

**As Introduced**

**130th General Assembly  
Regular Session  
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**H. B. No. 102**

**Representative Roegner**

**Cosponsors: Representatives Brenner, Lynch, DeVitis, Thompson,  
Adams, J., Hall**

**—**

**A B I L L**

To amend sections 4929.01 and 4929.02 and to enact 1  
sections 4929.021 and 4929.022 of the Revised Code 2  
to change state policy regarding natural gas 3  
competition, to require assessments on retail 4  
natural gas suppliers for subsidies granted in 5  
retail auctions, and to require the assessments to 6  
be distributed to nonmercantile customers. 7

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

**Section 1.** That sections 4929.01 and 4929.02 be amended and 8  
sections 4929.021 and 4929.022 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 4929.01.** As used in this chapter: 11

(A) "Alternative rate plan" means a method, alternate to the 12  
method of section 4909.15 of the Revised Code, for establishing 13  
rates and charges, under which rates and charges may be 14  
established for a commodity sales service or ancillary service 15  
that is not exempt pursuant to section 4929.04 of the Revised Code 16  
or for a distribution service. Alternative rate plans may include, 17  
but are not limited to, methods that provide adequate and reliable 18

natural gas services and goods in this state; minimize the costs 19  
and time expended in the regulatory process; tend to assess the 20  
costs of any natural gas service or goods to the entity, service, 21  
or goods that cause such costs to be incurred; afford rate 22  
stability; promote and reward efficiency, quality of service, or 23  
cost containment by a natural gas company; provide sufficient 24  
flexibility and incentives to the natural gas industry to achieve 25  
high quality, technologically advanced, and readily available 26  
natural gas services and goods at just and reasonable rates and 27  
charges; or establish revenue decoupling mechanisms. Alternative 28  
rate plans also may include, but are not limited to, automatic 29  
adjustments based on a specified index or changes in a specified 30  
cost or costs. 31

(B) "Ancillary service" means a service that is ancillary to 32  
the receipt or delivery of natural gas to consumers, including, 33  
but not limited to, storage, pooling, balancing, and transmission. 34

(C) "Commodity sales service" means the sale of natural gas 35  
to consumers, exclusive of any distribution or ancillary service. 36

(D) "Comparable service" means any regulated service or goods 37  
whose availability, quality, price, terms, and conditions are the 38  
same as or better than those of the services or goods that the 39  
natural gas company provides to a person with which it is 40  
affiliated or which it controls, or, as to any consumer, that the 41  
natural gas company offers to that consumer as part of a bundled 42  
service that includes both regulated and exempt services or goods. 43

(E) "Consumer" means any person or association of persons 44  
purchasing, delivering, storing, or transporting, or seeking to 45  
purchase, deliver, store, or transport, natural gas, including 46  
industrial consumers, commercial consumers, and residential 47  
consumers, but not including natural gas companies. 48

(F) "Distribution service" means the delivery of natural gas 49

to a consumer at the consumer's facilities, by and through the 50  
instrumentalities and facilities of a natural gas company, 51  
regardless of the party having title to the natural gas. 52

(G) "Natural gas company" means a natural gas company, as 53  
defined in section 4905.03 of the Revised Code, that is a public 54  
utility as defined in section 4905.02 of the Revised Code and 55  
excludes a retail natural gas supplier. 56

(H) "Person," except as provided in division (N) of this 57  
section, has the same meaning as in section 1.59 of the Revised 58  
Code, and includes this state and any political subdivision, 59  
agency, or other instrumentality of this state and includes the 60  
United States and any agency or other instrumentality of the 61  
United States. 62

(I) "Billing or collection agent" means a fully independent 63  
agent, not affiliated with or otherwise controlled by a retail 64  
natural gas supplier or governmental aggregator subject to 65  
certification under section 4929.20 of the Revised Code, to the 66  
extent that the agent is under contract with such supplier or 67  
aggregator solely to provide billing and collection for 68  
competitive retail natural gas service on behalf of the supplier 69  
or aggregator. 70

(J) "Competitive retail natural gas service" means any retail 71  
natural gas service that may be competitively offered to consumers 72  
in this state as a result of revised schedules approved under 73  
division (C) of section 4929.29 of the Revised Code, a rule or 74  
order adopted or issued by the public utilities commission under 75  
Chapter 4905. of the Revised Code, or an exemption granted by the 76  
commission under sections 4929.04 to 4929.08 of the Revised Code. 77

(K) "Governmental aggregator" means either of the following: 78

(1) A legislative authority of a municipal corporation, a 79  
board of township trustees, or a board of county commissioners 80

acting exclusively under section 4929.26 or 4929.27 of the Revised Code as an aggregator for the provision of competitive retail natural gas service;

(2) A municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.

(L)(1) "Mercantile customer" means a customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. "Mercantile customer" excludes a customer for which a declaration under division (L)(2) of this section is in effect pursuant to that division.

(2) A not-for-profit customer that consumes, other than for residential use, more than five hundred thousand cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state may file a declaration under division (L)(2) of this section with the public utilities commission. The declaration shall take effect upon the date of filing, and by virtue of the declaration, the customer is not a mercantile customer for the purposes of this section and sections 4929.20 to 4929.29 of the Revised Code or the purposes of a governmental natural gas aggregation or arrangement or other contract entered into after the declaration's effective date for the supply or arranging of the supply of natural gas to the customer to a location within this state. The customer may file a rescission of the declaration with the commission at any time. The rescission shall not affect any governmental natural gas aggregation or arrangement or other contract entered into by the customer prior to the date of the

filing of the rescission and shall have effect only with respect 113  
to any subsequent such aggregation or arrangement or other 114  
contract. The commission shall prescribe rules under section 115  
4929.10 of the Revised Code specifying the form of the declaration 116  
or a rescission and procedures by which a declaration or 117  
rescission may be filed. 118

(M) "Retail natural gas service" means commodity sales 119  
service, ancillary service, natural gas aggregation service, 120  
natural gas marketing service, or natural gas brokerage service. 121

(N) "Retail natural gas supplier" means any person, as 122  
defined in section 1.59 of the Revised Code, that is engaged on a 123  
for-profit or not-for-profit basis in the business of supplying or 124  
arranging for the supply of a competitive retail natural gas 125  
service to consumers in this state that are not mercantile 126  
customers. "Retail natural gas supplier" includes a marketer, 127  
broker, or aggregator, but excludes a natural gas company, a 128  
governmental aggregator as defined in division (K)(1) or (2) of 129  
this section, an entity described in division (A)(2) or (3) of 130  
section 4905.02 of the Revised Code, or a billing or collection 131  
agent, and excludes a producer or gatherer of gas to the extent 132  
such producer or gatherer is not a natural gas company under 133  
section 4905.03 of the Revised Code. 134

(O) "Revenue decoupling mechanism" means a rate design or 135  
other cost recovery mechanism that provides recovery of the fixed 136  
costs of service and a fair and reasonable rate of return, 137  
irrespective of system throughput or volumetric sales. 138

(P) "Standard choice offer" means a default commodity sales 139  
service provided by a retail natural gas supplier. 140

**Sec. 4929.02.** (A) It is the policy of this state to, 141  
throughout this state: 142

(1) Promote the availability to consumers of adequate,	143
reliable, and reasonably priced natural gas services and goods;	144
(2) Promote the availability of unbundled and comparable	145
natural gas services and goods that provide wholesale and retail	146
consumers with the supplier, price, terms, conditions, and quality	147
options they elect to meet their respective needs;	148
(3) Promote diversity of natural gas supplies and suppliers,	149
by giving consumers effective choices over the selection of those	150
supplies and suppliers;	151
(4) Encourage innovation and market access for cost-effective	152
supply- and demand-side natural gas services and goods;	153
(5) Encourage cost-effective and efficient access to	154
information regarding the operation of the distribution systems of	155
natural gas companies in order to promote effective customer	156
choice of natural gas services and goods;	157
(6) Recognize the continuing emergence of competitive natural	158
gas markets through the development and implementation of flexible	159
regulatory treatment;	160
(7) Promote an expeditious transition to the provision of	161
natural gas services and goods in a manner that achieves effective	162
competition and transactions between willing buyers and willing	163
sellers to reduce or eliminate the need for regulation of natural	164
gas services and goods under Chapters 4905. and 4909. of the	165
Revised Code;	166
(8) Promote effective competition in the provision of natural	167
gas services and goods by avoiding subsidies flowing to or from	168
regulated natural gas services and goods, <u>which includes avoiding</u>	169
<u>subsidies of standard choice offers provided through retail</u>	170
<u>auctions;</u>	171
(9) Ensure that the risks and rewards of a natural gas	172

company's offering of nonjurisdictional and exempt services and 173  
goods do not affect the rates, prices, terms, or conditions of 174  
nonexempt, regulated services and goods of a natural gas company 175  
and do not affect the financial capability of a natural gas 176  
company to comply with the policy of this state specified in this 177  
section; 178

(10) Facilitate the state's competitiveness in the global 179  
economy; 180

(11) Facilitate additional choices for the supply of natural 181  
gas for residential consumers, including aggregation; 182

(12) Promote an alignment of natural gas company interests 183  
with consumer interest in energy efficiency and energy 184  
conservation. 185

(B) The public utilities commission and the office of the 186  
consumers' counsel shall follow the policy specified in this 187  
section in exercising their respective authorities relative to 188  
sections 4929.03 to 4929.30 of the Revised Code. 189

(C) Nothing in Chapter 4929. of the Revised Code shall be 190  
construed to alter the public utilities commission's construction 191  
or application of division (E) of section 4905.03 of the Revised 192  
Code. 193

Sec. 4929.021. Subsidies of standard choice offers provided 194  
through retail auctions shall be avoided. These subsidies include 195  
the avoidance of costs normally incurred in acquiring retail 196  
natural gas customers and in serving customers as a retail natural 197  
gas supplier under this chapter and rules adopted under it. These 198  
avoided costs include the following: 199

(A) Regulatory-compliance costs; 200

(B) Enrollment costs; 201

(C) Contracting costs; 202

<u>(D) Costs of notice requirements;</u>	203
<u>(E) Customer-acquisition costs;</u>	204
<u>(F) Other costs related to the provision of retail natural gas service.</u>	205 206
<u>Sec. 4929.022. (A) Not later than ninety days after the effective date of this section, the public utilities commission shall begin a process to examine in retail auctions conducted after the effective date of this section any subsidies of standard choice offers, as those subsidies are described in section 4929.021 of the Revised Code. If the commission determines that any such subsidies are granted in a retail auction, the commission shall quantify those subsidies and make an assessment on each retail natural gas supplier that is granted those subsidies. Each assessment shall be based on the subsidies granted to a particular retail natural gas supplier and shall be made on a per-customer basis.</u>	207 208 209 210 211 212 213 214 215 216 217 218
<u>(B) Each assessment made under division (A) of this section shall be paid by the retail natural gas supplier to the natural gas company that conducted the retail auction in which the subsidies were granted. Each natural gas company shall distribute the total of all assessments paid to it under this division to all of the company's customers who are not mercantile customers. The distribution shall be made through a commission-determined mechanism.</u>	219 220 221 222 223 224 225 226
<u>Section 2. That existing sections 4929.01 and 4929.02 of the Revised Code are hereby repealed.</u>	227 228