

As Reported by the Senate Energy and Public Utilities Committee

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Sub. S. B. No. 162

Senator Buehrer

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

Wagoner

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A B I L L

To amend sections 324.01, 324.03, 1332.24, 2317.02, 1
2917.21, 4901.01, 4901.02, 4901.11, 4901.15, 2
4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 3
4905.01, 4905.02, 4905.03, 4905.04, 4905.09, 4
4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 5
4905.21, 4905.26, 4905.30, 4905.40, 4905.402, 6
4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 7
4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 8
4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 9
4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 10
4909.02, 4909.03, 4909.17, 4911.01, 4921.01, 11
4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 12
4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 13
4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 14
6101.17, and 6115.21, to amend sections 4931.11 15
(4931.05) and 4931.35 (4931.06) for the purpose of 16
adopting new section numbers as shown in 17
parentheses, to enact new sections 4927.03 and 18
4927.04 and sections 4927.05, 4927.06, 4927.07, 19
4927.08, 4927.09, 4927.10, 4927.11, 4927.12, 20
4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 21
4927.18, 4927.19, and 4931.01, and to repeal 22

sections 4905.041, 4905.23, 4905.231, 4905.24, 23
4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 24
4905.381, 4905.49, 4905.491, 4905.50, 4927.03, 25
4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 26
4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 27
4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 28
4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 of 29
the Revised Code to revise state regulation of 30
telephone companies and remove telegraph companies 31
from utility regulation and to create the Select 32
Committee on Telecommunications Regulatory Reform. 33

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

Section 1. That sections 324.01, 324.03, 1332.24, 2317.02, 34
2917.21, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 4903.01, 35
4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 36
4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 4905.21, 37
4905.26, 4905.30, 4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 38
4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 39
4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 4905.99, 4907.01, 40
4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01, 41
4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03, 42
4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 43
5515.01, 5733.57, 6101.17, and 6115.21 be amended, that sections 44
4931.11 (4931.05) and 4931.35 (4931.06) be amended for the purpose 45
of adopting new section numbers as shown in parentheses, and that 46
new sections 4927.03 and 4927.04 and sections 4927.05, 4927.06, 47
4927.07, 4927.08, 4927.09, 4927.10, 4927.11, 4927.12, 4927.13, 48
4927.14, 4927.15, 4927.16, 4927.17, 4927.18, 4927.19, and 4931.01 49
of the Revised Code be enacted to read as follows: 50

Sec. 324.01. As used in sections 324.01 to 324.12 of the 51

Revised Code:	52
(A) "Utility" means:	53
(1) An electric company, gas company, heating company,	54
cooling company, telephone company, telegraph company , or	55
communications company supplying a utility service;	56
(2) Any municipal corporation, county, or other political	57
subdivision, instrumentality, or agency of the state supplying a	58
utility service;	59
(3) Any individual, firm, partnership, association, trust,	60
joint-stock company, joint venture, corporation, nonprofit	61
corporation, cooperative, receiver, assignee, trustee in	62
bankruptcy, estate, trustee, or organization of any kind which	63
owns or operates any office building, storeroom building, shopping	64
center, apartment building, apartment hotel, condominium, or other	65
multiple business or dwelling unit, and which sells, furnishes, or	66
delivers a utility service to the tenants or occupants thereof,	67
provided the charge for such utility service is separately stated.	68
(B) Any individual, firm, partnership, association, trust,	69
joint-stock company, joint venture, corporation, municipal	70
corporation, county, or other political subdivision,	71
instrumentality, or agency of the state, nonprofit corporation,	72
cooperative, receiver, assignee, trustee in bankruptcy, estate,	73
trustee, or organization of any kind:	74
(1) Is an electric company when supplying electricity for	75
light, heat, cooling, or power purposes to customers within a	76
county levying a utilities service tax;	77
(2) Is a gas company when supplying artificial gas or natural	78
gas for light, heat, cooling, or power purposes to customers	79
within a county levying a utilities service tax;	80
(3) Is a heating company when supplying water, steam, or air	81

through pipes or tubing for heating purposes to customers within a 82
county levying a utilities service tax; 83

(4) Is a cooling company when supplying water, steam, or air 84
through pipes or tubing for cooling purposes to customers within a 85
county levying a utilities service tax; 86

(5) Is a telephone company when transmitting telephonic 87
messages to, from, or within a county levying a utilities service 88
tax; 89

~~(6) Is a telegraph company when transmitting telegraphic 90
messages to, from, or within a county levying a utilities service 91
tax; 92~~

~~(7) Is a communications company when supplying the services 93
described in section ~~4931.11~~ 4931.05 of the Revised Code, other 94
than transmitting telephonic ~~or telegraphic~~ messages, to, from, or 95
within a county levying a utilities service tax. 96~~

(C) "Utility service" means the supplying of water, steam, or 97
air through pipes or tubing for heating or cooling purposes to 98
customers within the county, the supplying of electricity, 99
artificial gas, or natural gas to customers within the county, and 100
the transmission of telephonic ~~or telegraphic~~ messages or the 101
supplying of any of the services described in section ~~4931.11~~ 102
4931.05 of the Revised Code when the transmission or supplying 103
originates from and is charged to or is received by and charged to 104
a customer within the county. 105

(D) "Charge for utility service" means the amount charged to 106
the customer for a utility service without deduction for any 107
discount for early payment but after deducting the amount of any 108
federal excise tax on such utility service, and excluding the 109
amount paid for the purchase of appliances or other merchandise, 110
and the amount paid for the installation of pipes, meters, poles, 111
apparatus, instruments, switchboards, and other facilities by the 112

utility for the purpose of rendering utility service to the 113
customer if the charge therefor is separately stated by the 114
utility in its bill to the customer and is not included in the 115
basic rates charged to customers of the utility. 116

(E) "Customer" means any individual, firm, partnership, 117
association, trust, joint-stock company, joint venture, 118
corporation, nonprofit corporation, cooperative, receiver, 119
assignee, trustee in bankruptcy, estate, trustee, or organization 120
of any kind receiving utility service from a utility, but does not 121
include the United States, the state, any political subdivision of 122
the state, or any agency or instrumentality of any of them. 123

(F) "Business" has the same meaning as in division (E) of 124
section 5701.08 of the Revised Code. 125

Sec. 324.03. The utilities service tax shall not apply to the 126
following: 127

(A) The first five dollars per month of any charge for 128
utility service for each utility service rendered by a utility to 129
a customer; 130

(B) The supplying of a utility service to a customer for 131
resale; provided, that this division shall not include the 132
supplying of a utility service to a utility as defined in division 133
(A)(3) of section 324.01 of the Revised Code if the utility 134
receiving the service when supplying the service to its customers 135
does not separately state the charge therefor; 136

(C) The supplying of a utility service through a 137
coin-operated device; 138

(D) Telephone service, ~~telegraph service~~, and services 139
described in section ~~4931.11~~ 4931.05 of the Revised Code, to or 140
from a point outside the state for which a separate charge is 141
made; 142

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

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

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

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

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

(3) The director may impose upon and collect an annual assessment on video service providers. All money collected under division (A)(3) of this section shall be deposited to the credit of the division of administration fund created under section

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

(B)(1) The director may investigate alleged violations of or 201
failures to comply with division (A) of section 1332.23, division 202
(A) of this section, division (C) of section 1332.25, division (C) 203
or (D) of section 1332.26, division (A), (B), or (C) of section 204
1332.27, division (A) of section 1332.28, division (A) or (B) of 205
section 1332.29, or section 1332.30 or 1332.31 of the Revised 206

Code, or complaints concerning any such violation or failure. 207
Except as provided in this section, the director has no authority 208
to regulate video service in this state, including, but not 209
limited to, the rates, terms, or conditions of that service. 210

(2) In conducting an investigation under division (B)(1) of 211
this section, the director, by subpoena, may compel witnesses to 212
testify in relation to any matter over which the director has 213
jurisdiction and may require the production of any book, record, 214
or other document pertaining to that matter. If a person fails to 215
file any statement or report, obey any subpoena, give testimony, 216
produce any book, record, or other document as required by a 217
subpoena, or permit photocopying of any book, record, or other 218
document subpoenaed, the court of common pleas of any county in 219
this state, upon application made to it by the director, shall 220
compel obedience by attachment proceedings for contempt, as in the 221
case of disobedience of the requirements of a subpoena issued from 222
the court or a refusal to testify. 223

(C)(1) If the director finds that a person has violated or 224
failed to comply with division (A) of section 1332.23, division 225
(A) of this section, division (C) of section 1332.25, division (C) 226
or (D) of section 1332.26, division (A), (B), or (C) of section 227
1332.27, division (A) of section 1332.28, division (A) or (B) of 228
section 1332.29, or section 1332.30 or 1332.31 of the Revised 229
Code, and the person has failed to cure the violation or failure 230
after reasonable, written notice and reasonable time to cure, the 231
director may do any of the following: 232

(a) Apply to the court of common pleas of any county in this 233
state for an order enjoining the activity or requiring compliance. 234
Such an action shall be commenced not later than three years after 235
the date the alleged violation or failure occurred or was 236
reasonably discovered. Upon a showing by the director that the 237
person has engaged in a violation or failure to comply, the court 238

shall grant an injunction, restraining order, or other appropriate relief. 239
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(b) Enter into a written assurance of voluntary compliance with the person; 241
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(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: 243
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(i) The seriousness of the noncompliance; 253

(ii) The good faith efforts of the person to comply; 254

(iii) The person's history of noncompliance; 255

(iv) The financial resources of the person; 256

(v) Any other matter that justice requires. 257

Civil penalties collected pursuant to division (C)(1)(c) of this section shall be deposited to the credit of the video service enforcement fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under this section. 258
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(2) Pursuant to an adjudication under Chapter 119. of the Revised Code, the director may revoke, in whole or in part, the video service authorization of any person that has repeatedly and knowingly violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division 263
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(A), (B), or (C) of section 1332.27, division (A) of section 269
1332.28, division (A) or (B) of section 1332.29, or section 270
1332.30 or 1332.31 of the Revised Code and that has failed to cure 271
the violations or noncompliances after reasonable written notice 272
and reasonable time to cure. Such person acts knowingly, 273
regardless of the person's purpose, when the person is aware that 274
the person's conduct will probably cause a certain result or will 275
probably be of a certain nature. A person has knowledge of 276
circumstances when the person is aware that such circumstances 277
probably exist. 278

(3) The court shall conduct a de novo review in any appeal 279
from an adjudication under division (C)(1)(c) or (C)(2) of this 280
section. 281

(D) The public utilities commission has no authority over a 282
video service provider in its offering of video service or a cable 283
operator in its offering of cable or video service, or over any 284
person in its offering of video service pursuant to a competitive 285
video service agreement. 286

Sec. 2317.02. The following persons shall not testify in 287
certain respects: 288

(A)(1) An attorney, concerning a communication made to the 289
attorney by a client in that relation or the attorney's advice to 290
a client, except that the attorney may testify by express consent 291
of the client or, if the client is deceased, by the express 292
consent of the surviving spouse or the executor or administrator 293
of the estate of the deceased client. However, if the client 294
voluntarily testifies or is deemed by section 2151.421 of the 295
Revised Code to have waived any testimonial privilege under this 296
division, the attorney may be compelled to testify on the same 297
subject. 298

The testimonial privilege established under this division 299

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

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

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

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

(a) In any civil action, in accordance with the discovery

provisions of the Rules of Civil Procedure in connection with a 332
civil action, or in connection with a claim under Chapter 4123. of 333
the Revised Code, under any of the following circumstances: 334

(i) If the patient or the guardian or other legal 335
representative of the patient gives express consent; 336

(ii) If the patient is deceased, the spouse of the patient or 337
the executor or administrator of the patient's estate gives 338
express consent; 339

(iii) If a medical claim, dental claim, chiropractic claim, 340
or optometric claim, as defined in section 2305.113 of the Revised 341
Code, an action for wrongful death, any other type of civil 342
action, or a claim under Chapter 4123. of the Revised Code is 343
filed by the patient, the personal representative of the estate of 344
the patient if deceased, or the patient's guardian or other legal 345
representative. 346

(b) In any civil action concerning court-ordered treatment or 347
services received by a patient, if the court-ordered treatment or 348
services were ordered as part of a case plan journalized under 349
section 2151.412 of the Revised Code or the court-ordered 350
treatment or services are necessary or relevant to dependency, 351
neglect, or abuse or temporary or permanent custody proceedings 352
under Chapter 2151. of the Revised Code. 353

(c) In any criminal action concerning any test or the results 354
of any test that determines the presence or concentration of 355
alcohol, a drug of abuse, a combination of them, a controlled 356
substance, or a metabolite of a controlled substance in the 357
patient's whole blood, blood serum or plasma, breath, urine, or 358
other bodily substance at any time relevant to the criminal 359
offense in question. 360

(d) In any criminal action against a physician or dentist. In 361
such an action, the testimonial privilege established under this 362

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

(e)(i) If the communication was between a patient who has 376
since died and the deceased patient's physician or dentist, the 377
communication is relevant to a dispute between parties who claim 378
through that deceased patient, regardless of whether the claims 379
are by testate or intestate succession or by inter vivos 380
transaction, and the dispute addresses the competency of the 381
deceased patient when the deceased patient executed a document 382
that is the basis of the dispute or whether the deceased patient 383
was a victim of fraud, undue influence, or duress when the 384
deceased patient executed a document that is the basis of the 385
dispute. 386

(ii) If neither the spouse of a patient nor the executor or 387
administrator of that patient's estate gives consent under 388
division (B)(1)(a)(ii) of this section, testimony or the 389
disclosure of the patient's medical records by a physician, 390
dentist, or other health care provider under division (B)(1)(e)(i) 391
of this section is a permitted use or disclosure of protected 392
health information, as defined in 45 C.F.R. 160.103, and an 393
authorization or opportunity to be heard shall not be required. 394

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

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

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

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

that indicates that the provider does not possess any of the 427
requested records. 428

(b) If a health care provider possesses any records of the 429
type described in division (B)(2)(a) of this section regarding the 430
person in question at any time relevant to the criminal offense in 431
question, in lieu of personally testifying as to the results of 432
the test in question, the custodian of the records may submit a 433
certified copy of the records, and, upon its submission, the 434
certified copy is qualified as authentic evidence and may be 435
admitted as evidence in accordance with the Rules of Evidence. 436
Division (A) of section 2317.422 of the Revised Code does not 437
apply to any certified copy of records submitted in accordance 438
with this division. Nothing in this division shall be construed to 439
limit the right of any party to call as a witness the person who 440
administered the test to which the records pertain, the person 441
under whose supervision the test was administered, the custodian 442
of the records, the person who made the records, or the person 443
under whose supervision the records were made. 444

(3)(a) If the testimonial privilege described in division 445
(B)(1) of this section does not apply as provided in division 446
(B)(1)(a)(iii) of this section, a physician or dentist may be 447
compelled to testify or to submit to discovery under the Rules of 448
Civil Procedure only as to a communication made to the physician 449
or dentist by the patient in question in that relation, or the 450
physician's or dentist's advice to the patient in question, that 451
related causally or historically to physical or mental injuries 452
that are relevant to issues in the medical claim, dental claim, 453
chiropractic claim, or optometric claim, action for wrongful 454
death, other civil action, or claim under Chapter 4123. of the 455
Revised Code. 456

(b) If the testimonial privilege described in division (B)(1) 457
of this section does not apply to a physician or dentist as 458

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

(4) The testimonial privilege described in division (B)(1) of 473
this section is not waived when a communication is made by a 474
physician to a pharmacist or when there is communication between a 475
patient and a pharmacist in furtherance of the physician-patient 476
relation. 477

(5)(a) As used in divisions (B)(1) to (4) of this section, 478
"communication" means acquiring, recording, or transmitting any 479
information, in any manner, concerning any facts, opinions, or 480
statements necessary to enable a physician or dentist to diagnose, 481
treat, prescribe, or act for a patient. A "communication" may 482
include, but is not limited to, any medical or dental, office, or 483
hospital communication such as a record, chart, letter, 484
memorandum, laboratory test and results, x-ray, photograph, 485
financial statement, diagnosis, or prognosis. 486

(b) As used in division (B)(2) of this section, "health care 487
provider" means a hospital, ambulatory care facility, long-term 488
care facility, pharmacy, emergency facility, or health care 489
practitioner. 490

(c) As used in division (B)(5)(b) of this section:	491
(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.	492 493 494 495 496 497 498 499 500 501
(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	502 503 504
(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.	505 506
(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	507 508
(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.	509 510 511 512 513 514 515 516 517
(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.	518 519
(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the	520 521

Revised Code.	522
(6) Divisions (B)(1), (2), (3), (4), and (5) of this section	523
apply to doctors of medicine, doctors of osteopathic medicine,	524
doctors of podiatry, and dentists.	525
(7) Nothing in divisions (B)(1) to (6) of this section	526
affects, or shall be construed as affecting, the immunity from	527
civil liability conferred by section 307.628 of the Revised Code	528
or the immunity from civil liability conferred by section 2305.33	529
of the Revised Code upon physicians who report an employee's use	530
of a drug of abuse, or a condition of an employee other than one	531
involving the use of a drug of abuse, to the employer of the	532
employee in accordance with division (B) of that section. As used	533
in division (B)(7) of this section, "employee," "employer," and	534
"physician" have the same meanings as in section 2305.33 of the	535
Revised Code.	536
(C)(1) A cleric, when the cleric remains accountable to the	537
authority of that cleric's church, denomination, or sect,	538
concerning a confession made, or any information confidentially	539
communicated, to the cleric for a religious counseling purpose in	540
the cleric's professional character. The cleric may testify by	541
express consent of the person making the communication, except	542
when the disclosure of the information is in violation of a sacred	543
trust and except that, if the person voluntarily testifies or is	544
deemed by division (A)(4)(c) of section 2151.421 of the Revised	545
Code to have waived any testimonial privilege under this division,	546
the cleric may be compelled to testify on the same subject except	547
when disclosure of the information is in violation of a sacred	548
trust.	549
(2) As used in division (C) of this section:	550
(a) "Cleric" means a member of the clergy, rabbi, priest,	551
Christian Science practitioner, or regularly ordained, accredited,	552

or licensed minister of an established and legally cognizable 553
church, denomination, or sect. 554

(b) "Sacred trust" means a confession or confidential 555
communication made to a cleric in the cleric's ecclesiastical 556
capacity in the course of discipline enjoined by the church to 557
which the cleric belongs, including, but not limited to, the 558
Catholic Church, if both of the following apply: 559

(i) The confession or confidential communication was made 560
directly to the cleric. 561

(ii) The confession or confidential communication was made in 562
the manner and context that places the cleric specifically and 563
strictly under a level of confidentiality that is considered 564
inviolable by canon law or church doctrine. 565

(D) Husband or wife, concerning any communication made by one 566
to the other, or an act done by either in the presence of the 567
other, during coverture, unless the communication was made, or act 568
done, in the known presence or hearing of a third person competent 569
to be a witness; and such rule is the same if the marital relation 570
has ceased to exist; 571

(E) A person who assigns a claim or interest, concerning any 572
matter in respect to which the person would not, if a party, be 573
permitted to testify; 574

(F) A person who, if a party, would be restricted under 575
section 2317.03 of the Revised Code, when the property or thing is 576
sold or transferred by an executor, administrator, guardian, 577
trustee, heir, devisee, or legatee, shall be restricted in the 578
same manner in any action or proceeding concerning the property or 579
thing. 580

(G)(1) A school guidance counselor who holds a valid educator 581
license from the state board of education as provided for in 582
section 3319.22 of the Revised Code, a person licensed under 583

Chapter 4757. of the Revised Code as a professional clinical 584
counselor, professional counselor, social worker, independent 585
social worker, marriage and family therapist or independent 586
marriage and family therapist, or registered under Chapter 4757. 587
of the Revised Code as a social work assistant concerning a 588
confidential communication received from a client in that relation 589
or the person's advice to a client unless any of the following 590
applies: 591

(a) The communication or advice indicates clear and present 592
danger to the client or other persons. For the purposes of this 593
division, cases in which there are indications of present or past 594
child abuse or neglect of the client constitute a clear and 595
present danger. 596

(b) The client gives express consent to the testimony. 597

(c) If the client is deceased, the surviving spouse or the 598
executor or administrator of the estate of the deceased client 599
gives express consent. 600

(d) The client voluntarily testifies, in which case the 601
school guidance counselor or person licensed or registered under 602
Chapter 4757. of the Revised Code may be compelled to testify on 603
the same subject. 604

(e) The court in camera determines that the information 605
communicated by the client is not germane to the counselor-client, 606
marriage and family therapist-client, or social worker-client 607
relationship. 608

(f) A court, in an action brought against a school, its 609
administration, or any of its personnel by the client, rules after 610
an in-camera inspection that the testimony of the school guidance 611
counselor is relevant to that action. 612

(g) The testimony is sought in a civil action and concerns 613
court-ordered treatment or services received by a patient as part 614

of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

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

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

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

criminal proceeding. 647

Nothing in this section shall limit any immunity or privilege 648
granted under federal law or regulation. 649

(J)(1) A chiropractor in a civil proceeding concerning a 650
communication made to the chiropractor by a patient in that 651
relation or the chiropractor's advice to a patient, except as 652
otherwise provided in this division. The testimonial privilege 653
established under this division does not apply, and a chiropractor 654
may testify or may be compelled to testify, in any civil action, 655
in accordance with the discovery provisions of the Rules of Civil 656
Procedure in connection with a civil action, or in connection with 657
a claim under Chapter 4123. of the Revised Code, under any of the 658
following circumstances: 659

(a) If the patient or the guardian or other legal 660
representative of the patient gives express consent. 661

(b) If the patient is deceased, the spouse of the patient or 662
the executor or administrator of the patient's estate gives 663
express consent. 664

(c) If a medical claim, dental claim, chiropractic claim, or 665
optometric claim, as defined in section 2305.113 of the Revised 666
Code, an action for wrongful death, any other type of civil 667
action, or a claim under Chapter 4123. of the Revised Code is 668
filed by the patient, the personal representative of the estate of 669
the patient if deceased, or the patient's guardian or other legal 670
representative. 671

(2) If the testimonial privilege described in division (J)(1) 672
of this section does not apply as provided in division (J)(1)(c) 673
of this section, a chiropractor may be compelled to testify or to 674
submit to discovery under the Rules of Civil Procedure only as to 675
a communication made to the chiropractor by the patient in 676
question in that relation, or the chiropractor's advice to the 677

patient in question, that related causally or historically to 678
physical or mental injuries that are relevant to issues in the 679
medical claim, dental claim, chiropractic claim, or optometric 680
claim, action for wrongful death, other civil action, or claim 681
under Chapter 4123. of the Revised Code. 682

(3) The testimonial privilege established under this division 683
does not apply, and a chiropractor may testify or be compelled to 684
testify, in any criminal action or administrative proceeding. 685

(4) As used in this division, "communication" means 686
acquiring, recording, or transmitting any information, in any 687
manner, concerning any facts, opinions, or statements necessary to 688
enable a chiropractor to diagnose, treat, or act for a patient. A 689
communication may include, but is not limited to, any 690
chiropractic, office, or hospital communication such as a record, 691
chart, letter, memorandum, laboratory test and results, x-ray, 692
photograph, financial statement, diagnosis, or prognosis. 693

(K)(1) Except as provided under division (K)(2) of this 694
section, a critical incident stress management team member 695
concerning a communication received from an individual who 696
receives crisis response services from the team member, or the 697
team member's advice to the individual, during a debriefing 698
session. 699

(2) The testimonial privilege established under division 700
(K)(1) of this section does not apply if any of the following are 701
true: 702

(a) The communication or advice indicates clear and present 703
danger to the individual who receives crisis response services or 704
to other persons. For purposes of this division, cases in which 705
there are indications of present or past child abuse or neglect of 706
the individual constitute a clear and present danger. 707

(b) The individual who received crisis response services 708

gives express consent to the testimony. 709

(c) If the individual who received crisis response services 710
is deceased, the surviving spouse or the executor or administrator 711
of the estate of the deceased individual gives express consent. 712

(d) The individual who received crisis response services 713
voluntarily testifies, in which case the team member may be 714
compelled to testify on the same subject. 715

(e) The court in camera determines that the information 716
communicated by the individual who received crisis response 717
services is not germane to the relationship between the individual 718
and the team member. 719

(f) The communication or advice pertains or is related to any 720
criminal act. 721

(3) As used in division (K) of this section: 722

(a) "Crisis response services" means consultation, risk 723
assessment, referral, and on-site crisis intervention services 724
provided by a critical incident stress management team to 725
individuals affected by crisis or disaster. 726

(b) "Critical incident stress management team member" or 727
"team member" means an individual specially trained to provide 728
crisis response services as a member of an organized community or 729
local crisis response team that holds membership in the Ohio 730
critical incident stress management network. 731

(c) "Debriefing session" means a session at which crisis 732
response services are rendered by a critical incident stress 733
management team member during or after a crisis or disaster. 734

(L)(1) Subject to division (L)(2) of this section and except 735
as provided in division (L)(3) of this section, an employee 736
assistance professional, concerning a communication made to the 737
employee assistance professional by a client in the employee 738

assistance professional's official capacity as an employee	739
assistance professional.	740
(2) Division (L)(1) of this section applies to an employee	741
assistance professional who meets either or both of the following	742
requirements:	743
(a) Is certified by the employee assistance certification	744
commission to engage in the employee assistance profession;	745
(b) Has education, training, and experience in all of the	746
following:	747
(i) Providing workplace-based services designed to address	748
employer and employee productivity issues;	749
(ii) Providing assistance to employees and employees'	750
dependents in identifying and finding the means to resolve	751
personal problems that affect the employees or the employees'	752
performance;	753
(iii) Identifying and resolving productivity problems	754
associated with an employee's concerns about any of the following	755
matters: health, marriage, family, finances, substance abuse or	756
other addiction, workplace, law, and emotional issues;	757
(iv) Selecting and evaluating available community resources;	758
(v) Making appropriate referrals;	759
(vi) Local and national employee assistance agreements;	760
(vii) Client confidentiality.	761
(3) Division (L)(1) of this section does not apply to any of	762
the following:	763
(a) A criminal action or proceeding involving an offense	764
under sections 2903.01 to 2903.06 of the Revised Code if the	765
employee assistance professional's disclosure or testimony relates	766
directly to the facts or immediate circumstances of the offense;	767

(b) A communication made by a client to an employee 768
assistance professional that reveals the contemplation or 769
commission of a crime or serious, harmful act; 770

(c) A communication that is made by a client who is an 771
unemancipated minor or an adult adjudicated to be incompetent and 772
indicates that the client was the victim of a crime or abuse; 773

(d) A civil proceeding to determine an individual's mental 774
competency or a criminal action in which a plea of not guilty by 775
reason of insanity is entered; 776

(e) A civil or criminal malpractice action brought against 777
the employee assistance professional; 778

(f) When the employee assistance professional has the express 779
consent of the client or, if the client is deceased or disabled, 780
the client's legal representative; 781

(g) When the testimonial privilege otherwise provided by 782
division (L)(1) of this section is abrogated under law. 783

Sec. 2917.21. (A) No person shall knowingly make or cause to 784
be made a telecommunication, or knowingly permit a 785
telecommunication to be made from a telecommunications device 786
under the person's control, to another, if the caller does any of 787
the following: 788

(1) Fails to identify the caller to the recipient of the 789
telecommunication and makes the telecommunication with purpose to 790
harass or abuse any person at the premises to which the 791
telecommunication is made, whether or not actual communication 792
takes place between the caller and a recipient; 793

(2) Describes, suggests, requests, or proposes that the 794
caller, the recipient of the telecommunication, or any other 795
person engage in sexual activity, and the recipient or another 796
person at the premises to which the telecommunication is made has 797

requested, in a previous telecommunication or in the immediate 798
telecommunication, that the caller not make a telecommunication to 799
the recipient or to the premises to which the telecommunication is 800
made; 801

(3) During the telecommunication, violates section 2903.21 of 802
the Revised Code; 803

(4) Knowingly states to the recipient of the 804
telecommunication that the caller intends to cause damage to or 805
destroy public or private property, and the recipient, any member 806
of the recipient's family, or any other person who resides at the 807
premises to which the telecommunication is made owns, leases, 808
resides, or works in, will at the time of the destruction or 809
damaging be near or in, has the responsibility of protecting, or 810
insures the property that will be destroyed or damaged; 811

(5) Knowingly makes the telecommunication to the recipient of 812
the telecommunication, to another person at the premises to which 813
the telecommunication is made, or to those premises, and the 814
recipient or another person at those premises previously has told 815
the caller not to make a telecommunication to those premises or to 816
any persons at those premises. 817

(B) No person shall make or cause to be made a 818
telecommunication, or permit a telecommunication to be made from a 819
telecommunications device under the person's control, with purpose 820
to abuse, threaten, or harass another person. 821

(C)(1) Whoever violates this section is guilty of 822
telecommunications harassment. 823

(2) A violation of division (A)(1), (2), (3), or (5) or (B) 824
of this section is a misdemeanor of the first degree on a first 825
offense and a felony of the fifth degree on each subsequent 826
offense. 827

(3) Except as otherwise provided in division (C)(3) of this 828

section, a violation of division (A)(4) of this section is a 829
misdemeanor of the first degree on a first offense and a felony of 830
the fifth degree on each subsequent offense. If a violation of 831
division (A)(4) of this section results in economic harm of five 832
hundred dollars or more but less than five thousand dollars, 833
telecommunications harassment is a felony of the fifth degree. If 834
a violation of division (A)(4) of this section results in economic 835
harm of five thousand dollars or more but less than one hundred 836
thousand dollars, telecommunications harassment is a felony of the 837
fourth degree. If a violation of division (A)(4) of this section 838
results in economic harm of one hundred thousand dollars or more, 839
telecommunications harassment is a felony of the third degree. 840

(D) No cause of action may be asserted in any court of this 841
state against any provider of a telecommunications service or 842
information service, or against any officer, employee, or agent of 843
a telecommunication service or information service, for any 844
injury, death, or loss to person or property that allegedly arises 845
out of the provider's, officer's, employee's, or agent's provision 846
of information, facilities, or assistance in accordance with the 847
terms of a court order that is issued in relation to the 848
investigation or prosecution of an alleged violation of this 849
section ~~or section 4931.31 of the Revised Code~~. A provider of a 850
telecommunications service or information service, or an officer, 851
employee, or agent of a telecommunications service or information 852
service, is immune from any civil or criminal liability for 853
injury, death, or loss to person or property that allegedly arises 854
out of the provider's, officer's, employee's, or agent's provision 855
of information, facilities, or assistance in accordance with the 856
terms of a court order that is issued in relation to the 857
investigation or prosecution of an alleged violation of this 858
section ~~or section 4931.31 of the Revised Code~~. 859

(E) As used in this section: 860

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

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

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

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

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

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

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

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

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

Sec. 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. 890

(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.~~ 891
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(C) "Railroad" has the same meaning ~~set forth~~ as in section 898
4907.02 of the Revised Code. 899

(D) ~~"Motor transportation company" has the meaning set forth
in sections 4905.03 and 4921.02 of the Revised Code.~~ 900
901

(E) ~~"Trailer," "public highway," "fixed termini," "regular
route," and "irregular route" have the meaning set forth in
section 4921.02 of the Revised Code.~~ 902
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(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.~~ 905
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Sec. 4901.02. (A) There is hereby created the public 908
utilities commission of Ohio, by which name the commission may sue 909
and be sued. The commission shall consist of five public utilities 910
commissioners appointed by the governor with the advice and 911
consent of the senate. The governor shall designate one of such 912
commissioners to be the ~~chairman~~ chairperson of the commission. 913
The ~~chairman~~ chairperson of the commission shall serve as ~~chairman~~ 914
chairperson at the governor's pleasure. The commissioners shall be 915
selected from the lists of qualified persons submitted to the 916
governor by the public utilities commission nominating council 917
pursuant to section 4901.021 of the ~~Revised~~ Revised Code. Not 918
more than three of said commissioners shall belong to or be 919

affiliated with the same political party. The commission shall 920
possess the powers and duties specified in, as well as all powers 921
necessary and proper to carry out the purposes of Chapters 4901., 922
4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the 923
Revised Code. 924

(B) A majority of the public utilities commissioners 925
constitutes a quorum. 926

(C) The terms of office of public utilities commissioners 927
shall be for five years, commencing on the eleventh day of April 928
and ending on the tenth day of April, except that terms of the 929
first commissioners shall be for one, two, three, four, and five 930
years, respectively, as designated by the governor at the time of 931
appointment. Each commissioner shall hold office from the date of 932
~~his~~ appointment until the end of the term for which ~~he~~ the 933
commissioner was appointed. Any commissioner appointed to fill a 934
vacancy occurring prior to the expiration of the term for which ~~he~~ 935
the commissioner was appointed shall hold office for the remainder 936
of such term. Any commissioner shall continue in office subsequent 937
to the expiration date of the term for which ~~he~~ the commissioner 938
was appointed until ~~his~~ the commissioner's successor takes office, 939
or until a period of sixty days has elapsed, whichever occurs 940
first. Each vacancy shall be filled by appointment within sixty 941
days after the vacancy occurs. 942

(D) Public utilities commissioners shall have at least three 943
years of experience in one or more of the following fields: 944
economics, law, finance, accounting, engineering, physical or 945
natural sciences, natural resources, or environmental studies. At 946
least one commissioner shall be an attorney admitted to the 947
practice of law in any state or the District of Columbia. 948

(E) The ~~chairman~~ chairperson of the commission shall be the 949
head of the commission and its chief executive officer. The 950
appointment or removal of employees of the commission or any 951

division thereof, and all contracts for special service, are 952
subject to the approval of the ~~chairman~~ chairperson. The ~~chairman~~ 953
chairperson shall designate one of the commissioners to act as 954
deputy ~~chairman~~ chairperson, who shall possess during the absence 955
or disability of the ~~chairman~~ chairperson, all of the powers of 956
the ~~chairman~~ chairperson. 957

Sec. 4901.11. The public utilities commission may procure all 958
necessary books, maps, charts, stationery, instruments, office 959
furniture, apparatus, and appliances, including telephone ~~and~~ 960
~~telegraph~~ service, and may purchase from the interstate commerce 961
commission blank forms for the use of railroads and other 962
utilities in making their annual reports, necessary for the proper 963
administration of the affairs of ~~said~~ the public utilities 964
commission, which expenses shall be audited and paid in the same 965
manner as other expenses. 966

Sec. 4901.15. The public utilities commission shall, whenever 967
called upon by any officer, board, or commission of this state or 968
any political subdivision of this state, furnish any data or 969
information to such officer, board, or commission and shall aid or 970
assist any such officer, board, or commission in performing ~~the~~ 971
official duties ~~of his or its office~~. All officers, boards, or 972
commissions of this state or any political subdivision of this 973
state, shall furnish to the commission, upon request, any data or 974
information ~~which~~ that will assist the commission in the discharge 975
of the duties imposed upon it by Chapters 4901., 4903., 4905., 976
4907., 4909., 4921., 4923., and ~~4925-~~ 4927. of the Revised Code. 977

Sec. 4901.22. Each of the public utilities commissioners, for 978
the purposes mentioned in Chapters 4901., 4903., 4905., 4907., 979
4909., 4921., 4923., and ~~4925-~~ 4927. of the Revised Code, may 980
administer oaths, certify to official acts, issue subpoenas, and 981

compel the attendance of witnesses and the production of papers, 982
waybills, books, accounts, documents, and testimony. 983

Sec. 4903.01. As used in sections 4903.01 to 4903.25, 984
~~inclusive,~~ of the Revised Code: 985

(A) "Public utility" has the same meaning ~~set forth as~~ in 986
section 4905.02 of the Revised Code. 987

(B) ~~"Telegraph company," "telephone company," "electric light 988
company," "gas company," "natural gas company," "pipe line 989
company," "water works company," "sewage disposal system company," 990
"heating or cooling company," "messenger company," "street railway 991
company," "suburban railroad company," "interurban railroad 992
company," and "motor propelled vehicle" have the meaning set forth 993
in section 4905.03 of the Revised Code. 994~~

~~(C) "Railroad" has the same meaning ~~set forth as~~ in section 995
4907.02 of the Revised Code. 996~~

~~(D) "Motor transportation company" has the meaning set forth 997
in sections 4905.03 and 4921.02 of the Revised Code. 998~~

~~(E) "Trailer," "public highway," "fixed termini," "regular 999
route," and "irregular route" have the meaning set forth in 1000
section 4921.02 of the Revised Code. 1001~~

~~(F) "Private motor carrier," "contract carrier by motor 1002
vehicle," "motor vehicle," and "charter party trip" have the 1003
meaning set forth in section 4923.02 of the Revised Code. 1004~~

Sec. 4903.20. All actions and proceedings in the supreme 1005
court under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 1006
4921., ~~and 4923.,~~ and 4927. of the Revised Code, and all actions 1007
of proceedings to which the public utilities commission, power 1008
siting board, or this state is a party, and in which any question 1009
arises under ~~such~~ those chapters, or under or concerning any order 1010

or decision of the commission or the board, to reverse, vacate, or 1011
modify an order of the commission or the board, shall be taken up 1012
and disposed of by the court out of their order on the docket. 1013

Sec. 4903.22. Except when otherwise provided by law, all 1014
processes in actions and proceedings in a court arising under 1015
Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., 4923., 1016
and ~~4925.~~ 4927. of the Revised Code shall be served, and the 1017
practice and rules of evidence in such actions and proceedings 1018
shall be the same, as in civil actions. A sheriff or other officer 1019
empowered to execute civil processes shall execute process issued 1020
under ~~such~~ those chapters and receive compensation therefor as 1021
prescribed by law for like services. 1022

Sec. 4903.23. The public utilities commission or power siting 1023
board may charge and collect a fee, which shall not exceed cost, 1024
for furnishing any copy of any paper, record, testimony, or 1025
writing made, taken, or filed under Chapters 4901., 4903., 4905., 1026
4906., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the Revised 1027
Code, except such transcript and other papers as are required to 1028
be filed in any court proceedings authorized in ~~such~~ those 1029
chapters, whether under seal and certified to or otherwise; and 1030
may charge and collect a fee for certifying a document, which 1031
shall not exceed that charged by the secretary of state under 1032
division (K) of section 111.16 of the Revised Code. All such fees, 1033
itemized, shall be paid into the state treasury on the first day 1034
of each month. 1035

Upon application of any person and payment of the proper fee, 1036
the commission or board shall furnish certified copies under the 1037
seal of the commission or board of any order made by it, which 1038
order is prima-facie evidence in any court of the facts stated in 1039
such copies. The copies of schedules, classifications, and tariffs 1040
of rates, tolls, prices, rentals, regulations, practices, 1041

services, fares, and charges, and copies of all contracts, 1042
agreements, and arrangements between public utilities and 1043
railroads, or either, filed with the commission, and the 1044
statistics, tables, and figures contained in the annual or other 1045
reports of such companies made to the commission as required by 1046
~~such~~ the chapters, shall be preserved as public records in the 1047
custody of the commission and shall be received as prima-facie 1048
evidence of what they purport to be, for the purpose of 1049
investigations and prosecutions by the commission and in all 1050
judicial proceedings. Copies of and extracts from any of such 1051
schedules, classifications, tariffs, contracts, agreements, 1052
arrangements, or reports, made public records, certified by the 1053
commission under its seal, shall be received in evidence with like 1054
effect as the originals. 1055

Sec. 4905.01. As used in this chapter: 1056

(A) "Railroad" has the same meaning ~~set forth~~ as in section 1057
4907.02 of the Revised Code. 1058

(B) "Motor transportation company" has the same meaning ~~set~~ 1059
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 1060

(C) "Trailer," and "public highway," "~~fixed termini,~~" 1061
~~"regular route," and "irregular route"~~ have the same meanings ~~set~~ 1062
~~forth~~ as in section 4921.02 of the Revised Code. 1063

(D) "Private motor carrier," "~~contract carrier by motor~~ 1064
~~vehicle," and "motor vehicle," and "charter party trip"~~ have the 1065
same meanings ~~set forth~~ as in section 4923.02 of the Revised Code. 1066

(E) "Ohio coal research and development costs" means all 1067
reasonable costs associated with a facility or project undertaken 1068
by a public utility for which a recommendation to allow the 1069
recovery of costs associated therewith has been made under 1070
division (B)(7) of section 1551.33 of the Revised Code, including, 1071

but not limited to, capital costs, such as costs of debt and 1072
equity; construction and operation costs; termination and 1073
retirement costs; costs of feasibility and marketing studies 1074
associated with the project; and the acquisition and delivery 1075
costs of Ohio coal used in the project, less any expenditures of 1076
grant moneys. 1077

Sec. 4905.02. As used in this chapter, "public utility" 1078
includes every corporation, company, copartnership, person, or 1079
association, ~~their~~ the lessees, trustees, or receivers of the 1080
foregoing, defined in section 4905.03 of the Revised Code, 1081
including ~~all any public utilities utility~~ that operate their 1082
utilities operates its utility not for profit, except the 1083
following: 1084

(A) ~~Electric~~ An electric light ~~companies~~ company that ~~operate~~ 1085
~~their utilities~~ operates its utility not for profit; 1086

(B) ~~Public utilities~~ A public utility, other than a telephone 1087
~~companies~~ company, that ~~are~~ is owned and operated exclusively by 1088
and solely for the ~~utilities'~~ utility's customers, including any 1089
consumer or group of consumers purchasing, delivering, storing, or 1090
transporting, or seeking to purchase, deliver, store, or 1091
transport, natural gas exclusively by and solely for the 1092
consumer's or consumers' own intended use as the end user or end 1093
users and not for profit; 1094

(C) ~~Public utilities~~ A public utility that ~~are~~ is owned or 1095
operated by any municipal corporation; 1096

(D) ~~Railroads~~ A railroad as defined in sections 4907.02 and 1097
4907.03 of the Revised Code; 1098

(E) Any provider, including a telephone company, with respect 1099
to its provision of any of the following: 1100

(1) Advanced services as defined in 47 C.F.R. 51.5; 1101

<u>(2) Broadband service, however defined or classified by the federal communications commission;</u>	1102 1103
<u>(3) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);</u>	1104 1105
<u>(4) Internet protocol-enabled services as defined in section 4927.01 of the Revised Code;</u>	1106 1107
<u>(5) Subject to division (B) 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>	1108 1109 1110
<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>	1111 1112 1113
<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>	1114 1115 1116
Sec. 4905.03. As used in this chapter:	1117
(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:	1118 1119 1120
(1) A telegraph company, when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;	1121 1122 1123
(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;	1124 1125 1126
(3) (2) A motor transportation company, when engaged in the business of carrying and transporting persons or property or the business of providing or furnishing such transportation service, for hire, in or by motor-propelled vehicles of any kind, including	1127 1128 1129 1130

trailers, for the public in general, over any public street, road, 1131
or highway in this state, except as provided in section 4921.02 of 1132
the Revised Code; 1133

~~(4)~~(3) An electric light company, when engaged in the 1134
business of supplying electricity for light, heat, or power 1135
purposes to consumers within this state, including supplying 1136
electric transmission service for electricity delivered to 1137
consumers in this state, but excluding a regional transmission 1138
organization approved by the federal energy regulatory commission; 1139

~~(5)~~(4) A gas company, when engaged in the business of 1140
supplying artificial gas for lighting, power, or heating purposes 1141
to consumers within this state or when engaged in the business of 1142
supplying artificial gas to gas companies or to natural gas 1143
companies within this state, but a producer engaged in supplying 1144
to one or more gas or natural gas companies, only such artificial 1145
gas as is manufactured by that producer as a by-product of some 1146
other process in which the producer is primarily engaged within 1147
this state is not thereby a gas company. All rates, rentals, 1148
tolls, schedules, charges of any kind, or agreements between any 1149
gas company and any other gas company or any natural gas company 1150
providing for the supplying of artificial gas and for compensation 1151
for the same are subject to the jurisdiction of the public 1152
utilities commission. 1153

~~(6)~~(5) A natural gas company, when engaged in the business of 1154
supplying natural gas for lighting, power, or heating purposes to 1155
consumers within this state. Notwithstanding the above, neither 1156
the delivery nor sale of Ohio-produced natural gas by a producer 1157
or gatherer under a public utilities commission-ordered exemption, 1158
adopted before, as to producers, or after, as to producers or 1159
gatherers, January 1, 1996, or the delivery or sale of 1160
Ohio-produced natural gas by a producer or gatherer of 1161
Ohio-produced natural gas, either to a lessor under an oil and gas 1162

lease of the land on which the producer's drilling unit is 1163
located, or the grantor incident to a right-of-way or easement to 1164
the producer or gatherer, shall cause the producer or gatherer to 1165
be a natural gas company for the purposes of this section. 1166

All rates, rentals, tolls, schedules, charges of any kind, or 1167
agreements between a natural gas company and other natural gas 1168
companies or gas companies providing for the supply of natural gas 1169
and for compensation for the same are subject to the jurisdiction 1170
of the public utilities commission. The commission, upon 1171
application made to it, may relieve any producer or gatherer of 1172
natural gas, defined in this section as a gas company or a natural 1173
gas company, of compliance with the obligations imposed by this 1174
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 1175
of the Revised Code, so long as the producer or gatherer is not 1176
affiliated with or under the control of a gas company or a natural 1177
gas company engaged in the transportation or distribution of 1178
natural gas, or so long as the producer or gatherer does not 1179
engage in the distribution of natural gas to consumers. 1180

Nothing in division (A)~~(6)~~(5) of this section limits the 1181
authority of the commission to enforce sections 4905.90 to 4905.96 1182
of the Revised Code. 1183

~~(7)~~(6) A pipe-line company, when engaged in the business of 1184
transporting natural gas, oil, or coal or its derivatives through 1185
pipes or tubing, either wholly or partly within this state; 1186

~~(8)~~(7) A water-works company, when engaged in the business of 1187
supplying water through pipes or tubing, or in a similar manner, 1188
to consumers within this state; 1189

~~(9)~~(8) A heating or cooling company, when engaged in the 1190
business of supplying water, steam, or air through pipes or tubing 1191
to consumers within this state for heating or cooling purposes; 1192

~~(10)~~(9) A messenger company, when engaged in the business of 1193

supplying messengers for any purpose; 1194

~~(11)~~(10) A street railway company, when engaged in the 1195
business of operating as a common carrier, a railway, wholly or 1196
partly within this state, with one or more tracks upon, along, 1197
above, or below any public road, street, alleyway, or ground, 1198
within any municipal corporation, operated by any motive power 1199
other than steam and not a part of an interurban railroad, whether 1200
the railway is termed street, inclined-plane, elevated, or 1201
underground railway; 1202

~~(12)~~(11) A suburban railroad company, when engaged in the 1203
business of operating as a common carrier, whether wholly or 1204
partially within this state, a part of a street railway 1205
constructed or extended beyond the limits of a municipal 1206
corporation, and not a part of an interurban railroad; 1207

~~(13)~~(12) An interurban railroad company, when engaged in the 1208
business of operating a railroad, wholly or partially within this 1209
state, with one or more tracks from one municipal corporation or 1210
point in this state to another municipal corporation or point in 1211
this state, whether constructed upon the public highways or upon 1212
private rights-of-way, outside of municipal corporations, using 1213
electricity or other motive power than steam power for the 1214
transportation of passengers, packages, express matter, United 1215
States mail, baggage, and freight. Such an interurban railroad 1216
company is included in the term "railroad" as used in section 1217
4907.02 of the Revised Code. 1218

~~(14)~~(13) A sewage disposal system company, when engaged in 1219
the business of sewage disposal services through pipes or tubing, 1220
and treatment works, or in a similar manner, within this state. 1221

(B) "Motor-propelled vehicle" means any automobile, 1222
automobile truck, motor bus, or any other self-propelled vehicle 1223
not operated or driven upon fixed rails or tracks. 1224

Sec. 4905.04. ~~(A)~~ The public utilities commission is hereby 1225
vested with the power and jurisdiction to supervise and regulate 1226
public utilities and railroads, to require all public utilities to 1227
furnish their products and render all services exacted by the 1228
commission or by law, and to promulgate and enforce all orders 1229
relating to the protection, welfare, and safety of railroad 1230
employees and the traveling public, including the apportionment 1231
between railroads and the state and its political subdivisions of 1232
the cost of constructing protective devices at railroad grade 1233
crossings. 1234

~~(B) Subject to sections 4905.041 and 4905.042 of the Revised 1235
Code, division (A) of this section includes such power and 1236
jurisdiction as is reasonably necessary for the commission to 1237
perform pursuant to federal law, including federal regulations, 1238
the acts of a state commission as defined in 47 U.S.C. 153. 1239~~

Sec. 4905.09. A substantial compliance by the public 1240
utilities commission with the requirements of Chapters 4901., 1241
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1242
Revised Code is sufficient to give effect to all its rules, and 1243
~~orders, acts, and regulations. Such~~ Those rules, and ~~orders, acts,~~ 1244
~~and regulations~~ shall not be declared inoperative, illegal, or 1245
void for an omission of a technical nature ~~in respect to such~~ 1246
~~requirements. Such~~ And, those chapters do not affect, modify, or 1247
repeal any law fixing the rate ~~which~~ that a company operating a 1248
railroad may demand and receive for the transportation of 1249
passengers. 1250

Sec. 4905.12. A railroad company ~~or telegraph company which~~ 1251
that violates section 4905.10, 4907.13, or 4907.15 of the Revised 1252
Code shall forfeit to the state one thousand dollars, and 1253
twenty-five dollars for each day ~~such~~ the company fails to comply 1254

with a requirement of ~~any such sections~~ section. ~~Such~~ The 1255
forfeiture does not release ~~such~~ the company from the assessment 1256
provided in section 4905.10 of the Revised Code. 1257

Sec. 4905.14. (A)(1) Every public utility shall file an 1258
annual report with the public utilities commission. The report 1259
shall be filed at the time and in the form prescribed by the 1260
commission, shall be duly verified, and shall cover the yearly 1261
period fixed by the commission. The commission shall prescribe the 1262
character of the information to be embodied in the annual report, 1263
and shall furnish to each public utility a blank form for it. 1264
Every public utility also shall file a copy of the annual report 1265
with the office of consumers' counsel; the copy shall be filed at 1266
the same time that the original is filed with the commission. If 1267
any annual report filed with the commission is defective or 1268
erroneous, the commission may order that it be amended within a 1269
prescribed time. Any amendments made pursuant to such an order 1270
shall be filed with the commission and with the office of 1271
consumers' counsel. Each annual report filed with the commission 1272
shall be preserved in the office of the commission. The commission 1273
may, at any time, require specific answers to questions upon which 1274
it desires information. 1275

(2)(a) Except as provided in division (A)(2)(b) of this 1276
section, in the case of a telephone company, including a wireless 1277
service provider, the annual report shall be limited to 1278
information necessary for the commission to calculate the 1279
assessment provided for in section 4905.10 of the Revised Code. 1280
The commission shall protect any confidential information in every 1281
company and provider report. 1282

(b) With respect to a telephone company subject to section 1283
4905.71 of the Revised Code, the commission shall adopt rules that 1284
require such a telephone company to also include in the annual 1285

report information required by the commission to calculate pole attachment and conduit occupancy rates and any other information the commission determines necessary and requires by rule for the commission to fulfill its responsibility under section 4905.71 of the Revised Code.

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

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

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

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

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

Sec. 4905.16. When and as required by the public utilities

commission, every public utility shall file with it a copy of any 1316
contract, agreement, or arrangement, in writing, with any other 1317
public utility relating in any way to the construction, 1318
maintenance, or use of its plant or property, or to any service, 1319
rate, or charge. 1320

~~Unless otherwise ordered by the commission each telephone 1321
company shall file with the commission a copy of any contract, 1322
agreement, note, bond, or other arrangement entered into with any 1323
telephone management, service or operating company. 1324~~

Sec. 4905.18. Every public utility shall carry a proper and 1325
adequate depreciation or deferred maintenance account, whenever 1326
the public utilities commission, after investigation, determines 1327
that a depreciation account can be reasonably required. The 1328
commission shall ascertain, determine, and prescribe what are 1329
proper and adequate charges for depreciation of the several 1330
classes of property for each public utility. ~~The public utility 1331
commission shall require every telephone company to carry a proper 1332
and adequate depreciation or deferred maintenance account and 1333
shall ascertain, determine, and prescribe what are proper and 1334
adequate charges in each exchange area of such company. The charge 1335
for depreciation shall be such as will provide the amount required 1336
over the cost and expense of maintenance to keep the property of 1337
the public utility in a state of efficiency corresponding to the 1338
progress of the art or industry. The commission may prescribe such 1339
changes in such charges for depreciation as it finds necessary. 1340~~

Sec. 4905.20. No railroad as defined in section 4907.02 of 1341
the Revised Code, operating any railroad in this state, and no 1342
public utility as defined in section 4905.02 of the Revised Code 1343
furnishing service or facilities within this state, shall abandon 1344
or be required to abandon or withdraw any main track or depot of a 1345
railroad, or main pipe line, gas line, ~~telegraph line, telephone 1346~~

~~toll line~~, electric light line, water line, sewer line, steam pipe 1347
line, or any portion thereof, pumping station, generating plant, 1348
power station, sewage treatment plant, or service station of a 1349
public utility, or the service rendered thereby, ~~which~~ that has 1350
once been laid, constructed, opened, and used for public business, 1351
nor shall any such facility be closed for traffic or service 1352
thereon, therein, or thereover except as provided in section 1353
4905.21 of the Revised Code. Any railroad or public utility 1354
violating this section shall forfeit and pay into the state 1355
treasury not less than one hundred dollars, nor more than one 1356
thousand dollars, and shall be subject to all other legal and 1357
equitable remedies for the enforcement of this section and section 1358
4905.21 of the Revised Code. 1359

Sec. 4905.21. Any railroad or any political subdivision 1360
desiring to abandon, close, or have abandoned, withdrawn, or 1361
closed for traffic or service all or any part of a main track or 1362
depot, and any public utility or political subdivision desiring to 1363
abandon or close, or have abandoned, withdrawn, or closed for 1364
traffic or service all or any part of any line, pumping station, 1365
generating plant, power station, sewage treatment plant, or 1366
service station, referred to in section 4905.20 of the Revised 1367
Code, shall make application to the public utilities commission in 1368
writing. The commission shall thereupon cause reasonable notice of 1369
the application to be given, stating the time and place fixed by 1370
the commission for the hearing of the application. 1371

Upon the hearing of the application, the commission shall 1372
ascertain the facts and make its findings thereon, and if such 1373
facts satisfy the commission that the proposed abandonment, 1374
withdrawal, or closing for traffic or service is reasonable, 1375
having due regard for the welfare of the public and the cost of 1376
operating the service or facility, it may allow such abandonment, 1377
withdrawal, or closing; otherwise it shall be denied, or if the 1378

facts warrant, the application may be granted in a modified form. 1379
If the application asks for the abandonment or withdrawal of any 1380
main track, main pipe line, gas line, ~~telegraph line, telephone~~ 1381
~~toll line,~~ electric light line, water line, sewer line, steam pipe 1382
line, pumping station, generating plant, power station, sewage 1383
treatment plant, service station, or the service rendered thereby, 1384
in such manner as can result in the permanent abandonment of 1385
service between any two points on such railroad, or of service and 1386
facilities of any such public utility, no application shall be 1387
granted unless the railroad or public utility has operated the 1388
track, pipe line, gas line, ~~telegraph line, telephone toll line,~~ 1389
electric light line, water line, sewer line, steam pipe line, 1390
pumping station, generating plant, power station, sewage treatment 1391
plant, or service station for at least five years. ~~Such~~ The notice 1392
shall be given by publication in a newspaper of general 1393
circulation throughout any county or municipal corporation ~~which~~ 1394
that has granted a franchise to the railroad or public utility, 1395
under which the track, pipe line, gas line, ~~telegraph line,~~ 1396
~~telephone toll line,~~ electric light line, water line, sewer line, 1397
steam pipe line, pumping station, generating plant, power station, 1398
sewage treatment plant, or service station is operated or in which 1399
the same is located, once a week for two consecutive weeks before 1400
the hearing of the application. Notice of the hearing shall be 1401
given such county, municipal corporation, or public utility in the 1402
manner provided for the service of orders of the commission in 1403
section 4903.15 of the Revised Code. This section and section 1404
4905.20 of the Revised Code do not apply to a gas company when it 1405
is removing or exchanging abandoned field lines. 1406

This section applies to all service now rendered and 1407
facilities furnished or hereafter built and operated, and an order 1408
of the commission authorizing the abandonment or withdrawal of any 1409
such service or facility shall not affect rights and obligations 1410
of a railroad or public utility beyond the scope of the order, 1411

anything in its franchise to the contrary notwithstanding. 1412

Sec. 4905.26. Upon complaint in writing against any public 1413
utility by any person, firm, or corporation, or upon the 1414
initiative or complaint of the public utilities commission, that 1415
any rate, fare, charge, toll, rental, schedule, classification, or 1416
service, or any joint rate, fare, charge, toll, rental, schedule, 1417
classification, or service rendered, charged, demanded, exacted, 1418
or proposed to be rendered, charged, demanded, or exacted, is in 1419
any respect unjust, unreasonable, unjustly discriminatory, 1420
unjustly preferential, or in violation of law, or that any 1421
regulation, measurement, or practice affecting or relating to any 1422
service furnished by the public utility, or in connection with 1423
such service, is, or will be, in any respect unreasonable, unjust, 1424
insufficient, unjustly discriminatory, or unjustly preferential, 1425
or that any service is, or will be, inadequate or cannot be 1426
obtained, and, upon complaint of a public utility as to any matter 1427
affecting its own product or service, if it appears that 1428
reasonable grounds for complaint are stated, the commission shall 1429
fix a time for hearing and shall notify complainants and the 1430
public utility thereof. ~~Such~~ The notice shall be served not less 1431
than fifteen days before hearing and shall state the matters 1432
complained of. The commission may adjourn such hearing from time 1433
to time. 1434

The parties to the complaint shall be entitled to be heard, 1435
represented by counsel, and to have process to enforce the 1436
attendance of witnesses. 1437

~~Upon the filing of a complaint by one hundred subscribers or 1438
five per cent of the subscribers to any telephone exchange, 1439
whichever number be smaller, or by the legislative authority of 1440
any municipal corporation served by such telephone company that 1441
any regulation, measurement, standard of service, or practice 1442~~

~~affecting or relating to any service furnished by the telephone company, or in connection with such service is, or will be, in any respect unreasonable, unjust, discriminatory, or preferential, or that any service is, or will be, inadequate or cannot be obtained, the commission shall fix a time for the hearing of such complaint.~~

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

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

Sec. 4905.30. ~~Every~~ (A) A public utility shall print and file with the public utilities commission schedules showing all rates, joint rates, rentals, tolls, classifications, and charges for service of every kind furnished by it, and all rules and regulations affecting them. ~~Such~~ The schedules shall be plainly printed and kept open to public inspection. The commission may prescribe the form of every such schedule, and may prescribe, by order, changes in the form of such schedules. The commission may establish and modify rules and regulations for keeping such schedules open to public inspection. A copy of ~~such~~ the schedules, or so much thereof as the commission deems necessary for the use and information of the public, shall be printed in plain type and kept on file or posted in such places and in such manner as the commission orders.

(B) Division (A) of this section applies to a telephone

company only regarding rates, joint rates, tolls, classifications, 1474
charges, rules, and regulations established pursuant to sections 1475
4905.71, 4927.10, 4927.11, 4927.12, 4927.13, 4927.16, and 4931.47 1476
of the Revised Code. 1477

Sec. 4905.40. (A) A public utility or a railroad may, when 1478
authorized by order of the public utilities commission, issue 1479
stocks, bonds, notes, and other evidences of indebtedness, payable 1480
at periods of more than twelve months after their date of 1481
issuance, when necessary: 1482

(1) For the acquisition of property, the construction, 1483
completion, extension, renewal, or improvement of its facilities, 1484
or the improvement of its service; or 1485

(2) For reorganization or readjustment of its indebtedness 1486
and capitalization, for the discharge or lawful refunding of its 1487
obligation, or for the reimbursement of moneys actually expended 1488
for such purposes from income or from any other moneys in the 1489
treasury of the public utility or railroad not secured or obtained 1490
from the issue of stocks, bonds, notes, or other evidences of 1491
indebtedness of such public utility or railroad. No reimbursement 1492
of moneys expended for such purposes from income or other moneys 1493
in the treasury shall be authorized unless the applicant has kept 1494
its accounts and vouchers of such expenditures in such manner as 1495
to enable the commission to ascertain the amount and purposes of 1496
such expenditures. 1497

(B) Any public utility, subject to the jurisdiction of the 1498
commission, may, when authorized by the commission, issue shares 1499
of common capital stock to acquire or pay for shares of common 1500
capital stock of a public utility of this or an adjoining state 1501
whose property is so located as to permit the operation of the 1502
properties of such utilities as an integrated system if the 1503
applicant owns, or by this issue will acquire, not less than 1504

sixty-five per cent of the issued and outstanding common capital 1505
shares of the company whose shares are to be acquired, and if the 1506
consideration to be capitalized by the acquiring company does not 1507
exceed the par or stated value at which the shares so acquired 1508
were issued. 1509

(C) Any bonds, notes, or other evidences of indebtedness 1510
payable at periods of more than twelve months after their date may 1511
be issued as provided in sections 4905.40 to 4905.43 of the 1512
Revised Code, regardless of the amount of the capital stock of the 1513
public utility or railroad, subject to the approval of the 1514
commission of the excess of such bonds, notes, or other evidences 1515
of indebtedness above the amount of the capital stock of such 1516
public utility or railroad. 1517

(D) The commission shall authorize on the best terms 1518
obtainable such issues of stocks, bonds, and other evidences of 1519
indebtedness as are necessary to enable any public utility to 1520
comply with any contract made between such public utility and any 1521
municipal corporation prior to June 30, 1911. 1522

(E) The commission may authorize a public utility that is an 1523
electric light company to issue equity securities, or debt 1524
securities having a term of more than twelve months from the date 1525
of issuance, for the purpose of yielding to the company the 1526
capacity to acquire a facility that produces fuel for the 1527
generation of electricity. 1528

(F) In any proceeding under division (A)(1) of this section 1529
initiated by a public utility, the commission shall determine and 1530
set forth in its order: 1531

(1) Whether the purpose to which the issue or any proceeds of 1532
it shall be applied was or is reasonably required by the utility 1533
to meet its present and prospective obligations to provide utility 1534
service; 1535

(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; 1536
1537
1538

(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. 1539
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(G) Sections 4905.40 to 4905.42 of the Revised Code do not apply to stocks, bonds, notes, or other evidence of indebtedness issued for the purpose of financing oil or natural gas drilling, producing, gathering, and associated activities and facilities by a producer which supplies to no more than twenty purchasers only such gas as is produced, gathered, or purchased by such producer within this state. 1543
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(H) Each public utility seeking authorization from the commission for the issuance of securities to finance the installation, construction, extension, or improvement of an air quality facility, as defined in section 3706.01 of the Revised Code, shall consider the availability of financing therefor from the Ohio air quality development authority and shall demonstrate to the commission that the proposed financing will be obtained on the best terms obtainable. 1550
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(I) This section does not apply to a telephone company. 1558

Sec. 4905.402. (A) As used in this section: 1559

(1) "Control" means the possession of the power to direct the management and policies of a domestic telephone company or a holding company of a domestic telephone company, or the management and policies of a domestic electric utility or a holding company of a domestic electric utility, through the ownership of voting securities, by contract, or otherwise, but does not include the 1560
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power that results from holding an official position or the 1566
possession of corporate office with the domestic company or 1567
utility or the holding company. Control is presumed to exist if 1568
any person, directly or indirectly, owns, controls, holds the 1569
power to vote, or holds with the power to vote proxies that 1570
constitute, twenty per cent or more of the total voting power of 1571
the domestic company or utility or the holding company. 1572

(2) "Electric utility" has the same meaning as in section 1573
4928.07 of the Revised Code. 1574

(3) "Holding company" excludes any securities broker 1575
performing the usual and customary broker's function. 1576

(4) "Telephone company" means any company described in 1577
division (A)~~(2)~~(1) of section 4905.03 of the Revised Code that is 1578
a public utility under section 4905.02 of the Revised Code and 1579
provides basic local exchange service, as defined in section 1580
4927.01 of the Revised Code. 1581

(B) No person shall acquire control, directly or indirectly, 1582
of a domestic telephone company or a holding company controlling a 1583
domestic telephone company or of a domestic electric utility or a 1584
holding company controlling a domestic electric utility unless 1585
that person obtains the prior approval of the public utilities 1586
commission under this section. To obtain approval the person shall 1587
file an application with the commission demonstrating that the 1588
acquisition will promote public convenience and result in the 1589
provision of adequate service for a reasonable rate, rental, toll, 1590
or charge. The application shall contain such information as the 1591
commission may require. If the commission considers a hearing 1592
necessary, it may fix a time and place for hearing. If, after 1593
review of the application and after any necessary hearing, the 1594
commission is satisfied that approval of the application will 1595
promote public convenience and result in the provision of adequate 1596
service for a reasonable rate, rental, toll, or charge, the 1597

commission shall approve the application and make such order as it 1598
considers proper. If the commission fails to issue an order within 1599
thirty days of the filing of the application, or within twenty 1600
days of the conclusion of a hearing, if one is held, the 1601
application shall be deemed approved by operation of law. 1602

(C) No domestic telephone company shall merge with another 1603
domestic telephone company unless the merging companies obtain the 1604
prior approval of the commission. An application seeking such 1605
approval shall be filed, processed, and decided in the manner 1606
provided for an application under division (B) of this section. 1607

(D) The commission shall adopt such rules as it finds 1608
necessary to carry out the provisions of this section. 1609

~~(D)~~(E) If it appears to the commission or to any person that 1610
may be adversely affected that any person is engaged in or about 1611
to engage in any acts or practices that would violate division (B) 1612
or (C) of this section or any provision of a rule adopted under 1613
this section, the attorney general, when directed to do so by the 1614
commission, or the person claiming to be adversely affected may 1615
bring an action in any court of common pleas that has jurisdiction 1616
and venue to enjoin such acts or practices and enforce compliance 1617
~~with this section~~. Upon a proper showing, the court shall grant, 1618
without bond, a restraining order or temporary or permanent 1619
injunction. 1620

~~(E)~~(F) The courts of this state have jurisdiction over every 1621
person not a resident of or domiciled or authorized to do business 1622
in this state that files, or is prohibited from acting without 1623
first filing, an application under division (B) or (C) of this 1624
section, and over all actions involving such person arising out of 1625
violations of any provision of this section or of a rule adopted 1626
under this section. The secretary of state shall be the agent for 1627
service of process for any such person in any action, suit, or 1628
proceeding arising out of such violations ~~of this section~~. Copies 1629

of all such lawful process shall be served upon the secretary of 1630
state and transmitted by certified mail, with return receipt 1631
requested, by the secretary of state to such person at the 1632
person's last known address. 1633

Sec. 4905.41. The proceedings for obtaining the authority of 1634
the public utilities commission for the issue of stocks, bonds, 1635
notes and other evidences of indebtedness, as provided in section 1636
4905.40 of the Revised Code, shall be as follows: 1637

(A) In case the stocks, bonds, notes, or other evidence of 1638
indebtedness are to be issued for money only, the public utility 1639
or railroad shall file with the commission a statement, signed and 1640
verified by the president or vice president and the secretary or 1641
treasurer of such public utility or railroad, setting forth: 1642

(1) The amount and character of the stocks, bonds, or other 1643
evidence of indebtedness; 1644

(2) The purposes for which they are to be issued; 1645

(3) The terms upon which they are to be issued; 1646

(4) The total assets and liabilities and an income statement 1647
of the public utility or railroad in such detail as the commission 1648
requires; 1649

(5) If the issue is desired for the purpose of the 1650
reimbursement of money expended from income, as provided by 1651
section 4905.40 of the Revised Code, the amount expended and when 1652
and for what purposes it was expended; 1653

~~(6) If the application is filed by a telephone company, a 1654
statement that such company is not in violation of section 4905.23 1655
of the Revised Code, and is not in violation of any order of the 1656
commission made under sections 4905.231 and 4905.381 of the 1657
Revised Code; or, if it is in violation thereof, that a portion or 1658
all of the proceeds will be used to correct such violation and 1659~~

~~that none of the proceeds will be used for expansion into or
acquisition of any additional territory.~~ 1660
1661

~~(7)~~ Such other facts and information pertinent to the inquiry 1662
as the commission requires. 1663

(B) If the stocks, bonds, notes, or other evidence of 1664
indebtedness are to be issued partly or wholly for property, 1665
services, or other consideration than money, the public utility or 1666
railroad shall file with the commission a statement, signed and 1667
verified by its president or vice president and its secretary, or 1668
treasurer setting forth: 1669

(1) The amount and character of the stocks, bonds, or other 1670
evidence of indebtedness proposed to be issued; 1671

(2) The purposes for which they are to be issued; 1672

(3) The description and estimated value of the property or 1673
services for which they are to be issued; 1674

(4) The terms on which they are to be issued or exchanged; 1675

(5) The amount of money to be received in addition to the 1676
property, service, or other consideration; 1677

~~(6) If the application is made by a telephone company, that 1678
the company is not in violation of section 4905.23 of the Revised 1679
Code and is not in violation of any order of the commission made 1680
under sections 4905.231 and 4905.381 of the Revised Code. 1681~~

~~(7)~~ The total assets and liabilities and an income statement 1682
of the public utility or railroad in such detail as the commission 1683
requires; 1684

~~(8)~~(7) Such other facts and information pertinent to the 1685
inquiry as the commission requires. 1686

This section and section 4905.40 of the Revised Code do not 1687
apply to union depot companies organized and under contract prior 1688
to June 30, 1911, until the same are completed. 1689

This section does not apply to a telephone company. 1690

Sec. 4905.42. To determine whether it should issue the order 1691
referred to in section 4905.40 of the Revised Code, the public 1692
utilities commission shall hold such hearings, make such inquiries 1693
or investigations, and examine such witnesses, books, papers, 1694
documents, and contracts as it deems proper. 1695

An order issued under this section shall fix the amount, 1696
character, and terms of any issue of stocks, bonds, notes, or 1697
other evidence of indebtedness, and the purposes to which the 1698
issue or any proceeds of it shall be applied, shall recite that 1699
the money, property, consideration, or labor procured or to be 1700
procured or paid for by such issue was or is reasonably required 1701
for the purposes specified in the order, and shall recite the 1702
value of any property, consideration, or service, as found by the 1703
commission, for which in whole or in part such issue is proposed 1704
to be made. 1705

No public utility or railroad shall, without the consent of 1706
the commission, apply any such issue or its proceeds to any 1707
purpose not specified in the order. Such public utilities or 1708
railroads may issue notes for proper corporate purposes, payable 1709
at periods of not more than twelve months, without the consent of 1710
the commission, but no such notes shall, in whole or in part, 1711
directly or indirectly, be refunded by any issue of stocks or 1712
bonds, or by any evidence of indebtedness, running for more than 1713
twelve months, without the consent of the commission. 1714

All stocks, bonds, notes, or other evidence of indebtedness 1715
issued by any public utility or railroad without the permission of 1716
the commission are void. No interstate railroad or public utility 1717
shall be required to apply to the commission for authority to 1718
issue stocks, bonds, notes, or other evidence of indebtedness for 1719
the acquisition of property, the construction, completion, 1720

extension, or improvement of its facilities, or the improvement or 1721
maintenance of its service outside this state, or for authority 1722
for the discharge or refunding of obligations issued or incurred 1723
for such purposes or the reimbursement of moneys actually expended 1724
for such purposes outside this state. 1725

No pipe-line company—when engaged in the business of 1726
transporting oil through pipes or tubing, either wholly or 1727
partly—within this state, shall be required to apply to the 1728
commission for authority to issue stocks, bonds, notes, or other 1729
evidence of indebtedness for the purpose of acquiring or paying 1730
for stocks, bonds, notes, or other evidence of indebtedness of any 1731
other corporation organized under the laws of this state, any 1732
other state, the District of Columbia, the United States, any 1733
territory of the United States, any foreign country, or otherwise. 1734

No company that is both a pipe-line company engaged as such 1735
in the business of transporting natural gas through pipes or 1736
tubing in interstate commerce, wholly or partly within this state, 1737
and a natural gas company engaged as such in this state solely in 1738
the business of supplying natural gas to gas companies or to 1739
natural gas companies shall be required to apply to the commission 1740
for authority to issue stocks, bonds, notes, or other evidence of 1741
indebtedness. 1742

This section does not apply to a telephone company. 1743

Sec. 4905.45. Public utility or railroad corporations may, 1744
incident to the sale or pledge of bonds, notes, or other 1745
securities owned by them, jointly or severally indorse such 1746
securities and guarantee due payment of them, in any case in which 1747
such indorsement and guarantee is authorized by the public 1748
utilities commission or the interstate commerce commission. 1749

This section does not apply to telephone companies. 1750

Sec. 4905.46. ~~(A)~~ No public utility or railroad shall declare 1751
any stock, bond, or scrip dividend or distribution, or divide the 1752
proceeds of the sale of any stock, bond, or scrip among its 1753
stockholders, unless it is authorized to do so by the public 1754
utilities commission. 1755

~~(B) No telephone company shall declare any cash, stock, bond,~~ 1756
~~or scrip dividend or distribution, or divide the proceeds of the~~ 1757
~~sale of any stock, bond, or scrip among its common or voting~~ 1758
~~shareholders, while such telephone company is in violation of any~~ 1759
~~order of the commission, or against which telephone company there~~ 1760
~~exists a finding of inadequate service, except when the public~~ 1761
~~utilities commission makes a finding after hearing and notice, as~~ 1762
~~provided in section 4905.26 of the Revised Code, that such~~ 1763
~~dividend or distribution will in no way postpone compliance with~~ 1764
~~any order or affect the adequacy of service rendered or to be~~ 1765
~~rendered by such telephone company. If a telephone company, while~~ 1766
~~in violation of any order of the commission, or against which~~ 1767
~~there exists a finding of inadequate service, desires to declare a~~ 1768
~~cash dividend or distribution without the consent of the~~ 1769
~~commission, it shall set aside in a special reserve fund a sum of~~ 1770
~~money equivalent to the amount necessary to pay the proposed~~ 1771
~~dividend or distribution, which, while said company is in~~ 1772
~~violation of said order or against which such finding exists, may~~ 1773
~~be expended only with the consent of the commission This section~~ 1774
~~does not apply to telephone companies.~~ 1775

Sec. 4905.47. The public utilities commission shall not 1776
authorize the capitalization of any franchise or right to own, 1777
operate, or enjoy any franchise in excess of the amount, exclusive 1778
of any tax or annual charge, actually paid to any political 1779
subdivision of the state or county as the consideration for the 1780
grant of such franchise or right, nor shall the capital stock of a 1781

public utility or railroad corporation formed by the merger or 1782
consolidation of two or more corporations exceed the sum of the 1783
capital stock of the corporations consolidated or merged, at the 1784
par value of such stock, and such sum or any additional sum 1785
actually paid in cash. No contract for consolidation or lease 1786
shall be capitalized in the stock of any public utility or 1787
railroad corporation, and no such corporation shall issue any 1788
bonds against or as a lien upon any contract for consolidation or 1789
merger. The aggregate amount of the debt of such consolidated 1790
companies by reason of such consolidation shall not be increased. 1791

This section does not apply to telephone companies. 1792

Sec. 4905.51. Every public utility having any equipment on, 1793
over, or under any street or highway shall, subject to section 1794
4951.04 of the Revised Code, for a reasonable compensation, permit 1795
the use of such equipment by any other public utility whenever the 1796
public utilities commission determines, as provided in section 1797
4905.51 of the Revised Code, that public convenience, welfare, and 1798
necessity require such use or joint use, and that such use or 1799
joint use will not result in irreparable injury to the owner or 1800
other users of such equipment or any substantial detriment to the 1801
service to be rendered by such owners or other users. 1802

In case of failure to agree upon such use or joint use, or 1803
upon the conditions or compensation for such use or joint use, any 1804
public utility may apply to the commission, and if after 1805
investigation the commission ascertains that the public 1806
convenience, welfare, and necessity require such use or joint use 1807
and that it would not result in irreparable injury to the owner or 1808
other users of such property or equipment or in any substantial 1809
detriment to the service to be rendered by such owner or other 1810
users, the commission shall direct that such use or joint use be 1811
permitted and prescribe reasonable conditions and compensation for 1812

such joint use. 1813

Such use or joint use so ordered shall be permitted and such 1814
conditions and compensation so prescribed shall be the lawful 1815
conditions and compensation to be observed, followed, and paid, 1816
subject to recourse to the courts by any interested party as 1817
provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 1818
4923., and ~~4925.~~ 4927. of the Revised Code. The commission may 1819
revoke or revise any such order. 1820

Sec. 4905.52. No officer, agent, or employee of a railroad 1821
company shall refuse to answer a question propounded to ~~him~~ the 1822
officer, agent, or employee by a public utilities commissioner in 1823
the course of an examination authorized by Chapters 4901., 4903., 1824
4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised 1825
Code. The property of the railroad company of which such person is 1826
an officer, agent, or employee, is liable to be taken in execution 1827
to satisfy the fines and costs in case of a violation of this 1828
section. 1829

Sec. 4905.58. All prosecutions against a railroad ~~or~~ 1830
~~telegraph company,~~ or an officer, agent, or employee thereof, 1831
under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 1832
4923., ~~and 4925.~~ and other sections of the Revised Code for 1833
penalties involving imprisonment shall be by indictment. 1834

Sec. 4905.59. If the public utilities commission, the officer 1835
requested by it, or a village solicitor or city director of law, 1836
when the cause of action arises in a municipal corporation, fails 1837
to prosecute a civil action for forfeiture against a railroad ~~or~~ 1838
~~telegraph company,~~ or an officer, agent, or employee thereof as 1839
provided by law, the prosecuting attorney of the county in which a 1840
cause of action for forfeiture arises, upon the request of any 1841
taxpayer of the county, shall bring such action if ~~he~~ the 1842

prosecuting attorney is furnished with evidence ~~which~~ that in ~~his~~ 1843
the prosecuting attorney's judgment will sustain it. If the action 1844
fails, the costs of the action shall be adjudged against the 1845
county. 1846

If a cause of action for forfeiture arises within a municipal 1847
corporation, and the commission, the officer requested by it, or 1848
the prosecuting attorney, fails to prosecute such action, the 1849
village solicitor or city director of law of the municipal 1850
corporation, when required by resolution of the legislative 1851
authority, shall institute the action and prosecute it to final 1852
judgment. If the action fails, the cost of the action shall be 1853
adjudged against the municipal corporation. The time for notice of 1854
appeal and giving a bond does not apply to cases within the 1855
meaning of this section. 1856

Sec. 4905.61. If any public utility or railroad does, or 1857
causes to be done, any act or thing prohibited by Chapters 4901., 1858
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1859
Revised Code, or declared to be unlawful, or omits to do any act 1860
or thing required by ~~such~~ the provisions of those chapters, or by 1861
order of the public utilities commission, ~~such~~ the public utility 1862
or railroad is liable to the person, firm, or corporation injured 1863
thereby in treble the amount of damages sustained in consequence 1864
of ~~such~~ the violation, failure, or omission. Any recovery under 1865
this section does not affect a recovery by the state for any 1866
penalty provided for in ~~such~~ the chapters. 1867

Sec. 4905.63. ~~Companies~~ A company formed to acquire property 1868
or to transact business ~~which~~ that would be subject to Chapters 1869
4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. 1870
of the Revised Code, and ~~companies~~ a company owning or possessing 1871
franchises for any of the purposes contemplated in ~~such~~ those 1872
chapters, are subject to ~~such~~ those chapters' provisions, 1873

although no property has been acquired, no business has been 1874
transacted, or no franchises have been exercised by ~~them~~ the 1875
company. 1876

Sec. 4905.71. (A) Every telephone, ~~telegraph~~, or electric 1877
light company, ~~which~~ that is a public utility as defined by 1878
section 4905.02 of the Revised Code, shall permit, upon reasonable 1879
terms and conditions and the payment of reasonable charges, the 1880
attachment of any wire, cable, facility, or apparatus to its 1881
poles, pedestals, or placement of same in conduit duct space, by 1882
any person or entity other than a public utility that is 1883
authorized and has obtained, under law, any necessary public or 1884
private authorization and permission to construct and maintain the 1885
attachment, so long as the attachment does not interfere, 1886
obstruct, or delay the service and operation of the telephone, ~~telegraph~~, 1887
~~telegraph~~, or electric light company, or create a hazard to 1888
safety. Every such telephone, ~~telegraph~~, or electric light company 1889
shall file tariffs with the public utilities commission containing 1890
the charges, terms, and conditions established for such use. 1891

(B) The ~~public utilities~~ commission shall regulate the 1892
justness and reasonableness of the charges, terms, and conditions 1893
contained in any such tariff, and may, upon complaint of any 1894
persons in which it appears that reasonable grounds for complaint 1895
are stated, or upon its own initiative, investigate such charges, 1896
terms, and conditions and conduct a hearing to establish just and 1897
reasonable charges, terms, and conditions, and to resolve any 1898
controversy ~~which~~ that may arise among the parties as to such 1899
attachment. 1900

Sec. 4905.73. (A) The public utilities commission, upon 1901
complaint by any person or complaint or initiative of the 1902
commission, has jurisdiction under section 4905.26 of the Revised 1903
Code regarding any violation of division (B) of section 4905.72 of 1904

the Revised Code by a public utility. 1905

(B) Upon complaint or initiative under division (A) of this 1906
section, if the commission finds, after notice and hearing 1907
pursuant to section 4905.26 of the Revised Code, that a public 1908
utility has violated section 4905.72 of the Revised Code, the 1909
commission, by order, shall do all of the following: 1910

(1) Rescind the aggrieved consumer's change in service 1911
provider; 1912

(2) Require the public utility to absolve the aggrieved 1913
consumer of any liability for any charges assessed the consumer, 1914
or refund to the aggrieved consumer any charges collected from the 1915
consumer, by the public utility during the thirty-day period after 1916
the violation or failure to comply occurred or, where appropriate, 1917
during such other period after that occurrence as determined 1918
reasonable by the commission; 1919

(3) Require the public utility to refund or pay to the 1920
aggrieved consumer any fees paid or costs incurred by the consumer 1921
resulting from the change of the consumer's service provider or 1922
providers, or from the resumption of the consumer's service with 1923
the service provider or providers from which the consumer was 1924
switched; 1925

(4) Require the public utility to make the consumer whole 1926
regarding any bonuses or benefits, such as airline mileage or 1927
product discounts, to which the consumer is entitled, by restoring 1928
bonuses or benefits the consumer lost as a result of the violation 1929
or failure to comply and providing bonuses or benefits the 1930
consumer would have earned if not for the violation or failure to 1931
comply, or by providing something of equal value. 1932

(C) In addition to the remedies under division (B) of this 1933
section, if the commission finds, after notice and hearing 1934
pursuant to section 4905.26 of the Revised Code, that a public 1935

utility has violated section 4905.72 of the Revised Code, the 1936
commission, by order, may impose any of the following remedies or 1937
forfeitures: 1938

(1) Require the public utility to comply or undertake any 1939
necessary corrective action; 1940

(2) Require the public utility to compensate the service 1941
provider or providers from which the aggrieved consumer was 1942
switched in the amount of all charges the consumer would have paid 1943
that particular service provider for the same or comparable 1944
service had the violation or failure to comply not occurred; 1945

(3) Require the public utility to compensate the service 1946
provider or providers from which the aggrieved consumer was 1947
switched for any costs that the particular service provider incurs 1948
as a result of making the consumer whole as provided in division 1949
(B)(4) of this section or of effecting the resumption of the 1950
consumer's service; 1951

(4) Assess upon the public utility forfeitures of not more 1952
than one thousand dollars for each day of each violation or 1953
failure to comply. However, if the commission finds that the 1954
public utility has engaged or is engaging in a pattern or practice 1955
of committing any such violations or failures to comply, the 1956
commission may assess upon the public utility forfeitures of not 1957
more than five thousand dollars for each day of each violation or 1958
failure. Any forfeiture collected pursuant to this division shall 1959
be deposited into the state treasury to the credit of the general 1960
revenue fund. 1961

(5) Require the public utility to file with the commission a 1962
security payable to the state in such amount and upon such terms 1963
as the commission determines necessary to ensure compliance and 1964
payment of any forfeitures assessed pursuant to division (C)(4) of 1965
this section; 1966

(6) Rescind the public utility's authority to provide natural gas service or public telecommunications service within this state. 1967
1968
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(D) Proceedings of the commission pursuant to division (B) or (C) of this section are governed by Chapter 4903. of the Revised Code. 1970
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(E) The commission may direct the attorney general to commence an action under section 4905.57 or 4905.60 of the Revised Code to enforce an order of the commission issued under division (B) or (C) of this section, including orders assessing forfeitures. Notwithstanding section 4905.57 of the Revised Code, an action authorized under this division may be brought in the court of common pleas of Franklin county or the court of common pleas of any county in which venue is proper under the Rules of Civil Procedure. 1973
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(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. 1982
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(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. 1985
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Sec. 4905.84. (A) As used in this section: 1989

(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. 1990
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"Telecommunications relay service" includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

(2) "TRS provider" means an entity selected by the public utilities commission as the provider of telecommunications relay service for this state as part of the commission's intrastate telecommunications relay service program certified pursuant to federal law.

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

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

of the actual costs. The total amount assessed from all service providers shall not exceed the total telecommunications relay service costs. 2029
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Each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of recovery may include, but is not limited to, a customer billing surcharge. 2032
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The commission shall deposit the money collected in the telecommunications relay service fund, which is hereby created in the state treasury, and shall use the money in that fund solely to compensate the TRS provider. 2036
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(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment. 2040
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(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code. 2044
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(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. The commission may adopt such rules as it finds necessary to carry out this section. The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures. 2049
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Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the Revised Code: 2055
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(A) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 of the 2057
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Revised Code; a public or publicly subsidized housing project; an 2059
apartment complex; a condominium complex; a college or university; 2060
an office complex; a shopping center; a hotel; an industrial park; 2061
and a race track. 2062

(B) "Gas" means natural gas, flammable gas, or gas which is 2063
toxic or corrosive. 2064

(C) "Gathering lines" and the "gathering of gas" have the 2065
same meaning as in the Natural Gas Pipeline Safety Act and the 2066
rules adopted by the United States department of transportation 2067
pursuant to the Natural Gas Pipeline Safety Act, including 49 2068
C.F.R. part 192, as amended. 2069

(D) "Intrastate pipe-line transportation" has the same 2070
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 2071
amended, but excludes the gathering of gas exempted by the Natural 2072
Gas Pipeline Safety Act. 2073

(E) "Master-meter system" means a pipe-line system that 2074
distributes gas within a contiguous property for which the system 2075
operator purchases gas for resale to consumers, including tenants. 2076
Such pipe-line system supplies consumers who purchase the gas 2077
directly through a meter, or by paying rent, or by other means. 2078
The term includes a master-meter system as defined in 49 C.F.R. 2079
191.3, as amended. The term excludes a pipeline within a 2080
manufactured home, mobile home, or a building. 2081

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 2082
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 2083
et seq., as amended. 2084

(G) "Operator" means any of the following: 2085

(1) A gas company or natural gas company as defined in 2086
section 4905.03 of the Revised Code, except that division 2087
(A)~~(6)~~(5) of that section does not authorize the public utilities 2088
commission to relieve any producer of gas, as a gas company or 2089

natural gas company, of compliance with sections 4905.90 to 2090
4905.96 of the Revised Code or the pipe-line safety code created 2091
under section 4905.91 of the Revised Code; 2092

(2) A pipe-line company, as defined in section 4905.03 of the 2093
Revised Code, when engaged in the business of transporting gas by 2094
pipeline; 2095

(3) A public utility that is excepted from the definition of 2096
"public utility" under division (B) or (C) of section 4905.02 of 2097
the Revised Code, when engaged in supplying or transporting gas by 2098
pipeline within this state; 2099

(4) Any person that owns, operates, manages, controls, or 2100
leases any of the following: 2101

(a) Intrastate pipe-line transportation facilities within 2102
this state; 2103

(b) Gas gathering lines within this state which are not 2104
exempted by the Natural Gas Pipeline Safety Act; 2105

(c) A master-meter system within this state. 2106

"Operator" does not include an ultimate consumer who owns a 2107
service line, as defined in 49 C.F.R. 192.3, as amended, on the 2108
real property of that ultimate consumer. 2109

(H) "Operator of a master-meter system" means a person 2110
described under division (F)(4)(c) of this section. An operator of 2111
a master-meter system is not a public utility under section 2112
4905.02 or a gas or natural gas company under section 4905.03 of 2113
the Revised Code. 2114

(I) "Person" means: 2115

(1) In addition to those defined in division (C) of section 2116
1.59 of the Revised Code, a joint venture or a municipal 2117
corporation; 2118

(2) Any trustee, receiver, assignee, or personal 2119

representative of persons defined in division (H)(1) of this 2120
section. 2121

(J) "Safety audit" means the public utilities commission's 2122
audit of the premises, pipe-line facilities, and the records, 2123
maps, and other relevant documents of a master-meter system to 2124
determine the operator's compliance with sections 4905.90 to 2125
4905.96 of the Revised Code and the pipe-line safety code. 2126

(K) "Safety inspection" means any inspection, survey, or 2127
testing of a master-meter system which is authorized or required 2128
by sections 4905.90 to 4905.96 of the Revised Code and the 2129
pipe-line safety code. The term includes, but is not limited to, 2130
leak surveys, inspection of regulators and critical valves, and 2131
monitoring of cathodic protection systems, where applicable. 2132

(L) "Safety-related condition" means any safety-related 2133
condition defined in 49 C.F.R. 191.23, as amended. 2134

(M) "Total Mcfs of gas it supplied or delivered" means the 2135
sum of the following volumes of gas that an operator supplied or 2136
delivered, measured in units per one thousand cubic feet: 2137

(1) Residential sales; 2138

(2) Commercial and industrial sales; 2139

(3) Other sales to public authorities; 2140

(4) Interdepartmental sales; 2141

(5) Sales for resale; 2142

(6) Transportation of gas. 2143

Sec. 4905.99. (A) Whoever violates section 4905.52 of the 2144
Revised Code shall be fined not less than fifty nor more than five 2145
hundred dollars. 2146

(B) Whoever violates section 4905.56 of the Revised Code is 2147
guilty of a felony of the fifth degree. 2148

(C) ~~Coincident with the operation of section 4905.78 of the Revised Code, whoever violates that section is guilty of a misdemeanor of the fourth degree.~~ 2149
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~~(D)~~ Whoever violates section 4905.74 of the Revised Code is 2152
guilty of a misdemeanor of the third degree. 2153

Sec. 4907.01. As used in sections 4907.01 to 4907.63~~7~~ 2154
~~inclusive,~~ of the Revised Code: 2155

(A) "Public utility" has the same meaning ~~set forth as~~ as in 2156
section 4905.02 of the Revised Code. 2157

(B) ~~"Telegraph company," "telephone Telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," and "interurban railroad company," and "motor propelled vehicle"~~ 2158
~~have the meaning set forth same meanings as~~ same meanings as in section 4905.03 of 2159
the Revised Code. 2160
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(C) "Railroad" has the same meaning ~~set forth as~~ as in section 2166
4907.02 of the Revised Code. 2167

(D) ~~"Motor transportation company," "trailer," "public Public highway," "fixed termini," "regular route," and "irregular route"~~ 2168
~~have has~~ has the same meaning ~~set forth as~~ as in sections 4905.03 and 2169
4921.02 of the Revised Code. 2170
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~~(E) "Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the meaning set forth in section 4923.02 of the Revised Code.~~ 2172
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Sec. 4907.14. Within thirty days after the election of the 2175
directors of a railroad ~~or telegraph company~~ doing business in 2176
this state, the secretary of ~~such companies~~ the railroad shall 2177

forward to the public utilities commission a list of the officers 2178
and directors thereof, giving the place of residence and 2179
post-office address of each. If a change occurs in the 2180
organization of the officers or board of directors of a railroad 2181
~~or telegraph company~~, the secretary shall notify the commission of 2182
such change and the residence and post-office address of each of 2183
the officers and directors. 2184

Sec. 4907.30. No railroad company owning or operating a 2185
railroad wholly or partly within this state shall, directly or 2186
indirectly, issue or give a free ticket, free pass, or free 2187
transportation for passengers, except to: 2188

(A) Its employees and their families, its officers, agents, 2189
surgeons, physicians, and attorneys at law; 2190

(B) Ministers of religion, traveling secretaries of railroad 2191
young men's or young women's ~~christian~~ Christian associations, 2192
inmates of hospitals and charitable institutions, and persons 2193
exclusively engaged in charitable work; 2194

(C) Indigent, destitute, and homeless persons, and to such 2195
persons when transported by charitable societies or hospitals, and 2196
the necessary agents employed in such transportation; 2197

(D) Residents of the national homes or state homes for 2198
disabled volunteer soldiers, and residents of veterans' homes, 2199
including those about to enter and those returning home after 2200
discharge, and boards of managers of such homes; 2201

(E) Necessary caretakers of livestock, poultry, and fruit; 2202

(F) Employees on sleeping cars, ~~and~~ or express cars; 2203

(G) Line workers of ~~telegraph and~~ telephone companies; 2204

(H) Railway mail service employees, post-office inspectors, 2205
custom inspectors, and immigration inspectors; 2206

(I) News carriers on trains, baggage agents, witnesses 2207
attending any legal investigation in which the railroad is 2208
interested, persons injured in wrecks, and physicians and nurses 2209
attending such persons. 2210

As used in this section, "employee" includes furloughed, 2211
pensioned, and superannuated employees, persons who have become 2212
disabled or infirm in the service of any such common carrier, the 2213
remains of a person killed in the employment of a carrier, and 2214
ex-employees traveling for the purpose of entering the service of 2215
any such common carrier, and "families" includes the families of 2216
such persons and also the surviving spouses and dependent children 2217
of employees who died while in the service of any common carrier. 2218

Sec. 4909.01. As used in this chapter: 2219

(A) "Public utility" has the same meaning ~~set forth~~ as in 2220
section 4905.02 of the Revised Code. 2221

(B) ~~"Telegraph company," "telephone company," "electric~~ 2222
Electric light company," "gas company," "natural gas company," 2223
"pipeline company," "water-works company," "sewage disposal system 2224
company," ~~"heating or cooling company," "messenger company," and~~ 2225
"street railway company," ~~"suburban railroad company," "interurban~~ 2226
~~railroad company," and "motor propelled vehicle"~~ have the same 2227
meanings ~~set forth~~ as in section 4905.03 of the Revised Code. 2228

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2229
4907.02 of the Revised Code. 2230

(D) "Motor transportation company" has the same meaning ~~set~~ 2231
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 2232

~~(E) "Trailers," "public highway," "fixed termini," "regular~~ 2233
~~route," and "irregular route" have the meanings set forth in~~ 2234
~~section 4921.02 of the Revised Code.~~ 2235

~~(F) "Private motor carrier," "contract carrier by motor~~ 2236

~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2237
~~meanings set forth in section 4923.02 of the Revised Code.~~ 2238

Sec. 4909.02. All regulations, practices, and service of 2239
railroad companies ~~and telegraph companies~~ prescribed by the 2240
public utilities commission shall be in force and be prima-facie 2241
reasonable, unless suspended or found otherwise in an action 2242
brought for that purpose pursuant to Chapters 4901., 4903., 4905., 2243
4907., 4909., 4921., and 4923. of the Revised Code, or until 2244
changed or modified by the commission. 2245

Sec. 4909.03. All rates, fares, charges, classifications, and 2246
joint rates of railroad companies ~~and telegraph companies~~ fixed by 2247
the public utilities commission shall be in force and be 2248
prima-facie lawful for two years from the day they take effect, or 2249
until changed or modified by the commission or by an order of a 2250
competent court in an action under Chapters 4901., 4903., 4905., 2251
4907., 4909., 4921., and 4923., ~~and 4925.~~ of the Revised Code. 2252

Sec. 4909.17. No rate, joint rate, toll, classification, 2253
charge, or rental, no change in any rate, joint rate, toll, 2254
classification, charge, or rental, and no regulation or practice 2255
affecting any rate, joint rate, toll, classification, charge, or 2256
rental of a public utility shall become effective until the public 2257
utilities commission, by order, determines it to be just and 2258
reasonable, except as provided in this section and sections 2259
4909.18 and 4909.19 of the Revised Code. Such sections do not 2260
apply to any rate, joint rate, toll, classification, charge, or 2261
rental, or any regulation or practice affecting the same, of 2262
railroads, street and electric railways, motor transportation 2263
companies, ~~telegraph companies,~~ and pipe line companies. ~~Any~~ 2264
~~change of any rate, joint rate, toll, classification, charge, or~~ 2265
~~rental, or any regulation or practice affecting the same, of~~ 2266

~~telegraph companies, may be made in the same manner as such~~ 2267
~~changes may be made by railroad companies. All laws respecting~~ 2268
~~such changes by railroad companies apply to such changes by~~ 2269
~~telegraph companies.~~ 2270

Sec. 4911.01. As used in this chapter: 2271

(A) "Public utility" means every one as defined in divisions 2272
(A)(1), ~~(2)~~(3), (4), (5), (6), (7), (8), ~~(9)~~, and ~~(14)~~(13) of 2273
section 4905.03 of the Revised Code, including all public 2274
utilities that ~~operating~~ operate their utilities not for profit, 2275
except the following: 2276

(1) Electric light companies that operate their utilities not 2277
for profit; 2278

(2) Public utilities, other than telephone companies, that 2279
are owned and operated exclusively by and solely for the 2280
utilities' customers; 2281

(3) Public utilities that are owned or operated by any 2282
municipal corporation; 2283

(4) Railroads as defined in sections 4907.02 and 4907.03 of 2284
the Revised Code. 2285

(B) "Residential consumer" means urban, suburban, and rural 2286
patrons of public utilities insofar as their needs for utility 2287
services are limited to their residence. 2288

Sec. 4921.01. As used in sections 4921.01 to 4921.32~~7~~ 2289
~~inclusive,~~ of the Revised Code: 2290

(A) "Public utility" has the same meaning ~~set forth as~~ in 2291
section 4905.02 of the Revised Code. 2292

(B) ~~"Telegraph company," "telephone company," "electric light~~ 2293
~~company," "gas company," "natural gas company," "pipe line~~ 2294
~~company," "water works company," "sewage disposal system company,"~~ 2295

~~"heating or cooling company," "messenger company," "street railway company," "suburban railroad company," "interurban railroad company," and "motor-propelled vehicle" have the meaning set forth same meanings as~~ in section 4905.03 of the Revised Code.

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

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

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

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

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

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

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

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

~~(E)~~(D) "Trailer," "public highway," ~~"fixed termini," and "regular route," and "irregular route"~~ have the ~~meaning set forth~~

same meanings as in section 4921.02 of the Revised Code. 2326

Sec. 4927.01. (A) As used in this chapter: 2327

~~(A)(1)~~ "Basic local exchange service" means: 2328

~~(1) End residential-end-user access to and usage of~~ 2329

~~telephone-company-provided services over a single line or~~ 2330

~~small-business-end-user access to and usage of~~ 2331

~~telephone-company-provided services over the primary access line~~ 2332

~~of service, which in the case of residential and small-business~~ 2333

~~access and usage is not part of a bundle or package of services,~~ 2334

that ~~enable~~ does both of the following: 2335

(a) Enables a customer, ~~over the primary line serving the~~ 2336

~~customer's premises,~~ to originate or receive voice communications 2337

within a local service area, ~~and that consist as that area exists~~ 2338

on the effective date of the amendment of this section by S.B. 162 2339

of the 128th general assembly; 2340

(b) Consists of all of the following services: 2341

~~(a)(i)~~ Local dial tone service; 2342

~~(b)(ii)~~ For residential end users, flat-rate telephone 2343

exchange service; 2344

(iii) Touch tone dialing service; 2345

~~(e)(iv)~~ Access to and usage of 9-1-1 services, where such 2346

services are available; 2347

~~(d)(v)~~ Access to operator services and directory assistance; 2348

~~(e)(vi)~~ Provision of a telephone directory in any reasonable 2349

format for no additional charge and a listing in that directory, 2350

with reasonable accommodations made for private listings; 2351

~~(f)(vii)~~ Per call, caller identification blocking services; 2352

~~(g)(viii)~~ Access to telecommunications relay service; and 2353

~~(h)(ix)~~ Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies. 2354
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(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price. 2356
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(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access. 2359
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~~(B) "Cable television service" means any transmission of video or other programming service to subscribers and any subscriber interaction required for the selection of that video or other programming service.~~ 2365
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~~(C)~~(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 2369
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(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that: 2376
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(a) On February 8, 1996, provided telephone exchange service in such area; and 2378
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(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 2380
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(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in 2382
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division (A)(5)(b)(i) of this section. 2384

(6) "Internet protocol-enabled services" means any services, 2385
capabilities, functionalities, or applications that are provided 2386
using internet protocol or a successor protocol to enable an end 2387
user to send or receive data, video, or voice communications in 2388
internet protocol format or a successor format, regardless of how 2389
any particular such service is classified by the federal 2390
communications commission, and includes voice over internet 2391
protocol service. 2392

(7) "Local service area" means the geographic area that may 2393
encompass more than one exchange area and within which a telephone 2394
customer, by paying the rate for basic local exchange service, may 2395
complete a call calls to another other telephone customer without 2396
being assessed long distance toll charges customers at no 2397
additional charge. 2398

~~(D) "Public telecommunications service" means the~~ 2399
~~transmission by a telephone company, by electromagnetic or other~~ 2400
~~means, of signs, signals, writings, images, sounds, messages, or~~ 2401
~~data originating and terminating in this state regardless of~~ 2402
~~actual call routing, but does not include a system, including its~~ 2403
~~construction, maintenance, or operation, for the provision of~~ 2404
~~telecommunications service, or any portion of such service, by any~~ 2405
~~entity for the sole and exclusive use of that entity, its parent,~~ 2406
~~a subsidiary, or an affiliated entity, and not for resale,~~ 2407
~~directly or indirectly; the provision of terminal equipment used~~ 2408
~~to originate or terminate telecommunications service; broadcast~~ 2409
~~transmission by radio, television, or satellite broadcast stations~~ 2410
~~regulated by the federal government; or cable television service.~~ 2411

~~(E)(8) "Small business" mean a nonresidential service~~ 2412
~~customer with three or fewer basic local exchange service access~~ 2413
~~lines.~~ 2414

(9) "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. 2415
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(10) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153. 2419
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(11) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. 2421
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(12) "Telephone company" means any a company described in division (A)(2)(1) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code. 2425
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(13) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service. 2428
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(14) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service. 2437
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(15) "Voice over internet protocol service" means a service that uses a broadband connection from an end user's location and enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such 2441
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service that permits an end user to receive calls from and 2446
terminate calls to the public switched network. 2447

(16) "Wireless service" means federally licensed commercial 2448
mobile service as defined in the "Telecommunications Act of 1996," 2449
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 2450
commercial mobile radio service in 47 C.F.R. 20.3. Under division 2451
(A)(15) of this section, commercial mobile radio service is 2452
specifically limited to mobile telephone, mobile cellular 2453
telephone, paging, personal communications services, and 2454
specialized mobile radio service provided by a common carrier in 2455
this state and excludes fixed wireless service. 2456

(17) "Wireless service provider" means a facilities-based 2457
provider of wireless service to one or more end users in this 2458
state. 2459

(B) The definitions of this section shall be applied 2460
consistent with the definitions in the "Telecommunications Act of 2461
1996," 110 Stat. 56, 47 U.S.C. 151, et seq., as amended, and with 2462
federal decisions interpreting those definitions. 2463

Sec. 4927.02. (A) It is the policy of this state to: 2464

(1) Ensure the availability of adequate basic local exchange 2465
service to citizens throughout the state; 2466

(2) Provide incentives for competing providers of 2467
telecommunications service to provide advanced, high-quality 2468
telecommunications service to citizens throughout the state; 2469

(3) Rely primarily on market forces, where they are present 2470
and capable of supporting a healthy and sustainable, competitive 2471
telecommunications market exist, to maintain just and reasonable 2472
rates, rentals, tolls, and charges for public telecommunications 2473
service levels for telecommunications services at reasonable 2474
rates; 2475

(3) (4) Encourage innovation in the telecommunications industry <u>and the deployment of advanced telecommunications services;</u>	2476 2477 2478
(4) (5) <u>Create a regulatory climate that provides incentives to create and maintain high technology jobs for Ohioans;</u>	2479 2480
(6) Promote diversity and options in the supply of public telecommunications services and equipment throughout the state;	2481 2482
(5) (7) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of public telecommunications services where appropriate;	2483 2484 2485
(6) (8) Consider the regulatory treatment of competing and functionally equivalent services in determining the scope of and, to the extent practicable, provide for equivalent regulation of all telephone companies and services that are subject to the jurisdiction of the public utilities commission;	2486 2487 2488 2489 2490
(7) (9) Not unduly favor or advantage any provider and not unduly disadvantage providers of competing and functionally equivalent services; and	2491 2492 2493
(8) (10) Protect the affordability of telephone service for low-income subscribers through the continuation of <u>federal</u> lifeline assistance programs.	2494 2495 2496
(B) The public utilities commission shall consider the policy set forth in this section in carrying out sections 4927.03 and 4927.04 of the Revised Code and in reducing or eliminating the regulation of telephone companies under those sections as to any public telecommunications service <u>this chapter.</u>	2497 2498 2499 2500 2501
<u>Sec. 4927.03.</u> (A) <u>With respect to internet protocol-enabled services, including voice over internet protocol service, the public utilities commission has jurisdiction to act consistent with section 4905.042 of the Revised Code, including performing</u>	2502 2503 2504 2505

the acts of a state commission, as defined in 47 U.S.C. 153, under 2506
federal law, and including adjudication of disputes between 2507
telephone companies and providers of internet protocol-enabled 2508
services, including voice over internet protocol service, under 2509
section 4927.19 of the Revised Code. 2510

(B) The commission has no authority over a telecommunications 2511
service that is not commercially available on the effective date 2512
of this section and that employs technology that became available 2513
for commercial use only after the effective date of this section, 2514
unless the commission, upon a finding that the exercise of that 2515
jurisdiction is necessary for the protection, welfare, and safety 2516
of the public, adopts rules specifying the necessary regulation. A 2517
consumer purchase of a service that is not commercially available 2518
on the effective date of this section and that employs technology 2519
that became available for commercial use only after the effective 2520
date of this section shall constitute a consumer transaction for 2521
purposes of sections 1345.01 to 1345.13 of the Revised Code, 2522
notwithstanding any provision of those sections to the contrary, 2523
unless the commission exercises jurisdiction over the service in 2524
accordance with this division. 2525

(C)(1) The commission has no authority over wireless service, 2526
resellers of wireless service, or wireless service providers, 2527
except as follows: 2528

(a) As provided under sections 4905.84, 4931.40 to 4931.70, 2529
and 4931.99 of the Revised Code; 2530

(b) With respect to division (C) of section 4927.13 of the 2531
Revised Code; 2532

(c) As provided in divisions (C)(2), (3), and (4) of this 2533
section. 2534

(2) The commission has authority over wireless service and 2535
wireless service providers as follows, but only to the extent 2536

<u>authorized by federal law, including federal regulations:</u>	2537
<u>(a) To the extent that the commission carries out the acts</u>	2538
<u>described in divisions (A), (B), (C), (D), and (F) of section</u>	2539
<u>4927.04 of the Revised Code;</u>	2540
<u>(b) As provided in sections 4927.05, 4927.18, and 4927.19 of</u>	2541
<u>the Revised Code.</u>	2542
<u>(3) The requirements of sections 4905.10, 4905.14, and</u>	2543
<u>4911.18 of the Revised Code shall apply to a wireless service</u>	2544
<u>provider.</u>	2545
<u>(4) The commission has such authority as is necessary to</u>	2546
<u>enforce the sections listed in division (C) of this section.</u>	2547
<u>(D) For purposes of sections 4927.01 to 4927.19 of the</u>	2548
<u>Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25,</u>	2549
<u>4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17,</u>	2550
<u>4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32,</u>	2551
<u>4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54,</u>	2552
<u>4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to</u>	2553
<u>a telephone company or, as applicable, to an officer, employee, or</u>	2554
<u>agent of such company or provider, except to the extent necessary</u>	2555
<u>for the commission to carry out sections 4927.01 to 4927.19 of the</u>	2556
<u>Revised Code.</u>	2557
<u>(E) Except as specifically authorized in sections 4927.01 to</u>	2558
<u>4927.19 of the Revised Code, the commission has no authority over</u>	2559
<u>the quality of service and the service rates, terms, and</u>	2560
<u>conditions of telecommunications service provided to end users by</u>	2561
<u>a telephone company.</u>	2562
<u>(F) The commission shall initially adopt the rules required</u>	2563
<u>by this chapter not later than one hundred twenty days after the</u>	2564
<u>effective date of this section. Subject to the authority granted</u>	2565
<u>to the commission under this chapter, the commission may adopt</u>	2566
<u>other rules, including rules regarding the removal from tariffs of</u>	2567

services that were required to be filed in tariffs prior to the 2568
effective date of this section, as it finds necessary to carry out 2569
this chapter. 2570

Sec. 4927.04. The public utilities commission has such power 2571
and jurisdiction as is reasonably necessary for it to perform the 2572
obligations authorized by or delegated to it under federal law, 2573
including federal regulations, which obligations include 2574
performing the acts of a state commission as defined in the 2575
"Communications Act of 1934," 48 Stat. 1064, 47 U.S.C. 153, as 2576
amended, and include, but are not limited to, carrying out any of 2577
the following: 2578

(A) Rights and obligations under the "Telecommunications Act 2579
of 1996," 110 Stat. 56, 47 U.S.C. 251, as amended; 2580

(B) Authority to mediate and arbitrate disputes and approve 2581
agreements under the "Telecommunications Act of 1996," 110 Stat. 2582
56, 47 U.S.C. 252, as amended; 2583

(C) Administration of telephone numbers and number 2584
portability; 2585

(D) Certification of telecommunications carriers eligible for 2586
universal-service funding under 47 U.S.C. 214(e); 2587

(E) Administration of truth-in-billing; 2588

(F) Administration of customer proprietary network 2589
information under 47 U.S.C. 222 and federal regulations adopted 2590
thereunder; 2591

(G) Outage reporting consistent with federal requirements. 2592

The commission has power and jurisdiction under this section 2593
over a telecommunications carrier to the extent necessary to 2594
perform the obligations described in this section. Nothing in this 2595
chapter limits the commission's authority under the 2596
"Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151, et 2597

seq., as amended. 2598

Sec. 4927.05. (A)(1) No telephone company shall operate in 2599
this state without first obtaining a certificate from the public 2600
utilities commission, and no wireless service provider shall 2601
operate in this state without first being registered with the 2602
commission. A telephone company not holding such a certificate on 2603
the effective date of this section, or a wireless service provider 2604
not so registered on that date, shall file, respectively, a 2605
certification application or registration with the commission, 2606
each in the manner set forth in rules adopted by the commission. 2607
The application or registration shall include all of the 2608
following: 2609

(a) The company's or provider's name and address; 2610

(b) The name of a contact person and that person's contact 2611
information; 2612

(c) A service description, including the general geographic 2613
areas served, but not maps of service areas; 2614

(d) Evidence of registration with the secretary of state; 2615

(e) Evidence of notice to the public utilities tax division 2616
of the department of taxation of the company's or provider's 2617
intent to provide service; 2618

(f) As to a certification application, evidence of financial, 2619
technical, and managerial ability to provide adequate service to 2620
the public consistent with law. 2621

Division (A)(1) of this section does not apply to any 2622
incumbent local exchange carrier with respect to its geographic 2623
service area as that area existed on the effective date of this 2624
section. 2625

(2) The commission may suspend or reject the certification 2626
application of a telephone company if it finds, within thirty days 2627

after the application's submission and based on the evidence 2628
provided under division (A)(1)(f) of this section, that the 2629
applicant lacks financial, technical, or managerial ability 2630
sufficient to provide adequate service to the public consistent 2631
with law. 2632

(B) If any of the filed information described in divisions 2633
(A)(1)(a) to (f) of this section changes, a telephone company 2634
shall update its certification and provide any necessary notice to 2635
customers, and a wireless service provider shall update its 2636
registration. The commission shall adopt rules governing the 2637
requirements of this division. 2638

Sec. 4927.06. (A) No telephone company shall commit any 2639
unfair or deceptive act or practice in connection with the 2640
offering or provision of any telecommunications service in this 2641
state. A failure to comply with any of the following requirements 2642
shall constitute an unfair or deceptive act or practice by a 2643
telephone company: 2644

(1) Any communication by the company, including, but not 2645
limited to, a solicitation, offer, or contract term or condition, 2646
shall be truthful, clear, conspicuous, and accurate in disclosing 2647
any material terms and conditions of service and any material 2648
exclusions or limitations. This requirement does not apply where 2649
it is not practicable to include that information. The public 2650
utilities commission may review circumstances to determine when 2651
meeting this requirement is not practicable and may prescribe such 2652
circumstances in rule. 2653

(2) Any written service solicitation, marketing material, 2654
offer, contract, or agreement, as well as any written response 2655
from the company to a service-related inquiry or complaint that 2656
the company receives from a customer or others, shall disclose the 2657
company's name and contact information. This requirement does not 2658

apply where it is not practicable to include that information. The 2659
commission may review circumstances to determine when meeting this 2660
requirement is not practicable and may prescribe such 2661
circumstances in rule. 2662

(3) The company shall inform its customers, as applicable and 2663
in any reasonable manner, of their rights and responsibilities 2664
concerning inside wire, the repair and maintenance of 2665
customer-owned equipment, and the use of a network interface 2666
device, and of any charges that the company imposes for a 2667
diagnostic visit, consistent with rules adopted by the public 2668
utilities commission. 2669

(4) The company shall not commit any act, practice, or 2670
omission that the commission determines, by rulemaking under 2671
section 4927.03 of the Revised Code or adjudication under section 2672
4927.19 of the Revised Code, constitutes an unfair or deceptive 2673
act or practice in connection with the offering or provision of 2674
telecommunications service in this state. 2675

(B) The commission shall provide notice to all telephone 2676
companies specifying any act, practice, or omission that it 2677
prescribes pursuant to division (A)(4) of this section. No 2678
telephone company is liable for any act, practice, or omission 2679
absent that notice and adequate time for implementation. 2680

(C) This section does not apply to wireless service. A 2681
consumer purchase of wireless service or a related product shall 2682
constitute a consumer transaction for purposes of sections 1345.01 2683
to 1345.13 of the Revised Code, notwithstanding any provision of 2684
those sections to the contrary. 2685

Sec. 4927.07. (A) A telephone company may withdraw any 2686
telecommunications service if it gives at least thirty days' prior 2687
notice to the public utilities commission and to its affected 2688
customers. 2689

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

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

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

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

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

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

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

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

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

(B) The public utilities commission shall adopt rules prescribing the following standards for the provision of basic local exchange service, and shall adopt no other rules regarding

that service except as expressly authorized in this chapter: 2720

(1) Basic local exchange service shall be installed within 2721
five business days of the receipt by a telephone company of a 2722
completed application for that service. 2723

(2) A basic local exchange service outage or 2724
service-affecting problem shall be repaired within seventy-two 2725
hours after it is reported to the telephone company. If a basic 2726
local exchange service outage is not caused by the customer, is 2727
reported to the telephone company by the customer, and lasts more 2728
than seventy-two hours, the telephone company shall credit the 2729
customer in the amount of one month's charges for basic local 2730
exchange service. 2731

(3) No telephone company shall establish a due date earlier 2732
than fourteen consecutive days after the date the bill is 2733
postmarked or the billing date on the bill, whichever is later, 2734
for a bill for basic local exchange service provided to end users. 2735

(4) A telephone company may disconnect basic local exchange 2736
service for nonpayment of any amount past due on a billed account 2737
not earlier than fourteen days after the due date of the 2738
customer's bill, provided that the customer is given notice of the 2739
disconnection seven days before the disconnection. 2740

(5) Reconnection of service previously disconnected for 2741
nonpayment shall be completed not later than three business days 2742
after the receipt of payment in full by the telephone company of 2743
the amount owed. 2744

(6) A telephone company may require a deposit, not to exceed 2745
two hundred thirty per cent of a reasonable estimate of one 2746
month's service charges, for the installation of basic local 2747
exchange service for any person that it determines, in its 2748
discretion, is not creditworthy. 2749

(7) If residential basic local exchange service is 2750

disconnected for nonpayment, a telephone company shall maintain 2751
the customer's access to 9-1-1 service for a period of at least 2752
fourteen days following the disconnection. 2753

(8) If a customer disconnected for nonpayment of past due 2754
charges enters into a mutually agreed-upon payment arrangement, a 2755
telephone company shall, upon request, reconnect that customer to 2756
basic local exchange service, without requiring the payment of the 2757
full amount due. 2758

(C) The rules described in division (B) of this section shall 2759
provide for a waiver of the standards described in that division 2760
in circumstances determined appropriate by the commission. 2761

Sec. 4927.09. (A) Except as otherwise provided in this 2762
section, an incumbent local exchange carrier shall provide basic 2763
local exchange service to all persons or entities in its service 2764
area requesting that service, and that service shall be provided 2765
on a reasonable and nondiscriminatory basis. 2766

(B)(1) An incumbent local exchange carrier is not obligated 2767
to construct facilities and provide basic local exchange service, 2768
or any other telecommunications service, to the occupants of 2769
multitenant real estate, including, but not limited to, 2770
apartments, condominiums, subdivisions, office buildings, or 2771
office parks, if the owner, operator, or developer of the 2772
multitenant real estate does any of the following to the benefit 2773
of any other telecommunications service provider: 2774

(a) Permits only one provider of telecommunications service 2775
to install the company's facilities or equipment during the 2776
construction or development phase of the multitenant real estate; 2777

(b) Accepts or agrees to accept incentives or rewards that 2778
are offered by a telecommunications service provider to the owner, 2779
operator, developer, or occupants of the multitenant real estate 2780

and are contingent on the provision of telecommunications service 2781
by that provider to the occupants, to the exclusion of services 2782
provided by other telecommunications service providers; 2783

(c) Collects from the occupants of the multitenant real 2784
estate any charges for the provision of telecommunications service 2785
to the occupants, including charges collected through rents, fees, 2786
or dues. 2787

(2) A carrier not obligated to construct facilities and 2788
provide basic local exchange service pursuant to division (B)(1) 2789
of this section shall notify the public utilities commission of 2790
that fact within one hundred twenty days of receiving knowledge 2791
thereof. 2792

(3) The commission by rule may establish a process for 2793
determining a necessary successor telephone company to provide 2794
service to real estate described in division (B)(1) of this 2795
section when the circumstances described in that division cease to 2796
exist. 2797

(4) An incumbent local exchange carrier that receives a 2798
request from any person or entity to provide service under the 2799
circumstances described in division (B)(1) of this section shall, 2800
within fifteen days of such receipt, provide notice to the person 2801
or entity specifying whether the carrier will provide the 2802
requested service. If the carrier provides notice that it will not 2803
serve the person or entity, the notice shall describe the person's 2804
or entity's right to file a complaint with the commission under 2805
section 4927.19 of the Revised Code within thirty days after 2806
receipt of the notice. In resolving any such complaint, the 2807
commission's determination shall be limited to whether any 2808
circumstance described in divisions (B)(1)(a) to (c) of this 2809
section exists. Upon a finding by the commission that such a 2810
circumstance exists, the complaint shall be dismissed. Upon a 2811
finding that such circumstances do not exist, the person's or 2812

entity's sole remedy shall be provision by the carrier of the 2813
requested service within a reasonable time. 2814

(C) An incumbent local exchange carrier may apply to the 2815
commission for a waiver from compliance with division (A) of this 2816
section. The incumbent local exchange carrier applying for the 2817
waiver shall, within a time period specified in rules adopted by 2818
the commission, notify any persons or entities in its service area 2819
of the application. The commission shall afford such persons or 2820
entities a reasonable opportunity to comment to the commission on 2821
the application. After a reasonable opportunity to comment has 2822
been provided, but not later than ninety days after the 2823
application is filed, the commission either shall issue an order 2824
granting the waiver if, upon investigation, it finds the waiver to 2825
be just, reasonable, and not contrary to the public interest, or 2826
shall issue an order denying the waiver based on a failure to meet 2827
those standards and specifying the reasons for the denial. 2828

Sec. 4927.10. (A) As used in this section, "exchange area" 2829
means a geographical service area established by an incumbent 2830
local exchange carrier and approved by the public utilities 2831
commission. 2832

(B)(1) Except as provided in division (B)(2) of this section, 2833
and only once during the first twelve months following the 2834
effective date of this section and upon not less than thirty days' 2835
notice to the commission and to affected customers, an incumbent 2836
local exchange carrier, other than the type described in division 2837
(D) of this section, may alter its rates for basic local exchange 2838
service, after meeting the requirements of division (C) of this 2839
section if the alteration is upward, but in no event may the 2840
carrier alter the rates upward by more than the amount authorized 2841
for an annual increase in the rate for basic local exchange 2842
service by division (A) of rule 4901:1-4-11 of the Ohio 2843

Administrative Code as that rule existed on the effective date of 2844
this section. 2845

(2) If the incumbent local exchange carrier increased its 2846
rates for basic local exchange service within twelve months prior 2847
to the effective date of this section, any upward alteration of 2848
those rates made under division (B)(1) of this section shall not 2849
be instituted until twelve months after the date of the prior 2850
increase. 2851

(3) In subsequent years and upon not less than thirty days' 2852
notice to the commission and to affected customers, an incumbent 2853
local exchange carrier, other than the type described in division 2854
(D) of this section, may alter its rates for basic local exchange 2855
service, but in no event may the carrier alter the rates upward 2856
above the basic local exchange service rate in effect at the end 2857
of the preceding twelve-month period by more than the amount 2858
authorized for an annual increase in the rate for basic local 2859
exchange service by division (A) of rule 4901:1-4-11 of the Ohio 2860
Administrative Code as that rule existed on the effective date of 2861
this section. An incumbent local exchange carrier seeking to alter 2862
its rates for basic local exchange service upward under this 2863
division shall first meet the requirements of division (C) of this 2864
section if it did not alter its rates for basic local exchange 2865
service upward under division (B)(1) of this section and if it has 2866
not previously sought an upward alteration of its rates for basic 2867
local exchange service under this division. No banking of 2868
permissible upward rate alterations is permitted. 2869

(C)(1) No incumbent local exchange carrier may alter its 2870
rates for basic local exchange service upward for an exchange area 2871
under division (B)(1) of this section, or under division (B)(3) of 2872
this section if it did not alter its rates for basic local 2873
exchange service upward under division (B)(1) of this section and 2874
if it had not previously sought an upward alteration of its rates 2875

for basic local exchange service under division (B)(3) of this 2876
section, unless it first applies to the commission and the 2877
commission determines that the application demonstrates either of 2878
the following: 2879

(a) That the commission has made a prior determination that 2880
the exchange area qualified for alternative regulation of basic 2881
local exchange service under Chapter 4901:1-4 of the Ohio 2882
Administrative Code as that chapter existed on the effective date 2883
of this section; 2884

(b) That two or more alternative providers offer, in the 2885
exchange area, competing service to the basic local exchange 2886
service offered by an incumbent local exchange carrier in the 2887
exchange area, regardless of the technology and facilities used by 2888
the alternative provider, the alternative provider's location, and 2889
the extent of the alternative provider's service area within the 2890
exchange area. An alternative provider includes a telephone 2891
company, including a wireless service provider, a 2892
telecommunications carrier, and a provider of internet 2893
protocol-enabled services, including voice over internet protocol. 2894

(2) Upon the filing of an application under division (C)(1) 2895
of this section, the commission shall be deemed to have found that 2896
the application meets the requirements of division (C)(1) of this 2897
section unless the commission, within thirty days after the filing 2898
of the application, issues an order finding that the requirements 2899
have not been met. 2900

(D) At any time and upon not less than thirty days' notice to 2902
the commission and to affected customers, an incumbent local 2903
exchange carrier owned and operated exclusively by and solely for 2904
its customers may alter its rates for basic local exchange service 2905
by any amount. 2906

(E) 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. 2907
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Sec. 4927.11. (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. 2911
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(1) Lifeline service shall consist of all of the following: 2915

(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; 2916
2917
2918
2919

(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; 2920
2921
2922

(c) Free blocking of toll service, 900 service, and 976 service. 2923
2924

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. 2925
2926
2927

(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 2928
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provider. 2937

(3)(a) Every incumbent local exchange carrier required to 2938
implement lifeline service under division (A) of this section 2939
shall establish an annual marketing budget for promoting lifeline 2940
service and performing outreach regarding lifeline service. All 2941
funds allocated to this budget shall be spent for the promotion 2942
and marketing of lifeline service and outreach regarding lifeline 2943
service and only for those purposes and not for any administrative 2944
costs of implementing lifeline service. All activities relating to 2945
the promotion of, marketing of, and outreach regarding lifeline 2946
service shall be coordinated through a single advisory board 2947
composed of staff of the public utilities commission, the office 2948
of the consumers' counsel, consumer groups representing low-income 2949
constituents, and, except as provided in division (A)(3)(b) of 2950
this section, every incumbent local exchange carrier required to 2951
implement lifeline service under division (A) of this section. The 2952
commission may review and approve decisions of the advisory board 2953
in accordance with commission rules, including decisions on how 2954
the lifeline marketing, promotion, and outreach activities are 2955
implemented. 2956

(b) Division (A)(3)(a) of this section does not apply to an 2957
incumbent local exchange carrier with fewer than fifty thousand 2958
access lines. 2959

(4) All other aspects of the carrier's state-specific 2960
lifeline service shall be consistent with federal requirements. 2961

(B) The rates, terms, and conditions for the carrier's 2962
lifeline service shall be tariffed in the manner prescribed by 2963
rule adopted by the public utilities commission. 2964

(C)(1) Eligibility for lifeline service under division (A) of 2965
this section shall be based on either of the following criteria: 2966

(a) A person's verifiable participation in any low-income 2967

assistance program that is approved as a lifeline-eligible program 2968
by either the public utilities commission or the federal 2969
communications commission; 2970

(b) Verification that a person's household income is at or 2971
below one hundred fifty per cent of the federal poverty level. 2972

The public utilities commission shall work with the 2973
appropriate state agencies that administer federal or state 2974
low-income assistance programs and with carriers to negotiate and 2975
acquire information necessary to verify a person's eligibility and 2976
the data necessary to automatically enroll eligible persons for 2977
lifeline service. 2978

(2) The carrier shall provide written notification if the 2979
carrier determines that a person is not eligible for lifeline 2980
service and shall provide the person an additional thirty days to 2981
prove eligibility. 2982

(3) The carrier shall provide written customer notification 2983
if a customer's lifeline service is to be terminated due to 2984
failure to submit acceptable documentation for continued 2985
eligibility for that assistance and shall provide the customer an 2986
additional sixty days to submit acceptable documentation of 2987
continued eligibility or dispute the carrier's findings regarding 2988
termination of the lifeline service. 2989

(D) An incumbent local exchange carrier or eligible 2990
telecommunications carrier may recover from end users of the 2991
carrier's telecommunications service other than lifeline service 2992
customers, by a method approved by the public utilities 2993
commission, any lifeline service discounts and any other lifeline 2994
service expenses that the commission prescribes by rule and that 2995
are not recovered through federal or state funding, except for 2996
expenses incurred under division (A)(3)(a) of this section. A 2997
carrier seeking recovery of these discounts or expenses shall, in 2998

accordance with rules adopted by the public utilities commission, 2999
apply to the commission for approval of the method of recovery. 3000

Sec. 4927.12. The public utilities commission may adopt rules 3001
requiring any telephone company that is a telephone toll service 3002
provider to offer discounts for operator-assisted and direct-dial 3003
services for persons with communication disabilities. 3004

Sec. 4927.13. (A) The rates, terms, and conditions for 9-1-1 3005
service provided in this state by a telephone company or a 3006
telecommunications carrier and each of the following provided in 3007
this state by a telephone company shall be approved and tariffed 3008
in the manner prescribed by rule adopted by the public utilities 3009
commission and shall be subject to the applicable laws, including 3010
rules or regulations adopted and orders issued by the commission 3011
or the federal communications commission and, including, as to 3012
9-1-1 service, sections 4931.40 to 4931.70 and 4931.99 of the 3013
Revised Code: 3014

(1) Carrier access; 3015

(2) N-1-1 services, other than 9-1-1 service; 3016

(3) Pole attachments and conduit occupancy under section 3017
4905.71 of the Revised Code; 3018

(4) Pay telephone access lines; 3019

(5) Toll presubscription; 3020

(6) Telecommunications relay service. 3021

(B) The public utilities commission may order changes in a 3022
telephone company's rates for carrier access in this state subject 3023
to this division. In the event that the public utilities 3024
commission reduces a telephone company's rates for carrier access 3025
that are in effect on the effective date of this section, that 3026
reduction shall be on a revenue-neutral basis under terms and 3027

conditions established by the public utilities commission, and any 3028
resulting rate changes necessary to comply with division (B) or 3029
(C) of this section shall be in addition to any rate adjustment 3030
authorized under section 4927.10 of the Revised Code. 3031

(C) The public utilities commission has authority to address 3032
carrier access policy and to create and administer mechanisms for 3033
carrier access reform, including, but not limited to, high cost 3034
support. 3035

Sec. 4927.14. (A) The public utilities commission shall not 3036
establish any requirements for the unbundling of network elements, 3037
for the resale of telecommunications service, or for network 3038
interconnection that exceed or are inconsistent with or prohibited 3039
by federal law, including federal regulations. 3040

(B) The commission shall not establish pricing for such 3041
unbundled elements, resale, or interconnection that is 3042
inconsistent with or prohibited by federal law, including federal 3043
regulations, and shall comply with federal law, including federal 3044
regulations, in establishing such pricing. 3045

Sec. 4927.15. (A) A telephone company shall provide at least 3046
fifteen days' advance notice to its affected customers of any 3047
material change in the rates, terms, and conditions of a service 3048
and any change in the company's operations that are not 3049
transparent to customers and may impact service. 3050

(B) A telephone company shall inform its customers of the 3051
public utilities commission's toll-free number and e-mail address 3052
on all bills and disconnection notices, and any residential 3053
customers of the office of consumers' counsel's toll-free number 3054
and e-mail address on all residential bills and disconnection 3055
notices. 3056

Sec. 4927.16. The public utilities commission may adopt rules 3057
regarding the rates, terms, and conditions of intrastate 3058
telecommunications service initiated from a telephone instrument 3059
set aside for use by inmates or juvenile offenders by authorities 3060
of a secured correctional facility. 3061

Sec. 4927.17. The public utilities commission may investigate 3062
or examine the books, records, or practices of any telephone 3063
company, but only to the extent of the commission's jurisdiction 3064
over the company under sections 4927.01 to 4927.19 of the Revised 3065
Code. Subject to that limitation, the commission may do any of the 3066
following: 3067

(A) Through its commissioners or by inspectors or employees 3068
authorized by it, examine the books, records, contracts, 3069
documents, and papers of any such company for any purpose 3070
incidental to the commission's authority under those sections; 3071

(B) By subpoena duces tecum, compel the production of such 3072
books, records, contracts, documents, and papers; 3073

(C) Compel the attendance of such witnesses as it requires to 3074
give evidence in connection with such an investigation. 3075

Sec. 4927.18. To the extent subject to the public utilities 3076
commission's jurisdiction under this chapter, all of the following 3077
shall comply with every order, direction, and requirement of the 3078
commission made under authority of this chapter: 3079

(A) Every telephone company, including every wireless service 3080
provider; 3081

(B) Every telecommunications carrier; 3082

(C) Every provider of internet protocol-enabled services, 3083
including voice over internet protocol. 3084

Sec. 4927.19. (A) Any person may file with the public utilities commission, or the commission may initiate, a complaint against a telephone company other than a wireless service provider, alleging that any rate, practice, or service of the company is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any provision of sections 4927.01 to 4927.18 of the Revised Code or a rule or order adopted or issued under those sections. Any dispute between telephone companies, between telephone companies and wireless service providers, or between wireless service providers that is within the commission's jurisdiction under sections 4927.01 to 4927.18 of the Revised Code, and any dispute between a telephone company and a provider of internet protocol-enabled services, including voice over internet protocol service, that is within the commission's jurisdiction under section 4927.03 of the Revised Code, may be brought by a filing pursuant to this division.

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

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

(1) Determine, but only to the extent authorized under sections 4927.01 to 4927.18 of the Revised Code, the rate, practice, or service thereafter to be adopted and observed, including any appropriate remedy for a complaint;

(2) Assess a forfeiture of not more than ten thousand dollars 3116
for each violation or failure. Each day's continuance of the 3117
violation or failure is a separate offense, and all occurrences of 3118
a violation or failure on each such day shall be deemed one 3119
violation. All forfeitures authorized under this section are 3120
cumulative, and a suit for and recovery of one does not bar the 3121
recovery of any other. Collected forfeitures shall be deposited 3122
into the state treasury to the credit of the general revenue fund. 3123
Actions to recover such forfeitures shall be prosecuted in the 3124
name of the state and shall be brought in the court of common 3125
pleas of any county in which the party complained of is located. 3126
The attorney general shall commence such actions and prosecute 3127
them when the commission directs. 3128

(D) The commission also may suspend, rescind, or 3129
conditionally rescind the certification of a telephone company 3130
under section 4927.05 of the Revised Code under either of the 3131
following circumstances: 3132

(1) The commission determines, after notice and opportunity 3133
for hearing, that the telephone company has failed to comply with 3134
any provision of section 4905.10 or 4905.14 of the Revised Code. 3135

(2) The commission determines in a proceeding under division 3136
(B) of this section that the telephone company has willfully or 3137
repeatedly failed to comply with any other applicable state or 3138
federal law. 3139

(E) The commission has no authority to order credits to any 3140
customer of a telephone company, except in response to a complaint 3141
determined in accordance with this section. 3142

(F) Upon request of the commission, the attorney general may 3143
commence and prosecute such action or proceeding in mandamus, by 3144
injunction, or by other appropriate civil remedy in the name of 3145
the state, as is directed by the commission, alleging any 3146

violation or noncompliance specified in division (A) of this 3147
section, and praying for such proper relief as the court may 3148
prescribe. 3149

Sec. 4929.02. (A) It is the policy of this state to, 3150
throughout this state: 3151

(1) Promote the availability to consumers of adequate, 3152
reliable, and reasonably priced natural gas services and goods; 3153

(2) Promote the availability of unbundled and comparable 3154
natural gas services and goods that provide wholesale and retail 3155
consumers with the supplier, price, terms, conditions, and quality 3156
options they elect to meet their respective needs; 3157

(3) Promote diversity of natural gas supplies and suppliers, 3158
by giving consumers effective choices over the selection of those 3159
supplies and suppliers; 3160

(4) Encourage innovation and market access for cost-effective 3161
supply- and demand-side natural gas services and goods; 3162

(5) Encourage cost-effective and efficient access to 3163
information regarding the operation of the distribution systems of 3164
natural gas companies in order to promote effective customer 3165
choice of natural gas services and goods; 3166

(6) Recognize the continuing emergence of competitive natural 3167
gas markets through the development and implementation of flexible 3168
regulatory treatment; 3169

(7) Promote an expeditious transition to the provision of 3170
natural gas services and goods in a manner that achieves effective 3171
competition and transactions between willing buyers and willing 3172
sellers to reduce or eliminate the need for regulation of natural 3173
gas services and goods under Chapters 4905. and 4909. of the 3174
Revised Code; 3175

(8) Promote effective competition in the provision of natural 3176

gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;	3177 3178
(9) Ensure that the risks and rewards of a natural gas company's offering of nonjurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of nonexempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this section;	3179 3180 3181 3182 3183 3184 3185
(10) Facilitate the state's competitiveness in the global economy;	3186 3187
(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;	3188 3189
(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.	3190 3191 3192
(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.	3193 3194 3195 3196
(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.	3197 3198 3199 3200
<u>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.</u>	3201 3202 3203
<u>Sec. 4931.02. (A) A telegraph telephone company may construct, own, use, and maintain telegraph telecommunications</u>	3204 3205

lines and facilities, whether described in its original articles 3206
of incorporation or not, and whether such lines or facilities are 3207
wholly within or partly beyond the limits of this state. It may 3208
join with another company or association in conducting, leasing, 3209
owning, using, or maintaining such lines or facilities, on terms 3210
agreed upon between the directors or managers of the respective 3211
companies. Such companies may own and hold any interest in such 3212
lines or facilities, or become lessees thereof on such terms as 3213
they agree upon, but no such company and the owner of rights of 3214
way shall contract for the exclusive use of such rights of way for 3215
~~telegraphic~~ telecommunications purposes. 3216

(B) A telephone company's lines and facilities shall not 3217
unreasonably interfere with the practical uses of the property on 3218
which they are located. A telephone company shall repair defective 3219
lines and facilities, which repairs shall be consistent with 3220
reasonable business practices and applicable industry standards. 3221

Sec. 4931.03. (A) A ~~telegraph or~~ telephone company may do 3222
either of the following in the unincorporated area of the 3223
township: 3224

(1) Construct ~~telegraph or telephone lines~~ telecommunications 3225
lines or facilities upon and along any of the public roads and 3226
highways and across any waters within that area by the erection of 3227
the necessary fixtures, including posts, piers, or abutments for 3228
sustaining the cords or wires of those lines or facilities. ~~These~~ 3229
The lines and facilities shall be constructed so as not to 3230
incommode the public in the use of the roads or highways, or 3231
endanger or injuriously interrupt the navigation of the waters. 3232

(2) Construct ~~telegraph or telephone~~ telecommunications lines 3233
and ~~the fixtures necessary for containing and protecting those~~ 3234
lines facilities in such a manner as to protect them beneath the 3235
surface of any of the public roads and highways and beneath any 3236

waters within that area. Those lines and facilities shall be 3237
constructed so as not to incommode the public in the use of the 3238
roads or highways, or endanger or injuriously interrupt the 3239
navigation of the waters. 3240

(B)(1) This section does not authorize the construction of a 3241
bridge across any waters within the state. 3242

(2) Construction under this section is subject to section 3243
5571.16 of the Revised Code, as applicable, and any other 3244
applicable law, including, but not limited to, any law requiring 3245
approval of the legislative authority, the county engineer, or the 3246
director of transportation. 3247

Sec. 4931.04. A ~~telegraph~~ telephone company may enter upon 3248
any land held by an individual or a corporation, whether such land 3249
was acquired by purchase, appropriation, or by virtue of any 3250
provision in its charter, for the purpose of making preliminary 3251
examination and surveys, with a view to the location and 3252
construction of ~~telegraph~~ telecommunications lines and facilities, 3253
and may appropriate so much of such land in accordance with 3254
sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, as it 3255
deems necessary for the construction and maintenance of ~~its~~ 3256
~~telegraph poles, cables, conduits, piers, abutments, wires, and~~ 3257
~~other necessary fixtures, stations~~ those lines and facilities, and 3258
the right of way in, through, over, across, and under such lands 3259
and adjacent lands, sufficient to enable it to construct and 3260
repair ~~its~~ the lines and facilities. 3261

Sec. ~~4931.11~~ 4931.05. Any company organized at any time to 3262
transact a ~~telegraph~~, telephone, or communications business may 3263
construct, reconstruct, own, use, lease, operate, maintain, and 3264
improve communications systems for the transmission of voices, 3265
sounds, writings, signs, signals, pictures, visions, images, or 3266

other forms of intelligence, as public utility services, by means 3267
of wire, cable, radio, radio relay, or other telecommunications 3268
facilities, methods, or media. Any such company has the powers and 3269
is subject to the restrictions prescribed in sections 4931.02 to 3270
~~4931.22~~ 4931.04 of the Revised Code, for ~~telegraph or~~ telephone 3271
companies. 3272

Sec. ~~4931.35~~ 4931.06. (A) As used in this section and in 3273
sections 2317.02 and 2921.22 of the Revised Code: 3274

(1) "Communications assistant" means a person who 3275
transliterates conversation from text to voice and from voice to 3276
text between the end users of a telecommunications relay service 3277
provided pursuant to this section or Title II of the 3278
"Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225. 3279

(2) "Communicative impairment" means deafness or speech 3280
impairment. 3281

(3) "Deafness" means a hearing loss that prevents a person 3282
from being able to understand speech over the telephone. 3283

(4) "Speech impairment" means a speech impairment that 3284
renders a person's speech unintelligible on the telephone. 3285

(5) "Telecommunications relay service" means telephone 3286
transmission services that provide the ability for an individual 3287
who has a communicative impairment to engage in a communication by 3288
wire or radio with a hearing individual in a manner that is 3289
functionally equivalent to the ability of an individual who does 3290
not have a communicative impairment to communicate using voice 3291
communication services by wire or radio. "Telecommunications relay 3292
service" includes services that enable two-way communication 3293
between an individual who uses a text telephone or other nonvoice 3294
terminal device and an individual who does not use such a device. 3295

(B) Any communication made by or to a person with a 3296

communicative impairment with the assistance of a communications 3297
assistant at a telecommunications relay service is confidential 3298
and privileged and shall not be disclosed by the communications 3299
assistant in any civil case or proceeding or in any legislative or 3300
administrative proceeding, unless the person making the 3301
communication and the person to whom the communication is made 3302
each waive the privilege of confidentiality or the obligation to 3303
divulge the communication is mandated by federal law or regulation 3304
or pursuant to subpoena in a criminal proceeding. 3305

(C) A communications assistant or a telecommunications relay 3306
service provider is not subject to criminal prosecution and is not 3307
liable in damages in any civil action on account of the act of 3308
transliterating or the content of any communication 3309
transliterated, or any injury, death, or loss to person or 3310
property allegedly arising from the act of transliterating or the 3311
content of any communication transliterated, between the end users 3312
of a telecommunications relay service, except in cases of willful 3313
or wanton misconduct. 3314

Sec. 4931.99. (A) Whoever violates division (D) of section 3315
4931.49 of the Revised Code is guilty of a misdemeanor of the 3316
fourth degree. 3317

(B) ~~Whoever violates section 4931.25, 4931.26, 4931.27,~~ 3318
~~4931.30, or 4931.31 of the Revised Code is guilty of a misdemeanor~~ 3319
~~of the third degree.~~ 3320

~~(C) Whoever violates section 4931.28 of the Revised Code is~~ 3321
~~guilty of a felony of the fourth degree.~~ 3322

~~(D)~~ Whoever violates ~~section 4931.29~~ or division (B) of 3323
section ~~4931.35~~ 4931.06 of the Revised Code is guilty of a 3324
misdemeanor in the first degree. 3325

~~(E)~~(C) Whoever violates division (E) or (F) of section 3326

4931.49 or division (B)(2) of section 4931.66 of the Revised Code 3327
is guilty of a misdemeanor of the fourth degree on a first offense 3328
and a felony of the fifth degree on each subsequent offense. 3329

~~(F)~~(D) Whoever violates section 4931.75 of the Revised Code 3330
is guilty of a minor misdemeanor for a first offense and a 3331
misdemeanor of the first degree on each subsequent offense. 3332

Sec. 4933.14. (A) ~~and except~~ Except as otherwise provided in 3333
division (B) of this section ~~Sections, division (A) of section~~ 3334
4931.02 ~~to 4931.22, and sections 4931.03, 4931.04, and 4933.13 to~~ 3335
4933.16 of the Revised Code apply to a company organized for 3336
supplying public and private buildings, manufacturing 3337
establishments, streets, alleys, lanes, lands, squares, and public 3338
places with electric light and power, and to an automatic package 3339
carrier. ~~Every and except~~ Except as otherwise provided in division 3340
(B) of this section, every such company has the powers and is 3341
subject to the restrictions prescribed for a ~~telegraph~~ telephone 3342
company by ~~sections~~ division (A) of section 4931.02 to 4931.22 and 3343
sections 4931.03 and 4931.04 of the Revised Code. 3344

(B) ~~Sections~~ Section 4931.04, ~~4931.06, 4931.07, 4931.12, and~~ 3345
~~4931.13~~ of the Revised Code ~~apply~~ applies to a company organized 3346
for supplying electricity only if the company transmits or 3347
distributes electricity, and every such company has the powers and 3348
is subject to the restrictions prescribed for a ~~telegraph~~ 3349
telephone company by those sections except for the purpose of 3350
erecting, operating, or maintaining an electric generating 3351
station. 3352

Sec. 4933.18. (A) In a prosecution for a theft offense, as 3353
defined in section 2913.01 of the Revised Code, that involves 3354
alleged tampering with a gas, electric, steam, or water meter, 3355
conduit, or attachment of a utility that has been disconnected by 3356

the utility, proof that a meter, conduit, or attachment of a 3357
utility has been tampered with is prima-facie evidence that the 3358
person who is obligated to pay for the service rendered through 3359
the meter, conduit, or attachment and is in possession or control 3360
of the meter, conduit, or attachment at the time the tampering 3361
occurred has caused the tampering with intent to commit a theft 3362
offense. 3363

In a prosecution for a theft offense, as defined in section 3364
2913.01 of the Revised Code, that involves the alleged 3365
reconnection of a gas, electric, steam, or water meter, conduit, 3366
or attachment of a utility that has been disconnected by the 3367
utility, proof that a meter, conduit, or attachment disconnected 3368
by a utility has been reconnected without the consent of the 3369
utility is prima-facie evidence that the person in possession or 3370
control of the meter, conduit, or attachment at the time of the 3371
reconnection has reconnected the meter, conduit, or attachment 3372
with intent to commit a theft offense. 3373

(B) As used in this section: 3374

(1) "Utility" means any electric light company, gas company, 3375
natural gas company, pipe-line company, water-works company, or 3376
heating or cooling company, as defined by division (A)~~(3)~~, (4), 3377
(5), (6), (7), or (8)~~, or (9)~~ of section 4905.03 of the Revised 3378
Code, its lessees, trustees, or receivers, or any similar utility 3379
owned or operated by a political subdivision. 3380

(2) "Tamper" means to interfere with, damage, or by-pass a 3381
utility meter, conduit, or attachment with the intent to impede 3382
the correct registration of a meter or the proper functions of a 3383
conduit or attachment so as to reduce the amount of utility 3384
service that is registered on the meter. 3385

Sec. 4933.19. Each electric light company, gas company, 3386
natural gas company, pipe-line company, water-works company, or 3387

heating or cooling company, as defined by division (A)~~(3)~~, (4), 3388
(5), (6), (7), or (8), ~~or~~ (9) of section 4905.03 of the Revised 3389
Code, or its lessees, trustees, or receivers, and each similar 3390
utility owned or operated by a political subdivision shall notify 3391
its customers, on an annual basis, that tampering with or 3392
bypassing a meter constitutes a theft offense that could result in 3393
the imposition of criminal sanctions. 3394

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the 3395
Revised Code: 3396

(A) "Cable operator," "cable service," and "franchise" have 3397
the same meanings as in the "Cable Communications Policy Act of 3398
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 3399

(B) "Occupy or use" means, with respect to a public way, to 3400
place a tangible thing in a public way for any purpose, including, 3401
but not limited to, constructing, repairing, positioning, 3402
maintaining, or operating lines, poles, pipes, conduits, ducts, 3403
equipment, or other structures, appurtenances, or facilities 3404
necessary for the delivery of public utility services or any 3405
services provided by a cable operator. 3406

(C) "Person" means any natural person, corporation, or 3407
partnership and also includes any governmental entity. 3408

(D) "Public utility" means any company described in section 3409
4905.03 of the Revised Code except in divisions (A)~~(3)~~(2) and 3410
~~(10)~~(9) of that section, which company also is a public utility as 3411
defined in section 4905.02 of the Revised Code; and includes any 3412
electric supplier as defined in section 4933.81 of the Revised 3413
Code. 3414

(E) "Public way" means the surface of, and the space within, 3415
through, on, across, above, or below, any public street, public 3416
road, public highway, public freeway, public lane, public path, 3417

public alley, public court, public sidewalk, public boulevard, 3418
public parkway, public drive, and any other land dedicated or 3419
otherwise designated for a compatible public use, which, on or 3420
after the effective date of this section, is owned or controlled 3421
by a municipal corporation. "Public way" excludes a private 3422
easement. 3423

(F) "Public way fee" means a fee levied to recover the costs 3424
incurred by a municipal corporation and associated with the 3425
occupancy or use of a public way. 3426

Sec. 5515.01. The director of transportation may upon formal 3427
application being made to the director, grant a permit to any 3428
individual, firm, or corporation to use or occupy such portion of 3429
a road or highway on the state highway system as will not 3430
incommode the traveling public. Such permits, when granted, shall 3431
be upon the following conditions: 3432

(A) The director may issue a permit to any individual, firm, 3433
or corporation for any use of a road or highway on the state 3434
highway system that is consistent with applicable federal law or 3435
federal regulations. 3436

(B) Such location shall be changed as prescribed by the 3437
director when the director deems such change necessary for the 3438
convenience of the traveling public, or in connection with or 3439
contemplation of the construction, reconstruction, improvement, 3440
relocating, maintenance, or repair of such road or highway. 3441

(C) The placing of objects or things shall be at a grade and 3442
in accordance with such plans, specifications, or both, as shall 3443
be first approved by the director. 3444

(D) The road or highway in all respects shall be fully 3445
restored to its former condition of usefulness and at the expense 3446
of such individual, firm, or corporation. 3447

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

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

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

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

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

wires, conduits, and other equipment comprising lines on or 3480
beneath the surface of such road or highways. 3481

This section does not prohibit steam or electric railroad 3482
companies from constructing tracks across such roads or highways, 3483
nor authorize the director to grant permission to any company 3484
owning, operating, controlling, or managing a steam railroad or 3485
interurban railway in this state to build a new line of railroad, 3486
or to change or alter the location of existing tracks across any 3487
road or highway on the state highway system at grade. No such 3488
company shall change the elevation of any of its tracks across 3489
such road or highway except in accordance with plans and 3490
specifications first approved by the director. 3491

This section does not relieve any individual, firm, or 3492
corporation from the obligation of satisfying any claim or demand 3493
of an owner of lands abutting on such road or highway on the state 3494
highway system on account of placing in such road or highway a 3495
burden in addition to public travel. 3496

Sec. 5733.57. (A) As used in this section: 3497

(1) "Small telephone company" means a telephone company, 3498
existing as such as of January 1, 2003, with twenty-five thousand 3499
or fewer access lines ~~as shown on the company's annual report~~ 3500
~~filed under section 4905.14 of the Revised Code~~ for the calendar 3501
year immediately preceding the tax year, and is an "incumbent 3502
local exchange carrier" under 47 U.S.C. 251(h). 3503

(2) "Gross receipts tax amount" means the product obtained by 3504
multiplying four and three-fourths per cent by the amount of a 3505
small telephone company's taxable gross receipts, excluding the 3506
deduction of twenty-five thousand dollars, that the tax 3507
commissioner would have determined under section 5727.33 of the 3508
Revised Code for that small telephone company for the annual 3509
period ending on the thirtieth day of June of the calendar year 3510

immediately preceding the tax year, as that section applied in the 3511
measurement period from July 1, 2002, to June 30, 2003. 3512

(3) "Applicable percentage" means one hundred per cent for 3513
tax year 2005; eighty per cent for tax year 2006; sixty per cent 3514
for tax year 2007; forty per cent for tax year 2008; twenty per 3515
cent for tax year 2009; and zero per cent for each subsequent tax 3516
year thereafter. 3517

(4) "Applicable amount" means the amount resulting from 3518
subtracting the gross receipts tax amount from the tax imposed by 3519
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 3520
the tax year, without regard to any credits available to the small 3521
telephone company. 3522

(B)(1) Except as provided in division (B)(2) of this section, 3523
beginning in tax year 2005, a small telephone company is hereby 3524
allowed a nonrefundable credit against the tax imposed by sections 3525
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 3526
product obtained by multiplying the applicable percentage by the 3527
applicable amount. The credit shall be claimed in the order 3528
required by section 5733.98 of the Revised Code. 3529

(2) If the applicable amount for a tax year is less than 3530
zero, a small telephone company shall not be allowed for that tax 3531
year the credit provided under this section. 3532

Sec. 6101.17. The board of directors of a conservancy 3533
district, when it is necessary for the purposes of this chapter, 3534
shall have a dominant right of eminent domain over the right of 3535
eminent domain of railroad, ~~telegraph,~~ telephone, gas, water 3536
power, and other companies and corporations, and over townships, 3537
counties, and municipal corporations. 3538

In the exercise of this right, due care shall be taken to do 3539
no unnecessary damage to other public utilities, and, in case of 3540

failure to agree upon the mode and terms of interference, not to 3541
interfere with their operation or usefulness beyond the actual 3542
necessities of the case, due regard being paid to the other public 3543
interests involved. 3544

Sec. 6115.21. The board of directors of a sanitary district, 3545
when it is necessary for the purposes of sections 6115.01 to 3546
6115.79, ~~inclusive,~~ of the Revised Code, shall have a dominant 3547
right of eminent domain over the right of eminent domain of 3548
railroad, ~~telegraph,~~ telephone, gas, water power, and other 3549
companies and corporations, and over townships, counties, and 3550
municipal corporations. 3551

In the exercise of this right due care shall be taken to do 3552
no unnecessary damage to other public utilities, and, in case of 3553
failure to agree upon the mode and terms of interference, not to 3554
interfere with their operation or usefulness beyond the actual 3555
necessities of the case, due regard being paid to the other public 3556
interests involved. 3557

Section 2. That existing sections 324.01, 324.03, 1332.24, 3558
2317.02, 2917.21, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 3559
4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 3560
4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 3561
4905.21, 4905.26, 4905.30, 4905.40, 4905.402, 4905.41, 4905.42, 3562
4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 3563
4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 4905.99, 3564
4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 3565
4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 3566
4931.03, 4931.04, 4931.11, 4931.35, 4931.99, 4933.14, 4933.18, 3567
4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 and 3568
sections 4905.041, 4905.23, 4905.231, 4905.24, 4905.241, 4905.242, 3569
4905.243, 4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 4905.50, 3570
4927.03, 4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 4931.14, 3571

4931.15, 4931.16, 4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 3572
4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 3573
of the Revised Code are hereby repealed. 3574

Section 3. Coincident with the adoption of initial rules as 3575
provided for in section 4927.03 of the Revised Code as enacted by 3576
this act, the Public Utilities Commission shall rescind the 3577
following rules and shall file the requisite notice of the 3578
rescissions with the Legislative Service Commission and the 3579
Secretary of State within five days: Chapters 4901:1-4, 4901:1-5, 3580
and 4901:1-6 of the Ohio Administrative Code, except for Rule No. 3581
4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and 3582
except for Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related 3583
definitions in Rule No. 4901:1-6-01. Rescission of these rules 3584
shall take effect as provided by law and, notwithstanding any 3585
other provision of the Revised Code, is not subject to legislative 3586
review or invalidation. Except as provided in division (A) of 3587
section 4927.10 of the Revised Code, the Public Utilities 3588
Commission shall not enforce on or after the effective date of 3589
this act against any telephone company as defined in section 3590
4905.03 of the Revised Code as amended by this act any provision 3591
of any of the rules specified in this section, except for Rule No. 3592
4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and 3593
Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related definitions in 3594
Rule No. 4901:1-6-01. 3595

Section 4. Any complaint filed pursuant to section 4905.26 of 3596
the Revised Code and pending on the effective date of Sections 1 3597
and 2 of this act shall be determined by the Public Utilities 3598
Commission pursuant to the Revised Code as it existed immediately 3599
preceding that effective date. 3600

Section 5. (A) There is hereby created the Select Committee 3601

on Telecommunications Regulatory Reform consisting of the 3602
following members: 3603

(1) The chairperson and ranking minority member of the 3604
committee in the Senate to which legislation pertaining to public 3605
utilities is referred; 3606

(2) The chairperson and ranking minority member of the 3607
committee in the House of Representatives to which legislation 3608
pertaining to public utilities is referred; 3609

(3) The chairperson of the Public Utilities Commission or an 3610
officer or employee of the Commission who shall serve as the 3611
chairperson's designee; 3612

(4) One member appointed by the Governor, who is a member of 3613
the Governor's staff; 3614

(5) One member appointed by the Governor who is a 3615
representative of the telecommunications industry. 3616

(B) The Governor shall make appointments to the Committee not 3617
later than sixty days after the effective date of this section. 3618
Vacancies on the Committee shall be filled in the manner provided 3619
for original appointments. 3620

(C) The members who serve as chairpersons of the House and 3621
Senate committees to which public utility legislation is referred 3622
shall serve as co-chairpersons of the Select Committee on 3623
Telecommunications Regulatory Reform. The Committee shall meet at 3624
the call of the co-chairpersons who shall determine the time, 3625
meeting location, and agenda for each meeting of the Committee. 3626

(D) The Committee shall study the impacts of Sub. S.B. 162 as 3627
enacted by the 128th General Assembly. The Committee's study shall 3628
include, but shall not be limited to, a review of both the 3629
economic benefits of the act and the act's impact on jobs, 3630
telephone company rates, telephone company quality of service, 3631

lifeline program customers, rural markets, rural broadband 3632
deployment, and carrier access to private property. The Public 3633
Utilities Commission shall cooperate with the Committee as it 3634
performs its duties and shall provide reports and any other 3635
information requested by the Committee. 3636

(E) The Committee may request assistance from the Legislative 3637
Service Commission. 3638

(F) Not later than three years after the effective date of 3639
this section, the Committee shall submit a written report of its 3640
findings and recommendations to the General Assembly and the 3641
Governor. Upon submission of its report, the Committee shall cease 3642
to exist. 3643

Section 6. Section 2917.21 of the Revised Code is presented 3644
in this act as a composite of the section as amended by both H.B. 3645
565 and S.B. 215 of the 122nd General Assembly. Section 4933.14 of 3646
the Revised Code is presented in this act as a composite of the 3647
section as amended by both H.B. 283 and S.B. 3 of the 123rd 3648
General Assembly. The General Assembly, applying the principle 3649
stated in division (B) of section 1.52 of the Revised Code that 3650
amendments are to be harmonized if reasonably capable of 3651
simultaneous operation, finds that the composite is the resulting 3652
version of the section in effect prior to the effective date of 3653
the section as presented in this act. 3654