

# As Introduced

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 162**

**Senator Buehrer**

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

—

## **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, 4901.12, 2  
4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 3  
4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4  
4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 5  
4905.20, 4905.21, 4905.26, 4905.30, 4905.40, 6  
4905.402, 4905.41, 4905.42, 4905.45, 4905.46, 7  
4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 8  
4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 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, and 4931.01, and to repeal sections 22

4905.041, 4905.23, 4905.231, 4905.24, 4905.241,	23
4905.242, 4905.243, 4905.244, 4905.25, 4905.381,	24
4905.49, 4905.491, 4905.50, 4927.03, 4927.04,	25
4931.06, 4931.07, 4931.12, 4931.13, 4931.14,	26
4931.15, 4931.16, 4931.17, 4931.18, 4931.19,	27
4931.21, 4931.22, 4931.25, 4931.26, 4931.27,	28
4931.28, 4931.29, 4931.30, and 4931.31 of the	29
Revised Code to revise state regulation of	30
telephone companies, remove telegraph companies	31
from utility regulation, and revise law concerning	32
confidential information of public utilities.	33
	34

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

<b>Section 1.</b> That sections 324.01, 324.03, 1332.24, 2317.02,	35
2917.21, 4901.01, 4901.02, 4901.11, 4901.12, 4901.15, 4901.22,	36
4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03,	37
4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20,	38
4905.21, 4905.26, 4905.30, 4905.40, 4905.402, 4905.41, 4905.42,	39
4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59,	40
4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.99, 4907.01,	41
4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01,	42
4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03,	43
4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01,	44
5515.01, 5733.57, 6101.17, and 6115.21 be amended, that sections	45
4931.11 (4931.05) and 4931.35 (4931.06) be amended for the purpose	46
of adopting new section numbers as shown in parentheses, and that	47
new sections 4927.03 and 4927.04 and sections 4927.05, 4927.06,	48
4927.07, 4927.08, 4927.09, 4927.10, 4927.11, 4927.12, 4927.13,	49
4927.14, 4927.15, 4927.16, 4927.17, 4927.18, and 4931.01 of the	50
Revised Code be enacted to read as follows:	51

Sec. 324.01. As used in sections 324.01 to 324.12 of the	52
Revised Code:	53
(A) "Utility" means:	54
(1) An electric company, gas company, heating company,	55
cooling company, telephone company, <del>telegraph company</del> , or	56
communications company supplying a utility service;	57
(2) Any municipal corporation, county, or other political	58
subdivision, instrumentality, or agency of the state supplying a	59
utility service;	60
(3) Any individual, firm, partnership, association, trust,	61
joint-stock company, joint venture, corporation, nonprofit	62
corporation, cooperative, receiver, assignee, trustee in	63
bankruptcy, estate, trustee, or organization of any kind which	64
owns or operates any office building, storeroom building, shopping	65
center, apartment building, apartment hotel, condominium, or other	66
multiple business or dwelling unit, and which sells, furnishes, or	67
delivers a utility service to the tenants or occupants thereof,	68
provided the charge for such utility service is separately stated.	69
(B) Any individual, firm, partnership, association, trust,	70
joint-stock company, joint venture, corporation, municipal	71
corporation, county, or other political subdivision,	72
instrumentality, or agency of the state, nonprofit corporation,	73
cooperative, receiver, assignee, trustee in bankruptcy, estate,	74
trustee, or organization of any kind:	75
(1) Is an electric company when supplying electricity for	76
light, heat, cooling, or power purposes to customers within a	77
county levying a utilities service tax;	78
(2) Is a gas company when supplying artificial gas or natural	79
gas for light, heat, cooling, or power purposes to customers	80
within a county levying a utilities service tax;	81

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

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

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

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

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

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

(D) "Charge for utility service" means the amount charged to the customer for a utility service without deduction for any discount for early payment but after deducting the amount of any federal excise tax on such utility service, and excluding the amount paid for the purchase of appliances or other merchandise, and the amount paid for the installation of pipes, meters, poles,

apparatus, instruments, switchboards, and other facilities by the 113  
utility for the purpose of rendering utility service to the 114  
customer if the charge therefor is separately stated by the 115  
utility in its bill to the customer and is not included in the 116  
basic rates charged to customers of the utility. 117

(E) "Customer" means any individual, firm, partnership, 118  
association, trust, joint-stock company, joint venture, 119  
corporation, nonprofit corporation, cooperative, receiver, 120  
assignee, trustee in bankruptcy, estate, trustee, or organization 121  
of any kind receiving utility service from a utility, but does not 122  
include the United States, the state, any political subdivision of 123  
the state, or any agency or instrumentality of any of them. 124

(F) "Business" has the same meaning as in division (E) of 125  
section 5701.08 of the Revised Code. 126

**Sec. 324.03.** The utilities service tax shall not apply to the 127  
following: 128

(A) The first five dollars per month of any charge for 129  
utility service for each utility service rendered by a utility to 130  
a customer; 131

(B) The supplying of a utility service to a customer for 132  
resale; provided, that this division shall not include the 133  
supplying of a utility service to a utility as defined in division 134  
(A)(3) of section 324.01 of the Revised Code if the utility 135  
receiving the service when supplying the service to its customers 136  
does not separately state the charge therefor; 137

(C) The supplying of a utility service through a 138  
coin-operated device; 139

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

made; 143

(E) The supplying of a utility service not within the taxing 144  
power of the county under the constitution of the United States or 145  
the constitution of this state; 146

(F) The supplying of a utility service to a person engaged in 147  
business, for use or consumption in the production of tangible 148  
personal property. 149

For the purpose of the proper administration of the utilities 150  
service tax and to prevent the evasion of the tax, it is presumed 151  
that any supplying of utility service is subject to the tax until 152  
the contrary is shown. 153

**Sec. 1332.24.** (A)(1) In accordance with section 1332.25 of 154  
the Revised Code, the director of commerce may issue to any 155  
person, or renew, a video service authorization, which 156  
authorization confers on the person the authority, subject to 157  
sections 1332.21 to 1332.34 of the Revised Code, to provide video 158  
service in its video service area; construct and operate a video 159  
service network in, along, across, or on public rights-of-way for 160  
the provision of video service; and, when necessary to provide 161  
that service, exercise the power of a ~~telegraph~~ telephone company 162  
under section 4931.04 of the Revised Code. The term of a video 163  
service authorization or authorization renewal shall be ten years. 164

(2) For the purposes of the "Cable Communications Policy Act 166  
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 167  
seq., a video service authorization shall constitute a franchise 168  
under that law, and the director shall be the sole franchising 169  
authority under that law for video service authorizations in this 170  
state. 171

(3) The director may impose upon and collect an annual 172

assessment on video service providers. All money collected under 173  
division (A)(3) of this section shall be deposited to the credit 174  
of the division of administration fund created under section 175  
121.08 of the Revised Code. The total amount assessed in a fiscal 176  
year shall not exceed the lesser of four hundred fifty thousand 177  
dollars or, as shall be determined annually by the director, the 178  
department's actual, current fiscal year administrative costs in 179  
carrying out its duties under sections 1332.21 to 1332.34 of the 180  
Revised Code. The director shall allocate that total amount 181  
proportionately among the video service providers to be assessed, 182  
using a formula based on subscriber counts as of the thirty-first 183  
day of December of the preceding calendar year, which counts shall 184  
be submitted to the director not later than the thirty-first day 185  
of January of each year, via a notarized statement signed by an 186  
authorized officer. Any information submitted by a video service 187  
provider to the director for the purpose of determining subscriber 188  
counts shall be considered trade secret information, shall not be 189  
disclosed except by court order, and shall not constitute a public 190  
record under section 149.43 of the Revised Code. On or about the 191  
first day of June of each year, the director shall send to each 192  
video service provider to be assessed written notice of its 193  
proportional amount of the total assessment. The provider shall 194  
pay that amount on a quarterly basis not later than forty-five 195  
days after the end of each calendar quarter. After the initial 196  
assessment, the director annually shall reconcile the amount 197  
collected with the total, current amount assessed pursuant to this 198  
section, and either shall charge each assessed video service 199  
provider its respective proportion of any insufficiency or 200  
proportionately credit the provider's next assessment for any 201  
excess collected. 202

(B)(1) The director may investigate alleged violations of or 203  
failures to comply with division (A) of section 1332.23, division 204  
(A) of this section, division (C) of section 1332.25, division (C) 205

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

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

(C)(1) If the director finds that a person has violated or 226  
failed to comply with division (A) of section 1332.23, division 227  
(A) of this section, division (C) of section 1332.25, division (C) 228  
or (D) of section 1332.26, division (A), (B), or (C) of section 229  
1332.27, division (A) of section 1332.28, division (A) or (B) of 230  
section 1332.29, or section 1332.30 or 1332.31 of the Revised 231  
Code, and the person has failed to cure the violation or failure 232  
after reasonable, written notice and reasonable time to cure, the 233  
director may do any of the following: 234

(a) Apply to the court of common pleas of any county in this 235  
state for an order enjoining the activity or requiring compliance. 236  
Such an action shall be commenced not later than three years after 237

the date the alleged violation or failure occurred or was 238  
reasonably discovered. Upon a showing by the director that the 239  
person has engaged in a violation or failure to comply, the court 240  
shall grant an injunction, restraining order, or other appropriate 241  
relief. 242

(b) Enter into a written assurance of voluntary compliance 243  
with the person; 244

(c) Pursuant to an adjudication under Chapter 119. of the 245  
Revised Code, assess a civil penalty in an amount determined by 246  
the director, including for any failure to comply with an 247  
assurance of voluntary compliance under division (C)(1)(b) of this 248  
section. The amount shall be not more than one thousand dollars 249  
for each day of violation or noncompliance, not to exceed a total 250  
of ten thousand dollars, counting all subscriber impacts as a 251  
single violation or act of noncompliance. In determining whether a 252  
civil penalty is appropriate under division (C)(1)(c) of this 253  
section, the director shall consider all of the following factors: 254

(i) The seriousness of the noncompliance; 255

(ii) The good faith efforts of the person to comply; 256

(iii) The person's history of noncompliance; 257

(iv) The financial resources of the person; 258

(v) Any other matter that justice requires. 259

Civil penalties collected pursuant to division (C)(1)(c) of 260  
this section shall be deposited to the credit of the video service 261  
enforcement fund in the state treasury, which is hereby created, 262  
to be used by the department of commerce in carrying out its 263  
duties under this section. 264

(2) Pursuant to an adjudication under Chapter 119. of the 265  
Revised Code, the director may revoke, in whole or in part, the 266  
video service authorization of any person that has repeatedly and 267

knowingly violated or failed to comply with division (A) of 268  
section 1332.23, division (A) of this section, division (C) of 269  
section 1332.25, division (C) or (D) of section 1332.26, division 270  
(A), (B), or (C) of section 1332.27, division (A) of section 271  
1332.28, division (A) or (B) of section 1332.29, or section 272  
1332.30 or 1332.31 of the Revised Code and that has failed to cure 273  
the violations or noncompliances after reasonable written notice 274  
and reasonable time to cure. Such person acts knowingly, 275  
regardless of the person's purpose, when the person is aware that 276  
the person's conduct will probably cause a certain result or will 277  
probably be of a certain nature. A person has knowledge of 278  
circumstances when the person is aware that such circumstances 279  
probably exist. 280

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

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

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

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

division, the attorney may be compelled to testify on the same 299  
subject. 300

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

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

(B)(1) A physician or a dentist concerning a communication 322  
made to the physician or dentist by a patient in that relation or 323  
the physician's or dentist's advice to a patient, except as 324  
otherwise provided in this division, division (B)(2), and division 325  
(B)(3) of this section, and except that, if the patient is deemed 326  
by section 2151.421 of the Revised Code to have waived any 327  
testimonial privilege under this division, the physician may be 328  
compelled to testify on the same subject. 329

The testimonial privilege established under this division 330

does not apply, and a physician or dentist may testify or may be 331  
compelled to testify, in any of the following circumstances: 332

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

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

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

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

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

(c) In any criminal action concerning any test or the results 356  
of any test that determines the presence or concentration of 357  
alcohol, a drug of abuse, a combination of them, a controlled 358  
substance, or a metabolite of a controlled substance in the 359  
patient's whole blood, blood serum or plasma, breath, urine, or 360  
other bodily substance at any time relevant to the criminal 361

offense in question. 362

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

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

(ii) If neither the spouse of a patient nor the executor or 389  
administrator of that patient's estate gives consent under 390  
division (B)(1)(a)(ii) of this section, testimony or the 391  
disclosure of the patient's medical records by a physician, 392  
dentist, or other health care provider under division (B)(1)(e)(i) 393

of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

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

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

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

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy

of any of the requested records the provider possesses. If the 426  
health care provider does not possess any of the requested 427  
records, the provider shall give the officer a written statement 428  
that indicates that the provider does not possess any of the 429  
requested records. 430

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

(3)(a) If the testimonial privilege described in division 447  
(B)(1) of this section does not apply as provided in division 448  
(B)(1)(a)(iii) of this section, a physician or dentist may be 449  
compelled to testify or to submit to discovery under the Rules of 450  
Civil Procedure only as to a communication made to the physician 451  
or dentist by the patient in question in that relation, or the 452  
physician's or dentist's advice to the patient in question, that 453  
related causally or historically to physical or mental injuries 454  
that are relevant to issues in the medical claim, dental claim, 455  
chiropractic claim, or optometric claim, action for wrongful 456  
death, other civil action, or claim under Chapter 4123. of the 457

Revised Code. 458

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

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

(5)(a) As used in divisions (B)(1) to (4) of this section, 480  
"communication" means acquiring, recording, or transmitting any 481  
information, in any manner, concerning any facts, opinions, or 482  
statements necessary to enable a physician or dentist to diagnose, 483  
treat, prescribe, or act for a patient. A "communication" may 484  
include, but is not limited to, any medical or dental, office, or 485  
hospital communication such as a record, chart, letter, 486  
memorandum, laboratory test and results, x-ray, photograph, 487  
financial statement, diagnosis, or prognosis. 488

(b) As used in division (B)(2) of this section, "health care 489

provider" means a hospital, ambulatory care facility, long-term 490  
care facility, pharmacy, emergency facility, or health care 491  
practitioner. 492

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

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

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

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

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

(v) "Long-term care facility" means a nursing home, 511  
residential care facility, or home for the aging, as those terms 512  
are defined in section 3721.01 of the Revised Code; an adult care 513  
facility, as defined in section 3722.01 of the Revised Code; a 514  
nursing facility or intermediate care facility for the mentally 515  
retarded, as those terms are defined in section 5111.20 of the 516  
Revised Code; a facility or portion of a facility certified as a 517  
skilled nursing facility under Title XVIII of the "Social Security 518  
Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 519

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 520

the Revised Code. 521

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

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

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

(C)(1) A cleric, when the cleric remains accountable to the 539  
authority of that cleric's church, denomination, or sect, 540  
concerning a confession made, or any information confidentially 541  
communicated, to the cleric for a religious counseling purpose in 542  
the cleric's professional character. The cleric may testify by 543  
express consent of the person making the communication, except 544  
when the disclosure of the information is in violation of a sacred 545  
trust and except that, if the person voluntarily testifies or is 546  
deemed by division (A)(4)(c) of section 2151.421 of the Revised 547  
Code to have waived any testimonial privilege under this division, 548  
the cleric may be compelled to testify on the same subject except 549  
when disclosure of the information is in violation of a sacred 550  
trust. 551

(2) As used in division (C) of this section:	552
(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.	553 554 555 556
(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:	557 558 559 560 561
(i) The confession or confidential communication was made directly to the cleric.	562 563
(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolable by canon law or church doctrine.	564 565 566 567
(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;	568 569 570 571 572 573
(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;	574 575 576
(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.	577 578 579 580 581 582

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

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

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

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

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

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

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

counselor is relevant to that action. 614

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

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

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

(I) A communications assistant, acting within the scope of 640  
the communication assistant's authority, when providing 641  
telecommunications relay service pursuant to section ~~4931.35~~ 642  
4931.06 of the Revised Code or Title II of the "Communications Act 643  
of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 644  
communication made through a telecommunications relay service. 645

Nothing in this section shall limit the obligation of a 646  
communications assistant to divulge information or testify when 647  
mandated by federal law or regulation or pursuant to subpoena in a 648  
criminal proceeding. 649

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

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

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

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

(c) If a medical claim, dental claim, chiropractic claim, or 667  
optometric claim, as defined in section 2305.113 of the Revised 668  
Code, an action for wrongful death, any other type of civil 669  
action, or a claim under Chapter 4123. of the Revised Code is 670  
filed by the patient, the personal representative of the estate of 671  
the patient if deceased, or the patient's guardian or other legal 672  
representative. 673

(2) If the testimonial privilege described in division (J)(1) 674  
of this section does not apply as provided in division (J)(1)(c) 675  
of this section, a chiropractor may be compelled to testify or to 676

submit to discovery under the Rules of Civil Procedure only as to 677  
a communication made to the chiropractor by the patient in 678  
question in that relation, or the chiropractor's advice to the 679  
patient in question, that related causally or historically to 680  
physical or mental injuries that are relevant to issues in the 681  
medical claim, dental claim, chiropractic claim, or optometric 682  
claim, action for wrongful death, other civil action, or claim 683  
under Chapter 4123. of the Revised Code. 684

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

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

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

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

(a) The communication or advice indicates clear and present 705  
danger to the individual who receives crisis response services or 706  
to other persons. For purposes of this division, cases in which 707

there are indications of present or past child abuse or neglect of 708  
the individual constitute a clear and present danger. 709

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

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

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

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

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

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

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

(b) "Critical incident stress management team member" or 729  
"team member" means an individual specially trained to provide 730  
crisis response services as a member of an organized community or 731  
local crisis response team that holds membership in the Ohio 732  
critical incident stress management network. 733

(c) "Debriefing session" means a session at which crisis 734  
response services are rendered by a critical incident stress 735  
management team member during or after a crisis or disaster. 736

(L)(1) Subject to division (L)(2) of this section and except 737

as provided in division (L)(3) of this section, an employee 738  
assistance professional, concerning a communication made to the 739  
employee assistance professional by a client in the employee 740  
assistance professional's official capacity as an employee 741  
assistance professional. 742

(2) Division (L)(1) of this section applies to an employee 743  
assistance professional who meets either or both of the following 744  
requirements: 745

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

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

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

(ii) Providing assistance to employees and employees' 752  
dependents in identifying and finding the means to resolve 753  
personal problems that affect the employees or the employees' 754  
performance; 755

(iii) Identifying and resolving productivity problems 756  
associated with an employee's concerns about any of the following 757  
matters: health, marriage, family, finances, substance abuse or 758  
other addiction, workplace, law, and emotional issues; 759

(iv) Selecting and evaluating available community resources; 760

(v) Making appropriate referrals; 761

(vi) Local and national employee assistance agreements; 762

(vii) Client confidentiality. 763

(3) Division (L)(1) of this section does not apply to any of 764  
the following: 765

(a) A criminal action or proceeding involving an offense 766

under sections 2903.01 to 2903.06 of the Revised Code if the 767  
employee assistance professional's disclosure or testimony relates 768  
directly to the facts or immediate circumstances of the offense; 769

(b) A communication made by a client to an employee 770  
assistance professional that reveals the contemplation or 771  
commission of a crime or serious, harmful act; 772

(c) A communication that is made by a client who is an 773  
unemancipated minor or an adult adjudicated to be incompetent and 774  
indicates that the client was the victim of a crime or abuse; 775

(d) A civil proceeding to determine an individual's mental 776  
competency or a criminal action in which a plea of not guilty by 777  
reason of insanity is entered; 778

(e) A civil or criminal malpractice action brought against 779  
the employee assistance professional; 780

(f) When the employee assistance professional has the express 781  
consent of the client or, if the client is deceased or disabled, 782  
the client's legal representative; 783

(g) When the testimonial privilege otherwise provided by 784  
division (L)(1) of this section is abrogated under law. 785

**Sec. 2917.21.** (A) No person shall knowingly make or cause to 786  
be made a telecommunication, or knowingly permit a 787  
telecommunication to be made from a telecommunications device 788  
under the person's control, to another, if the caller does any of 789  
the following: 790

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

(2) Describes, suggests, requests, or proposes that the 796

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

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

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

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

(B) No person shall make or cause to be made a 820  
telecommunication, or permit a telecommunication to be made from a 821  
telecommunications device under the person's control, with purpose 822  
to abuse, threaten, or harass another person. 823

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

(2) A violation of division (A)(1), (2), (3), or (5) or (B) 826  
of this section is a misdemeanor of the first degree on a first 827

offense and a felony of the fifth degree on each subsequent 828  
offense. 829

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

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

investigation or prosecution of an alleged violation of this 860  
section ~~or section 4931.31 of the Revised Code.~~ 861

(E) As used in this section: 862

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

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

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

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

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

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

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

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

(F) Nothing in this section prohibits a person from making a 884  
telecommunication to a debtor that is in compliance with the "Fair 885  
Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 886  
1692, as amended, or the "Telephone Consumer Protection Act," 105 887  
Stat. 2395 (1991), 47 U.S.C. 227, as amended. 888

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

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

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

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

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

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

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

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

governor by the public utilities commission nominating council 919  
pursuant to section 4901.021 of the ~~bRevised~~ Revised Code. Not 920  
more than three of said commissioners shall belong to or be 921  
affiliated with the same political party. The commission shall 922  
possess the powers and duties specified in, as well as all powers 923  
necessary and proper to carry out the purposes of Chapters 4901., 924  
4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the 925  
Revised Code. 926

(B) A majority of the public utilities commissioners 927  
constitutes a quorum. 928

(C) The terms of office of public utilities commissioners 929  
shall be for five years, commencing on the eleventh day of April 930  
and ending on the tenth day of April, except that terms of the 931  
first commissioners shall be for one, two, three, four, and five 932  
years, respectively, as designated by the governor at the time of 933  
appointment. Each commissioner shall hold office from the date of 934  
~~his~~ appointment until the end of the term for which ~~he~~ the 935  
commissioner was appointed. Any commissioner appointed to fill a 936  
vacancy occurring prior to the expiration of the term for which ~~he~~ 937  
the commissioner was appointed shall hold office for the remainder 938  
of such term. Any commissioner shall continue in office subsequent 939  
to the expiration date of the term for which ~~he~~ the commissioner 940  
was appointed until ~~his~~ the commissioner's successor takes office, 941  
or until a period of sixty days has elapsed, whichever occurs 942  
first. Each vacancy shall be filled by appointment within sixty 943  
days after the vacancy occurs. 944

(D) Public utilities commissioners shall have at least three 945  
years of experience in one or more of the following fields: 946  
economics, law, finance, accounting, engineering, physical or 947  
natural sciences, natural resources, or environmental studies. At 948  
least one commissioner shall be an attorney admitted to the 949  
practice of law in any state or the District of Columbia. 950

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

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

**Sec. 4901.12.** Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX of the Revised Code, all proceedings of the public utilities commission and all documents and records in its possession are public records. In protecting trade secret and other confidential information from public disclosure, the commission shall not establish an expiration date for any such protection, but shall require any party seeking public disclosure of any trade secret or other confidential information to establish that it should no longer be subject to such protection.

**Sec. 4901.15.** The public utilities commission shall, whenever called upon by any officer, board, or commission of this state or

any political subdivision of this state, furnish any data or 981  
information to such officer, board, or commission and shall aid or 982  
assist any such officer, board, or commission in performing ~~the~~ 983  
official duties ~~of his or its office~~. All officers, boards, or 984  
commissions of this state or any political subdivision of this 985  
state, shall furnish to the commission, upon request, any data or 986  
information ~~which~~ that will assist the commission in the discharge 987  
of the duties imposed upon it by Chapters 4901., 4903., 4905., 988  
4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code. 989

**Sec. 4901.22.** Each of the public utilities commissioners, for 990  
the purposes mentioned in Chapters 4901., 4903., 4905., 4907., 991  
4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code, may 992  
administer oaths, certify to official acts, issue subpoenas, and 993  
compel the attendance of witnesses and the production of papers, 994  
waybills, books, accounts, documents, and testimony. 995

**Sec. 4903.01.** As used in sections 4903.01 to 4903.25, 996  
~~inclusive,~~ of the Revised Code: 997

(A) "Public utility" has the same meaning ~~set forth~~ as in 998  
section 4905.02 of the Revised Code. 999

(B) ~~"Telegraph company," "telephone company," "electric light~~ 1000  
~~company," "gas company," "natural gas company," "pipe line~~ 1001  
~~company," "water works company," "sewage disposal system company,"~~ 1002  
~~"heating or cooling company," "messenger company," "street railway~~ 1003  
~~company," "suburban railroad company," "interurban railroad~~ 1004  
~~company," and "motor propelled vehicle" have the meaning set forth~~ 1005  
~~in section 4905.03 of the Revised Code.~~ 1006

(C) "Railroad" has the same meaning ~~set forth~~ as in section 1007  
4907.02 of the Revised Code. 1008

(D) ~~"Motor transportation company" has the meaning set forth~~ 1009  
~~in sections 4905.03 and 4921.02 of the Revised Code.~~ 1010

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

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

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

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

**Sec. 4903.23.** The public utilities commission or power siting board may charge and collect a fee, which shall not exceed cost, for furnishing any copy of any paper, record, testimony, or writing made, taken, or filed under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., ~~and 4923., and 4927.~~ of the Revised Code, except such transcript and other papers as are required to

be filed in any court proceedings authorized in ~~such~~ those 1041  
chapters, whether under seal and certified to or otherwise; and 1042  
may charge and collect a fee for certifying a document, which 1043  
shall not exceed that charged by the secretary of state under 1044  
division (K) of section 111.16 of the Revised Code. All such fees, 1045  
itemized, shall be paid into the state treasury on the first day 1046  
of each month. 1047

Upon application of any person and payment of the proper fee, 1048  
the commission or board shall furnish certified copies under the 1049  
seal of the commission or board of any order made by it, which 1050  
order is prima-facie evidence in any court of the facts stated in 1051  
such copies. The copies of schedules, classifications, and tariffs 1052  
of rates, tolls, prices, rentals, regulations, practices, 1053  
services, fares, and charges, and copies of all contracts, 1054  
agreements, and arrangements between public utilities and 1055  
railroads, or either, filed with the commission, and the 1056  
statistics, tables, and figures contained in the annual or other 1057  
reports of such companies made to the commission as required by 1058  
~~such~~ the chapters, shall be preserved as public records in the 1059  
custody of the commission and shall be received as prima-facie 1060  
evidence of what they purport to be, for the purpose of 1061  
investigations and prosecutions by the commission and in all 1062  
judicial proceedings. Copies of and extracts from any of such 1063  
schedules, classifications, tariffs, contracts, agreements, 1064  
arrangements, or reports, made public records, certified by the 1065  
commission under its seal, shall be received in evidence with like 1066  
effect as the originals. 1067

**Sec. 4905.01.** As used in this chapter: 1068

(A) "Railroad" has the same meaning ~~set forth~~ as in section 1069  
4907.02 of the Revised Code. 1070

(B) "Motor transportation company" has the same meaning ~~set~~ 1071

~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 1072

(C) "Trailer," and "public highway," ~~"fixed termini,"~~ 1073  
~~"regular route," and "irregular route"~~ have the same meanings ~~set~~ 1074  
~~forth~~ as in section 4921.02 of the Revised Code. 1075

(D) "Private motor carrier," ~~"contract carrier by motor~~ 1076  
~~vehicle," and~~ "motor vehicle," ~~and "charter party trip"~~ have the 1077  
same meanings ~~set forth~~ as in section 4923.02 of the Revised Code. 1078

(E) "Ohio coal research and development costs" means all 1079  
reasonable costs associated with a facility or project undertaken 1080  
by a public utility for which a recommendation to allow the 1081  
recovery of costs associated therewith has been made under 1082  
division (B)(7) of section 1551.33 of the Revised Code, including, 1083  
but not limited to, capital costs, such as costs of debt and 1084  
equity; construction and operation costs; termination and 1085  
retirement costs; costs of feasibility and marketing studies 1086  
associated with the project; and the acquisition and delivery 1087  
costs of Ohio coal used in the project, less any expenditures of 1088  
grant moneys. 1089

**Sec. 4905.02.** As used in this chapter, "public utility" 1090  
includes every corporation, company, copartnership, person, or 1091  
association, ~~their~~ the lessees, trustees, or receivers of the 1092  
foregoing, defined in section 4905.03 of the Revised Code, 1093  
including ~~all any~~ public ~~utilities~~ utility that ~~operate their~~ 1094  
~~utilities~~ operates its utility not for profit, except the 1095  
following: 1096

(A) ~~Electric~~ An electric light ~~companies~~ company that ~~operate~~ 1097  
~~their utilities~~ operates its utility not for profit; 1098

(B) ~~Public utilities~~ A public utility, other than a telephone 1099  
~~companies~~ company, that ~~are~~ is owned and operated exclusively by 1100  
and solely for the ~~utilities'~~ utility's customers, including any 1101

consumer or group of consumers purchasing, delivering, storing, or 1102  
transporting, or seeking to purchase, deliver, store, or 1103  
transport, natural gas exclusively by and solely for the 1104  
consumer's or consumers' own intended use as the end user or end 1105  
users and not for profit; 1106

(C) ~~Public utilities~~ A public utility that ~~are~~ is owned or 1107  
operated by any municipal corporation; 1108

(D) ~~Railroads~~ A railroad as defined in sections 4907.02 and 1109  
4907.03 of the Revised Code; 1110

(E) Any provider, including a telephone company, to the 1111  
extent it provides any of the following: 1112

(1) Advanced services as defined in 47 C.F.R. 51.5; 1113

(2) Broadband service, however defined or classified by the 1114  
federal communications commission; 1115

(3) Information services as defined in the "Balanced Budget 1116  
Act of 1997," 111 Stat. 258, 47 U.S.C. 153(20); 1117

(4) Internet protocol-enabled services as defined in section 1118  
4927.01 of the Revised Code; 1119

(5) Any telecommunications service as defined in section 1120  
4927.01 of the Revised Code that is not commercially available on 1121  
the effective date of the amendment of this section by .... B. No. 1122  
.... of the 128th general assembly. 1123

**Sec. 4905.03.** As used in this chapter: 1124

(A) Any person, firm, copartnership, voluntary association, 1125  
joint-stock association, company, or corporation, wherever 1126  
organized or incorporated, is: 1127

(1) ~~A telegraph company, when engaged in the business of 1128  
transmitting telegraphic messages to, from, through, or in this 1129  
state;~~ 1130

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

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

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

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

~~(6)~~(5) A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to

consumers within this state. Notwithstanding the above, neither 1163  
the delivery nor sale of Ohio-produced natural gas by a producer 1164  
or gatherer under a public utilities commission-ordered exemption, 1165  
adopted before, as to producers, or after, as to producers or 1166  
gatherers, January 1, 1996, or the delivery or sale of 1167  
Ohio-produced natural gas by a producer or gatherer of 1168  
Ohio-produced natural gas, either to a lessor under an oil and gas 1169  
lease of the land on which the producer's drilling unit is 1170  
located, or the grantor incident to a right-of-way or easement to 1171  
the producer or gatherer, shall cause the producer or gatherer to 1172  
be a natural gas company for the purposes of this section. 1173

All rates, rentals, tolls, schedules, charges of any kind, or 1174  
agreements between a natural gas company and other natural gas 1175  
companies or gas companies providing for the supply of natural gas 1176  
and for compensation for the same are subject to the jurisdiction 1177  
of the public utilities commission. The commission, upon 1178  
application made to it, may relieve any producer or gatherer of 1179  
natural gas, defined in this section as a gas company or a natural 1180  
gas company, of compliance with the obligations imposed by this 1181  
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 1182  
of the Revised Code, so long as the producer or gatherer is not 1183  
affiliated with or under the control of a gas company or a natural 1184  
gas company engaged in the transportation or distribution of 1185  
natural gas, or so long as the producer or gatherer does not 1186  
engage in the distribution of natural gas to consumers. 1187

Nothing in division (A)~~(6)~~(5) of this section limits the 1188  
authority of the commission to enforce sections 4905.90 to 4905.96 1189  
of the Revised Code. 1190

~~(7)~~(6) A pipe-line company, when engaged in the business of 1191  
transporting natural gas, oil, or coal or its derivatives through 1192  
pipes or tubing, either wholly or partly within this state; 1193

~~(8)~~(7) A water-works company, when engaged in the business of 1194

supplying water through pipes or tubing, or in a similar manner, 1195  
to consumers within this state; 1196

~~(9)~~(8) A heating or cooling company, when engaged in the 1197  
business of supplying water, steam, or air through pipes or tubing 1198  
to consumers within this state for heating or cooling purposes; 1199

~~(10)~~(9) A messenger company, when engaged in the business of 1200  
supplying messengers for any purpose; 1201

~~(11)~~(10) A street railway company, when engaged in the 1202  
business of operating as a common carrier, a railway, wholly or 1203  
partly within this state, with one or more tracks upon, along, 1204  
above, or below any public road, street, alleyway, or ground, 1205  
within any municipal corporation, operated by any motive power 1206  
other than steam and not a part of an interurban railroad, whether 1207  
the railway is termed street, inclined-plane, elevated, or 1208  
underground railway; 1209

~~(12)~~(11) A suburban railroad company, when engaged in the 1210  
business of operating as a common carrier, whether wholly or 1211  
partially within this state, a part of a street railway 1212  
constructed or extended beyond the limits of a municipal 1213  
corporation, and not a part of an interurban railroad; 1214

~~(13)~~(12) An interurban railroad company, when engaged in the 1215  
business of operating a railroad, wholly or partially within this 1216  
state, with one or more tracks from one municipal corporation or 1217  
point in this state to another municipal corporation or point in 1218  
this state, whether constructed upon the public highways or upon 1219  
private rights-of-way, outside of municipal corporations, using 1220  
electricity or other motive power than steam power for the 1221  
transportation of passengers, packages, express matter, United 1222  
States mail, baggage, and freight. Such an interurban railroad 1223  
company is included in the term "railroad" as used in section 1224  
4907.02 of the Revised Code. 1225

~~(14)~~(13) A sewage disposal system company, when engaged in 1226  
the business of sewage disposal services through pipes or tubing, 1227  
and treatment works, or in a similar manner, within this state. 1228

(B) "Motor-propelled vehicle" means any automobile, 1229  
automobile truck, motor bus, or any other self-propelled vehicle 1230  
not operated or driven upon fixed rails or tracks. 1231

**Sec. 4905.04.** ~~(A)~~ The public utilities commission is hereby 1232  
vested with the power and jurisdiction to supervise and regulate 1233  
public utilities and railroads, to require all public utilities to 1234  
furnish their products and render all services exacted by the 1235  
commission or by law, and to promulgate and enforce all orders 1236  
relating to the protection, welfare, and safety of railroad 1237  
employees and the traveling public, including the apportionment 1238  
between railroads and the state and its political subdivisions of 1239  
the cost of constructing protective devices at railroad grade 1240  
crossings. 1241

~~(B) Subject to sections 4905.041 and 4905.042 of the Revised 1242  
Code, division (A) of this section includes such power and 1243  
jurisdiction as is reasonably necessary for the commission to 1244  
perform pursuant to federal law, including federal regulations, 1245  
the acts of a state commission as defined in 47 U.S.C. 153. 1246~~

**Sec. 4905.09.** A substantial compliance by the public 1247  
utilities commission with the requirements of Chapters 4901., 1248  
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1249  
Revised Code is sufficient to give effect to all its rules, and 1250  
~~orders, acts, and regulations. Such~~ Those rules, and ~~orders, acts,~~ 1251  
~~and regulations~~ shall not be declared inoperative, illegal, or 1252  
void for an omission of a technical nature ~~in respect to such~~ 1253  
~~requirements. Such~~ And, those chapters do not affect, modify, or 1254  
repeal any law fixing the rate ~~which~~ that a company operating a 1255

railroad may demand and receive for the transportation of 1256  
passengers. 1257

**Sec. 4905.12.** A railroad company ~~or telegraph company which~~ 1258  
that violates section 4905.10, 4907.13, or 4907.15 of the Revised 1259  
Code shall forfeit to the state one thousand dollars, and 1260  
twenty-five dollars for each day ~~such~~ the company fails to comply 1261  
with a requirement of any such ~~sections~~ section. ~~Such~~ The 1262  
forfeiture does not release ~~such~~ the company from the assessment 1263  
provided in section 4905.10 of the Revised Code. 1264

**Sec. 4905.14.** (A)(1) Every public utility shall file an 1265  
annual report with the public utilities commission. The report 1266  
shall be filed at the time and in the form prescribed by the 1267  
commission, shall be duly verified, and shall cover the yearly 1268  
period fixed by the commission. The commission shall prescribe the 1269  
character of the information to be embodied in the annual report, 1270  
and shall furnish to each public utility a blank form for it. 1271  
Every public utility also shall file a copy of the annual report 1272  
with the office of consumers' counsel; the copy shall be filed at 1273  
the same time that the original is filed with the commission. If 1274  
any annual report filed with the commission is defective or 1275  
erroneous, the commission may order that it be amended within a 1276  
prescribed time. Any amendments made pursuant to such an order 1277  
shall be filed with the commission and with the office of 1278  
consumers' counsel. Each annual report filed with the commission 1279  
shall be preserved in the office of the commission. The commission 1280  
may, at any time, require specific answers to questions upon which 1281  
it desires information. 1282

(2) In the case of a telephone company, including a wireless 1283  
service provider, the annual report shall be limited to 1284  
information necessary for the commission to calculate the 1285  
assessment provided for in section 4905.10 of the Revised Code. 1286

The commission shall protect any confidential information in that report. 1287  
1288

(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: 1289  
1290  
1291

(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; 1292  
1293  
1294

(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; 1295  
1296  
1297  
1298  
1299

(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. 1300  
1301  
1302  
1303  
1304  
1305  
1306

~~(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.~~ 1307  
1308  
1309  
1310  
1311  
1312

**Sec. 4905.16.** When and as required by the public utilities commission, every public utility shall file with it a copy of any contract, agreement, or arrangement, in writing, with any other public utility relating in any way to the construction, 1313  
1314  
1315  
1316

maintenance, or use of its plant or property, or to any service, 1317  
rate, or charge. 1318

~~Unless otherwise ordered by the commission each telephone 1319  
company shall file with the commission a copy of any contract, 1320  
agreement, note, bond, or other arrangement entered into with any 1321  
telephone management, service or operating company. 1322~~

**Sec. 4905.18.** Every public utility shall carry a proper and 1323  
adequate depreciation or deferred maintenance account, whenever 1324  
the public utilities commission, after investigation, determines 1325  
that a depreciation account can be reasonably required. The 1326  
commission shall ascertain, determine, and prescribe what are 1327  
proper and adequate charges for depreciation of the several 1328  
classes of property for each public utility. ~~The public utility 1329  
commission shall require every telephone company to carry a proper 1330  
and adequate depreciation or deferred maintenance account and 1331  
shall ascertain, determine, and prescribe what are proper and 1332  
adequate charges in each exchange area of such company. The charge 1333  
for depreciation shall be such as will provide the amount required 1334  
over the cost and expense of maintenance to keep the property of 1335  
the public utility in a state of efficiency corresponding to the 1336  
progress of the art or industry. The commission may prescribe such 1337  
changes in such charges for depreciation as it finds necessary. 1338~~

**Sec. 4905.20.** No railroad as defined in section 4907.02 of 1339  
the Revised Code, operating any railroad in this state, and no 1340  
public utility as defined in section 4905.02 of the Revised Code 1341  
furnishing service or facilities within this state, shall abandon 1342  
or be required to abandon or withdraw any main track or depot of a 1343  
railroad, or main pipe line, gas line, ~~telegraph line, telephone 1344  
toll line,~~ electric light line, water line, sewer line, steam pipe 1345  
line, or any portion thereof, pumping station, generating plant, 1346  
power station, sewage treatment plant, or service station of a 1347

public utility, or the service rendered thereby, ~~which~~ that has 1348  
once been laid, constructed, opened, and used for public business, 1349  
nor shall any such facility be closed for traffic or service 1350  
thereon, therein, or thereover except as provided in section 1351  
4905.21 of the Revised Code. Any railroad or public utility 1352  
violating this section shall forfeit and pay into the state 1353  
treasury not less than one hundred dollars, nor more than one 1354  
thousand dollars, and shall be subject to all other legal and 1355  
equitable remedies for the enforcement of this section and section 1356  
4905.21 of the Revised Code. 1357

**Sec. 4905.21.** Any railroad or any political subdivision 1358  
desiring to abandon, close, or have abandoned, withdrawn, or 1359  
closed for traffic or service all or any part of a main track or 1360  
depot, and any public utility or political subdivision desiring to 1361  
abandon or close, or have abandoned, withdrawn, or closed for 1362  
traffic or service all or any part of any line, pumping station, 1363  
generating plant, power station, sewage treatment plant, or 1364  
service station, referred to in section 4905.20 of the Revised 1365  
Code, shall make application to the public utilities commission in 1366  
writing. The commission shall thereupon cause reasonable notice of 1367  
the application to be given, stating the time and place fixed by 1368  
the commission for the hearing of the application. 1369

Upon the hearing of the application, the commission shall 1370  
ascertain the facts and make its findings thereon, and if such 1371  
facts satisfy the commission that the proposed abandonment, 1372  
withdrawal, or closing for traffic or service is reasonable, 1373  
having due regard for the welfare of the public and the cost of 1374  
operating the service or facility, it may allow such abandonment, 1375  
withdrawal, or closing; otherwise it shall be denied, or if the 1376  
facts warrant, the application may be granted in a modified form. 1377  
If the application asks for the abandonment or withdrawal of any 1378  
main track, main pipe line, gas line, ~~telegraph line, telephone~~ 1379

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

This section applies to all service now rendered and 1405  
facilities furnished or hereafter built and operated, and an order 1406  
of the commission authorizing the abandonment or withdrawal of any 1407  
such service or facility shall not affect rights and obligations 1408  
of a railroad or public utility beyond the scope of the order, 1409  
anything in its franchise to the contrary notwithstanding. 1410

**Sec. 4905.26.** Upon complaint in writing against any public 1411

utility by any person, firm, or corporation, or upon the 1412  
initiative or complaint of the public utilities commission, that 1413  
any rate, fare, charge, toll, rental, schedule, classification, or 1414  
service, or any joint rate, fare, charge, toll, rental, schedule, 1415  
classification, or service rendered, charged, demanded, exacted, 1416  
or proposed to be rendered, charged, demanded, or exacted, is in 1417  
any respect unjust, unreasonable, unjustly discriminatory, 1418  
unjustly preferential, or in violation of law, or that any 1419  
regulation, measurement, or practice affecting or relating to any 1420  
service furnished by the public utility, or in connection with 1421  
such service, is, or will be, in any respect unreasonable, unjust, 1422  
insufficient, unjustly discriminatory, or unjustly preferential, 1423  
or that any service is, or will be, inadequate or cannot be 1424  
obtained, and, upon complaint of a public utility as to any matter 1425  
affecting its own product or service, if it appears that 1426  
reasonable grounds for complaint are stated, the commission shall 1427  
fix a time for hearing and shall notify complainants and the 1428  
public utility thereof. ~~Such~~ The notice shall be served not less 1429  
than fifteen days before hearing and shall state the matters 1430  
complained of. The commission may adjourn such hearing from time 1431  
to time. 1432

The parties to the complaint shall be entitled to be heard, 1433  
represented by counsel, and to have process to enforce the 1434  
attendance of witnesses. 1435

~~Upon the filing of a complaint by one hundred subscribers or 1436  
five per cent of the subscribers to any telephone exchange, 1437  
whichever number be smaller, or by the legislative authority of 1438  
any municipal corporation served by such telephone company that 1439  
any regulation, measurement, standard of service, or practice 1440  
affecting or relating to any service furnished by the telephone 1441  
company, or in connection with such service is, or will be, in any 1442  
respect unreasonable, unjust, discriminatory, or preferential, or 1443~~

~~that any service is, or will be, inadequate or cannot be obtained, 1444  
the commission shall fix a time for the hearing of such complaint. 1445~~

~~The hearing provided for in the next preceding paragraph 1446  
shall be held in the county wherein resides the majority of the 1447  
signers of such complaint, or wherein is located such municipal 1448  
corporation. Notice of the date, time of day, and location of the 1449  
hearing shall be served upon the telephone company complained of, 1450  
upon each municipal corporation served by the telephone company in 1451  
the county or counties affected, and shall be published for not 1452  
less than two consecutive weeks in a newspaper of general 1453  
circulation in the county or counties affected. 1454~~

~~Such hearing shall be held not less than fifteen nor more 1455  
than thirty days after the second publication of such notice. 1456~~

**Sec. 4905.30.** ~~Every~~ (A) A public utility shall print and file 1457  
with the public utilities commission schedules showing all rates, 1458  
joint rates, rentals, tolls, classifications, and charges for 1459  
service of every kind furnished by it, and all rules and 1460  
regulations affecting them. ~~Such~~ The schedules shall be plainly 1461  
printed and kept open to public inspection. The commission may 1462  
prescribe the form of every such schedule, and may prescribe, by 1463  
order, changes in the form of such schedules. The commission may 1464  
establish and modify rules and regulations for keeping such 1465  
schedules open to public inspection. A copy of ~~such~~ the schedules, 1466  
or so much thereof as the commission deems necessary for the use 1467  
and information of the public, shall be printed in plain type and 1468  
kept on file or posted in such places and in such manner as the 1469  
commission orders. 1470

(B) Division (A) of this section applies to a telephone 1471  
company only regarding rates, joint rates, tolls, classifications, 1472  
charges, rules, and regulations established pursuant to sections 1473  
4905.71, 4927.10, 4927.11, 4927.12, 4927.13, 4927.16, and 4931.47 1474

of the Revised Code. 1475

**Sec. 4905.40.** (A) A public utility or a railroad may, when 1476  
authorized by order of the public utilities commission, issue 1477  
stocks, bonds, notes, and other evidences of indebtedness, payable 1478  
at periods of more than twelve months after their date of 1479  
issuance, when necessary: 1480

(1) For the acquisition of property, the construction, 1481  
completion, extension, renewal, or improvement of its facilities, 1482  
or the improvement of its service; or 1483

(2) For reorganization or readjustment of its indebtedness 1484  
and capitalization, for the discharge or lawful refunding of its 1485  
obligation, or for the reimbursement of moneys actually expended 1486  
for such purposes from income or from any other moneys in the 1487  
treasury of the public utility or railroad not secured or obtained 1488  
from the issue of stocks, bonds, notes, or other evidences of 1489  
indebtedness of such public utility or railroad. No reimbursement 1490  
of moneys expended for such purposes from income or other moneys 1491  
in the treasury shall be authorized unless the applicant has kept 1492  
its accounts and vouchers of such expenditures in such manner as 1493  
to enable the commission to ascertain the amount and purposes of 1494  
such expenditures. 1495

(B) Any public utility, subject to the jurisdiction of the 1496  
commission, may, when authorized by the commission, issue shares 1497  
of common capital stock to acquire or pay for shares of common 1498  
capital stock of a public utility of this or an adjoining state 1499  
whose property is so located as to permit the operation of the 1500  
properties of such utilities as an integrated system if the 1501  
applicant owns, or by this issue will acquire, not less than 1502  
sixty-five per cent of the issued and outstanding common capital 1503  
shares of the company whose shares are to be acquired, and if the 1504  
consideration to be capitalized by the acquiring company does not 1505

exceed the par or stated value at which the shares so acquired 1506  
were issued. 1507

(C) Any bonds, notes, or other evidences of indebtedness 1508  
payable at periods of more than twelve months after their date may 1509  
be issued as provided in sections 4905.40 to 4905.43 of the 1510  
Revised Code, regardless of the amount of the capital stock of the 1511  
public utility or railroad, subject to the approval of the 1512  
commission of the excess of such bonds, notes, or other evidences 1513  
of indebtedness above the amount of the capital stock of such 1514  
public utility or railroad. 1515

(D) The commission shall authorize on the best terms 1516  
obtainable such issues of stocks, bonds, and other evidences of 1517  
indebtedness as are necessary to enable any public utility to 1518  
comply with any contract made between such public utility and any 1519  
municipal corporation prior to June 30, 1911. 1520

(E) The commission may authorize a public utility that is an 1521  
electric light company to issue equity securities, or debt 1522  
securities having a term of more than twelve months from the date 1523  
of issuance, for the purpose of yielding to the company the 1524  
capacity to acquire a facility that produces fuel for the 1525  
generation of electricity. 1526

(F) In any proceeding under division (A)(1) of this section 1527  
initiated by a public utility, the commission shall determine and 1528  
set forth in its order: 1529

(1) Whether the purpose to which the issue or any proceeds of 1530  
it shall be applied was or is reasonably required by the utility 1531  
to meet its present and prospective obligations to provide utility 1532  
service; 1533

(2) Whether the amount of the issue and the probable cost of 1534  
such stocks, bonds, notes, or other evidences of indebtedness is 1535  
just and reasonable; 1536

(3) What effect, if any, the issuance of such stocks, bonds, 1537  
notes, or other evidences of indebtedness and the cost thereof 1538  
will have upon the present and prospective revenue requirements of 1539  
the utility. 1540

(G) Sections 4905.40 to 4905.42 of the Revised Code do not 1541  
apply to stocks, bonds, notes, or other evidence of indebtedness 1542  
issued for the purpose of financing oil or natural gas drilling, 1543  
producing, gathering, and associated activities and facilities by 1544  
a producer which supplies to no more than twenty purchasers only 1545  
such gas as is produced, gathered, or purchased by such producer 1546  
within this state. 1547

(H) Each public utility seeking authorization from the 1548  
commission for the issuance of securities to finance the 1549  
installation, construction, extension, or improvement of an air 1550  
quality facility, as defined in section 3706.01 of the Revised 1551  
Code, shall consider the availability of financing therefor from 1552  
the Ohio air quality development authority and shall demonstrate 1553  
to the commission that the proposed financing will be obtained on 1554  
the best terms obtainable. 1555

(I) This section does not apply to a telephone company. 1556

**Sec. 4905.402.** (A) As used in this section: 1557

(1) "Control" means the possession of the power to direct the 1558  
management and policies of a domestic telephone company or a 1559  
holding company of a domestic telephone company, or the management 1560  
and policies of a domestic electric utility or a holding company 1561  
of a domestic electric utility, through the ownership of voting 1562  
securities, by contract, or otherwise, but does not include the 1563  
power that results from holding an official position or the 1564  
possession of corporate office with the domestic company or 1565  
utility or the holding company. Control is presumed to exist if 1566  
any person, directly or indirectly, owns, controls, holds the 1567

power to vote, or holds with the power to vote proxies that 1568  
constitute, twenty per cent or more of the total voting power of 1569  
the domestic company or utility or the holding company. 1570

(2) "Electric utility" has the same meaning as in section 1571  
4928.07 of the Revised Code. 1572

(3) "Holding company" excludes any securities broker 1573  
performing the usual and customary broker's function. 1574

(4) "Telephone company" means any company described in 1575  
division (A)~~(2)~~(1) of section 4905.03 of the Revised Code that is 1576  
a public utility under section 4905.02 of the Revised Code and 1577  
provides basic local exchange service, as defined in section 1578  
4927.01 of the Revised Code. 1579

(B) No person shall acquire control, directly or indirectly, 1580  
of a domestic ~~telephone company or a holding company controlling a~~ 1581  
~~domestic telephone company or of a domestic~~ electric utility or a 1582  
holding company controlling a domestic electric utility unless 1583  
that person obtains the prior approval of the public utilities 1584  
commission under this section. To obtain approval the person shall 1585  
file an application with the commission demonstrating that the 1586  
acquisition will promote public convenience and result in the 1587  
provision of adequate service for a reasonable rate, rental, toll, 1588  
or charge. The application shall contain such information as the 1589  
commission may require. If the commission considers a hearing 1590  
necessary, it may fix a time and place for hearing. If, after 1591  
review of the application and after any necessary hearing, the 1592  
commission is satisfied that approval of the application will 1593  
promote public convenience and result in the provision of adequate 1594  
service for a reasonable rate, rental, toll, or charge, the 1595  
commission shall approve the application and make such order as it 1596  
considers proper. If the commission fails to issue an order within 1597  
thirty days of the filing of the application, or within twenty 1598  
days of the conclusion of a hearing, if one is held, the 1599

application shall be deemed approved by operation of law. 1600

(C)(1) No person shall acquire control, directly or 1601  
indirectly, of a domestic telephone company or a holding company 1602  
controlling a domestic telephone company unless that person 1603  
obtains the prior approval of the public utilities commission 1604  
under this section. To obtain approval the person shall file an 1605  
application with the commission demonstrating that the acquisition 1606  
will not be contrary to the public interest. The application shall 1607  
contain such information as the commission may require. If the 1608  
commission considers a hearing necessary, it may, not more than 1609  
twenty days after the filing of the application, fix a time and 1610  
place for hearing. If, after review of the application and after 1611  
any necessary hearing, the commission is satisfied that approval 1612  
of the application will not be contrary to the public interest, 1613  
the commission shall approve the application and make such order 1614  
as it considers proper. If the commission fails to issue an order 1615  
disapproving the application within thirty days of the filing of 1616  
the application, or within twenty days of the conclusion of a 1617  
hearing, if one is held, or in any event within sixty days after 1618  
the filing of the application, the application shall be deemed 1619  
approved by operation of law. 1620

(2) No domestic telephone company shall merge with another 1621  
domestic telephone company unless the merging companies obtain the 1622  
prior approval of the commission. An application seeking such 1623  
approval shall be filed, processed, and decided in the manner 1624  
provided for an application under division (C)(1) of this section. 1625  
The commission shall adopt such rules as it finds necessary to 1626  
carry out the provisions of this section. 1627

(D) If it appears to the commission or to any person that may 1628  
be adversely affected that any person is engaged in or about to 1629  
engage in any acts or practices that would violate division (B) or 1630  
(C) of this section or any provision of a rule adopted under this 1631

section, the attorney general, when directed to do so by the 1632  
commission, or the person claiming to be adversely affected may 1633  
bring an action in any court of common pleas that has jurisdiction 1634  
and venue to enjoin such acts or practices and enforce compliance 1635  
~~with this section~~. Upon a proper showing, the court shall grant, 1636  
without bond, a restraining order or temporary or permanent 1637  
injunction. 1638

(E) The courts of this state have jurisdiction over every 1639  
person not a resident of or domiciled or authorized to do business 1640  
in this state that files, or is prohibited from acting without 1641  
first filing, an application under division (B) or (C) of this 1642  
section, and over all actions involving such person arising out of 1643  
violations of any provision of this section or of a rule adopted 1644  
under this section. The secretary of state shall be the agent for 1645  
service of process for any such person in any action, suit, or 1646  
proceeding arising out of such violations ~~of this section~~. Copies 1647  
of all such lawful process shall be served upon the secretary of 1648  
state and transmitted by certified mail, with return receipt 1649  
requested, by the secretary of state to such person at the 1650  
person's last known address. 1651

**Sec. 4905.41.** The proceedings for obtaining the authority of 1652  
the public utilities commission for the issue of stocks, bonds, 1653  
notes and other evidences of indebtedness, as provided in section 1654  
4905.40 of the Revised Code, shall be as follows: 1655

(A) In case the stocks, bonds, notes, or other evidence of 1656  
indebtedness are to be issued for money only, the public utility 1657  
or railroad shall file with the commission a statement, signed and 1658  
verified by the president or vice president and the secretary or 1659  
treasurer of such public utility or railroad, setting forth: 1660

(1) The amount and character of the stocks, bonds, or other 1661  
evidence of indebtedness; 1662

(2) The purposes for which they are to be issued;	1663
(3) The terms upon which they are to be issued;	1664
(4) The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;	1665 1666 1667
(5) If the issue is desired for the purpose of the reimbursement of money expended from income, as provided by section 4905.40 of the Revised Code, the amount expended and when and for what purposes it was expended;	1668 1669 1670 1671
<del>(6) If the application is filed by a telephone company, a statement that such company is not in violation of section 4905.23 of the Revised Code, and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code; or, if it is in violation thereof, that a portion or all of the proceeds will be used to correct such violation and that none of the proceeds will be used for expansion into or acquisition of any additional territory.</del>	1672 1673 1674 1675 1676 1677 1678 1679
<del>(7) Such other facts and information pertinent to the inquiry as the commission requires.</del>	1680 1681
(B) If the stocks, bonds, notes, or other evidence of indebtedness are to be issued partly or wholly for property, services, or other consideration than money, the public utility or railroad shall file with the commission a statement, signed and verified by its president or vice president and its secretary, or treasurer setting forth:	1682 1683 1684 1685 1686 1687
(1) The amount and character of the stocks, bonds, or other evidence of indebtedness proposed to be issued;	1688 1689
(2) The purposes for which they are to be issued;	1690
(3) The description and estimated value of the property or services for which they are to be issued;	1691 1692

(4) The terms on which they are to be issued or exchanged;	1693
(5) The amount of money to be received in addition to the property, service, or other consideration;	1694 1695
<del>(6) If the application is made by a telephone company, that the company is not in violation of section 4905.23 of the Revised Code and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code.</del>	1696 1697 1698 1699
<del>(7)</del> The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;	1700 1701 1702
<del>(8)</del> <u>(7)</u> Such other facts and information pertinent to the inquiry as the commission requires.	1703 1704
This section and section 4905.40 of the Revised Code do not apply to union depot companies organized and under contract prior to June 30, 1911, until the same are completed.	1705 1706 1707
<u>This section does not apply to a telephone company.</u>	1708
<b>Sec. 4905.42.</b> To determine whether it should issue the order referred to in section 4905.40 of the Revised Code, the public utilities commission shall hold such hearings, make such inquiries or investigations, and examine such witnesses, books, papers, documents, and contracts as it deems proper.	1709 1710 1711 1712 1713
An order issued under this section shall fix the amount, character, and terms of any issue of stocks, bonds, notes, or other evidence of indebtedness, and the purposes to which the issue or any proceeds of it shall be applied, shall recite that the money, property, consideration, or labor procured or to be procured or paid for by such issue was or is reasonably required for the purposes specified in the order, and shall recite the value of any property, consideration, or service, as found by the commission, for which in whole or in part such issue is proposed	1714 1715 1716 1717 1718 1719 1720 1721 1722

to be made. 1723

No public utility or railroad shall, without the consent of 1724  
the commission, apply any such issue or its proceeds to any 1725  
purpose not specified in the order. Such public utilities or 1726  
railroads may issue notes for proper corporate purposes, payable 1727  
at periods of not more than twelve months, without the consent of 1728  
the commission, but no such notes shall, in whole or in part, 1729  
directly or indirectly, be refunded by any issue of stocks or 1730  
bonds, or by any evidence of indebtedness, running for more than 1731  
twelve months, without the consent of the commission. 1732

All stocks, bonds, notes, or other evidence of indebtedness 1733  
issued by any public utility or railroad without the permission of 1734  
the commission are void. No interstate railroad or public utility 1735  
shall be required to apply to the commission for authority to 1736  
issue stocks, bonds, notes, or other evidence of indebtedness for 1737  
the acquisition of property, the construction, completion, 1738  
extension, or improvement of its facilities, or the improvement or 1739  
maintenance of its service outside this state, or for authority 1740  
for the discharge or refunding of obligations issued or incurred 1741  
for such purposes or the reimbursement of moneys actually expended 1742  
for such purposes outside this state. 1743

No pipe-line company—when engaged in the business of 1744  
transporting oil through pipes or tubing, either wholly or 1745  
partly—within this state, shall be required to apply to the 1746  
commission for authority to issue stocks, bonds, notes, or other 1747  
evidence of indebtedness for the purpose of acquiring or paying 1748  
for stocks, bonds, notes, or other evidence of indebtedness of any 1749  
other corporation organized under the laws of this state, any 1750  
other state, the District of Columbia, the United States, any 1751  
territory of the United States, any foreign country, or otherwise. 1752

No company that is both a pipe-line company engaged as such 1753  
in the business of transporting natural gas through pipes or 1754

tubing in interstate commerce, wholly or partly within this state, 1755  
and a natural gas company engaged as such in this state solely in 1756  
the business of supplying natural gas to gas companies or to 1757  
natural gas companies shall be required to apply to the commission 1758  
for authority to issue stocks, bonds, notes, or other evidence of 1759  
indebtedness. 1760

This section does not apply to a telephone company. 1761

**Sec. 4905.45.** Public utility or railroad corporations may, 1762  
incident to the sale or pledge of bonds, notes, or other 1763  
securities owned by them, jointly or severally indorse such 1764  
securities and guarantee due payment of them, in any case in which 1765  
such indorsement and guarantee is authorized by the public 1766  
utilities commission or the interstate commerce commission. 1767

This section does not apply to telephone companies. 1768

**Sec. 4905.46.** (A) No public utility or railroad shall declare 1769  
any stock, bond, or scrip dividend or distribution, or divide the 1770  
proceeds of the sale of any stock, bond, or scrip among its 1771  
stockholders, unless it is authorized to do so by the public 1772  
utilities commission. 1773

~~(B) No telephone company shall declare any cash, stock, bond,~~ 1774  
~~or scrip dividend or distribution, or divide the proceeds of the~~ 1775  
~~sale of any stock, bond, or scrip among its common or voting~~ 1776  
~~shareholders, while such telephone company is in violation of any~~ 1777  
~~order of the commission, or against which telephone company there~~ 1778  
~~exists a finding of inadequate service, except when the public~~ 1779  
~~utilities commission makes a finding after hearing and notice, as~~ 1780  
~~provided in section 4905.26 of the Revised Code, that such~~ 1781  
~~dividend or distribution will in no way postpone compliance with~~ 1782  
~~any order or affect the adequacy of service rendered or to be~~ 1783  
~~rendered by such telephone company. If a telephone company, while~~ 1784

~~in violation of any order of the commission, or against which~~ 1785  
~~there exists a finding of inadequate service, desires to declare a~~ 1786  
~~cash dividend or distribution without the consent of the~~ 1787  
~~commission, it shall set aside in a special reserve fund a sum of~~ 1788  
~~money equivalent to the amount necessary to pay the proposed~~ 1789  
~~dividend or distribution, which, while said company is in~~ 1790  
~~violation of said order or against which such finding exists, may~~ 1791  
~~be expended only with the consent of the commission. This section~~ 1792  
~~does not apply to telephone companies.~~ 1793

**Sec. 4905.47.** The public utilities commission shall not 1794  
authorize the capitalization of any franchise or right to own, 1795  
operate, or enjoy any franchise in excess of the amount, exclusive 1796  
of any tax or annual charge, actually paid to any political 1797  
subdivision of the state or county as the consideration for the 1798  
grant of such franchise or right, nor shall the capital stock of a 1799  
public utility or railroad corporation formed by the merger or 1800  
consolidation of two or more corporations exceed the sum of the 1801  
capital stock of the corporations consolidated or merged, at the 1802  
par value of such stock, and such sum or any additional sum 1803  
actually paid in cash. No contract for consolidation or lease 1804  
shall be capitalized in the stock of any public utility or 1805  
railroad corporation, and no such corporation shall issue any 1806  
bonds against or as a lien upon any contract for consolidation or 1807  
merger. The aggregate amount of the debt of such consolidated 1808  
companies by reason of such consolidation shall not be increased. 1809

This section does not apply to telephone companies. 1810

**Sec. 4905.51.** Every public utility having any equipment on, 1811  
over, or under any street or highway shall, subject to section 1812  
4951.04 of the Revised Code, for a reasonable compensation, permit 1813  
the use of such equipment by any other public utility whenever the 1814  
public utilities commission determines, as provided in section 1815

4905.51 of the Revised Code, that public convenience, welfare, and necessity require such use or joint use, and that such use or joint use will not result in irreparable injury to the owner or other users of such equipment or any substantial detriment to the service to be rendered by such owners or other users.

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

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

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

section. 1847

**Sec. 4905.58.** All prosecutions against a railroad ~~or~~ 1848  
~~telegraph company,~~ or an officer, agent, or employee thereof, 1849  
under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 1850  
4923., ~~and 4925.~~ and other sections of the Revised Code for 1851  
penalties involving imprisonment shall be by indictment. 1852

**Sec. 4905.59.** If the public utilities commission, the officer 1853  
requested by it, or a village solicitor or city director of law, 1854  
when the cause of action arises in a municipal corporation, fails 1855  
to prosecute a civil action for forfeiture against a railroad ~~or~~ 1856  
~~telegraph company,~~ or an officer, agent, or employee thereof as 1857  
provided by law, the prosecuting attorney of the county in which a 1858  
cause of action for forfeiture arises, upon the request of any 1859  
taxpayer of the county, shall bring such action if ~~he~~ the 1860  
prosecuting attorney is furnished with evidence ~~which~~ that in ~~his~~ 1861  
the prosecuting attorney's judgment will sustain it. If the action 1862  
fails, the costs of the action shall be adjudged against the 1863  
county. 1864

If a cause of action for forfeiture arises within a municipal 1865  
corporation, and the commission, the officer requested by it, or 1866  
the prosecuting attorney, fails to prosecute such action, the 1867  
village solicitor or city director of law of the municipal 1868  
corporation, when required by resolution of the legislative 1869  
authority, shall institute the action and prosecute it to final 1870  
judgment. If the action fails, the cost of the action shall be 1871  
adjudged against the municipal corporation. The time for notice of 1872  
appeal and giving a bond does not apply to cases within the 1873  
meaning of this section. 1874

**Sec. 4905.61.** If any public utility or railroad does, or 1875  
causes to be done, any act or thing prohibited by Chapters 4901., 1876

4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1877  
Revised Code, or declared to be unlawful, or omits to do any act 1878  
or thing required by ~~such~~ the provisions of those chapters, or by 1879  
order of the public utilities commission, ~~such~~ the public utility 1880  
or railroad is liable to the person, firm, or corporation injured 1881  
thereby in treble the amount of damages sustained in consequence 1882  
of ~~such~~ the violation, failure, or omission. Any recovery under 1883  
this section does not affect a recovery by the state for any 1884  
penalty provided for in ~~such~~ the chapters. 1885

**Sec. 4905.63.** ~~Companies~~ A company formed to acquire property 1886  
or to transact business ~~which~~ that would be subject to Chapters 1887  
4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. 1888  
of the Revised Code, and ~~companies~~ a company owning or possessing 1889  
franchises for any of the purposes contemplated in ~~such~~ those 1890  
chapters, are subject to ~~such chapters~~ those chapters' provisions, 1891  
although no property has been acquired, no business has been 1892  
transacted, or no franchises have been exercised by ~~them~~ the 1893  
company. 1894

**Sec. 4905.71.** (A) Every telephone, ~~telegraph,~~ or electric 1895  
light company, ~~which~~ that is a public utility as defined by 1896  
section 4905.02 of the Revised Code, shall permit, upon reasonable 1897  
terms and conditions and the payment of reasonable charges, the 1898  
attachment of any wire, cable, facility, or apparatus to its 1899  
poles, pedestals, or placement of same in conduit duct space, by 1900  
any person or entity other than a public utility that is 1901  
authorized and has obtained, under law, any necessary public or 1902  
private authorization and permission to construct and maintain the 1903  
attachment, so long as the attachment does not interfere, 1904  
obstruct, or delay the service and operation of the telephone, 1905  
~~telegraph,~~ or electric light company, or create a hazard to 1906  
safety. Every such telephone, ~~telegraph,~~ or electric light company 1907

shall file tariffs with the public utilities commission containing 1908  
the charges, terms, and conditions established for such use. 1909

(B) The ~~public utilities~~ commission shall regulate the 1910  
justness and reasonableness of the charges, terms, and conditions 1911  
contained in any such tariff, and may, upon complaint of any 1912  
persons in which it appears that reasonable grounds for complaint 1913  
are stated, or upon its own initiative, investigate such charges, 1914  
terms, and conditions and conduct a hearing to establish just and 1915  
reasonable charges, terms, and conditions, and to resolve any 1916  
controversy ~~which~~ that may arise among the parties as to such 1917  
attachment. 1918

**Sec. 4905.73.** (A) The public utilities commission, upon 1919  
complaint by any person or complaint or initiative of the 1920  
commission, has jurisdiction under section 4905.26 of the Revised 1921  
Code regarding any violation of division (B) of section 4905.72 of 1922  
the Revised Code by a public utility. 1923

(B) Upon complaint or initiative under division (A) of this 1924  
section, if the commission finds, after notice and hearing 1925  
pursuant to section 4905.26 of the Revised Code, that a public 1926  
utility has violated section 4905.72 of the Revised Code, the 1927  
commission, by order, shall do all of the following: 1928

(1) Rescind the aggrieved consumer's change in service 1929  
provider; 1930

(2) Require the public utility to absolve the aggrieved 1931  
consumer of any liability for any charges assessed the consumer, 1932  
or refund to the aggrieved consumer any charges collected from the 1933  
consumer, by the public utility during the thirty-day period after 1934  
the violation or failure to comply occurred or, where appropriate, 1935  
during such other period after that occurrence as determined 1936  
reasonable by the commission; 1937

(3) Require the public utility to refund or pay to the 1938  
aggrieved consumer any fees paid or costs incurred by the consumer 1939  
resulting from the change of the consumer's service provider or 1940  
providers, or from the resumption of the consumer's service with 1941  
the service provider or providers from which the consumer was 1942  
switched; 1943

(4) Require the public utility to make the consumer whole 1944  
regarding any bonuses or benefits, such as airline mileage or 1945  
product discounts, to which the consumer is entitled, by restoring 1946  
bonuses or benefits the consumer lost as a result of the violation 1947  
or failure to comply and providing bonuses or benefits the 1948  
consumer would have earned if not for the violation or failure to 1949  
comply, or by providing something of equal value. 1950

(C) In addition to the remedies under division (B) of this 1951  
section, if the commission finds, after notice and hearing 1952  
pursuant to section 4905.26 of the Revised Code, that a public 1953  
utility has violated section 4905.72 of the Revised Code, the 1954  
commission, by order, may impose any of the following remedies or 1955  
forfeitures: 1956

(1) Require the public utility to comply or undertake any 1957  
necessary corrective action; 1958

(2) Require the public utility to compensate the service 1959  
provider or providers from which the aggrieved consumer was 1960  
switched in the amount of all charges the consumer would have paid 1961  
that particular service provider for the same or comparable 1962  
service had the violation or failure to comply not occurred; 1963

(3) Require the public utility to compensate the service 1964  
provider or providers from which the aggrieved consumer was 1965  
switched for any costs that the particular service provider incurs 1966  
as a result of making the consumer whole as provided in division 1967  
(B)(4) of this section or of effecting the resumption of the 1968

consumer's service; 1969

(4) Assess upon the public utility forfeitures of not more 1970  
than one thousand dollars for each day of each violation or 1971  
failure to comply. However, if the commission finds that the 1972  
public utility has engaged or is engaging in a pattern or practice 1973  
of committing any such violations or failures to comply, the 1974  
commission may assess upon the public utility forfeitures of not 1975  
more than five thousand dollars for each day of each violation or 1976  
failure. Any forfeiture collected pursuant to this division shall 1977  
be deposited into the state treasury to the credit of the general 1978  
revenue fund. 1979

(5) Require the public utility to file with the commission a 1980  
security payable to the state in such amount and upon such terms 1981  
as the commission determines necessary to ensure compliance and 1982  
payment of any forfeitures assessed pursuant to division (C)(4) of 1983  
this section; 1984

(6) Rescind the public utility's authority to provide natural 1985  
gas service or public telecommunications service within this 1986  
state. 1987

(D) Proceedings of the commission pursuant to division (B) or 1988  
(C) of this section are governed by Chapter 4903. of the Revised 1989  
Code. 1990

(E) The commission may direct the attorney general to 1991  
commence an action under section 4905.57 or 4905.60 of the Revised 1992  
Code to enforce an order of the commission issued under division 1993  
(B) or (C) of this section, including orders assessing 1994  
forfeitures. Notwithstanding section 4905.57 of the Revised Code, 1995  
an action authorized under this division may be brought in the 1996  
court of common pleas of Franklin county or the court of common 1997  
pleas of any county in which venue is proper under the Rules of 1998  
Civil Procedure. 1999

(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. 2000  
2001  
2002

(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. 2003  
2004  
2005  
2006

**Sec. 4905.84.** (A) As used in this section: 2007

(1) "Telecommunications relay service" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device. 2008  
2009  
2010  
2011  
2012  
2013  
2014  
2015  
2016  
2017  
2018

(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. 2019  
2020  
2021  
2022  
2023

(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 2024  
2025  
2026  
2027  
2028  
2029  
2030

providers to be assessed the telecommunications relay service 2031  
costs, including telephone companies as defined in division 2032  
(A)~~(2)~~(1) of section 4905.03 of the Revised Code, commercial 2033  
mobile radio service providers, and providers of advanced services 2034  
or internet protocol-enabled services that are competitive with or 2035  
functionally equivalent to basic local exchange service as defined 2036  
in section 4927.01 of the Revised Code. 2037

(C) The assessment shall be allocated proportionately among 2039  
the appropriate service providers using a competitively neutral 2040  
formula established by the commission based on the number of 2041  
retail intrastate customer access lines or their equivalent. The 2042  
commission shall annually reconcile the funds collected with the 2043  
actual costs of providing telecommunications relay service when it 2044  
issues the assessment and shall either proportionately charge the 2045  
service providers for any amounts not sufficient to cover the 2046  
actual costs or proportionately credit amounts collected in excess 2047  
of the actual costs. The total amount assessed from all service 2048  
providers shall not exceed the total telecommunications relay 2049  
service costs. 2050

Each service provider that pays the assessment shall be 2051  
permitted to recover the cost of the assessment. The method of 2052  
recovery may include, but is not limited to, a customer billing 2053  
surcharge. 2054

The commission shall deposit the money collected in the 2055  
telecommunications relay service fund, which is hereby created in 2056  
the state treasury, and shall use the money in that fund solely to 2057  
compensate the TRS provider. 2058

(D) The commission shall take such measures as it considers 2059  
necessary to protect the confidentiality of information provided 2060  
to the commission pursuant to this section by service providers 2061  
required to pay the assessment. 2062

(E) The commission may assess a forfeiture of not more than 2063  
one thousand dollars on any service provider failing to comply 2064  
with this section. Each day's continuance of such failure is a 2065  
separate offense. The forfeiture shall be recovered in accordance 2066  
with sections 4905.55 to 4905.60 of the Revised Code. 2067

(F) The jurisdiction and authority granted to the commission 2068  
by this section is limited to the administration and enforcement 2069  
of this section. The commission may adopt such rules as it finds 2070  
necessary to carry out this section. The commission shall adopt 2071  
rules under section 111.15 of the Revised Code to establish the 2072  
assessment amounts and procedures. 2073

**Sec. 4905.99.** (A) Whoever violates section 4905.52 of the 2074  
Revised Code shall be fined not less than fifty nor more than five 2075  
hundred dollars. 2076

(B) Whoever violates section 4905.56 of the Revised Code is 2077  
guilty of a felony of the fifth degree. 2078

~~(C) Coincident with the operation of section 4905.78 of the 2079  
Revised Code, whoever violates that section is guilty of a 2080  
misdemeanor of the fourth degree. 2081~~

~~(D) Whoever violates section 4905.74 of the Revised Code is 2082  
guilty of a misdemeanor of the third degree. 2083~~

**Sec. 4907.01.** As used in sections 4907.01 to 4907.63, 2084  
~~inclusive,~~ of the Revised Code: 2085

(A) "Public utility" has the same meaning ~~set forth~~ as in 2086  
section 4905.02 of the Revised Code. 2087

(B) ~~"Telegraph company," "telephone Telephone company," 2088  
"electric light company," "gas company," "natural gas company," 2089  
"pipe line company," "water works company," "sewage disposal 2090  
system company," "heating or cooling company," "messenger 2091~~

~~company," "street railway company," "suburban railroad company,"~~ 2092  
~~and "interurban railroad company," and "motor propelled vehicle"~~ 2093  
have the ~~meaning set forth~~ same meanings as in section 4905.03 of 2094  
the Revised Code. 2095

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2096  
4907.02 of the Revised Code. 2097

(D) ~~"Motor transportation company," "trailer," "public~~ Public 2098  
~~highway," "fixed termini," "regular route," and "irregular route"~~ 2099  
have has the same meaning ~~set forth~~ as in sections 4905.03 and 2100  
4921.02 of the Revised Code. 2101

~~(E) "Private motor carrier," "contract carrier by motor~~ 2102  
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2103  
~~meaning set forth in section 4923.02 of the Revised Code.~~ 2104

**Sec. 4907.14.** Within thirty days after the election of the 2105  
directors of a railroad ~~or telegraph company~~ doing business in 2106  
this state, the secretary of ~~such companies~~ the railroad shall 2107  
forward to the public utilities commission a list of the officers 2108  
and directors thereof, giving the place of residence and 2109  
post-office address of each. If a change occurs in the 2110  
organization of the officers or board of directors of a railroad 2111  
~~or telegraph company~~, the secretary shall notify the commission of 2112  
such change and the residence and post-office address of each of 2113  
the officers and directors. 2114

**Sec. 4907.30.** No railroad company owning or operating a 2115  
railroad wholly or partly within this state shall, directly or 2116  
indirectly, issue or give a free ticket, free pass, or free 2117  
transportation for passengers, except to: 2118

(A) Its employees and their families, its officers, agents, 2119  
surgeons, physicians, and attorneys at law; 2120

(B) Ministers of religion, traveling secretaries of railroad 2121

young men's or young women's ~~christian~~ Christian associations, 2122  
inmates of hospitals and charitable institutions, and persons 2123  
exclusively engaged in charitable work; 2124

(C) Indigent, destitute, and homeless persons, and to such 2125  
persons when transported by charitable societies or hospitals, and 2126  
the necessary agents employed in such transportation; 2127

(D) Residents of the national homes or state homes for 2128  
disabled volunteer soldiers, and residents of veterans' homes, 2129  
including those about to enter and those returning home after 2130  
discharge, and boards of managers of such homes; 2131

(E) Necessary caretakers of livestock, poultry, and fruit; 2132

(F) Employees on sleeping cars, ~~and~~ or express cars; 2133

(G) Line workers of ~~telegraph~~ and telephone companies; 2134

(H) Railway mail service employees, post-office inspectors, 2135  
custom inspectors, and immigration inspectors; 2136

(I) News carriers on trains, baggage agents, witnesses 2137  
attending any legal investigation in which the railroad is 2138  
interested, persons injured in wrecks, and physicians and nurses 2139  
attending such persons. 2140

As used in this section, "employee" includes furloughed, 2141  
pensioned, and superannuated employees, persons who have become 2142  
disabled or infirm in the service of any such common carrier, the 2143  
remains of a person killed in the employment of a carrier, and 2144  
ex-employees traveling for the purpose of entering the service of 2145  
any such common carrier, and "families" includes the families of 2146  
such persons and also the surviving spouses and dependent children 2147  
of employees who died while in the service of any common carrier. 2148

**Sec. 4909.01.** As used in this chapter: 2149

(A) "Public utility" has the same meaning ~~set forth~~ as in 2150

section 4905.02 of the Revised Code. 2151

(B) ~~"Telegraph company," "telephone company," "electric~~ 2152  
~~Electric~~ light company," "gas company," "natural gas company," 2153  
"pipeline company," "water-works company," "sewage disposal system 2154  
company," ~~"heating or cooling company," "messenger company," and~~ 2155  
~~"street railway company," "suburban railroad company," "interurban~~ 2156  
~~railroad company," and "motor propelled vehicle"~~ have the same 2157  
meanings ~~set forth as~~ in section 4905.03 of the Revised Code. 2158

(C) "Railroad" has the same meaning ~~set forth as~~ in section 2159  
4907.02 of the Revised Code. 2160

(D) "Motor transportation company" has the same meaning ~~set~~ 2161  
~~forth as~~ in sections 4905.03 and 4921.02 of the Revised Code. 2162

~~(E) "Trailers," "public highway," "fixed termini," "regular~~ 2163  
~~route," and "irregular route" have the meanings set forth in~~ 2164  
~~section 4921.02 of the Revised Code.~~ 2165

~~(F) "Private motor carrier," "contract carrier by motor~~ 2166  
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2167  
~~meanings set forth in section 4923.02 of the Revised Code.~~ 2168

**Sec. 4909.02.** All regulations, practices, and service of 2169  
railroad companies ~~and telegraph companies~~ prescribed by the 2170  
public utilities commission shall be in force and be prima-facie 2171  
reasonable, unless suspended or found otherwise in an action 2172  
brought for that purpose pursuant to Chapters 4901., 4903., 4905., 2173  
4907., 4909., 4921., and 4923. of the Revised Code, or until 2174  
changed or modified by the commission. 2175

**Sec. 4909.03.** All rates, fares, charges, classifications, and 2176  
joint rates of railroad companies ~~and telegraph companies~~ fixed by 2177  
the public utilities commission shall be in force and be 2178  
prima-facie lawful for two years from the day they take effect, or 2179  
until changed or modified by the commission or by an order of a 2180

competent court in an action under Chapters 4901., 4903., 4905., 2181  
4907., 4909., 4921., and 4923., ~~and 4925.~~ of the Revised Code. 2182

**Sec. 4909.17.** No rate, joint rate, toll, classification, 2183  
charge, or rental, no change in any rate, joint rate, toll, 2184  
classification, charge, or rental, and no regulation or practice 2185  
affecting any rate, joint rate, toll, classification, charge, or 2186  
rental of a public utility shall become effective until the public 2187  
utilities commission, by order, determines it to be just and 2188  
reasonable, except as provided in this section and sections 2189  
4909.18 and 4909.19 of the Revised Code. Such sections do not 2190  
apply to any rate, joint rate, toll, classification, charge, or 2191  
rental, or any regulation or practice affecting the same, of 2192  
railroads, street and electric railways, motor transportation 2193  
companies, ~~telegraph companies,~~ and pipe line companies. ~~Any~~ 2194  
~~change of any rate, joint rate, toll, classification, charge, or~~ 2195  
~~rental, or any regulation or practice affecting the same, of~~ 2196  
~~telegraph companies, may be made in the same manner as such~~ 2197  
~~changes may be made by railroad companies. All laws respecting~~ 2198  
~~such changes by railroad companies apply to such changes by~~ 2199  
~~telegraph companies.~~ 2200

**Sec. 4911.01.** As used in this chapter: 2201

(A) "Public utility" means every one as defined in divisions 2202  
(A)(1), ~~(2)~~(3), (4), (5), (6), (7), (8), ~~(9)~~, and ~~(14)~~(13) of 2203  
section 4905.03 of the Revised Code, including all public 2204  
utilities that ~~operating~~ operate their utilities not for profit, 2205  
except the following: 2206

(1) Electric light companies that operate their utilities not 2207  
for profit; 2208

(2) Public utilities, other than telephone companies, that 2209  
are owned and operated exclusively by and solely for the 2210

utilities' customers;	2211
(3) Public utilities that are owned or operated by any municipal corporation;	2212 2213
(4) Railroads as defined in sections 4907.02 and 4907.03 of the Revised Code.	2214 2215
(B) "Residential consumer" means urban, suburban, and rural patrons of public utilities insofar as their needs for utility services are limited to their residence.	2216 2217 2218
<b>Sec. 4921.01.</b> As used in sections 4921.01 to 4921.32 <del>7</del> <del>inclusive,</del> of the Revised Code:	2219 2220
(A) "Public utility" has the <u>same</u> meaning <del>set forth as</del> in section 4905.02 of the Revised Code.	2221 2222
(B) " <del>Telegraph company,</del> " " <del>telephone company,</del> " " <del>electric light</del> <del>company,</del> " " <del>gas company,</del> " " <del>natural gas company,</del> " " <del>pipe line</del> <del>company,</del> " " <del>water works company,</del> " " <del>sewage disposal system company,</del> " <del>"heating or cooling company,</del> " " <del>messenger company,</del> " " <del>street Street</del> railway company," " <del>suburban railroad company,</del> " "interurban railroad company," and "motor-propelled vehicle" have the <del>meaning</del> <del>set forth</del> <u>same meanings as</u> in section 4905.03 of the Revised Code.	2223 2224 2225 2226 2227 2228 2229 2230
(C) "Railroad" has the <u>same</u> meaning <del>set forth as</del> in section 4907.02 of the Revised Code.	2231 2232
(D) "Motor transportation company" has the <u>same</u> meaning <del>set</del> <del>forth as</del> in sections 4905.03 and 4921.02 of the Revised Code.	2233 2234
(E) "Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the <del>meaning set forth</del> <u>same meanings as</u> in section 4923.02 of the Revised Code.	2235 2236 2237 2238
<b>Sec. 4923.01.</b> As used in sections 4923.01 to 4923.17 <del>7</del>	2239

<del>inclusive,</del> of the Revised Code:	2240
(A) "Public utility" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4905.02 of the Revised Code.	2241 2242
(B) <del>"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</del> <u>Motor-propelled</u> vehicle" <del>have</del> <u>has</u> the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4905.03 of the Revised Code.	2243 2244 2245 2246 2247 2248 2249 2250
(C) <del>"Railroad" has the meaning set forth in section 4907.02 of the Revised Code.</del>	2251 2252
<del>(D)</del> "Motor transportation company" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in sections 4905.03 and 4921.02 of the Revised Code.	2253 2254
<del>(E)</del> <u>(D)</u> "Trailer," "public highway," <del>"fixed termini," and "regular route," and "irregular route"</del> have the meaning <del>set forth</del> <u>same meanings as</u> in section 4921.02 of the Revised Code.	2255 2256 2257
<b>Sec. 4927.01. (A)</b> As used in this chapter:	2258
<del>(A)</del> <u>(1)</u> <u>"Advanced services," "broadband service," and "information services" have the same meanings as in division (E) of section 4905.02 of the Revised Code.</u>	2259 2260 2261
<u>(2)</u> "Basic local exchange service" means+	2262
<del>(1)</del> <u>End residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that enable</u> <u>does both of the following:</u>	2263 2264 2265 2266 2267 2268 2269

<del>(a) Enables a customer, over the primary line serving the</del>	2270
<del>customer's premises, to originate or receive voice communications</del>	2271
<del>within a local service area, and that consist as that area exists</del>	2272
<del>on the effective date of the amendment of this section by .... B.</del>	2273
<del>No. .... of the 128th general assembly;</del>	2274
<u>(b) Consists of all of the following services:</u>	2275
<del>(a)(i) Local dial tone service;</del>	2276
<del>(b)(ii) For residential end users, flat-rate telephone</del>	2277
<del>exchange service;</del>	2278
<u>(iii) Touch tone dialing service;</u>	2279
<del>(e)(iv) Access to and usage of 9-1-1 services, where such</del>	2280
<del>services are available;</del>	2281
<del>(d)(v) Access to operator services and directory assistance;</del>	2282
<del>(e)(vi) Provision of a telephone directory <u>in any reasonable</u></del>	2283
<del><u>format for no additional charge</u> and a listing in that directory,</del>	2284
<del><u>with reasonable accommodations made for private listings;</u></del>	2285
<del>(f)(vii) Per call, caller identification blocking services;</del>	2286
<del>(g)(viii) Access to telecommunications relay service; and</del>	2287
<del>(h)(ix) Access to toll presubscription, interexchange or toll</del>	2288
<del>providers or both, and networks of other telephone companies.</del>	2289
<del>(2)(3) "Carrier access" <u>means access</u> to and usage of</del>	2290
<del>telephone company-provided facilities that enable end user</del>	2291
<del>customers originating or receiving voice grade, data, or image</del>	2292
<del>communications, over a local exchange telephone company network</del>	2293
<del>operated within a local service area, to access interexchange or</del>	2294
<del>other networks <u>and includes special access.</u></del>	2295
<del>(B) "Cable television service" <u>means any transmission of</u></del>	2296
<del>video or other programming service to subscribers and any</del>	2297
<del>subscriber interaction required for the selection of that video or</del>	2298

~~other programming service.~~ 2299

~~(C)(4) "Federal poverty level" means the income level~~ 2300  
~~represented by the poverty guidelines as revised annually by the~~ 2301  
~~United States department of health and human services in~~ 2302  
~~accordance with section 673(2) of the "Omnibus Reconciliation Act~~ 2303  
~~of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family~~ 2304  
~~size equal to the size of the family of the person whose income is~~ 2305  
~~being determined.~~ 2306

~~(5) "Incumbent local exchange carrier" means, with respect to~~ 2307  
~~an area, the local exchange carrier that:~~ 2308

~~(a) On February 8, 1996, provided telephone exchange service~~ 2309  
~~in such area; and~~ 2310

~~(b)(i) On February 8, 1996, was deemed to be a member of the~~ 2311  
~~exchange carrier association pursuant to 47 C.F.R. 69.601(b); or~~ 2312

~~(ii) Is a person or entity that, on or after February 8,~~ 2313  
~~1996, became a successor or assign of a member described in~~ 2314  
~~division (A)(5)(b)(i) of this section.~~ 2315

~~(6) "Internet protocol-enabled services" means any services,~~ 2316  
~~capabilities, functionalities, or applications that are provided~~ 2317  
~~using internet protocol or a successor protocol to enable an end~~ 2318  
~~user to send or receive data, video, or voice communications in~~ 2319  
~~internet protocol format or a successor format, regardless of how~~ 2320  
~~any particular such service is classified by the federal~~ 2321  
~~communications commission, and includes voice over internet~~ 2322  
~~protocol service.~~ 2323

~~(7) "Local service area" means the geographic area that may~~ 2324  
~~encompass more than one exchange area and within which a telephone~~ 2325  
~~customer may complete a call to another telephone customer without~~ 2326  
~~being assessed long distance toll charges at not more than the~~ 2327  
~~basic local exchange service rate.~~ 2328

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

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

(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.

(10) "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.

(11) "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 and that provides telecommunications service other than advanced, broadband, information, or internet protocol-enabled services.

(12) "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 2360  
operated to furnish to subscribers intercommunicating service of 2361  
the character ordinarily furnished by a single exchange, and that 2362  
is covered by the exchange service charge; or comparable service 2363  
provided through a system of switches, transmission equipment, or 2364  
other facilities, or combination thereof, by which a customer can 2365  
originate and terminate a telecommunications service. 2366

(13) "Telephone toll service" means telephone service between 2367  
stations in different exchange areas for which there is made a 2368  
separate charge not included in contracts with customers for 2369  
exchange service. 2370

(14) "Voice over internet protocol service" means a service 2371  
that uses a broadband connection from an end user's location and 2372  
enables real-time, two-way, voice communications that originate or 2373  
terminate from the user's location using internet protocol or a 2374  
successor protocol, including, but not limited to, any such 2375  
service that permits an end user to receive calls from and 2376  
terminate calls to the public switched network. 2377

(15) "Wireless service" means federally licensed commercial 2378  
mobile service as defined in the "Telecommunications Act of 1996," 2379  
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 2380  
commercial mobile radio service in 47 C.F.R. 20.3. Under division 2381  
(A)(15) of this section, commercial mobile radio service is 2382  
specifically limited to mobile telephone, mobile cellular 2383  
telephone, paging, personal communications services, and 2384  
specialized mobile radio service provided by a common carrier in 2385  
this state and excludes fixed wireless service. 2386

(16) "Wireless service provider" means a facilities-based 2387  
provider of wireless service to one or more end users in this 2388  
state. 2389

(B) The definitions of this section shall be applied 2390

consistent with the definitions in the "Balanced Budget Act of 1997," 111 Stat. 258, 47 U.S.C. 153, and with federal decisions interpreting those definitions. 2391  
2392  
2393

**Sec. 4927.02.** (A) It is the policy of this state to: 2394

(1) Ensure the availability of adequate basic local exchange service to citizens throughout the state; 2395  
2396

(2) Provide incentives for competing telephone companies to provide advanced, high-quality telecommunications service to citizens throughout the state; 2397  
2398  
2399

(3) Rely primarily on market forces, ~~where they are present and capable of supporting a healthy and sustainable, competitive telecommunications market,~~ to maintain just and reasonable rates, rentals, tolls, and charges for public telecommunications service levels for telecommunications services at reasonable rates; 2400  
2401  
2402  
2403  
2404

~~(3)~~(4) Encourage innovation in the telecommunications industry and the deployment of advanced telecommunications services; 2405  
2406  
2407

~~(4)~~(5) Create a regulatory climate that provides incentives to create and maintain high technology jobs for Ohioans; 2408  
2409

(6) Promote diversity and options in the supply of ~~public~~ telecommunications services and equipment throughout the state; 2410  
2411

~~(5)~~(7) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of ~~public~~ telecommunications services ~~where appropriate;~~ 2412  
2413  
2414

~~(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; 2415  
2416  
2417  
2418  
2419

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

~~(8)(10)~~ Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs, with an appropriate cost recovery mechanism for any additional assistance.

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

**Sec. 4927.03.** (A) The public utilities commission has jurisdiction over telecommunications service and telephone companies in this state as described in sections 4927.01 to 4927.18 of the Revised Code. With respect to internet protocol-enabled services, including voice over internet protocol service, the commission has jurisdiction to act consistent with section 4905.042 of the Revised Code, including performing the acts of a state commission, as defined in 47 U.S.C. 153, under federal law, and including adjudication of disputes between telephone companies and providers of internet protocol-enabled services, including voice over internet protocol service, under section 4927.18 of the Revised Code.

(B) The commission has no authority over a telecommunications service that is not commercially available on the effective date of this section, unless the commission, upon a finding that the exercise of that jurisdiction is necessary for the protection, welfare, and safety of the public, adopts rules specifying the necessary regulation.

(C) The commission has no authority over wireless service or

wireless service providers, except as provided under sections 2451  
4905.84, 4927.04, 4927.05, 4927.18, 4931.40 to 4931.70, and 2452  
4931.99 of the Revised Code and only to the extent authorized by 2453  
federal law, including federal regulations. The requirements of 2454  
sections 4905.10, 4905.14, and 4911.18 of the Revised Code shall 2455  
apply to a wireless service provider. The commission has such 2456  
authority as is necessary to enforce the sections listed in this 2457  
division. 2458

(D) For purposes of sections 4927.01 to 4927.18 of the 2459  
Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 2460  
4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 2461  
4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 2462  
4905.33, 4905.34, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 2463  
4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to 2464  
a telephone company or, as applicable, to an officer, employee, or 2465  
agent of such company or provider, except to the extent necessary 2466  
for the commission to carry out sections 4927.01 to 4927.18 of the 2467  
Revised Code. 2468

(E) Except as specifically authorized in sections 4927.01 to 2469  
4927.18 of the Revised Code, the commission has no authority over 2470  
the quality of service provided by, and the service rates, terms, 2471  
and conditions of, a telephone company. 2472

(F) The commission shall initially adopt the rules required 2473  
by this chapter not later than one hundred twenty days after the 2474  
effective date of this section. Subject to the authority granted 2475  
to the commission under this chapter, the commission may adopt 2476  
other rules as it finds necessary to carry out this chapter. 2477

**Sec. 4927.04.** The public utilities commission has such power 2478  
and jurisdiction as is reasonably necessary for it to perform the 2479  
obligations authorized by or delegated to it under federal law, 2480  
including federal regulations, which obligations include 2481

performing the acts of a state commission as defined in the 2482  
"Balanced Budget Act of 1997," 111 Stat. 258, 47 U.S.C. 153 and 2483  
include, but are not limited to, carrying out any of the 2484  
following: 2485

(A) Rights and obligations under the interconnection 2486  
provisions of Pub. L. No. 106-81, 113 Stat. 1287, 47 U.S.C. 251; 2487

(B) Authority to mediate and arbitrate disputes under the 2488  
"Telecommunications Act of 1996," 110 Stat. 66, 47 U.S.C. 252; 2489

(C) Administration of telephone numbers and number 2490  
portability; 2491

(D) Certification for universal service funding; 2492

(E) Administration of truth-in-billing; 2493

(F) Administration of customer proprietary network 2494  
information; 2495

(G) Outage reporting consistent with federal requirements. 2496

**Sec. 4927.05.** (A)(1) No telephone company shall operate in 2497  
this state without first obtaining a certificate from the public 2498  
utilities commission, and no wireless service provider shall 2499  
operate in this state without first being registered with the 2500  
commission. A telephone company not holding such a certificate on 2501  
the effective date of this section, or a wireless service provider 2502  
not so registered on that date, shall file, respectively, a 2503  
certification application or registration with the commission, 2504  
each in the manner set forth in rules adopted by the commission. 2505  
The application or registration shall include all of the 2506  
following: 2507

(a) The company's or provider's name and address; 2508

(b) The name of a contact person and that person's contact 2509  
information; 2510

<u>(c) A service description, including the general geographic areas served, but not maps of service areas;</u>	2511
	2512
<u>(d) Evidence of registration with the secretary of state;</u>	2513
<u>(e) Evidence of notice to the public utilities tax division of the department of taxation of the company's or provider's intent to provide service;</u>	2514
	2515
	2516
<u>(f) As to a certification application, evidence of financial, technical, and managerial ability to provide adequate service to the public consistent with law.</u>	2517
	2518
	2519
<u>Division (A)(1) of this section does not apply to any incumbent local exchange carrier.</u>	2520
	2521
<u>(2) The commission may suspend or reject the certification application of a telephone company if it finds, within thirty days after the application's submission and based on the evidence provided under division (A)(1)(f) of this section, that the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service to the public consistent with law.</u>	2522
	2523
	2524
	2525
	2526
	2527
	2528
<u>(B) The commission shall require a telephone company to update its certification, and a wireless service provider to update its registration, and provide any necessary notice to customers, in the manner set forth in rules adopted by the commission, if any of the filed information described in divisions (A)(1)(a) to (f) of this section changes.</u>	2529
	2530
	2531
	2532
	2533
	2534
<u>Sec. 4927.06. (A) No telephone company shall commit any unfair or deceptive act or practice in connection with the offering or provision of any telecommunications service in this state. A failure to comply with any of the following requirements shall constitute an unfair or deceptive act or practice by a telephone company:</u>	2535
	2536
	2537
	2538
	2539
	2540

(1) Any communication by the company, including, but not limited to, a solicitation, offer, or contract term or condition, shall be truthful, clear, conspicuous, and accurate in disclosing any material terms and conditions of service and any material exclusions or limitations. This requirement does not apply where it is not practicable to include that information. 2541  
2542  
2543  
2544  
2545  
2546

(2) Any written service solicitation, marketing material, offer, contract, or agreement, as well as any written response from the company to a service-related inquiry or complaint that the company receives from a customer or others, shall disclose the company's name and contact information. This requirement does not apply where it is not practicable to include that information. 2547  
2548  
2549  
2550  
2551  
2552

(3) The company shall inform its customers, as applicable and in any reasonable manner, of their rights and responsibilities concerning inside wire, the repair and maintenance of customer-owned equipment, and the use of a network interface device, and of any charges that the company imposes for a diagnostic visit, consistent with rules adopted by the commission. 2553  
2554  
2555  
2556  
2557  
2558  
2559

(4) The company shall not commit any act, practice, or omission that the commission determines, by rulemaking under section 4927.03 of the Revised Code or adjudication under section 4927.18 of the Revised Code, constitutes an unfair or deceptive act or practice in connection with the offering or provision of telecommunications service in this state. 2560  
2561  
2562  
2563  
2564  
2565  
2566

(B) The commission shall provide notice to all telephone companies specifying any act, practice, or omission that it prescribes pursuant to division (A)(4) of this section. No telephone company is liable for any act, practice, or omission absent that notice and adequate time for implementation. 2567  
2568  
2569  
2570  
2571

(C) This section does not apply to wireless service. A 2572  
consumer purchase of wireless service or a related product shall 2573  
constitute a consumer transaction for purposes of sections 1345.01 2574  
to 1345.13 of the Revised Code, notwithstanding any provision of 2575  
those sections to the contrary. 2576

**Sec. 4927.07.** (A) A telephone company may withdraw any 2577  
telecommunications service if it gives at least thirty days' prior 2578  
notice to the public utilities commission and to its affected 2579  
customers. 2580

(B) A telephone company may abandon entirely 2581  
telecommunications service in this state if it gives at least 2582  
thirty days' prior notice to the commission, to its wholesale and 2583  
retail customers, and to any telephone company wholesale provider 2584  
of its services. 2585

(C) Divisions (A) and (B) of this section do not apply to 2586  
basic local exchange service provided by an incumbent local 2587  
exchange carrier. 2588

**Sec. 4927.08.** (A) A telephone company providing basic local 2589  
exchange service shall conduct its operations so as to ensure that 2590  
the service is available, adequate, and reliable, consistent with 2591  
applicable industry standards. 2592

(B) The public utilities commission shall adopt rules 2593  
applicable to telephone company provision of basic local exchange 2594  
service that conform to the following requirements, and no other 2595  
rules regarding that service except as expressly authorized in 2596  
this chapter: 2597

(1) Basic local exchange service shall be installed within 2598  
five business days of the receipt by a telephone company of a 2599  
completed application for that service. 2600

(2) A basic local exchange service outage or 2601

service-affecting problem shall be repaired within seventy-two 2602  
hours after it is reported to the telephone company. 2603

(3) A telephone company may disconnect basic local exchange 2604  
service for nonpayment of any amount past due on a billed account 2605  
not earlier than fourteen days after the due date of the 2606  
customer's bill, provided that the customer is given notice of the 2607  
disconnection seven days before the disconnection. 2608

(4) Reconnection of service previously disconnected for 2609  
nonpayment shall be completed not later than five business days 2610  
after the receipt of payment in full by the telephone company of 2611  
the amount owed. 2612

(5) A telephone company may require a deposit, not to exceed 2613  
a reasonable estimate of three months' service charges, for the 2614  
installation of basic local exchange service for any person that 2615  
it determines, in its discretion, is not creditworthy. 2616

(6) If residential basic local exchange service is 2617  
disconnected for nonpayment, a telephone company shall maintain 2618  
the customer's access to 9-1-1 service for a period of at least 2619  
fourteen days following the disconnection. 2620

(7) If a customer disconnected for nonpayment of past due 2621  
charges enters into a mutually agreed-upon payment arrangement, a 2622  
telephone company shall, upon request, reconnect that customer to 2623  
basic local exchange service, without requiring the payment of the 2624  
full amount due. 2625

**Sec. 4927.09.** (A) Except as otherwise provided in this 2626  
section, an incumbent local exchange carrier shall provide basic 2627  
local exchange service on a reasonable and nondiscriminatory basis 2628  
to all persons or entities in its service area requesting that 2629  
service. 2630

(B)(1) An incumbent local exchange carrier is not obligated 2631

to construct facilities and provide basic local exchange service, 2632  
or any other telecommunications service, to the occupants of 2633  
multitenant real estate, including, but not limited to, 2634  
apartments, condominiums, subdivisions, office buildings, or 2635  
office parks, if the owner, operator, or developer of the 2636  
multitenant real estate does any of the following to the benefit 2637  
of any other telecommunications service provider: 2638

(a) Permits only one provider of telecommunications service 2639  
to install the company's facilities or equipment during the 2640  
construction or development phase of the multitenant real estate; 2641

(b) Accepts or agrees to accept incentives or rewards that 2642  
are offered by a telecommunications service provider to the owner, 2643  
operator, developer, or occupants of the multitenant real estate 2644  
and are contingent on the provision of telecommunications service 2645  
by that provider to the occupants, to the exclusion of services 2646  
provided by other telecommunications service providers; 2647

(c) Collects from the occupants of the multitenant real 2648  
estate any charges for the provision of telecommunications service 2649  
to the occupants, including charges collected through rents, fees, 2650  
or dues. 2651

(2) A carrier not obligated to construct facilities and 2652  
provide basic local exchange service pursuant to division (B)(1) 2653  
of this section shall notify the public utilities commission of 2654  
that fact within one hundred twenty days of receiving knowledge 2655  
thereof. 2656

(3) The commission by rule may establish a process for 2657  
determining a necessary successor telephone company to provide 2658  
service to real estate described in division (B)(1) of this 2659  
section when the circumstances described in that division cease to 2660  
exist. 2661

(4) An incumbent local exchange carrier that receives a 2662

request from any person or entity to provide service under the 2663  
circumstances described in division (B)(1) of this section shall, 2664  
within fifteen days of such receipt, provide notice to the person 2665  
or entity specifying whether the carrier will provide the 2666  
requested service. If the carrier provides notice that it will not 2667  
serve the person or entity, the notice shall describe the person's 2668  
or entity's right to file a complaint with the commission under 2669  
section 4927.18 of the Revised Code within thirty days after 2670  
receipt of the notice. In resolving any such complaint, the 2671  
commission's determination shall be limited to whether any 2672  
circumstance described in divisions (B)(1)(a) to (c) of this 2673  
section exists. Upon a finding by the commission that such a 2674  
circumstance exists, the complaint shall be dismissed. Upon a 2675  
finding that such circumstances do not exist, the person's or 2676  
entity's sole remedy shall be provision by the carrier of the 2677  
requested service within a reasonable time. 2678

(C) An incumbent local exchange carrier may apply to the 2679  
commission for a waiver from compliance with division (A) of this 2680  
section. Within ninety days of the application's filing, the 2681  
commission either shall issue an order granting the waiver if, 2682  
upon investigation, it finds the waiver to be just, reasonable, 2683  
and not contrary to the public interest, or shall issue an order 2684  
denying the waiver based on a failure to meet those standards and 2685  
specifying the reasons for the denial. 2686

**Sec. 4927.10.** (A)(1) Except as provided in division (A)(2) of 2687  
this section, and only once during the first twelve months 2688  
following the effective date of this section and upon not less 2689  
than thirty days' notice to the public utilities commission and to 2690  
affected customers, an incumbent local exchange carrier may 2691  
increase its rates for basic local exchange service by not more 2692  
than one dollar twenty-five cents above the rates in effect on the 2693  
effective date of this section. 2694

(2) If the incumbent local exchange carrier increased those rates within twelve months prior to the effective date of this section, the increase allowed by division (A)(1) of this section shall not be instituted until twelve months after the date of that increase. 2695  
2696  
2697  
2698  
2699

(B) In subsequent years and upon not less than thirty days' notice to the commission and to affected customers, an incumbent local exchange carrier may increase its rates for basic local exchange service by not more than one dollar twenty-five cents above the basic local exchange service rates in effect at the end of the preceding twelve-month period. No banking of permissible rate increases is permitted. 2700  
2701  
2702  
2703  
2704  
2705  
2706

(C) 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. 2707  
2708  
2709  
2710

**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. 2711  
2712  
2713  
2714

(1) Lifeline service shall consist of all of the following: 2715

(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; 2716  
2717  
2718  
2719

(b) Not more than once at the same address in a twelve-month period, a waiver of all nonrecurring service order charges for establishing service; 2720  
2721  
2722

(c) Free blocking of toll service, 900 service, and 976 service. 2723  
2724

The carrier may offer to lifeline service customers any other services and bundles or packages of service at the prevailing prices, subject to the carrier's prevailing credit requirements. 2725  
2726  
2727

(2) The carrier also shall offer special payment arrangements to lifeline service customers that have past due bills for regulated local service charges, with the initial payment not to exceed twenty-five dollars before service is installed, and the balance for regulated local service charges to be paid over six, equal, monthly payments. Lifeline service customers with past due bills for toll service charges shall have toll restricted service until the past due toll service charges have been paid or until the customer establishes service with another toll service provider. 2728  
2729  
2730  
2731  
2732  
2733  
2734  
2735  
2736  
2737

(3) All other aspects of the carrier's state-specific lifeline service shall be consistent with federal requirements. No carrier shall be required to perform any outreach, marketing, or promotion of lifeline service over and above that which is federally required. 2738  
2739  
2740  
2741  
2742

(B) The rates, terms, and conditions for the carrier's lifeline service shall be tariffed in the manner prescribed by rule adopted by the commission. 2743  
2744  
2745

(C)(1) Eligibility for lifeline service under division (A) of this section shall be based on either of the following criteria: 2746  
2747

(a) A person's verifiable participation in any federal or state low-income assistance program that limits assistance based on household income at or below one hundred fifty per cent of the federal poverty level; 2748  
2749  
2750  
2751

(b) Other verification that a person's household income is at or below one hundred fifty per cent of the federal poverty level. 2752  
2753

The commission shall work with the appropriate state agencies that administer federal or state low-income assistance programs 2754  
2755

and with carriers to negotiate and acquire information necessary 2756  
to verify a person's eligibility and the data necessary to 2757  
automatically enroll eligible persons for lifeline service. 2758

(2) The carrier shall provide written notification if the 2759  
carrier determines that a person is not eligible for lifeline 2760  
service and shall provide the person an additional thirty days to 2761  
prove eligibility. 2762

(3) The carrier shall provide written customer notification 2763  
if a customer's lifeline service is to be terminated due to 2764  
failure to submit acceptable documentation for continued 2765  
eligibility for that assistance and shall provide the customer an 2766  
additional sixty days to submit acceptable documentation of 2767  
continued eligibility or dispute the carrier's findings regarding 2768  
termination of the lifeline service. 2769

(D) An incumbent local exchange carrier or eligible 2770  
telecommunications carrier may establish a surcharge, applied to 2771  
end users of the carrier's telecommunications service other than 2772  
lifeline service customers, to recover any lifeline service 2773  
discounts and any other lifeline service expenses that the 2774  
commission prescribes by rule and that are not recovered through 2775  
federal or state funding. The commission has the authority to 2776  
review the surcharge, which shall be established to prevent 2777  
overrecovery by the carrier. 2778

**Sec. 4927.12.** The public utilities commission may adopt rules 2779  
requiring any telephone company that is a telephone toll service 2780  
provider to offer discounts for operator-assisted and direct-dial 2781  
services for persons with communication disabilities. 2782

**Sec. 4927.13.** (A) The rates, terms, and conditions for 2783  
carrier access, N-1-1 services, including 9-1-1 service, pole 2784  
attachments and conduit occupancy, pay telephone access lines, 2785

toll presubscription, and telecommunications relay service 2786  
provided in this state by a telephone company shall be approved 2787  
and tariffed in the manner prescribed by rule adopted by the 2788  
public utilities commission and shall be subject to the applicable 2789  
laws, including rules or regulations adopted and orders issued by 2790  
the commission or the federal communications commission and, 2791  
including, as to 9-1-1 service, sections 4931.40 to 4931.70 and 2792  
4931.99 of the Revised Code. 2793

(B) The commission may order changes in a telephone company's 2794  
rates for carrier access in this state subject to this division. 2795  
The commission shall not require a telephone company to reduce its 2796  
rates for carrier access that are in effect on the effective date 2797  
of this section except on a revenue-neutral basis, and any 2798  
resulting rate changes necessary to comply with division (B) of 2799  
this section shall be in addition to any rate adjustment 2800  
authorized under section 4927.10 of the Revised Code. The 2801  
commission has authority to address carrier access policy and to 2802  
create and administer mechanisms for carrier access reform, 2803  
including, but not limited to, high cost support. 2804

**Sec. 4927.14.** (A) The public utilities commission shall not 2805  
establish any requirements for the unbundling of network elements, 2806  
for the resale of telecommunications service, or for network 2807  
interconnection that exceed or are inconsistent with or prohibited 2808  
by federal law, including federal regulations. 2809

(B) The commission shall not establish pricing for such 2810  
unbundled elements, resale, or interconnection that is 2811  
inconsistent with or prohibited by federal law, including federal 2812  
regulations, and shall comply with federal law, including federal 2813  
regulations, in establishing such pricing. 2814

**Sec. 4927.15.** A telephone company shall provide at least 2815

fifteen days' advance notice to its affected customers of any 2816  
material change in the rates, terms, and conditions of a service 2817  
and any change in the company's operations that are not 2818  
transparent to customers and may impact service. 2819

**Sec. 4927.16.** The public utilities commission may adopt rules 2820  
regarding the rates, terms, and conditions of intrastate 2821  
telecommunications service initiated from a telephone instrument 2822  
set aside for use by inmates or juvenile offenders by authorities 2823  
of a secured correctional facility. 2824

**Sec. 4927.17.** The public utilities commission may investigate 2825  
or examine the books, records, or practices of any telephone 2826  
company, but only to the extent of the commission's jurisdiction 2827  
over the company under sections 4927.01 to 4927.18 of the Revised 2828  
Code. Subject to that limitation, the commission may do any of the 2829  
following: 2830

(A) Through its commissioners or by inspectors or employees 2831  
authorized by it, examine the books, records, contracts, 2832  
documents, and papers of any such company for any purpose 2833  
incidental to the commission's authority under those sections; 2834

(B) By subpoena duces tecum, compel the production of such 2835  
books, records, contracts, documents, and papers; 2836

(C) Compel the attendance of such witnesses as it requires to 2837  
give evidence in connection with such an investigation. 2838

**Sec. 4927.18.** (A) Any person may file with the public 2839  
utilities commission, or the commission may initiate, a complaint 2840  
against a telephone company other than a wireless service 2841  
provider, alleging that any rate, practice, or service of the 2842  
company is unjust, unreasonable, unjustly discriminatory, or in 2843  
violation of or noncompliance with any provision of sections 2844

4927.01 to 4927.17 of the Revised Code or a rule or order adopted 2845  
or issued under those sections. Any dispute between telephone 2846  
companies, between telephone companies and wireless service 2847  
providers, or between wireless service providers that is within 2848  
the commission's jurisdiction under sections 4927.01 to 4927.17 of 2849  
the Revised Code may be brought by a filing pursuant to this 2850  
division. 2851

(B) If it appears that reasonable grounds for complaint are 2852  
stated by a complaint filed under division (A) of this section, 2853  
the commission shall fix a time for hearing and shall notify 2854  
complainants and the telephone company or wireless service 2855  
provider thereof. The parties to the complaint shall be entitled 2856  
to be heard, represented by counsel, and to have a process for the 2857  
attendance of witnesses. 2858

(C) If the commission after hearing in a proceeding under 2859  
division (B) of this section makes a finding against the party 2860  
complained of, the commission may do either or both of the 2861  
following: 2862

(1) Determine, but only to the extent authorized under 2863  
sections 4927.01 to 4927.17 of the Revised Code, the rate, 2864  
practice, or service thereafter to be adopted and observed, 2865  
including any appropriate remedy for a complaint; 2866

(2) Assess a forfeiture of not more than ten thousand dollars 2867  
for each violation or failure. Each day's continuance of the 2868  
violation or failure is a separate offense, and all occurrences of 2869  
a violation or failure on each such day shall be deemed one 2870  
violation. All forfeitures authorized under this section are 2871  
cumulative, and a suit for and recovery of one does not bar the 2872  
recovery of any other. Collected forfeitures shall be deposited 2873  
into the state treasury to the credit of the general revenue fund. 2874  
Actions to recover such forfeitures shall be prosecuted in the 2875  
name of the state and shall be brought in the court of common 2876

pleas of any county in which the party complained of is located. 2877  
The attorney general shall commence such actions and prosecute 2878  
them when the commission directs. 2879

(D) The commission also may suspend, rescind, or 2880  
conditionally rescind the certification of a telephone company 2881  
under section 4927.05 of the Revised Code under either of the 2882  
following circumstances: 2883

(1) The commission determines, after notice and opportunity 2884  
for hearing, that the telephone company has failed to comply with 2885  
any provision of section 4905.10 or 4905.14 of the Revised Code. 2886

(2) The commission determines in a proceeding under division 2887  
(B) of this section that the telephone company has willfully or 2888  
repeatedly failed to comply with any other applicable state or 2889  
federal law. 2890

(E) The commission has no authority to order credits to any 2891  
customer of a telephone company, except in response to a complaint 2892  
determined in accordance with this section. 2893

(F) Upon request of the commission, the attorney general may 2894  
commence and prosecute such action or proceeding in mandamus, by 2895  
injunction, or by other appropriate civil remedy in the name of 2896  
the state, as is directed by the commission, alleging any 2897  
violation or noncompliance specified in division (A) of this 2898  
section, and praying for such proper relief as the court may 2899  
prescribe. 2900

**Sec. 4929.02.** (A) It is the policy of this state to, 2901  
throughout this state: 2902

(1) Promote the availability to consumers of adequate, 2903  
reliable, and reasonably priced natural gas services and goods; 2904

(2) Promote the availability of unbundled and comparable 2905  
natural gas services and goods that provide wholesale and retail 2906

consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;	2907 2908
(3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers;	2909 2910 2911
(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;	2912 2913
(5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;	2914 2915 2916 2917
(6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment;	2918 2919 2920
(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code;	2921 2922 2923 2924 2925 2926
(8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;	2927 2928 2929
(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;	2930 2931 2932 2933 2934 2935 2936

(10) Facilitate the state's competitiveness in the global economy; 2937  
2938

(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation; 2939  
2940

(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation. 2941  
2942  
2943

(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. 2944  
2945  
2946  
2947

(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. 2948  
2949  
2950  
2951

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. 2952  
2953  
2954

Sec. 4931.02. A ~~telegraph~~ telephone company may construct, own, use, and maintain ~~telegraph~~ telecommunications lines and facilities, whether described in its original articles of incorporation or not, and whether such lines or facilities are wholly within or partly beyond the limits of this state. It may join with another company or association in conducting, leasing, owning, using, or maintaining such lines or facilities, on terms agreed upon between the directors or managers of the respective companies. Such companies may own and hold any interest in such lines or facilities, or become lessees thereof on such terms as they agree upon, but no such company and the owner of rights of way shall contract for the exclusive use of such rights of way for 2955  
2956  
2957  
2958  
2959  
2960  
2961  
2962  
2963  
2964  
2965  
2966

~~telegraphic~~ telecommunications purposes. A telephone company's 2967  
lines and facilities shall not unreasonably interfere with the 2968  
practical uses of the property on which they are located. A 2969  
telephone company shall repair defective lines and facilities, 2970  
which repairs shall be consistent with reasonable business 2971  
practices and applicable industry standards. 2972

**Sec. 4931.03.** (A) A ~~telegraph or~~ telephone company may do 2973  
either of the following in the unincorporated area of the 2974  
township: 2975

(1) Construct ~~telegraph or telephone lines~~ telecommunications 2976  
lines or facilities upon and along any of the public roads and 2977  
highways and across any waters within that area by the erection of 2978  
the necessary fixtures, including posts, piers, or abutments for 2979  
sustaining the cords or wires of those lines or facilities. ~~These~~ 2980  
The lines and facilities shall be constructed so as not to 2981  
unreasonably incommode the public in the use of the roads or 2982  
highways, or endanger or injuriously interrupt the navigation of 2983  
the waters. 2984

(2) Construct ~~telegraph or telephone~~ telecommunications lines 2985  
and ~~the fixtures necessary for containing and protecting those~~ 2986  
~~lines~~ facilities in such a manner as to protect them beneath the 2987  
surface of any of the public roads and highways and beneath any 2988  
waters within that area. Those lines and facilities shall be 2989  
constructed so as not to incommode the public in the use of the 2990  
roads or highways, or endanger or injuriously interrupt the 2991  
navigation of the waters. 2992

(B)(1) This section does not authorize the construction of a 2993  
bridge across any waters within the state. 2994

(2) Construction under this section is subject to section 2995  
5571.16 of the Revised Code, as applicable, and any other 2996  
applicable law, including, but not limited to, any law requiring 2997

approval of the legislative authority, the county engineer, or the 2998  
director of transportation. 2999

**Sec. 4931.04.** A ~~telegraph~~ telephone company may enter upon 3000  
any land held by an individual or a corporation, whether such land 3001  
was acquired by purchase, appropriation, or by virtue of any 3002  
provision in its charter, for the purpose of making preliminary 3003  
examination and surveys, with a view to the location and 3004  
construction of ~~telegraph~~ telecommunications lines and facilities, 3005  
and may appropriate so much of such land in accordance with 3006  
sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, as it 3007  
deems necessary for the construction and maintenance of ~~its~~ 3008  
~~telegraph poles, cables, conduits, piers, abutments, wires, and~~ 3009  
~~other necessary fixtures, stations~~ those lines and facilities, and 3010  
the right of way in, through, over, across, and under such lands 3011  
and adjacent lands, sufficient to enable it to construct and 3012  
repair ~~its~~ the lines and facilities. 3013

**Sec. ~~4931.11~~ 4931.05.** Any company organized at any time to 3014  
transact a ~~telegraph~~, telephone, or communications business may 3015  
construct, reconstruct, own, use, lease, operate, maintain, and 3016  
improve communications systems for the transmission of voices, 3017  
sounds, writings, signs, signals, pictures, visions, images, or 3018  
other forms of intelligence, as public utility services, by means 3019  
of wire, cable, radio, radio relay, or other telecommunications 3020  
facilities, methods, or media. Any such company has the powers and 3021  
is subject to the restrictions prescribed in sections 4931.02 to 3022  
~~4931.22~~ 4931.04 of the Revised Code, for ~~telegraph~~ or telephone 3023  
companies. 3024

**Sec. ~~4931.35~~ 4931.06.** (A) As used in this section and in 3025  
sections 2317.02 and 2921.22 of the Revised Code: 3026

(1) "Communications assistant" means a person who 3027

transliterates conversation from text to voice and from voice to 3028  
text between the end users of a telecommunications relay service 3029  
provided pursuant to this section or Title II of the 3030  
"Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225. 3031

(2) "Communicative impairment" means deafness or speech 3032  
impairment. 3033

(3) "Deafness" means a hearing loss that prevents a person 3034  
from being able to understand speech over the telephone. 3035

(4) "Speech impairment" means a speech impairment that 3036  
renders a person's speech unintelligible on the telephone. 3037

(5) "Telecommunications relay service" means telephone 3038  
transmission services that provide the ability for an individual 3039  
who has a communicative impairment to engage in a communication by 3040  
wire or radio with a hearing individual in a manner that is 3041  
functionally equivalent to the ability of an individual who does 3042  
not have a communicative impairment to communicate using voice 3043  
communication services by wire or radio. "Telecommunications relay 3044  
service" includes services that enable two-way communication 3045  
between an individual who uses a text telephone or other nonvoice 3046  
terminal device and an individual who does not use such a device. 3047

(B) Any communication made by or to a person with a 3048  
communicative impairment with the assistance of a communications 3049  
assistant at a telecommunications relay service is confidential 3050  
and privileged and shall not be disclosed by the communications 3051  
assistant in any civil case or proceeding or in any legislative or 3052  
administrative proceeding, unless the person making the 3053  
communication and the person to whom the communication is made 3054  
each waive the privilege of confidentiality or the obligation to 3055  
divulge the communication is mandated by federal law or regulation 3056  
or pursuant to subpoena in a criminal proceeding. 3057

(C) A communications assistant or a telecommunications relay 3058

service provider is not subject to criminal prosecution and is not 3059  
liable in damages in any civil action on account of the act of 3060  
transliterating or the content of any communication 3061  
transliterated, or any injury, death, or loss to person or 3062  
property allegedly arising from the act of transliterating or the 3063  
content of any communication transliterated, between the end users 3064  
of a telecommunications relay service, except in cases of willful 3065  
or wanton misconduct. 3066

**Sec. 4931.99.** (A) Whoever violates division (D) of section 3067  
4931.49 of the Revised Code is guilty of a misdemeanor of the 3068  
fourth degree. 3069

~~(B) Whoever violates section 4931.25, 4931.26, 4931.27,~~ 3070  
~~4931.30, or 4931.31 of the Revised Code is guilty of a misdemeanor~~ 3071  
~~of the third degree.~~ 3072

~~(C) Whoever violates section 4931.28 of the Revised Code is~~ 3073  
~~guilty of a felony of the fourth degree.~~ 3074

~~(D)~~ Whoever violates ~~section 4931.29 or~~ division (B) of 3075  
section ~~4931.35~~ 4931.06 of the Revised Code is guilty of a 3076  
misdemeanor in the first degree. 3077

~~(E)~~(C) Whoever violates division (E) or (F) of section 3078  
4931.49 or division (B)(2) of section 4931.66 of the Revised Code 3079  
is guilty of a misdemeanor of the fourth degree on a first offense 3080  
and a felony of the fifth degree on each subsequent offense. 3081

~~(F)~~(D) Whoever violates section 4931.75 of the Revised Code 3082  
is guilty of a minor misdemeanor for a first offense and a 3083  
misdemeanor of the first degree on each subsequent offense. 3084

**Sec. 4933.14.** (A) ~~and except~~ Except as otherwise provided in 3085  
division (B) of this section ~~Sections, sections~~ 4931.02 to ~~4931.22~~ 3086  
4931.04 and 4933.13 to 4933.16 of the Revised Code apply to a 3087  
company organized for supplying public and private buildings, 3088

manufacturing establishments, streets, alleys, lanes, lands, 3089  
squares, and public places with electric light and power, and to 3090  
an automatic package carrier. ~~Every and except~~ Except as otherwise 3091  
provided in division (B) of this section, every such company has 3092  
the powers and is subject to the restrictions prescribed for a 3093  
~~telegraph~~ telephone company by sections 4931.02 to ~~4931.22~~ 4931.04 3094  
of the Revised Code. 3095

(B) ~~Sections~~ Section 4931.04, ~~4931.06, 4931.07, 4931.12, and~~ 3096  
~~4931.13~~ of the Revised Code ~~apply~~ applies to a company organized 3097  
for supplying electricity only if the company transmits or 3098  
distributes electricity, and every such company has the powers and 3099  
is subject to the restrictions prescribed for a ~~telegraph~~ 3100  
telephone company by those sections except for the purpose of 3101  
erecting, operating, or maintaining an electric generating 3102  
station. 3103

**Sec. 4933.18.** (A) In a prosecution for a theft offense, as 3104  
defined in section 2913.01 of the Revised Code, that involves 3105  
alleged tampering with a gas, electric, steam, or water meter, 3106  
conduit, or attachment of a utility that has been disconnected by 3107  
the utility, proof that a meter, conduit, or attachment of a 3108  
utility has been tampered with is prima-facie evidence that the 3109  
person who is obligated to pay for the service rendered through 3110  
the meter, conduit, or attachment and is in possession or control 3111  
of the meter, conduit, or attachment at the time the tampering 3112  
occurred has caused the tampering with intent to commit a theft 3113  
offense. 3114

In a prosecution for a theft offense, as defined in section 3115  
2913.01 of the Revised Code, that involves the alleged 3116  
reconnection of a gas, electric, steam, or water meter, conduit, 3117  
or attachment of a utility that has been disconnected by the 3118  
utility, proof that a meter, conduit, or attachment disconnected 3119

by a utility has been reconnected without the consent of the 3120  
utility is prima-facie evidence that the person in possession or 3121  
control of the meter, conduit, or attachment at the time of the 3122  
reconnection has reconnected the meter, conduit, or attachment 3123  
with intent to commit a theft offense. 3124

(B) As used in this section: 3125

(1) "Utility" means any electric light company, gas company, 3126  
natural gas company, pipe-line company, water-works company, or 3127  
heating or cooling company, as defined by division (A)~~(3)~~, (4), 3128  
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3129  
Code, its lessees, trustees, or receivers, or any similar utility 3130  
owned or operated by a political subdivision. 3131

(2) "Tamper" means to interfere with, damage, or by-pass a 3132  
utility meter, conduit, or attachment with the intent to impede 3133  
the correct registration of a meter or the proper functions of a 3134  
conduit or attachment so as to reduce the amount of utility 3135  
service that is registered on the meter. 3136

**Sec. 4933.19.** Each electric light company, gas company, 3137  
natural gas company, pipe-line company, water-works company, or 3138  
heating or cooling company, as defined by division (A)~~(3)~~, (4), 3139  
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3140  
Code, or its lessees, trustees, or receivers, and each similar 3141  
utility owned or operated by a political subdivision shall notify 3142  
its customers, on an annual basis, that tampering with or 3143  
bypassing a meter constitutes a theft offense that could result in 3144  
the imposition of criminal sanctions. 3145

**Sec. 4939.01.** As used in sections 4939.01 to 4939.08 of the 3146  
Revised Code: 3147

(A) "Cable operator," "cable service," and "franchise" have 3148  
the same meanings as in the "Cable Communications Policy Act of 3149

1984," 98 Stat. 2779, 47 U.S.C.A. 522. 3150

(B) "Occupy or use" means, with respect to a public way, to 3151  
place a tangible thing in a public way for any purpose, including, 3152  
but not limited to, constructing, repairing, positioning, 3153  
maintaining, or operating lines, poles, pipes, conduits, ducts, 3154  
equipment, or other structures, appurtenances, or facilities 3155  
necessary for the delivery of public utility services or any 3156  
services provided by a cable operator. 3157

(C) "Person" means any natural person, corporation, or 3158  
partnership and also includes any governmental entity. 3159

(D) "Public utility" means any company described in section 3160  
4905.03 of the Revised Code except in divisions (A)~~(3)~~(2) and 3161  
~~(10)~~(9) of that section, which company also is a public utility as 3162  
defined in section 4905.02 of the Revised Code; and includes any 3163  
electric supplier as defined in section 4933.81 of the Revised 3164  
Code. 3165

(E) "Public way" means the surface of, and the space within, 3166  
through, on, across, above, or below, any public street, public 3167  
road, public highway, public freeway, public lane, public path, 3168  
public alley, public court, public sidewalk, public boulevard, 3169  
public parkway, public drive, and any other land dedicated or 3170  
otherwise designated for a compatible public use, which, on or 3171  
after the effective date of this section, is owned or controlled 3172  
by a municipal corporation. "Public way" excludes a private 3173  
easement. 3174

(F) "Public way fee" means a fee levied to recover the costs 3175  
incurred by a municipal corporation and associated with the 3176  
occupancy or use of a public way. 3177

**Sec. 5515.01.** The director of transportation may upon formal 3178  
application being made to the director, grant a permit to any 3179

individual, firm, or corporation to use or occupy such portion of 3180  
a road or highway on the state highway system as will not 3181  
incommode the traveling public. Such permits, when granted, shall 3182  
be upon the following conditions: 3183

(A) The director may issue a permit to any individual, firm, 3184  
or corporation for any use of a road or highway on the state 3185  
highway system that is consistent with applicable federal law or 3186  
federal regulations. 3187

(B) Such location shall be changed as prescribed by the 3188  
director when the director deems such change necessary for the 3189  
convenience of the traveling public, or in connection with or 3190  
contemplation of the construction, reconstruction, improvement, 3191  
relocating, maintenance, or repair of such road or highway. 3192

(C) The placing of objects or things shall be at a grade and 3193  
in accordance with such plans, specifications, or both, as shall 3194  
be first approved by the director. 3195

(D) The road or highway in all respects shall be fully 3196  
restored to its former condition of usefulness and at the expense 3197  
of such individual, firm, or corporation. 3198

(E) Such individual, firm, or corporation shall maintain all 3199  
objects and things in a proper manner, promptly repair all damages 3200  
resulting to such road or highway on account thereof, and in event 3201  
of failure to so repair such road or highway to pay to the state 3202  
all costs and expenses ~~which~~ that may be expended by the director 3203  
in repairing any damage. 3204

(F) Such other conditions as may seem reasonable to the 3205  
director, but no condition shall be prescribed ~~which~~ that imposes 3206  
the payment of a money consideration for the privilege granted. 3207  
Nothing in this division prohibits the director from requiring 3208  
payment of money consideration for a lease, easement, license, or 3209  
other interest in a transportation facility under control of the 3210

department of transportation. 3211

(G) Permits may be revoked by the director at any time for a 3212  
noncompliance with the conditions imposed. 3213

(H) As a condition precedent to the issuance of any permit 3214  
for telecommunications facilities or carbon capture and storage 3215  
pipelines, the director shall require the applicant to provide 3216  
proof it is party to a lease, easement, or license for the 3217  
construction, placement, or operation of such facility or pipeline 3218  
in or on a transportation facility. 3219

Except as otherwise provided in this section and section 3220  
5501.311 of the Revised Code, Chapters 5501., 5503., 5511., 5513., 3221  
5515., 5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 3222  
5529., 5531., 5533., and 5535. of the Revised Code do not prohibit 3223  
~~telegraph,~~ telephone, and electric light and power companies from 3224  
constructing, maintaining, and using ~~telegraph,~~ telephone, or 3225  
electric light and power lines along and upon such roads or 3226  
highways under ~~sections 4931.19,~~ section 4933.14, or other 3227  
sections of the Revised Code, or to affect existing rights of any 3228  
such companies, or to require such companies to obtain a permit 3229  
from the director, except with respect to the location of poles, 3230  
wires, conduits, and other equipment comprising lines on or 3231  
beneath the surface of such road or highways. 3232

This section does not prohibit steam or electric railroad 3233  
companies from constructing tracks across such roads or highways, 3234  
nor authorize the director to grant permission to any company 3235  
owning, operating, controlling, or managing a steam railroad or 3236  
interurban railway in this state to build a new line of railroad, 3237  
or to change or alter the location of existing tracks across any 3238  
road or highway on the state highway system at grade. No such 3239  
company shall change the elevation of any of its tracks across 3240  
such road or highway except in accordance with plans and 3241  
specifications first approved by the director. 3242

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

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

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

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

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

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

(B)(1) Except as provided in division (B)(2) of this section, 3274  
beginning in tax year 2005, a small telephone company is hereby 3275  
allowed a nonrefundable credit against the tax imposed by sections 3276  
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 3277  
product obtained by multiplying the applicable percentage by the 3278  
applicable amount. The credit shall be claimed in the order 3279  
required by section 5733.98 of the Revised Code. 3280

(2) If the applicable amount for a tax year is less than 3281  
zero, a small telephone company shall not be allowed for that tax 3282  
year the credit provided under this section. 3283

**Sec. 6101.17.** The board of directors of a conservancy 3284  
district, when it is necessary for the purposes of this chapter, 3285  
shall have a dominant right of eminent domain over the right of 3286  
eminent domain of railroad, ~~telegraph,~~ telephone, gas, water 3287  
power, and other companies and corporations, and over townships, 3288  
counties, and municipal corporations. 3289

In the exercise of this right, due care shall be taken to do 3290  
no unnecessary damage to other public utilities, and, in case of 3291  
failure to agree upon the mode and terms of interference, not to 3292  
interfere with their operation or usefulness beyond the actual 3293  
necessities of the case, due regard being paid to the other public 3294  
interests involved. 3295

**Sec. 6115.21.** The board of directors of a sanitary district, 3296  
when it is necessary for the purposes of sections 6115.01 to 3297  
6115.79, ~~inclusive,~~ of the Revised Code, shall have a dominant 3298  
right of eminent domain over the right of eminent domain of 3299  
railroad, ~~telegraph,~~ telephone, gas, water power, and other 3300  
companies and corporations, and over townships, counties, and 3301  
municipal corporations. 3302

In the exercise of this right due care shall be taken to do 3303

no unnecessary damage to other public utilities, and, in case of 3304  
failure to agree upon the mode and terms of interference, not to 3305  
interfere with their operation or usefulness beyond the actual 3306  
necessities of the case, due regard being paid to the other public 3307  
interests involved. 3308

**Section 2.** That existing sections 324.01, 324.03, 1332.24, 3309  
2317.02, 2917.21, 4901.01, 4901.02, 4901.11, 4901.12, 4901.15, 3310  
4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 3311  
4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 3312  
4905.20, 4905.21, 4905.26, 4905.30, 4905.40, 4905.402, 4905.41, 3313  
4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 3314  
4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.99, 3315  
4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 3316  
4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 3317  
4931.03, 4931.04, 4931.11, 4931.35, 4931.99, 4933.14, 4933.18, 3318  
4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 and 3319  
sections 4905.041, 4905.23, 4905.231, 4905.24, 4905.241, 4905.242, 3320  
4905.243, 4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 4905.50, 3321  
4927.03, 4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 4931.14, 3322  
4931.15, 4931.16, 4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 3323  
4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 3324  
of the Revised Code are hereby repealed. 3325

**Section 3.** Coincident with the adoption of initial rules as 3326  
provided for in section 4927.03 of the Revised Code as enacted by 3327  
this act, the Public Utilities Commission shall rescind the 3328  
following rules and shall file the requisite notice of the 3329  
rescissions with the Legislative Service Commission and the 3330  
Secretary of State within five days: Chapters 4901:1-4, 4901:1-5, 3331  
and 4901:1-6 of the Ohio Administrative Code, except for Rule No. 3332  
4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and 3333  
except for Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related 3334

definitions in Rule No. 4901:1-6-01. Rescission of these rules 3335  
shall take effect as provided by law and, notwithstanding any 3336  
other provision of the Revised Code, is not subject to legislative 3337  
review or invalidation. The Public Utilities Commission shall not 3338  
enforce on or after the effective date of this act against any 3339  
telephone company as defined in section 4905.03 of the Revised 3340  
Code as amended by this act any provision of any of the rules 3341  
specified in this section, except for Rule No. 4901:1-5-09 and 3342  
related definitions in Rule No. 4901:1-5-01 and Rule Nos. 3343  
4901:1-6-18 and 4901:1-6-24 and related definitions in Rule No. 3344  
4901:1-6-01. 3345

**Section 4.** Any complaint filed pursuant to section 4905.26 of 3346  
the Revised Code and pending on the effective date of Sections 1 3347  
and 2 of this act shall be determined by the Public Utilities 3348  
Commission pursuant to the Revised Code as it existed immediately 3349  
preceding that effective date. 3350

**Section 5.** Section 2917.21 of the Revised Code is presented 3351  
in this act as a composite of the section as amended by both H.B. 3352  
565 and S.B. 215 of the 122nd General Assembly. Section 4933.14 of 3353  
the Revised Code is presented in this act as a composite of the 3354  
section as amended by both H.B. 283 and S.B. 3 of the 123rd 3355  
General Assembly. The General Assembly, applying the principle 3356  
stated in division (B) of section 1.52 of the Revised Code that 3357  
amendments are to be harmonized if reasonably capable of 3358  
simultaneous operation, finds that the composite is the resulting 3359  
version of the section in effect prior to the effective date of 3360  
the section as presented in this act. 3361