11) Facilitate additional choices for the supply of natural	3666
gas for residential consumers, including aggregation;	3667
(12) Promote an alignment of natural gas company interests	3668
with consumer interest in energy efficiency and energy	3669
conservation.	3670

(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 3701
township: 3702

(1) Construct ~~telegraph or telephone lines~~ telecommunications 3703
lines or facilities upon and along any of the public roads and 3704
highways and across any waters within that area by the erection of 3705
the necessary fixtures, including posts, piers, or abutments for 3706
sustaining the cords or wires of those lines or facilities. ~~These~~ 3707
The lines and facilities shall be constructed so as not to 3708
incommode the public in the use of the roads or highways, or 3709
endanger or injuriously interrupt the navigation of the waters. 3710

(2) Construct ~~telegraph or telephone~~ telecommunications lines 3711
and ~~the fixtures necessary for containing and protecting those~~ 3712
lines facilities in such a manner as to protect them beneath the 3713
surface of any of the public roads and highways and beneath any 3714
waters within that area. Those lines and facilities shall be 3715
constructed so as not to incommode the public in the use of the 3716
roads or highways, or endanger or injuriously interrupt the 3717
navigation of the waters. 3718

(B)(1) This section does not authorize the construction of a 3719
bridge across any waters within the state. 3720

(2) Construction under this section is subject to section 3721
5571.16 of the Revised Code, as applicable, and any other 3722
applicable law, including, but not limited to, any law requiring 3723
approval of the legislative authority, the county engineer, or the 3724
director of transportation. 3725

Sec. 4931.04. A ~~telegraph~~ telephone company may enter upon 3726
any land held by an individual or a corporation, whether such land 3727
was acquired by purchase, appropriation, or by virtue of any 3728
provision in its charter, for the purpose of making preliminary 3729
examination and surveys, with a view to the location and 3730

construction of ~~telegraph~~ telecommunications lines and facilities, 3731
and may appropriate so much of such land in accordance with 3732
sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, as it 3733
deems necessary for the construction and maintenance of ~~its~~ 3734
~~telegraph poles, cables, conduits, piers, abutments, wires, and~~ 3735
~~other necessary fixtures, stations~~ those lines and facilities, and 3736
the right of way in, through, over, across, and under such lands 3737
and adjacent lands, sufficient to enable it to construct and 3738
repair ~~its~~ the lines and facilities. 3739

Sec. ~~4931.11~~ 4931.05. Any company organized at any time to 3740
transact a ~~telegraph~~, telephone, or communications business may 3741
construct, reconstruct, own, use, lease, operate, maintain, and 3742
improve communications systems for the transmission of voices, 3743
sounds, writings, signs, signals, pictures, visions, images, or 3744
other forms of intelligence, as public utility services, by means 3745
of wire, cable, radio, radio relay, or other telecommunications 3746
facilities, methods, or media. Any such company has the powers and 3747
is subject to the restrictions prescribed in sections 4931.02 to 3748
~~4931.22~~ 4931.04 of the Revised Code, for ~~telegraph~~ or telephone 3749
companies. 3750

Sec. ~~4931.35~~ 4931.06. (A) As used in this section and in 3751
sections 2317.02 and 2921.22 of the Revised Code: 3752

(1) "Communications assistant" means a person who 3753
transliterates conversation from text to voice and from voice to 3754
text between the end users of a telecommunications relay service 3755
provided pursuant to this section or Title II of the 3756
"Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225. 3757

(2) "Communicative impairment" means deafness or speech 3758
impairment. 3759

(3) "Deafness" means a hearing loss that prevents a person 3760

from being able to understand speech over the telephone. 3761

(4) "Speech impairment" means a speech impairment that 3762
renders a person's speech unintelligible on the telephone. 3763

(5) "Telecommunications relay service" means telephone 3764
transmission services that provide the ability for an individual 3765
who has a communicative impairment to engage in a communication by 3766
wire or radio with a hearing individual in a manner that is 3767
functionally equivalent to the ability of an individual who does 3768
not have a communicative impairment to communicate using voice 3769
communication services by wire or radio. "Telecommunications relay 3770
service" includes services that enable two-way communication 3771
between an individual who uses a text telephone or other nonvoice 3772
terminal device and an individual who does not use such a device. 3773

(B) Any communication made by or to a person with a 3774
communicative impairment with the assistance of a communications 3775
assistant at a telecommunications relay service is confidential 3776
and privileged and shall not be disclosed by the communications 3777
assistant in any civil case or proceeding or in any legislative or 3778
administrative proceeding, unless the person making the 3779
communication and the person to whom the communication is made 3780
each waive the privilege of confidentiality or the obligation to 3781
divulge the communication is mandated by federal law or regulation 3782
or pursuant to subpoena in a criminal proceeding. 3783

(C) A communications assistant or a telecommunications relay 3784
service provider is not subject to criminal prosecution and is not 3785
liable in damages in any civil action on account of the act of 3786
transliterating or the content of any communication 3787
transliterated, or any injury, death, or loss to person or 3788
property allegedly arising from the act of transliterating or the 3789
content of any communication transliterated, between the end users 3790
of a telecommunications relay service, except in cases of willful 3791
or wanton misconduct. 3792

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. 3793
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(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.~~ 3796
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~~(C) Whoever violates section 4931.28 of the Revised Code is guilty of a felony of the fourth degree.~~ 3799
3800

~~(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. 3801
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~~(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. 3804
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~~(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. 3808
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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. 3811
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(B) ~~Sections~~ Section 4931.04, ~~4931.06, 4931.07, 4931.12, and~~ 3823
~~4931.13~~ of the Revised Code ~~apply~~ applies to a company organized 3824
for supplying electricity only if the company transmits or 3825
distributes electricity, and every such company has the powers and 3826
is subject to the restrictions prescribed for a ~~telegraph~~ 3827
telephone company by ~~those sections~~ that section except for the 3828
purpose of erecting, operating, or maintaining an electric 3829
generating station. 3830

Sec. 4933.18. (A) In a prosecution for a theft offense, as 3831
defined in section 2913.01 of the Revised Code, that involves 3832
alleged tampering with a gas, electric, steam, or water meter, 3833
conduit, or attachment of a utility that has been disconnected by 3834
the utility, proof that a meter, conduit, or attachment of a 3835
utility has been tampered with is prima-facie evidence that the 3836
person who is obligated to pay for the service rendered through 3837
the meter, conduit, or attachment and is in possession or control 3838
of the meter, conduit, or attachment at the time the tampering 3839
occurred has caused the tampering with intent to commit a theft 3840
offense. 3841

In a prosecution for a theft offense, as defined in section 3842
2913.01 of the Revised Code, that involves the alleged 3843
reconnection of a gas, electric, steam, or water meter, conduit, 3844
or attachment of a utility that has been disconnected by the 3845
utility, proof that a meter, conduit, or attachment disconnected 3846
by a utility has been reconnected without the consent of the 3847
utility is prima-facie evidence that the person in possession or 3848
control of the meter, conduit, or attachment at the time of the 3849
reconnection has reconnected the meter, conduit, or attachment 3850
with intent to commit a theft offense. 3851

(B) As used in this section: 3852

(1) "Utility" means any electric light company, gas company, 3853

natural gas company, pipe-line company, water-works company, or 3854
heating or cooling company, as defined by division (A)(3), (4), 3855
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3856
Code, its lessees, trustees, or receivers, or any similar utility 3857
owned or operated by a political subdivision. 3858

(2) "Tamper" means to interfere with, damage, or by-pass a 3859
utility meter, conduit, or attachment with the intent to impede 3860
the correct registration of a meter or the proper functions of a 3861
conduit or attachment so as to reduce the amount of utility 3862
service that is registered on the meter. 3863

Sec. 4933.19. Each electric light company, gas company, 3864
natural gas company, pipe-line company, water-works company, or 3865
heating or cooling company, as defined by division (A)(3), (4), 3866
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3867
Code, or its lessees, trustees, or receivers, and each similar 3868
utility owned or operated by a political subdivision shall notify 3869
its customers, on an annual basis, that tampering with or 3870
bypassing a meter constitutes a theft offense that could result in 3871
the imposition of criminal sanctions. 3872

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the 3873
Revised Code: 3874

(A) "Cable operator," "cable service," and "franchise" have 3875
the same meanings as in the "Cable Communications Policy Act of 3876
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 3877

(B) "Occupy or use" means, with respect to a public way, to 3878
place a tangible thing in a public way for any purpose, including, 3879
but not limited to, constructing, repairing, positioning, 3880
maintaining, or operating lines, poles, pipes, conduits, ducts, 3881
equipment, or other structures, appurtenances, or facilities 3882
necessary for the delivery of public utility services or any 3883

services provided by a cable operator. 3884

(C) "Person" means any natural person, corporation, or 3885
partnership and also includes any governmental entity. 3886

(D) "Public utility" means any company described in section 3887
4905.03 of the Revised Code except in divisions (A)~~(3)~~(2) and 3888
~~(10)~~(9) of that section, which company also is a public utility as 3889
defined in section 4905.02 of the Revised Code; and includes any 3890
electric supplier as defined in section 4933.81 of the Revised 3891
Code. 3892

(E) "Public way" means the surface of, and the space within, 3893
through, on, across, above, or below, any public street, public 3894
road, public highway, public freeway, public lane, public path, 3895
public alley, public court, public sidewalk, public boulevard, 3896
public parkway, public drive, and any other land dedicated or 3897
otherwise designated for a compatible public use, which, on or 3898
after the effective date of this section, is owned or controlled 3899
by a municipal corporation. "Public way" excludes a private 3900
easement. 3901

(F) "Public way fee" means a fee levied to recover the costs 3902
incurred by a municipal corporation and associated with the 3903
occupancy or use of a public way. 3904

Sec. 5515.01. The director of transportation may upon formal 3905
application being made to the director, grant a permit to any 3906
individual, firm, or corporation to use or occupy such portion of 3907
a road or highway on the state highway system as will not 3908
incommode the traveling public. Such permits, when granted, shall 3909
be upon the following conditions: 3910

(A) The director may issue a permit to any individual, firm, 3911
or corporation for any use of a road or highway on the state 3912
highway system that is consistent with applicable federal law or 3913

federal regulations. 3914

(B) Such location shall be changed as prescribed by the 3915
director when the director deems such change necessary for the 3916
convenience of the traveling public, or in connection with or 3917
contemplation of the construction, reconstruction, improvement, 3918
relocating, maintenance, or repair of such road or highway. 3919

(C) The placing of objects or things shall be at a grade and 3920
in accordance with such plans, specifications, or both, as shall 3921
be first approved by the director. 3922

(D) The road or highway in all respects shall be fully 3923
restored to its former condition of usefulness and at the expense 3924
of such individual, firm, or corporation. 3925

(E) Such individual, firm, or corporation shall maintain all 3926
objects and things in a proper manner, promptly repair all damages 3927
resulting to such road or highway on account thereof, and in event 3928
of failure to so repair such road or highway to pay to the state 3929
all costs and expenses ~~which~~ that may be expended by the director 3930
in repairing any damage. 3931

(F) Such other conditions as may seem reasonable to the 3932
director, but no condition shall be prescribed ~~which~~ that imposes 3933
the payment of a money consideration for the privilege granted. 3934
Nothing in this division prohibits the director from requiring 3935
payment of money consideration for a lease, easement, license, or 3936
other interest in a transportation facility under control of the 3937
department of transportation. 3938

(G) Permits may be revoked by the director at any time for a 3939
noncompliance with the conditions imposed. 3940

(H) As a condition precedent to the issuance of any permit 3941
for telecommunications facilities or carbon capture and storage 3942
pipelines, the director shall require the applicant to provide 3943
proof it is party to a lease, easement, or license for the 3944

construction, placement, or operation of such facility or pipeline 3945
in or on a transportation facility. 3946

Except as otherwise provided in this section and section 3947
5501.311 of the Revised Code, Chapters 5501., 5503., 5511., 5513., 3948
5515., 5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 3949
5529., 5531., 5533., and 5535. of the Revised Code do not prohibit 3950
~~telegraph,~~ telephone, and electric light and power companies from 3951
constructing, maintaining, and using ~~telegraph,~~ telephone, or 3952
electric light and power lines along and upon such roads or 3953
highways under ~~sections 4931.19,~~ section 4933.14, or other 3954
sections of the Revised Code, or to affect existing rights of any 3955
such companies, or to require such companies to obtain a permit 3956
from the director, except with respect to the location of poles, 3957
wires, conduits, and other equipment comprising lines on or 3958
beneath the surface of such road or highways. 3959

This section does not prohibit steam or electric railroad 3960
companies from constructing tracks across such roads or highways, 3961
nor authorize the director to grant permission to any company 3962
owning, operating, controlling, or managing a steam railroad or 3963
interurban railway in this state to build a new line of railroad, 3964
or to change or alter the location of existing tracks across any 3965
road or highway on the state highway system at grade. No such 3966
company shall change the elevation of any of its tracks across 3967
such road or highway except in accordance with plans and 3968
specifications first approved by the director. 3969

This section does not relieve any individual, firm, or 3970
corporation from the obligation of satisfying any claim or demand 3971
of an owner of lands abutting on such road or highway on the state 3972
highway system on account of placing in such road or highway a 3973
burden in addition to public travel. 3974

Sec. 5733.57. (A) As used in this section: 3975

(1) "Small telephone company" means a telephone company, 3976
existing as such as of January 1, 2003, with twenty-five thousand 3977
or fewer access lines ~~as shown on the company's annual report~~ 3978
~~filed under section 4905.14 of the Revised Code~~ for the calendar 3979
year immediately preceding the tax year, and is an "incumbent 3980
local exchange carrier" under 47 U.S.C. 251(h). 3981

(2) "Gross receipts tax amount" means the product obtained by 3982
multiplying four and three-fourths per cent by the amount of a 3983
small telephone company's taxable gross receipts, excluding the 3984
deduction of twenty-five thousand dollars, that the tax 3985
commissioner would have determined under section 5727.33 of the 3986
Revised Code for that small telephone company for the annual 3987
period ending on the thirtieth day of June of the calendar year 3988
immediately preceding the tax year, as that section applied in the 3989
measurement period from July 1, 2002, to June 30, 2003. 3990

(3) "Applicable percentage" means one hundred per cent for 3991
tax year 2005; eighty per cent for tax year 2006; sixty per cent 3992
for tax year 2007; forty per cent for tax year 2008; twenty per 3993
cent for tax year 2009; and zero per cent for each subsequent tax 3994
year thereafter. 3995

(4) "Applicable amount" means the amount resulting from 3996
subtracting the gross receipts tax amount from the tax imposed by 3997
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 3998
the tax year, without regard to any credits available to the small 3999
telephone company. 4000

(B)(1) Except as provided in division (B)(2) of this section, 4001
beginning in tax year 2005, a small telephone company is hereby 4002
allowed a nonrefundable credit against the tax imposed by sections 4003
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 4004
product obtained by multiplying the applicable percentage by the 4005
applicable amount. The credit shall be claimed in the order 4006
required by section 5733.98 of the Revised Code. 4007

(2) If the applicable amount for a tax year is less than 4008
zero, a small telephone company shall not be allowed for that tax 4009
year the credit provided under this section. 4010

Sec. 6101.17. The board of directors of a conservancy 4011
district, when it is necessary for the purposes of this chapter, 4012
shall have a dominant right of eminent domain over the right of 4013
eminent domain of railroad, ~~telegraph,~~ telephone, gas, water 4014
power, and other companies and corporations, and over townships, 4015
counties, and municipal corporations. 4016

In the exercise of this right, due care shall be taken to do 4017
no unnecessary damage to other public utilities, and, in case of 4018
failure to agree upon the mode and terms of interference, not to 4019
interfere with their operation or usefulness beyond the actual 4020
necessities of the case, due regard being paid to the other public 4021
interests involved. 4022

Sec. 6115.21. The board of directors of a sanitary district, 4023
when it is necessary for the purposes of sections 6115.01 to 4024
6115.79, ~~inclusive,~~ of the Revised Code, shall have a dominant 4025
right of eminent domain over the right of eminent domain of 4026
railroad, ~~telegraph,~~ telephone, gas, water power, and other 4027
companies and corporations, and over townships, counties, and 4028
municipal corporations. 4029

In the exercise of this right due care shall be taken to do 4030
no unnecessary damage to other public utilities, and, in case of 4031
failure to agree upon the mode and terms of interference, not to 4032
interfere with their operation or usefulness beyond the actual 4033
necessities of the case, due regard being paid to the other public 4034
interests involved. 4035

Section 2. That existing sections 324.01, 324.03, 1332.24, 4036
2317.02, 2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4037

4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4038
4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4039
4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4040
4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4041
4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4042
4905.90, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4043
4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4044
4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.35, 4931.99, 4045
4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 4046
6115.21 and sections 4905.041, 4905.23, 4905.231, 4905.24, 4047
4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 4905.381, 4048
4905.49, 4905.491, 4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 4049
4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 4050
4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 4931.27, 4931.28, 4051
4931.29, 4931.30, and 4931.31 of the Revised Code are hereby 4052
repealed. 4053

Section 3. Coincident with the adoption of initial rules as 4054
provided for in section 4927.03 of the Revised Code as enacted by 4055
this act, the Public Utilities Commission shall rescind the 4056
following rules and shall file the requisite notice of the 4057
rescissions with the Legislative Service Commission and the 4058
Secretary of State within five days: Chapters 4901:1-4, 4901:1-5, 4059
and 4901:1-6 of the Ohio Administrative Code, except for Rule No. 4060
4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and 4061
except for Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related 4062
definitions in Rule No. 4901:1-6-01. Rescission of these rules 4063
shall take effect as provided by law and, notwithstanding any 4064
other provision of the Revised Code, is not subject to legislative 4065
review or invalidation. Except as provided in section 4927.12 of 4066
the Revised Code, the Public Utilities Commission shall not 4067
enforce on or after the effective date of this act against any 4068

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. 4098

(B) The Governor shall make appointments to the Committee not 4099
later than sixty days after the effective date of this section. 4100
Vacancies on the Committee shall be filled in the manner provided 4101
for original appointments. 4102

(C) The members who serve as chairpersons of the House and 4103
Senate committees to which public utility legislation is referred 4104
shall serve as co-chairpersons of the Select Committee on 4105
Telecommunications Regulatory Reform. The Committee shall meet at 4106
the call of the co-chairpersons who shall determine the time, 4107
meeting location, and agenda for each meeting of the Committee. 4108

(D) The Committee shall study the impacts of S.B. 162 as 4109
enacted by the 128th General Assembly. The Committee's study shall 4110
include, but shall not be limited to, a review of both the 4111
economic benefits of the act and the act's impact on jobs, 4112
telephone company rates, telephone company quality of service, 4113
lifeline program customers, rural markets, rural broadband 4114
deployment, and carrier access to private property. The 4115
Committee's study shall also include a report on the 4116
Community-voicemail Service Pilot Program created in S.B. 162 of 4117
the 128th General Assembly. The Public Utilities Commission shall 4118
cooperate with the Committee as it performs its duties and shall 4119
provide reports and any other information requested by the 4120
Committee. 4121

(E) The Committee may request assistance from the Legislative 4122
Service Commission. 4123

(F) Not later than four years after the effective date of 4124
this section, the Committee shall submit a written report of its 4125
findings and recommendations to the General Assembly and the 4126
Governor. Upon submission of its report, the Committee shall cease 4127
to exist. 4128

Section 6. (A) The Public Utilities Commission shall 4129
implement a Community-voicemail Service Pilot Program for 4130
individuals who are in a state of transition and have no access to 4131
traditional telephone exchange service or readily available 4132
alternatives, including the homeless, clients of battered-spouse 4133
programs, and displaced and returning veterans. The Commission 4134
shall establish a competitive bidding process to implement the 4135
program in at least one urban area and one rural area in this 4136
state. Not later than one year after the effective date of this 4137
section, the Commission shall select one or more vendors of 4138
community-voicemail service through that competitive bidding 4139
process. The vendor or vendors selected shall begin providing 4140
services under the program not later than 60 days after being 4141
officially notified of selection, unless the vendor or vendors 4142
apply to the Commission for an extension or extensions and the 4143
Commission grants the application or applications. The Commission 4144
shall grant an application for an extension if the applicant 4145
demonstrates good cause. The Commission shall determine the length 4146
of time for any extensions. 4147

The Commission may not contract for the service if the total 4148
amount of expenditures under all contracts exceeds five hundred 4149
thousand dollars. 4150

(B) For the sole purpose of funding the program implemented 4151
under this section, the Commission shall impose on and collect 4152
from each telephone company that is a local exchange carrier an 4153
assessment to pay for costs incurred by vendors under any contract 4154
for the provision of the program in this state. The assessment 4155
shall be allocated proportionately based on the number of retail, 4156
intrastate, customer-access lines, or the equivalent, of each 4157
carrier. 4158

(C) Each local exchange carrier that pays an assessment under 4159

division (B) of this section may not recover the cost of the 4160
assessment directly from customers through a billing surcharge. 4161

(D) The Commission shall deposit the money collected under 4162
division (B) of this section in the Community-voicemail Service 4163
Pilot Program Fund, which is hereby created in the state treasury. 4164
The Commission shall use the money in that fund solely to 4165
compensate the vendors selected by the Commission to provide the 4166
service. 4167

(E) The Commission shall take any measures that it considers 4168
necessary to protect the confidentiality of information provided 4169
to the Commission under this section by local exchange carriers 4170
required to pay the assessment. 4171

(F) The Commission may assess a forfeiture of not more than 4172
one thousand dollars on any local exchange carrier that fails to 4173
comply with this section. Each day of continued violation of this 4174
section shall constitute a separate offense. The forfeiture shall 4175
be recovered in accordance with sections 4905.55 to 4905.60 of the 4176
Revised Code. 4177

(G) The Commission may adopt rules as it finds necessary to 4178
carry out this section, except that the Commission shall adopt 4179
rules specifying how recipients of services under the program are 4180
to be notified or educated of the program's termination. 4181

(H) The program shall last for two years after the date that 4182
any services begin to be provided under the program. At the 4183
conclusion of the program, the Commission shall evaluate the 4184
effectiveness of the program, the costs and benefits of the 4185
program, and the availability of other options that may better 4186
serve the needs of individuals who are in a state of transition. 4187
The Commission shall report its findings, including any 4188
recommendations for continuation, expansion, or changes to the 4189
program, to the Select Committee on Telecommunications Regulatory 4190

Reform created in S.B. 162 of the 128th general assembly. The 4191
report shall be filed not later than 120 days after the conclusion 4192
of the program. 4193

Section 7. Section 2917.21 of the Revised Code is presented 4194
in this act as a composite of the section as amended by both H.B. 4195
565 and S.B. 215 of the 122nd General Assembly. Section 2929.01 of 4196
the Revised Code is presented in this act as a composite of the 4197
section as amended by both Am. Sub. H.B. 130 and Am. Sub. H.B. 280 4198
of the 127th General Assembly. Section 4933.14 of the Revised Code 4199
is presented in this act as a composite of the section as amended 4200
by both H.B. 283 and S.B. 3 of the 123rd General Assembly. The 4201
General Assembly, applying the principle stated in division (B) of 4202
section 1.52 of the Revised Code that amendments are to be 4203
harmonized if reasonably capable of simultaneous operation, finds 4204
that the composites are the resulting versions of those sections 4205
in effect prior to the effective date of those sections as 4206
presented in this act. 4207