



## Ohio Revised Code

### Section 4905.40 Issuance of stocks, bonds, and notes.

Effective: September 13, 2010

Legislation: Senate Bill 162 - 128th General Assembly

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

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

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

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

(C) Any bonds, notes, or other evidences of indebtedness payable at periods of more than twelve months after their date may be issued as provided in sections 4905.40 to 4905.43 of the Revised Code, regardless of the amount of the capital stock of the public utility or railroad, subject to the



approval of the commission of the excess of such bonds, notes, or other evidences of indebtedness above the amount of the capital stock of such public utility or railroad.

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

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

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

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

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

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

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

(H) Each public utility seeking authorization from the commission for the issuance of securities to finance the installation, construction, extension, or improvement of an air quality facility, as defined



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in section 3706.01 of the Revised Code, shall consider the availability of financing therefor from the Ohio air quality development authority and shall demonstrate to the commission that the proposed financing will be obtained on the best terms obtainable.

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