

**As Reported by the House Public Utilities Committee**

**129th General Assembly**

**Regular Session**

**2011-2012**

**Sub. H. B. No. 95**

**Representative Stautberg**

**Cosponsors: Representatives Blessing, Uecker, Mecklenborg, Balderson,  
Hayes, Goodwin, Martin, Beck, Coley, Roegner**

—

**A B I L L**

To amend sections 4903.083, 4905.302, 4909.05, 1  
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 2  
4909.17, 4909.18, 4909.19, 4928.18, 4929.05, 3  
4929.051, 4929.11, and 4935.04 and to enact 4  
sections 4909.191 and 4929.111 of the Revised Code 5  
to permit certain rate-calculation adjustments for 6  
natural gas companies, alter public notice 7  
requirements for rate cases, and, for natural gas 8  
companies, to make other regulatory changes 9  
concerning audits, alternative rate plans, and 10  
forecast reports, and allowing applications for 11  
natural gas company capital expenditure programs. 12

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

**Section 1.** That sections 4903.083, 4905.302, 4909.05, 13  
4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.17, 4909.18, 14  
4909.19, 4928.18, 4929.05, 4929.051, 4929.11, and 4935.04 be 15  
amended and sections 4909.191 and 4929.111 of the Revised Code be 16  
enacted to read as follows: 17

**Sec. 4903.083. (A)** For all cases involving applications for 18

an increase in rates pursuant to section 4909.18 of the Revised Code the public utilities commission shall hold public hearings in each municipal corporation in the affected service area having a population in excess of one hundred thousand persons, provided that, at least one public hearing shall be held in each affected service area. At least one such hearing shall be held after 5:00 p.m. Notice of such hearing shall be published by the ~~public utilities~~ commission once each week for two consecutive weeks in a newspaper of general circulation in the service area. Said notice shall state prominently the total amount of the revenue increase requested in the application for the increase ~~and shall list a brief summary of the then known major issues in contention as set forth in the respective parties' and intervenor's objections to the staff report filed pursuant to section 4909.19 of the Revised Code.~~ The public utilities. The first publication of the notice shall be made in its entirety and may be made in a preprinted insert in the newspaper. The second publication may be abbreviated if all of the following apply:

(1) The abbreviated notice is at least half the size of the notice in the first publication.

(2) At the same time the abbreviated notice is published, the notice in the first publication is posted in its entirety on the newspaper's web site, if the newspaper has a web site, and the commission's web site.

(3) The abbreviated notice contains a statement of the web site posting or postings, as applicable, and instructions for accessing the posting or postings.

(B) The commission shall determine a ~~uniform~~ format for the content of all notices required under this section, and shall consider costs and technological efficiencies in making that determination. Defects in the ~~content~~ publication of said notice shall not affect the legality or sufficiency of notices published

under this section provided that the ~~public utilities~~ commission 51  
~~meets the substantial compliance provision of~~ has substantially 52  
complied with this section, as described in section 4905.09 of the 53  
Revised Code. 54

**Sec. 4905.302.** (A)(1) For the purpose of this section, the 55  
term "purchased gas adjustment clause" means: 56

(a) A provision in a schedule of a gas company or natural gas 57  
company that requires or allows the company to, without adherence 58  
to section 4909.18 or 4909.19 of the Revised Code, adjust the 59  
rates that it charges to its customers in accordance with any 60  
fluctuation in the cost to the company of obtaining the gas that 61  
it sells, that has occurred since the time any order has been 62  
issued by the public utilities commission establishing rates for 63  
the company pertaining to those customers; 64

(b) A provision in an ordinance adopted pursuant to section 65  
743.26 or 4909.34 of the Revised Code or Section 4 of Article 66  
XVIII, Ohio Constitution, with respect to which a gas company or 67  
natural gas company is required or allowed to adjust the rates it 68  
charges under such an ordinance in accordance with any fluctuation 69  
in the cost to the company of obtaining the gas that it sells, 70  
that has occurred since the time of the adoption of the ordinance. 71

(2) For the purpose of this section, the term "special 72  
purchase" means any purchase of interstate natural gas, any 73  
purchase of ~~liquified~~ liquefied natural gas, and any purchase of 74  
synthetic natural gas from any source developed after the 75  
effective date of this section, April 27, 1976, provided that this 76  
purchase be of less than one hundred twenty days duration and the 77  
price for this purchase is not regulated by the federal power 78  
commission. For the purpose of this division, the expansion or 79  
enlargement of a synthetic natural gas plant existing at such date 80  
shall be considered a source so developed. 81

(3) For the purpose of this section, the term "residential customer" means urban, suburban, and rural patrons of gas companies and natural gas companies insofar as their needs for gas are limited to their residence. Such term includes those patrons whose rates have been set under an ordinance adopted pursuant to sections 743.26 and 4909.34 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

(B) A purchased gas adjustment clause may not allow, and no such clause may be interpreted to allow, a gas company or natural gas company that has obtained an order from the public utilities commission permitting the company to curtail the service of any customer or class of customers other than residential customers, such order being based on the company's inability to secure a sufficient quantity of natural gas, to distribute the cost of any special purchase made subsequent to the effective date of such order, to the extent that such purchase decreases the level of curtailment of any such customer or class of customers, to any class of customers of the company that was not curtailed, to any class of residential customers of the company, or to any class of customers of the company whose level of curtailment was not decreased and whose consumption increased as a result of, or in connection with, the special purchase.

(C)(1) The commission shall promulgate a purchased gas adjustment rule, consistent with this section, that establishes a uniform purchased gas adjustment clause to be included in the schedule of gas companies and natural gas companies subject to the jurisdiction of the public utilities commission and that establishes investigative procedures and proceedings including, but not limited to, periodic reports, audits, and hearings.

(2) The commission shall not require that a management or performance audit pertaining to the purchased gas adjustment clause of a gas or natural gas company, or a hearing related to

such an audit, be conducted more frequently than once every three 114  
years. Any such management or performance audit and any such 115  
hearing shall be strictly limited to the gas or natural gas 116  
company's gas or natural gas production and purchasing policies. 117  
No such management or performance audit and no such hearing shall 118  
extend in scope beyond matters that are necessary to determine the 119  
following: 120

(a) That the gas or natural gas company's purchasing policies 121  
are designed to meet the company's service requirements; 122

(b) That the gas or natural gas company's procurement 123  
planning is sufficient to reasonably ensure reliable service at 124  
optimal prices and consistent with the company's long-term 125  
strategic supply plan; 126

(c) That the gas or natural gas company has reviewed existing 127  
and potential supply sources; 128

(3) Unless otherwise ordered by the commission for good cause 129  
shown and except as provided in division (D) of this section: 130

(a) The commission's staff shall conduct any audit or other 131  
investigation of a natural gas company having fifteen thousand or 132  
fewer customers in this state that may be required under the 133  
purchased gas adjustment rule. 134

(b) Except as provided in section 4905.10 of the Revised 135  
Code, the commission shall not impose upon such company any fee, 136  
expense, or cost of such audit or other investigation or any 137  
related hearing under this section. 138

~~(3)~~(4) Unless otherwise ordered by the commission for good 139  
cause shown either by an interested party or by the commission on 140  
its own motion, no natural gas company having fifteen thousand or 141  
fewer customers in this state shall be subject under the purchased 142  
gas adjustment rule to any audit or other investigation or any 143  
related hearing, other than a financial audit or, as necessary, 144

any hearing related to a financial audit. 145

~~(4)~~(5) In issuing an order under division (C)~~(2)~~(3) or ~~(3)~~(4) 146  
of this section, the commission shall file a written opinion 147  
setting forth the reasons showing good cause under such division 148  
and the specific matters to be audited, investigated, or subjected 149  
to hearing. Nothing in division (C)~~(2)~~(3) or ~~(3)~~(4) of this 150  
section relieves such a natural gas company from the duty to file 151  
such information as the commission may require under the rule for 152  
the purpose of showing that a company has charged its customers 153  
accurately for the cost of gas obtained. 154

(D) A natural gas company that does not sell natural gas 155  
under a purchased gas adjustment clause shall not be subject to 156  
this section. 157

(E) Nothing in this section or any other provision of law 158  
shall be construed to mean that the commission, in the event of 159  
any cost distribution allowed under this section, may issue an 160  
order pursuant to which the prudent and reasonable cost of gas to 161  
a gas company or natural gas company of any special purchase may 162  
not be recovered by the company. For the purpose of this division, 163  
such cost of gas neither includes any applicable franchise taxes 164  
nor the ordinary losses of gas experienced by the company in the 165  
process of transmission and distribution. 166

~~(E)~~(F) The commission shall not at any time prevent or 167  
restrain such costs as are distributable under this section from 168  
being so distributed, unless the commission has reason to believe 169  
that an arithmetic or accounting inaccuracy exists with respect to 170  
such a distribution or that the company has not accurately 171  
represented the amount of the cost of a special purchase, or has 172  
followed imprudent or unreasonable procurement policies and 173  
practices, has made errors in the estimation of cubic feet sold, 174  
or has employed such other practices, policies, or factors as the 175  
commission considers inappropriate. 176

~~(F)~~(G) The cost of natural gas under this section shall not 177  
include any cost recovered by a natural gas company pursuant to 178  
section 4929.25 of the Revised Code. 179

**Sec. 4909.05.** As used in this section: 180

(A) A "lease purchase agreement" is an agreement pursuant to 181  
which a public utility leasing property is required to make rental 182  
payments for the term of the agreement and either the utility is 183  
granted the right to purchase the property upon the completion of 184  
the term of the agreement and upon the payment of an additional 185  
fixed sum of money or title to the property vests in the utility 186  
upon the making of the final rental payment. 187

(B) A "leaseback" is the sale or transfer of property by a 188  
public utility to another person contemporaneously followed by the 189  
leasing of the property to the public utility on a long-term 190  
basis. 191

~~(C)~~ The public utilities commission shall prescribe the form 192  
and details of the valuation report of the property of each public 193  
utility or railroad in the state. Such report shall include all 194  
the kinds and classes of property, with the value of each, owned 195  
~~or, held, or, with respect to a natural gas company, projected to~~ 196  
~~be owned or held as of the date certain,~~ by each public utility or 197  
railroad used and useful, ~~or, with respect to a natural gas~~ 198  
~~company, projected to be used and useful as of the date certain,~~ 199  
for the service and convenience of the public. Such report shall 200  
contain the following facts in detail: 201

~~(C)~~(1) The original cost of each parcel of land owned in fee 202  
and in use ~~at the date certain, or, with respect to a natural gas~~ 203  
~~company, projected to be owned in fee and in use as of the date~~ 204  
~~certain,~~ determined by the commission; and also a statement of the 205  
conditions of acquisition, whether by direct purchase, by 206  
donation, by exercise of the power of eminent domain, or 207

otherwise; 208

~~(D)~~(2) The actual acquisition cost, not including periodic 209  
rental fees, of rights-of-way, trailways, or other land rights 210  
held, or, with respect to a natural gas company, projected to be 211  
held as of the date certain, by virtue of easements, leases, or 212  
other forms of grants of rights as to usage; 213

~~(E)~~(3) The original cost of all other kinds and classes of 214  
property used and useful, or, with respect to a natural gas 215  
company, projected to be used and useful as of the date certain, 216  
in the rendition of service to the public. Such original costs of 217  
property, other than land owned in fee, shall be the cost, as 218  
determined to be reasonable by the commission, to the person that 219  
first dedicated or dedicates the property to the public use and 220  
shall be set forth in property accounts and subaccounts as 221  
prescribed by the commission. To the extent that the costs of 222  
property comprising a coal research and development facility, as 223  
defined in section 1555.01 of the Revised Code, or a coal 224  
development project, as defined in section 1551.30 of the Revised 225  
Code, have been allowed for recovery as Ohio coal research and 226  
development costs under section 4905.304 of the Revised Code, none 227  
of those costs shall be included as a cost of property under this 228  
division. 229

~~(F)~~(4) The cost of property constituting all or part of a 230  
project leased to or used by the utility, or, with respect to a 231  
natural gas company, projected to be leased to or used by the 232  
utility as of the date certain, under Chapter 165., 3706., 6121., 233  
or 6123. of the Revised Code and not included under division 234  
~~(E)~~(C)(3) of this section exclusive of any interest directly or 235  
indirectly paid by the utility with respect thereto whether or not 236  
capitalized; 237

~~(G)~~(5) In the discretion of the commission, the cost to a 238  
utility, in an amount determined to be reasonable by the 239

commission, of property constituting all or part of a project 240  
leased to the utility, or, with respect to a natural gas company, 241  
projected to be leased to the utility as of the date certain, 242  
under a lease purchase agreement or a leaseback and not included 243  
under division ~~(H)~~(C)(3) of this section exclusive of any interest 244  
directly or indirectly paid by the utility with respect thereto 245  
whether or not capitalized; 246

~~(H)~~(6) The proper and adequate reserve for depreciation, as 247  
determined to be reasonable by the commission; 248

~~(I)~~(7) Any sums of money or property that the company may 249  
have received, or, with respect to a natural gas company, is 250  
projected to receive as of the date certain, as total or partial 251  
defrayal of the cost of its property; 252

~~(J)~~(8) The valuation of the property of the company, which 253  
shall be the sum of the amounts contained in the report pursuant 254  
to divisions (C), ~~(D), (E), (F), and (G)~~(1) to (5) of this 255  
section, less the sum of the amounts contained in the report 256  
pursuant to divisions ~~(H)~~(C)(6) and ~~(I)~~(7) of this section. 257

The report shall show separately the property used and useful 258  
to such public utility or railroad in the furnishing of the 259  
service to the public, ~~and~~ the property held by such public 260  
utility or railroad for other purposes, and the property projected 261  
to be used and useful to or held by a natural gas company as of 262  
the date certain, and such other items as the commission considers 263  
proper. The commission may require an additional report showing 264  
the extent to which the property is used and useful, or, with 265  
respect to a natural gas company, projected to be used and useful 266  
as of the date certain. Such reports shall be filed in the office 267  
of the commission for the information of the governor and the 268  
general assembly. 269

**Sec. 4909.06.** The investigation and report required by 270

section 4909.05 of the Revised Code shall show, when the public 271  
utilities commission deems it necessary, the amounts, dates, and 272  
rates of interest of all bonds outstanding against each public 273  
utility or railroad, the property upon which such bonds are a 274  
lien, the amounts paid for them, and, the original capital stock 275  
and the moneys received by any such public utility or railroad by 276  
reason of any issue of stock, bonds, or other securities. Such 277  
report shall also show the net and gross receipts of such public 278  
utility or railroad and the method by which moneys were expended 279  
or paid out and the purpose of such payments. The commission may 280  
prescribe the procedure to be followed in making the investigation 281  
and valuation, the form in which the results of the ascertainment 282  
of the value of each public utility or railroad shall be 283  
submitted, and the classifications of the elements that constitute 284  
the ascertained value. Such investigation shall also show the 285  
value of the property of every public utility or railroad as a 286  
whole, and if such property is in more than one county, the value 287  
of its property in each of such counties. 288

"Valuation" and "value," as used in this section, may 289  
include, with respect to a natural gas company, projected 290  
valuation and value as of the date certain, if applicable because 291  
of a future date certain under section 4909.15 of the Revised 292  
Code. 293

**Sec. 4909.07.** The public utilities commission, during the 294  
making of the valuation provided for in sections 4909.04 to 295  
4909.13, inclusive, of the Revised Code, and after its completion, 296  
shall in like manner keep itself informed through its engineers, 297  
experts, and other assistants of all extensions, improvements, or 298  
other changes in the condition and value of the property of all 299  
public utilities or railroads and shall ascertain the value of 300  
such extensions, improvements, and changes. The commission shall, 301  
as is required for the proper regulation of such public utilities 302

or railroads, revise and correct its valuations of property, 303  
showing such revisions and corrections as a whole and as to each 304  
county. Such revisions and corrections shall be filed in the same 305  
manner as original reports. 306

"Valuation" and "value," as used in this section, may 307  
include, with respect to a natural gas company, projected 308  
valuation and value as of the date certain, if applicable because 309  
of a future date certain under section 4909.15 of the Revised 310  
Code. 311

**Sec. 4909.08.** When the public utilities commission has 312  
completed the valuation of the property of any public utility or 313  
railroad and before such valuation becomes final, it shall give 314  
notice by registered letter to such public utility or railroad, 315  
and if a substantial portion of said public utility or railroad is 316  
situated in a municipal corporation, then to the mayor of such 317  
municipal corporation, stating the valuations placed upon the 318  
several kinds and classes of property of such public utility or 319  
railroad and upon the property as a whole and give such further 320  
notice by publication or otherwise as it shall deem necessary to 321  
~~appraise~~ appraise the public of such valuation. If, within thirty 322  
days after such notification, no protest has been filed with the 323  
commission, such valuation becomes final. If notice of protest has 324  
been filed by any public utility or railroad, the commission shall 325  
fix a time for hearing such protest and shall consider at such 326  
hearing any matter material thereto presented by such public 327  
utility, railroad, or municipal corporation, in support of its 328  
protest or by any representative of the public against such 329  
protest. If, after the hearing of any protest of any valuation so 330  
fixed, the commission is of the opinion that its inventory is 331  
incomplete or inaccurate or that its valuation is incorrect, it 332  
shall make such changes as are necessary and shall issue an order 333  
making such corrected valuations final. A final valuation by the 334

commission and all classifications made for the ascertainment of 335  
such valuations shall be public and are prima-facie evidence 336  
relative to the value of the property. 337

"Valuation" and "value," as used in this section, may 338  
include, with respect to a natural gas company, projected 339  
valuation and value as of the date certain, if applicable because 340  
of a future date certain under section 4909.15 of the Revised 341  
Code. 342

**Sec. 4909.15.** (A) The public utilities commission, when 343  
fixing and determining just and reasonable rates, fares, tolls, 344  
rentals, and charges, shall determine: 345

(1) The valuation as of the date certain of the property of 346  
the public utility used and useful or, with respect to a natural 347  
gas company, projected to be used and useful as of the date 348  
certain, in rendering the public utility service for which rates 349  
are to be fixed and determined. The valuation so determined shall 350  
be the total value as set forth in division ~~(J)~~(C)(8) of section 351  
4909.05 of the Revised Code, and a reasonable allowance for 352  
materials and supplies and cash working capital, as determined by 353  
the commission. 354

The commission, in its discretion, may include in the 355  
valuation a reasonable allowance for construction work in progress 356  
but, in no event, may such an allowance be made by the commission 357  
until it has determined that the particular construction project 358  
is at least seventy-five per cent complete. 359

In determining the percentage completion of a particular 360  
construction project, the commission shall consider, among other 361  
relevant criteria, the per cent of time elapsed in construction; 362  
the per cent of construction funds, excluding allowance for funds 363  
used during construction, expended, or obligated to such 364  
construction funds budgeted where all such funds are adjusted to 365

reflect current purchasing power; and any physical inspection 366  
performed by or on behalf of any party, including the commission's 367  
staff. 368

A reasonable allowance for construction work in progress 369  
shall not exceed ten per cent of the total valuation as stated in 370  
this division, not including such allowance for construction work 371  
in progress. 372

Where the commission permits an allowance for construction 373  
work in progress, the dollar value of the project or portion 374  
thereof included in the valuation as construction work in progress 375  
shall not be included in the valuation as plant in service until 376  
such time as the total revenue effect of the construction work in 377  
progress allowance is offset by the total revenue effect of the 378  
plant in service exclusion. Carrying charges calculated in a 379  
manner similar to allowance for funds used during construction 380  
shall accrue on that portion of the project in service but not 381  
reflected in rates as plant in service, and such accrued carrying 382  
charges shall be included in the valuation of the property at the 383  
conclusion of the offset period for purposes of division ~~(F)~~(C)(8) 384  
of section 4909.05 of the Revised Code. 385

From and after April 10, 1985, no allowance for construction 386  
work in progress as it relates to a particular construction 387  
project shall be reflected in rates for a period exceeding 388  
forty-eight consecutive months commencing on the date the initial 389  
rates reflecting such allowance become effective, except as 390  
otherwise provided in this division. 391

The applicable maximum period in rates for an allowance for 392  
construction work in progress as it relates to a particular 393  
construction project shall be tolled if, and to the extent, a 394  
delay in the in-service date of the project is caused by the 395  
action or inaction of any federal, state, county, or municipal 396  
agency having jurisdiction, where such action or inaction relates 397

to a change in a rule, standard, or approval of such agency, and 398  
where such action or inaction is not the result of the failure of 399  
the utility to reasonably endeavor to comply with any rule, 400  
standard, or approval prior to such change. 401

In the event that such period expires before the project goes 402  
into service, the commission shall exclude, from the date of 403  
expiration, the allowance for the project as construction work in 404  
progress from rates, except that the commission may extend the 405  
expiration date up to twelve months for good cause shown. 406

In the event that a utility has permanently canceled, 407  
abandoned, or terminated construction of a project for which it 408  
was previously permitted a construction work in progress 409  
allowance, the commission immediately shall exclude the allowance 410  
for the project from the valuation. 411

In the event that a construction work in progress project 412  
previously included in the valuation is removed from the valuation 413  
pursuant to this division, any revenues collected by the utility 414  
from its customers after April 10, 1985, that resulted from such 415  
prior inclusion shall be offset against future revenues over the 416  
same period of time as the project was included in the valuation 417  
as construction work in progress. The total revenue effect of such 418  
offset shall not exceed the total revenues previously collected. 419

In no event shall the total revenue effect of any offset or 420  
offsets provided under division (A)(1) of this section exceed the 421  
total revenue effect of any construction work in progress 422  
allowance. 423

(2) A fair and reasonable rate of return to the utility on 424  
the valuation as determined in division (A)(1) of this section; 425

(3) The dollar annual return to which the utility is entitled 426  
by applying the fair and reasonable rate of return as determined 427  
under division (A)(2) of this section to the valuation of the 428

utility determined under division (A)(1) of this section; 429

(4) The cost to the utility of rendering the public utility 430  
service for the test period used for the determination under 431  
division (C)(1) of this section, less the total of any interest on 432  
cash or credit refunds paid, pursuant to section 4909.42 of the 433  
Revised Code, by the utility during the test period. 434

(a) Federal, state, and local taxes imposed on or measured by 435  
net income may, in the discretion of the commission, be computed 436  
by the normalization method of accounting, provided the utility 437  
maintains accounting reserves that reflect differences between 438  
taxes actually payable and taxes on a normalized basis, provided 439  
that no determination as to the treatment in the rate-making 440  
process of such taxes shall be made that will result in loss of 441  
any tax depreciation or other tax benefit to which the utility 442  
would otherwise be entitled, and further provided that such tax 443  
benefit as redounds to the utility as a result of such a 444  
computation may not be retained by the company, used to fund any 445  
dividend or distribution, or utilized for any purpose other than 446  
the defrayal of the operating expenses of the utility and the 447  
defrayal of the expenses of the utility in connection with 448  
construction work. 449

(b) The amount of any tax credits granted to an electric 450  
light company under section 5727.391 of the Revised Code for Ohio 451  
coal burned prior to January 1, 2000, shall not be retained by the 452  
company, used to fund any dividend or distribution, or utilized 453  
for any purposes other than the defrayal of the allowable 454  
operating expenses of the company and the defrayal of the 455  
allowable expenses of the company in connection with the 456  
installation, acquisition, construction, or use of a compliance 457  
facility. The amount of the tax credits granted to an electric 458  
light company under that section for Ohio coal burned prior to 459  
January 1, 2000, shall be returned to its customers within three 460

years after initially claiming the credit through an offset to the  
company's rates or fuel component, as determined by the  
commission, as set forth in schedules filed by the company under  
section 4905.30 of the Revised Code. As used in division  
(A)(4)~~(e)~~(b) of this section, "compliance facility" has the same  
meaning as in section 5727.391 of the Revised Code.

(B) The commission shall compute the gross annual revenues to  
which the utility is entitled by adding the dollar amount of  
return under division (A)(3) of this section to the cost, for the  
test period used for the determination under division (C)(1) of  
this section, of rendering the public utility service ~~for the test~~  
~~period~~ under division (A)(4) of this section.

(C)(1) Except as provided in division (D) of this section,  
the revenues and expenses of the utility shall be determined  
during a test period. The utility may propose a test period,  
~~unless otherwise ordered by the commission, shall be the for this~~  
determination that is any twelve-month period beginning not more  
than six months prior to the date the application is filed and  
ending ~~six months subsequent to that date. In no event shall the~~  
~~test period end not more than nine months subsequent to the that~~  
date ~~the application is filed. The test period for determining~~  
revenues and expenses of the utility shall be ~~determined during~~  
the test period proposed by the utility, unless otherwise ordered  
by the commission. The

(2) The date certain shall be not later than the date of  
filing, except that it shall be, for a natural gas company, not  
later than the end of the test period.

(D) A natural gas company may propose adjustments to the  
revenues and expenses to be determined under division (C)(1) of  
this section for any changes that are, during the test period or  
the twelve-month period immediately following the test period,  
reasonably expected to occur. The natural gas company shall

identify and quantify, individually, any proposed adjustments. The 493  
commission shall incorporate the proposed adjustments into the 494  
determination if the adjustments are just and reasonable. 495

(E) When the commission is of the opinion, after hearing and 496  
after making the determinations under divisions (A) and (B) of 497  
this section, that any rate, fare, charge, toll, rental, schedule, 498  
classification, or service, or any joint rate, fare, charge, toll, 499  
rental, schedule, classification, or service rendered, charged, 500  
demanded, exacted, or proposed to be rendered, charged, demanded, 501  
or exacted, is, or will be, unjust, unreasonable, unjustly 502  
discriminatory, unjustly preferential, or in violation of law, 503  
that the service is, or will be, inadequate, or that the maximum 504  
rates, charges, tolls, or rentals chargeable by any such public 505  
utility are insufficient to yield reasonable compensation for the 506  
service rendered, and are unjust and unreasonable, the commission 507  
shall: 508

(1) With due regard among other things to the value of all 509  
property of the public utility actually used and useful for the 510  
convenience of the public as determined under division (A)(1) of 511  
this section, excluding from such value the value of any franchise 512  
or right to own, operate, or enjoy the same in excess of the 513  
amount, exclusive of any tax or annual charge, actually paid to 514  
any political subdivision of the state or county, as the 515  
consideration for the grant of such franchise or right, and 516  
excluding any value added to such property by reason of a monopoly 517  
or merger, with due regard in determining the dollar annual return 518  
under division (A)(3) of this section to the necessity of making 519  
reservation out of the income for surplus, depreciation, and 520  
contingencies, and; 521

(2) With due regard to all such other matters as are proper, 522  
according to the facts in each case, 523

(a) Including a fair and reasonable rate of return determined 524

by the commission with reference to a cost of debt equal to the 525  
actual embedded cost of debt of such public utility, 526

(b) But not including the portion of any periodic rental or 527  
use payments representing that cost of property that is included 528  
in the valuation report under divisions ~~(F)~~(C)(4) and ~~(G)~~(5) of 529  
section 4909.05 of the Revised Code, fix and determine the just 530  
and reasonable rate, fare, charge, toll, rental, or service to be 531  
rendered, charged, demanded, exacted, or collected for the 532  
performance or rendition of the service that will provide the 533  
public utility the allowable gross annual revenues under division 534  
(B) of this section, and order such just and reasonable rate, 535  
fare, charge, toll, rental, or service to be substituted for the 536  
existing one. After such determination and order no change in the 537  
rate, fare, toll, charge, rental, schedule, classification, or 538  
service shall be made, rendered, charged, demanded, exacted, or 539  
changed by such public utility without the order of the 540  
commission, and any other rate, fare, toll, charge, rental, 541  
classification, or service is prohibited. 542

~~(E)~~(F) Upon application of any person or any public utility, 543  
and after notice to the parties in interest and opportunity to be 544  
heard as provided in Chapters 4901., 4903., 4905., 4907., 4909., 545  
4921., and 4923. of the Revised Code for other hearings, has been 546  
given, the commission may rescind, alter, or amend an order fixing 547  
any rate, fare, toll, charge, rental, classification, or service, 548  
or any other order made by the commission. Certified copies of 549  
such orders shall be served and take effect as provided for 550  
original orders. 551

**Sec. 4909.156.** In fixing the just, reasonable, and 552  
compensatory rates, joint rates, tolls, classifications, charges, 553  
or rentals to be observed and charged for service by any public 554  
utility, the public utilities commission shall, in action upon an 555

application filed pursuant to section 4909.18 of the Revised Code, 556  
require a public utility to file a report showing the 557  
proportionate amounts of the valuation of the property of the 558  
utility, as determined under section 4909.05 or the Revised Code, 559  
and the proportionate amounts of the revenues and expenses of the 560  
utility that are proposed to be considered as attributable to the 561  
service area involved in the application. 562

"Valuation," as used in this section, may include, with 563  
respect to a natural gas company, projected valuation as of the 564  
date certain, if applicable because of a future date certain under 565  
section 4909.15 of the Revised Code. 566

**Sec. 4909.17.** No rate, joint rate, toll, classification, 567  
charge, or rental, no change in any rate, joint rate, toll, 568  
classification, charge, or rental, and no regulation or practice 569  
affecting any rate, joint rate, toll, classification, charge, or 570  
rental of a public utility shall become effective until the public 571  
utilities commission, by order, determines it to be just and 572  
reasonable, except as provided in this section and sections 573  
4909.18 and, 4909.19, and 4909.191 of the Revised Code. Such 574  
sections do not apply to any rate, joint rate, toll, 575  
classification, charge, or rental, or any regulation or practice 576  
affecting the same, of railroads, street and electric railways, 577  
motor transportation companies, and pipe line companies. 578

**Sec. 4909.18.** Any public utility desiring to establish any 579  
rate, joint rate, toll, classification, charge, or rental, or to 580  
modify, amend, change, increase, or reduce any existing rate, 581  
joint rate, toll, classification, charge, or rental, or any 582  
regulation or practice affecting the same, shall file a written 583  
application with the public utilities commission. Except for 584  
actions under section 4909.16 of the Revised Code, no public 585  
utility may issue the notice of intent to file an application 586

pursuant to division (B) of section 4909.43 of the Revised Code to 587  
increase any existing rate, joint rate, toll, classification, 588  
charge, or rental, until a final order under this section has been 589  
issued by the commission on any pending prior application to 590  
increase the same rate, joint rate, toll, classification, charge, 591  
or rental or until two hundred seventy-five days after filing such 592  
application, whichever is sooner. Such application shall be 593  
verified by the president or a vice-president and the secretary or 594  
treasurer of the applicant. Such application shall contain a 595  
schedule of the existing rate, joint rate, toll, classification, 596  
charge, or rental, or regulation or practice affecting the same, a 597  
schedule of the modification amendment, change, increase, or 598  
reduction sought to be established, and a statement of the facts 599  
and grounds upon which such application is based. If such 600  
application proposes a new service or the use of new equipment, or 601  
proposes the establishment or amendment of a regulation, the 602  
application shall fully describe the new service or equipment, or 603  
the regulation proposed to be established or amended, and shall 604  
explain how the proposed service or equipment differs from 605  
services or equipment presently offered or in use, or how the 606  
regulation proposed to be established or amended differs from 607  
regulations presently in effect. The application shall provide 608  
such additional information as the commission may require in its 609  
discretion. If the commission determines that such application is 610  
not for an increase in any rate, joint rate, toll, classification, 611  
charge, or rental, the commission may permit the filing of the 612  
schedule proposed in the application and fix the time when such 613  
schedule shall take effect. If it appears to the commission that 614  
the proposals in the application may be unjust or unreasonable, 615  
the commission shall set the matter for hearing and shall give 616  
notice of such hearing by sending written notice of the date set 617  
for the hearing to the public utility and publishing notice of the 618  
hearing one time in a newspaper of general circulation in each 619

county in the service area affected by the application. At such 620  
hearing, the burden of proof to show that the proposals in the 621  
application are just and reasonable shall be upon the public 622  
utility. After such hearing, the commission shall, where 623  
practicable, issue an appropriate order within six months from the 624  
date the application was filed. 625

If the commission determines that said application is for an 626  
increase in any rate, joint rate, toll, classification, charge, or 627  
rental there shall also, unless otherwise ordered by the 628  
commission, be filed with the application in duplicate the 629  
following exhibits: 630

(A) A report of its property used and useful, or, with 631  
respect to a natural gas company, projected to be used and useful 632  
as of the date certain, in rendering the service referred to in 633  
such application, as provided in section 4909.05 of the Revised 634  
Code; 635

(B) A complete operating statement of its last fiscal year, 636  
showing in detail all its receipts, revenues, and incomes from all 637  
sources, all of its operating costs and other expenditures, and 638  
any analysis such public utility deems applicable to the matter 639  
referred to in said application; 640

(C) A statement of the income and expense anticipated under 641  
the application filed; 642

(D) A statement of financial condition summarizing assets, 643  
liabilities, and net worth; 644

~~(E) A proposed notice for newspaper publication fully 645  
disclosing the substance of the application. The notice shall 646  
prominently state that any person, firm, corporation, or 647  
association may file, pursuant to section 4909.19 of the Revised 648  
Code, an objection to such increase which may allege that such 649  
application contains proposals that are unjust and discriminatory 650~~

~~or unreasonable. The notice shall further include the average  
percentage increase in rate that a representative industrial,  
commercial, and residential customer will bear should the increase  
be granted in full;~~

~~(F) Such other information as the commission may require in  
its discretion.~~

**Sec. 4909.19.** (A) Upon the filing of any application for  
increase provided for by section 4909.18 of the Revised Code the  
public utility shall forthwith publish the substance and prayer  
notice of such application, in a form approved by the public  
utilities commission, once a week for ~~three~~ two consecutive weeks  
in a newspaper published and in general circulation throughout the  
territory in which such public utility operates and directly  
affected by the matters referred to in said application, ~~and. The~~  
notice shall include instructions for direct electronic access to  
the application or other documents on file with the public  
utilities commission. The first publication of the notice shall be  
made in its entirety and may be made in a preprinted insert in the  
newspaper. The second publication may be abbreviated if all of the  
following apply:

(1) The abbreviated notice is at least one-fourth of the size  
of the notice in the first publication.

(2) At the same time the abbreviated notice is published, the  
notice in the first publication is posted in its entirety on the  
newspaper's web site, if the newspaper has a web site, and the  
commission's web site.

(3) The abbreviated notice contains a statement of the web  
site posting or postings, as applicable, and instructions for  
accessing the posting or postings.

(B) The commission shall determine a format for the content

of all notices required under this section, and shall consider 681  
costs and technological efficiencies in making that determination. 682  
Defects in the publication of said notice shall not affect the 683  
legality or sufficiency of notices published under this section 684  
provided that the commission has substantially complied with this 685  
section, as described in section 4905.09 of the Revised Code. 686

(C) The commission shall at once cause an investigation to be 687  
made of the facts set forth in said application and the exhibits 688  
attached thereto, and of the matters connected therewith. Within a 689  
reasonable time as determined by the commission after the filing 690  
of such application, a written report shall be made and filed with 691  
the commission, a copy of which shall be sent by certified mail to 692  
the applicant, the mayor of any municipal corporation affected by 693  
the application, and to such other persons as the commission deems 694  
interested. If no objection to such report is made by any party 695  
interested within thirty days after such filing and the mailing of 696  
copies thereof, the commission shall fix a date within ten days 697  
for the final hearing upon said application, giving notice thereof 698  
to all parties interested. At such hearing the commission shall 699  
consider the matters set forth in said application and make such 700  
order respecting the prayer thereof as to it seems just and 701  
reasonable. 702

If objections are filed with the commission, the commission 703  
shall cause a pre-hearing conference to be held between all 704  
parties, intervenors, and the commission staff in all cases 705  
involving more than one hundred thousand customers. 706

If objections are filed with the commission within thirty 707  
days after the filing of such report, the application shall be 708  
promptly set down for hearing of testimony before the commission 709  
or be forthwith referred to an attorney examiner designated by the 710  
commission to take all the testimony with respect to the 711  
application and objections which may be offered by any interested 712

party. The commission shall also fix the time and place to take 713  
testimony giving ten days' written notice of such time and place 714  
to all parties. The taking of testimony shall commence on the date 715  
fixed in said notice and shall continue from day to day until 716  
completed. The attorney examiner may, upon good cause shown, grant 717  
continuances for not more than three days, excluding Saturdays, 718  
Sundays, and holidays. The commission may grant continuances for a 719  
longer period than three days upon its order for good cause shown. 720  
At any hearing involving rates or charges sought to be increased, 721  
the burden of proof to show that the increased rates or charges 722  
are just and reasonable shall be on the public utility. 723

When the taking of testimony is completed, a full and 724  
complete record of such testimony noting all objections made and 725  
exceptions taken by any party or counsel, shall be made, signed by 726  
the attorney examiner, and filed with the commission. Prior to the 727  
formal consideration of the application by the commission and the 728  
rendition of any order respecting the prayer of the application, a 729  
quorum of the commission shall consider the recommended opinion 730  
and order of the attorney examiner, in an open, formal, public 731  
proceeding in which an overview and explanation is presented 732  
orally. Thereafter, the commission shall make such order 733  
respecting the prayer of such application as seems just and 734  
reasonable to it. 735

In all proceedings before the commission in which the taking 736  
of testimony is required, except when heard by the commission, 737  
attorney examiners shall be assigned by the commission to take 738  
such testimony and fix the time and place therefor, and such 739  
testimony shall be taken in the manner prescribed in this section. 740  
All testimony shall be under oath or affirmation and taken down 741  
and transcribed by a reporter and made a part of the record in the 742  
case. The commission may hear the testimony or any part thereof in 743  
any case without having the same referred to an attorney examiner 744

and may take additional testimony. Testimony shall be taken and a 745  
record made in accordance with such general rules as the 746  
commission prescribes and subject to such special instructions in 747  
any proceedings as it, by order, directs. 748

Sec. 4909.191. (A) If the public utilities commission, under 749  
division (D) of section 4909.15 of the Revised Code, incorporated 750  
proposed adjustments to revenues and expenses into the 751  
commission's determination under that section, the natural gas 752  
company shall, not later than ninety days after actual data for 753  
all of the incorporated adjustments becomes known, submit to the 754  
commission proposed rate or charge adjustments that provide for 755  
the recalculation of rates or charges, reflective of 756  
customer-class responsibility, corresponding to the differences, 757  
if any, between the incorporated adjustments to revenues and 758  
expenses and the actual revenues and expenses associated with the 759  
incorporated adjustments. 760

(B) If the commission incorporated projected value or 761  
valuation of property into the commission's determination under 762  
division (A)(1) of section 4909.15 of the Revised Code, the 763  
natural gas company shall, not later than ninety days after data 764  
for the actual value or valuation as of the date certain becomes 765  
known, submit to the commission proposed rate or charge 766  
adjustments that provide for the recalculation of rates or 767  
charges, reflective of customer-class responsibility, 768  
corresponding to the differences, if any, between the projected 769  
value or valuation incorporated into the commission's 770  
determination and the actual value or valuation as of the date 771  
certain. 772

(C) The commission shall review the proposed rate or charge 773  
adjustments submitted under divisions (A) and (B) of this section. 774  
The review shall not include a hearing unless the commission finds 775

that the proposed rate or charge adjustments may be unreasonable, 776  
in which case the commission may, in its discretion, schedule the 777  
matter for a hearing. 778

(D) The commission shall issue, not later than one hundred 779  
fifty days after the date that any proposed rate or charge 780  
adjustments are submitted under division (A) or (B) of this 781  
section, a final order on the proposed rate or charge adjustments. 782  
Any rate or charge adjustments authorized under this division 783  
shall be limited to amounts that are not greater than those 784  
consistent with the proposed adjustments to revenues and expenses 785  
that were incorporated into the commission's determination under 786  
division (D) of section 4909.15 of the Revised Code, and not 787  
greater than those consistent with the incorporated projected 788  
value or valuation. In no event shall rate or charge adjustments 789  
authorized under this division be upward. 790

After the commission has issued such a final order, the 791  
natural gas company, if applicable, shall submit to the commission 792  
proposed reconciliation adjustments that refund to customers the 793  
difference between the actual revenues collected by the natural 794  
gas company, under the rates and charges determined by the 795  
commission under section 4909.15 of the Revised Code, and the 796  
rates or charges recalculated under the adjustments authorized 797  
under this division. The reconciliation adjustments shall be 798  
effective for a twelve-month period. 799

(E) The reconciliation adjustments ordered under division (D) 800  
of this section may be subject to a final reconciliation by the 801  
commission. Any such final reconciliation shall occur after the 802  
twelve-month period described in division (D) of this section. 803

**Sec. 4928.18.** (A) Notwithstanding division ~~(D)~~(E)(2)(a) of 804  
section 4909.15 of the Revised Code, nothing in this chapter 805  
prevents the public utilities commission from exercising its 806

authority under Title XLIX of the Revised Code to protect 807  
customers of retail electric service supplied by an electric 808  
utility from any adverse effect of the utility's provision of a 809  
product or service other than retail electric service. 810

(B) The commission has jurisdiction under section 4905.26 of 811  
the Revised Code, upon complaint of any person or upon complaint 812  
or initiative of the commission on or after the starting date of 813  
competitive retail electric service, to determine whether an 814  
electric utility or its affiliate has violated any provision of 815  
section 4928.17 of the Revised Code or an order issued or rule 816  
adopted under that section. For this purpose, the commission may 817  
examine such books, accounts, or other records kept by an electric 818  
utility or its affiliate as may relate to the businesses for which 819  
corporate separation is required under section 4928.17 of the 820  
Revised Code, and may investigate such utility or affiliate 821  
operations as may relate to those businesses and investigate the 822  
interrelationship of those operations. Any such examination or 823  
investigation by the commission shall be governed by Chapter 4903. 824  
of the Revised Code. 825

(C) In addition to any remedies otherwise provided by law, 826  
the commission, regarding a determination of a violation pursuant 827  
to division (B) of this section, may do any of the following: 828

(1) Issue an order directing the utility or affiliate to 829  
comply; 830

(2) Modify an order as the commission finds reasonable and 831  
appropriate and order the utility or affiliate to comply with the 832  
modified order; 833

(3) Suspend or abrogate an order, in whole or in part; 834

(4) Issue an order that the utility or affiliate pay 835  
restitution to any person injured by the violation or failure to 836  
comply; 837

(D) In addition to any remedies otherwise provided by law, 838  
the commission, regarding a determination of a violation pursuant 839  
to division (B) of this section and commensurate with the severity 840  
of the violation, the source of the violation, any pattern of 841  
violations, or any monetary damages caused by the violation, may 842  
do either of the following: 843

(1) Impose a forfeiture on the utility or affiliate of up to 844  
twenty-five thousand dollars per day per violation. The recovery 845  
and deposit of any such forfeiture shall be subject to sections 846  
4905.57 and 4905.59 of the Revised Code. 847

(2) Regarding a violation by an electric utility relating to 848  
a corporate separation plan involving competitive retail electric 849  
service, suspend or abrogate all or part of an order, to the 850  
extent it is in effect, authorizing an opportunity for the utility 851  
to receive transition revenues under a transition plan approved by 852  
the commission under section 4928.33 of the Revised Code. 853

Corporate separation under this section does not prohibit the 854  
common use of employee benefit plans, facilities, equipment, or 855  
employees, subject to proper accounting and the code of conduct 856  
ordered by the commission as provided in division (A)(1) of this 857  
section. 858

(E) Section 4905.61 of the Revised Code applies in the case 859  
of any violation of section 4928.17 of the Revised Code or of any 860  
rule adopted or order issued under that section. 861

**Sec. 4929.05.** (A) ~~As part of an application filed pursuant to~~ 862  
~~section 4909.18 of the Revised Code, a~~ A natural gas company may 863  
request approval of an alternative rate plan by filing an 864  
application under section 4909.18 of the Revised Code, regardless 865  
of whether the application is for an increase in rates. After 866  
~~notice, investigation, and~~ which may include a hearing, ~~and after~~ 867  
~~determining just and reasonable rates and charges for the natural~~ 868

~~gas company pursuant to section 4909.15 of the Revised Code, at~~ 869  
~~the discretion of the public utilities commission, the commission~~ 870  
shall authorize the applicant to implement an alternative rate 871  
plan if the natural gas company has made a showing and the 872  
commission finds that ~~both~~ all of the following conditions are 873  
met: 874

(1) The natural gas company is in compliance with section 875  
4905.35 of the Revised Code and is in substantial compliance with 876  
the policy of this state specified in section 4929.02 of the 877  
Revised Code; ~~and~~ 878

(2) The natural gas company is expected to continue to be in 879  
substantial compliance with the policy of this state specified in 880  
section 4929.02 of the Revised Code after implementation of the 881  
alternative rate plan. 882

(3) The alternative rate plan is just and reasonable. 883

(B) The applicant shall have the burden of proof under this 884  
section. 885

~~(C) No request may be made under this section prior to one~~ 886  
~~hundred eighty days after the effective date of this section.~~ 887

**Sec. 4929.051.** (A) An alternative rate plan filed by a 888  
natural gas company under section 4929.05 of the Revised Code and 889  
proposing to initiate or continue a revenue decoupling mechanism 890  
~~may~~ shall be considered an application not for an increase in 891  
rates if the rates, joint rates, tolls, classifications, charges, 892  
or rentals are based upon the billing determinants and revenue 893  
requirement authorized by the public utilities commission in the 894  
company's most recent rate case proceeding and the plan also 895  
establishes, continues, or expands an energy efficiency or energy 896  
conservation program. 897

(B) An alternative rate plan filed by a natural gas company 898

under section 4929.05 of the Revised Code and seeking 899  
authorization to continue a previously approved alternative rate 900  
plan shall be considered an application not for an increase in 901  
rates. 902

**Sec. 4929.11.** ~~Nothing in the Revised Code prohibits~~ (A) Upon 903  
an application filed under this section, ~~and~~ the public utilities 904  
commission may allow<sup>7</sup> any automatic adjustment mechanism or device 905  
in a natural gas company's rate schedules that allows a natural 906  
gas company's rates or charges for a regulated service or goods to 907  
fluctuate automatically in accordance with changes in a specified 908  
cost or costs. 909

(B) Upon an application filed under section 4909.18 or 910  
4929.05 of the Revised Code, the commission may allow any 911  
automatic adjustment mechanism or device as described in division 912  
(A) of this section. 913

**Sec. 4929.111.** (A) A natural gas company may file an 914  
application with the public utilities commission under section 915  
4909.18, 4929.05, or 4929.11 of the Revised Code to implement a 916  
capital expenditure program for any of the following: 917

(1) Any infrastructure expansion, infrastructure improvement, 918  
or infrastructure replacement program; 919

(2) Any program to install, upgrade, or replace information 920  
technology systems; 921

(3) Any program reasonably necessary to comply with any 922  
rules, regulations, or orders of the commission or other 923  
governmental entity having jurisdiction. 924

(B) An application submitted under division (A) of this 925  
section shall specify the total cost of the capital expenditure 926  
program. 927

(C) If the commission finds that the capital expenditure program is consistent with the natural gas company's obligation under section 4905.22 of the Revised Code to furnish necessary and adequate services and facilities, which services and facilities the commission finds to be just and reasonable, the commission shall approve the application. Any deferral or recovery authorized under division (D) of this section shall be limited to amounts that are no greater than those consistent with the total cost of the capital expenditure program as set forth in the application, unless the commission in its discretion authorizes additional recovery under this section. 928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938

(D) In approving an application under division (C) of this section, the commission shall authorize the natural gas company to defer or recover in an application that the natural gas company may file under section 4909.18, 4929.05, or 4929.11 of the Revised Code, both of the following: 939  
940  
941  
942  
943

(1) A regulatory asset for the post-in-service carrying costs on that portion of the assets of the capital expenditure program that are placed in service but not reflected in rates as plant in service; 944  
945  
946  
947

(2) A regulatory asset for the incremental depreciation directly attributable to the capital expenditure program and the property tax expense directly attributable to the capital expenditure program. 948  
949  
950  
951

(E) The natural gas company may make any accounting accruals, necessary to establish the regulatory assets authorized under division (D) of this section, in addition to any allowance for funds used during construction. 952  
953  
954  
955

(F)(1) Any accrual for deferral or recovery under division (D) of this section shall be calculated in accordance with the system of accounts established by the commission under section 956  
957  
958

4905.13 of the Revised Code. 959

(2) The natural gas company shall calculate the 960  
post-in-service carrying costs, described in division (D)(1) of 961  
this section, for every investment in an asset of the capital 962  
expenditure program. This calculation shall be based on the cost 963  
of long-term debt of the natural gas company. 964

(G) Any accruals for deferral or recovery under division (D) 965  
of this section shall commence when the assets of the capital 966  
expenditure program are placed in service and shall cease when 967  
rates reflecting the cost of those assets are effective. 968

**Sec. 4935.04.** (A) As used in this chapter: 969

(1) "Major utility facility" means: 970

(a) An electric transmission line and associated facilities 971  
of a design capacity of one hundred twenty-five kilovolts or more; 972

(b) A gas or natural gas transmission line and associated 973  
facilities designed for, or capable of, transporting gas or 974  
natural gas at pressures in excess of one hundred twenty-five 975  
pounds per square inch. 976

"Major utility facility" does not include electric, gas, or 977  
natural gas distributing lines and gas or natural gas gathering 978  
lines and associated facilities as defined by the public utilities 979  
commission; facilities owned or operated by industrial firms, 980  
persons, or institutions that produce or transmit gas or natural 981  
gas, or electricity primarily for their own use or as a byproduct 982  
of their operations; gas or natural gas transmission lines and 983  
associated facilities over which an agency of the United States 984  
has certificate jurisdiction; facilities owned or operated by a 985  
person furnishing gas or natural gas directly to fifteen thousand 986  
or fewer customers within this state. 987

(2) "Person" has the meaning set forth in section 4906.01 of 988

the Revised Code.	989
(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the energy information filed by the person with that agency of the United States.	990 991 992 993 994
(C) Each person owning or operating a major utility facility within this state, or furnishing gas, natural gas, or electricity directly to more than fifteen thousand customers within this state <del>annually</del> shall furnish a report to the commission for its review. <u>The report shall be furnished annually, except that for a gas or natural gas company the report shall be furnished every three years.</u> The report shall be termed the long-term forecast report and shall contain:	995 996 997 998 999 1000 1001 1002
(1) A year-by-year, ten-year forecast of annual energy demand, peak load, reserves, and a general description of the resource plan to meet demand;	1003 1004 1005
(2) A range of projected loads during the period;	1006
(3) A description of major utility facilities planned to be added or taken out of service in the next ten years, including, to the extent the information is available, prospective sites for transmission line locations;	1007 1008 1009 1010
(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period;	1011 1012 1013
(5) A description of proposed changes in the transmission system planned for the next five years;	1014 1015
(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural gas utilities, for the next two years. The report shall describe	1016 1017 1018

the major utility facilities that, in the judgment of such person, 1019  
will be required to supply system demands during the forecast 1020  
period. The report from a gas or natural gas utility shall cover 1021  
the ten- and five-year periods next succeeding the date of the 1022  
report, and the report from an electric utility shall cover the 1023  
twenty-, ten-, and five-year periods next succeeding the date of 1024  
the report. Each report shall be made available to the public and 1025  
furnished upon request to municipal corporations and governmental 1026  
agencies charged with the duty of protecting the environment or of 1027  
planning land use. The report shall be in such form and shall 1028  
contain such information as may be prescribed by the commission. 1029

Each person not owning or operating a major utility facility 1030  
within this state and serving fifteen thousand or fewer gas or 1031  
natural gas, or electric customers within this state shall furnish 1032  
such information as the commission requires. 1033

(D) The commission shall: 1034

(1) Review and comment on the reports filed under division 1035  
(C) of this section, and make the information contained in the 1036  
reports readily available to the public and other interested 1037  
government agencies; 1038

(2) Compile and publish each year the general locations of 1039  
proposed and existing transmission line routes within its 1040  
jurisdiction as identified in the reports filed under division (C) 1041  
of this section, identifying the general location of such sites 1042  
and routes and the approximate year when construction is expected 1043  
to commence, and to make such information readily available to the 1044  
public, to each newspaper of daily or weekly circulation within 1045  
the area affected by the proposed site and route, and to 1046  
interested federal, state, and local agencies; 1047

(3) Hold a public hearing; 1048

~~(a) On the first long term forecast report filed after 1049~~

January 11, 1983; 1050

~~(b) At least once in every five years, on the latest report furnished by any person subject to this section;~~ 1051  
1052

~~(c) On the latest report furnished by any person subject to this section if the report contains a substantial change from the preceding report furnished by that person. "Substantial change" includes, but is not limited to:~~ 1053  
1054  
1055  
1056

~~(i) A change in forecasted peak loads or energy consumption over the forecast period of greater than an average of one-half of one per cent per year;~~ 1057  
1058  
1059

~~(ii) Demonstration upon the showing of good cause to the commission by an interested party.~~ 1060  
1061

~~The If a hearing is held, the commission shall fix a time for the hearing, which shall be not later than ninety days after the report is filed, and publish notice of the date, time of day, and location of the hearing in a newspaper of general circulation in each county in which the person furnishing the report has or intends to locate a major utility facility and will provide service during the period covered by the report. The notice shall be published not less than fifteen nor more than thirty days before the hearing and shall state the matters to be considered.~~ 1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1070

~~Absent a showing of good cause, the commission shall not hold hearings under division (D)(3) of this section with respect to persons who, as the primary purpose of their business, furnish gas or natural gas, or electricity directly to fifteen thousand or fewer customers within this state solely for direct consumption by those customers.~~ 1071  
1072  
1073  
1074  
1075  
1076

(4) Require such information from persons subject to its jurisdiction as necessary to assist in the conduct of hearings and any investigation or studies it may undertake; 1077  
1078  
1079

(5) Conduct any studies or investigations that are necessary 1080  
or appropriate to carry out its responsibilities under this 1081  
section. 1082

(E)(1) The scope of the hearing held under division (D)(3) of 1083  
this section shall be limited to issues relating to forecasting. 1084  
The power siting board, the office of consumers' counsel, and all 1085  
other persons having an interest in the proceedings shall be 1086  
afforded the opportunity to be heard and to be represented by 1087  
counsel. The commission may adjourn the hearing from time to time. 1088

(2) The hearing shall include, but not be limited to, a 1089  
review of: 1090

(a) The projected loads and energy requirements for each year 1091  
of the period; 1092

(b) The estimated installed capacity and supplies to meet the 1093  
projected load requirements. 1094

(F) Based upon the report furnished pursuant to division (C) 1095  
of this section and the hearing record, the commission, within 1096  
ninety days from the close of the record in the hearing, shall 1097  
determine if: 1098

(1) All information relating to current activities, 1099  
facilities agreements, and published energy policies of the state 1100  
has been completely and accurately represented; 1101

(2) The load requirements are based on substantially accurate 1102  
historical information and adequate methodology; 1103

(3) The forecasting methods consider the relationships 1104  
between price and energy consumption; 1105

(4) The report identifies and projects reductions in energy 1106  
demands due to energy conservation measures in the industrial, 1107  
commercial, residential, transportation, and energy production 1108  
sectors in the service area; 1109

(5) Utility company forecasts of loads and resources are 1110  
reasonable in relation to population growth estimates made by 1111  
state and federal agencies, transportation, and economic 1112  
development plans and forecasts, and make recommendations where 1113  
possible for necessary and reasonable alternatives to meet 1114  
forecasted electric power demand; 1115

(6) The report considers plans for expansion of the regional 1116  
power grid and the planned facilities of other utilities in the 1117  
state; 1118

(7) All assumptions made in the forecast are reasonable and 1119  
adequately documented. 1120

(G) The commission shall adopt rules under section 111.15 of 1121  
the Revised Code to establish criteria for evaluating the 1122  
long-term forecasts of needs for gas and electric transmission 1123  
service, to conduct hearings held under this section, to establish 1124  
reasonable fees to defray the direct cost of the hearings and the 1125  
review process, and such other rules as are necessary and 1126  
convenient to implement this section. 1127

(H) The hearing record produced under this section and the 1128  
determinations of the commission shall be introduced into evidence 1129  
and shall be considered in determining the basis of need for power 1130  
siting board deliberations under division (A)(1) of section 1131  
4906.10 of the Revised Code. The hearing record produced under 1132  
this section shall be introduced into evidence and shall be 1133  
considered by the public utilities commission in its initiation of 1134  
programs, examinations, and findings under section 4905.70 of the 1135  
Revised Code, and shall be considered in the commission's 1136  
determinations with respect to the establishment of just and 1137  
reasonable rates under section 4909.15 of the Revised Code and 1138  
financing utility facilities and authorizing issuance of all 1139  
securities under sections 4905.40, 4905.401, 4905.41, and 4905.42 1140  
of the Revised Code. The forecast findings also shall serve as the 1141

basis for all other energy planning and development activities of 1142  
the state government where electric and gas data are required. 1143

(I)(1) No court other than the supreme court shall have power 1144  
to review, suspend, or delay any determination made by the 1145  
commission under this section, or enjoin, restrain, or interfere 1146  
with the commission in the performance of official duties. A writ 1147  
of mandamus shall not be issued against the commission by any 1148  
court other than the supreme court. 1149

(2) A final determination made by the commission shall be 1150  
reversed, vacated, or modified by the supreme court on appeal, if, 1151  
upon consideration of the record, such court is of the opinion 1152  
that such determination was unreasonable or unlawful. 1153

The proceeding to obtain such reversal, vacation, or 1154  
modification shall be by notice of appeal, filed with the 1155  
commission by any party to the proceeding before it, against the 1156  
commission, setting forth the determination appealed from and 1157  
errors complained of. The notice of appeal shall be served, unless 1158  
waived, upon the commission by leaving a copy at the office of the 1159  
chairperson of the commission at Columbus. The court may permit an 1160  
interested party to intervene by cross-appeal. 1161

(3) No proceeding to reverse, vacate, or modify a 1162  
determination of the commission is commenced unless the notice of 1163  
appeal is filed within sixty days after the date of the 1164  
determination. 1165

**Section 2.** That existing sections 4903.083, 4905.302, 1166  
4909.05, 4909.06, 4909.07, 4909.08, 4909.15, 4909.156, 4909.17, 1167  
4909.18, 4909.19, 4928.18, 4929.05, 4929.051, 4929.11, and 4935.04 1168  
of the Revised Code are hereby repealed. 1169