

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 114

Representative Blessing

Cosponsors: Representative Seitz, Speaker Rosenberger, Representatives Schuring, Pelanda, McColley, Hill, Conditt, Hambley, Retherford, Brinkman, Koehler, Johnson, Green, Stein, Thompson, Roegner, Schaffer, Slaby, Scherer, Wiggam, Huffman, Becker, Riedel, Zeltwanger, Vitale, Hood, Keller, Dean, Butler, Householder, Hughes, Brenner, Dever, DeVitis, Goodman, Kick, Landis, LaTourette, Lipps, Rezabek, Romanchuk, Ryan, Smith, R., Young, Patton, Ginter, Cupp, Carfagna, Cera, Greenspan, Perales, Arndt, Faber, Sprague, Gavarone, Henne, Reineke

A BILL

To amend sections 4928.01, 4928.142, 4928.143, 1
4928.20, 4928.61, 4928.62, 4928.64, 4928.641, 2
4928.643, 4928.644, 4928.645, 4928.65, 4928.66, 3
4928.662, 4928.6610, 4928.6611, and 5727.75 and 4
to enact sections 4928.647, 4928.664, 4928.665, 5
4928.666, 4928.667, 4928.6620, and 4928.6621 of 6
the Revised Code and to amend Section 257.80 of 7
Am. Sub. H.B. 64 of the 132nd General Assembly 8
and to repeal Sections 5, 6, 7, 8, 9, 10, and 11 9
of Sub. S.B. 310 of the 130th General Assembly 10
to revise the provisions governing renewable 11
energy, energy efficiency, and peak demand 12
reduction and to alter funding allocations under 13
the Home Energy Assistance Program. 14

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

Section 1. That sections 4928.01, 4928.142, 4928.143, 15
4928.20, 4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 16
4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 17
4928.6611, and 5727.75 be amended and sections 4928.647, 18
4928.664, 4928.665, 4928.666, 4928.667, 4928.6620, and 4928.6621 19
of the Revised Code be enacted to read as follows: 20

Sec. 4928.01. (A) As used in this chapter: 21

(1) "Ancillary service" means any function necessary to 22
the provision of electric transmission or distribution service 23
to a retail customer and includes, but is not limited to, 24
scheduling, system control, and dispatch services; reactive 25
supply from generation resources and voltage control service; 26
reactive supply from transmission resources service; regulation 27
service; frequency response service; energy imbalance service; 28
operating reserve-spinning reserve service; operating reserve- 29
supplemental reserve service; load following; back-up supply 30
service; real-power loss replacement service; dynamic 31
scheduling; system black start capability; and network stability 32
service. 33

(2) "Billing and collection agent" means a fully 34
independent agent, not affiliated with or otherwise controlled 35
by an electric utility, electric services company, electric 36
cooperative, or governmental aggregator subject to certification 37
under section 4928.08 of the Revised Code, to the extent that 38
the agent is under contract with such utility, company, 39
cooperative, or aggregator solely to provide billing and 40
collection for retail electric service on behalf of the utility 41
company, cooperative, or aggregator. 42

(3) "Certified territory" means the certified territory 43
established for an electric supplier under sections 4933.81 to 44

4933.90 of the Revised Code. 45

(4) "Competitive retail electric service" means a 46
component of retail electric service that is competitive as 47
provided under division (B) of this section. 48

(5) "Electric cooperative" means a not-for-profit electric 49
light company that both is or has been financed in whole or in 50
part under the "Rural Electrification Act of 1936," 49 Stat. 51
1363, 7 U.S.C. 901, and owns or operates facilities in this 52
state to generate, transmit, or distribute electricity, or a 53
not-for-profit successor of such company. 54

(6) "Electric distribution utility" means an electric 55
utility that supplies at least retail electric distribution 56
service. 57

(7) "Electric light company" has the same meaning as in 58
section 4905.03 of the Revised Code and includes an electric 59
services company, but excludes any self-generator to the extent 60
that it consumes electricity it so produces, sells that 61
electricity for resale, or obtains electricity from a generating 62
facility it hosts on its premises. 63

(8) "Electric load center" has the same meaning as in 64
section 4933.81 of the Revised Code. 65

(9) "Electric services company" means an electric light 66
company that is engaged on a for-profit or not-for-profit basis 67
in the business of supplying or arranging for the supply of only 68
a competitive retail electric service in this state. "Electric 69
services company" includes a power marketer, power broker, 70
aggregator, or independent power producer but excludes an 71
electric cooperative, municipal electric utility, governmental 72
aggregator, or billing and collection agent. 73

(10) "Electric supplier" has the same meaning as in 74
section 4933.81 of the Revised Code. 75

(11) "Electric utility" means an electric light company 76
that has a certified territory and is engaged on a for-profit 77
basis either in the business of supplying a noncompetitive 78
retail electric service in this state or in the businesses of 79
supplying both a noncompetitive and a competitive retail 80
electric service in this state. "Electric utility" excludes a 81
municipal electric utility or a billing and collection agent. 82

(12) "Firm electric service" means electric service other 83
than nonfirm electric service. 84

(13) "Governmental aggregator" means a legislative 85
authority of a municipal corporation, a board of township 86
trustees, or a board of county commissioners acting as an 87
aggregator for the provision of a competitive retail electric 88
service under authority conferred under section 4928.20 of the 89
Revised Code. 90

(14) A person acts "knowingly," regardless of the person's 91
purpose, when the person is aware that the person's conduct will 92
probably cause a certain result or will probably be of a certain 93
nature. A person has knowledge of circumstances when the person 94
is aware that such circumstances probably exist. 95

(15) "Level of funding for low-income customer energy 96
efficiency programs provided through electric utility rates" 97
means the level of funds specifically included in an electric 98
utility's rates on October 5, 1999, pursuant to an order of the 99
public utilities commission issued under Chapter 4905. or 4909. 100
of the Revised Code and in effect on October 4, 1999, for the 101
purpose of improving the energy efficiency of housing for the 102

utility's low-income customers. The term excludes the level of 103
any such funds committed to a specific nonprofit organization or 104
organizations pursuant to a stipulation or contract. 105

(16) "Low-income customer assistance programs" means the 106
percentage of income payment plan program, the home energy 107
assistance program, the home weatherization assistance program, 108
and the targeted energy efficiency and weatherization program. 109

(17) "Market development period" for an electric utility 110
means the period of time beginning on the starting date of 111
competitive retail electric service and ending on the applicable 112
date for that utility as specified in section 4928.40 of the 113
Revised Code, irrespective of whether the utility applies to 114
receive transition revenues under this chapter. 115

(18) "Market power" means the ability to impose on 116
customers a sustained price for a product or service above the 117
price that would prevail in a competitive market. 118

(19) "Mercantile customer" means a commercial or 119
industrial customer if the electricity consumed is for 120
nonresidential use and the customer consumes more than seven 121
hundred thousand kilowatt hours per year or is part of a 122
national account involving multiple facilities in one or more 123
states. 124

(20) "Municipal electric utility" means a municipal 125
corporation that owns or operates facilities to generate, 126
transmit, or distribute electricity. 127

(21) "Noncompetitive retail electric service" means a 128
component of retail electric service that is noncompetitive as 129
provided under division (B) of this section. 130

(22) "Nonfirm electric service" means electric service 131

provided pursuant to a schedule filed under section 4905.30 of 132
the Revised Code or pursuant to an arrangement under section 133
4905.31 of the Revised Code, which schedule or arrangement 134
includes conditions that may require the customer to curtail or 135
interrupt electric usage during nonemergency circumstances upon 136
notification by an electric utility. 137

(23) "Percentage of income payment plan arrears" means 138
funds eligible for collection through the percentage of income 139
payment plan rider, but uncollected as of July 1, 2000. 140

(24) "Person" has the same meaning as in section 1.59 of 141
the Revised Code. 142

(25) "Advanced energy project" means any technologies, 143
products, activities, or management practices or strategies that 144
facilitate the generation or use of electricity or energy and 145
that reduce or support the reduction of energy consumption or 146
support the production of clean, renewable energy for 147
industrial, distribution, commercial, institutional, 148
governmental, research, not-for-profit, or residential energy 149
users, including, but not limited to, advanced energy resources 150
and renewable energy resources. "Advanced energy project" also 151
includes any project described in division (A), (B), or (C) of 152
section 4928.621 of the Revised Code. 153

(26) "Regulatory assets" means the unamortized net 154
regulatory assets that are capitalized or deferred on the 155
regulatory books of the electric utility, pursuant to an order 156
or practice of the public utilities commission or pursuant to 157
generally accepted accounting principles as a result of a prior 158
commission rate-making decision, and that would otherwise have 159
been charged to expense as incurred or would not have been 160
capitalized or otherwise deferred for future regulatory 161

consideration absent commission action. "Regulatory assets" 162
includes, but is not limited to, all deferred demand-side 163
management costs; all deferred percentage of income payment plan 164
arrears; post-in-service capitalized charges and assets 165
recognized in connection with statement of financial accounting 166
standards no. 109 (receivables from customers for income taxes); 167
future nuclear decommissioning costs and fuel disposal costs as 168
those costs have been determined by the commission in the 169
electric utility's most recent rate or accounting application 170
proceeding addressing such costs; the undepreciated costs of 171
safety and radiation control equipment on nuclear generating 172
plants owned or leased by an electric utility; and fuel costs 173
currently deferred pursuant to the terms of one or more 174
settlement agreements approved by the commission. 175

(27) "Retail electric service" means any service involved 176
in supplying or arranging for the supply of electricity to 177
ultimate consumers in this state, from the point of generation 178
to the point of consumption. For the purposes of this chapter, 179
retail electric service includes one or more of the following 180
"service components": generation service, aggregation service, 181
power marketing service, power brokerage service, transmission 182
service, distribution service, ancillary service, metering 183
service, and billing and collection service. 184

(28) "Starting date of competitive retail electric 185
service" means January 1, 2001. 186

(29) "Customer-generator" means a user of a net metering 187
system. 188

(30) "Net metering" means measuring the difference in an 189
applicable billing period between the electricity supplied by an 190
electric service provider and the electricity generated by a 191

customer-generator that is fed back to the electric service provider.	192 193
(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:	194 195
(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;	196 197
(b) Is located on a customer-generator's premises;	198
(c) Operates in parallel with the electric utility's transmission and distribution facilities;	199 200
(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.	201 202
(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract.	203 204 205 206 207 208
(33) "Rate plan" means the standard service offer in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.	209 210 211
(34) "Advanced energy resource" means any of the following:	212 213
(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;	214 215 216 217 218

(b) Any distributed generation system consisting of	219
customer cogeneration technology;	220
(c) Clean coal technology that includes a carbon-based	221
product that is chemically altered before combustion to	222
demonstrate a reduction, as expressed as ash, in emissions of	223
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or	224
sulfur trioxide in accordance with the American society of	225
testing and materials standard D1757A or a reduction of metal	226
oxide emissions in accordance with standard D5142 of that	227
society, or clean coal technology that includes the design	228
capability to control or prevent the emission of carbon dioxide,	229
which design capability the commission shall adopt by rule and	230
shall be based on economically feasible best available	231
technology or, in the absence of a determined best available	232
technology, shall be of the highest level of economically	233
feasible design capability for which there exists generally	234
accepted scientific opinion;	235
(d) Advanced nuclear energy technology consisting of	236
generation III technology as defined by the nuclear regulatory	237
commission; other, later technology; or significant improvements	238
to existing facilities;	239
(e) Any fuel cell used in the generation of electricity,	240
including, but not limited to, a proton exchange membrane fuel	241
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	242
solid oxide fuel cell;	243
(f) Advanced solid waste or construction and demolition	244
debris conversion technology, including, but not limited to,	245
advanced stoker technology, and advanced fluidized bed	246
gasification technology, that results in measurable greenhouse	247
gas emissions reductions as calculated pursuant to the United	248

States environmental protection agency's waste reduction model	249
(WARM);	250
(g) Demand-side management and any energy efficiency	251
improvement;	252
(h) Any new, retrofitted, refueled, or repowered	253
generating facility located in Ohio, including a simple or	254
combined-cycle natural gas generating facility or a generating	255
facility that uses biomass, coal, modular nuclear, or any other	256
fuel as its input;	257
(i) Any uprated capacity of an existing electric	258
generating facility if the uprated capacity results from the	259
deployment of advanced technology.	260
"Advanced energy resource" does not include a waste energy	261
recovery system that is, or has been, included in an energy	262
efficiency program of an electric distribution utility pursuant	263
to requirements under section 4928.66 of the Revised Code.	264
(35) "Air contaminant source" has the same meaning as in	265
section 3704.01 of the Revised Code.	266
(36) "Cogeneration technology" means technology that	267
produces electricity and useful thermal output simultaneously.	268
(37) (a) "Renewable energy resource" means any of the	269
following:	270
(i) Solar photovoltaic or solar thermal energy;	271
(ii) Wind energy;	272
(iii) Power produced by a hydroelectric facility;	273
(iv) <u>Power produced by a small hydroelectric facility,</u>	274
<u>which is a facility that operates, or is rated to operate, at an</u>	275

<u>aggregate capacity of less than six megawatts;</u>	276
<u>(v)</u> Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;	277 278 279 280 281
(v) <u>(vi)</u> Geothermal energy;	282
(vi) <u>(vii)</u> Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;	283 284 285 286
(vii) <u>(viii)</u> Biomass energy;	287
(viii) <u>(ix)</u> Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	288 289 290 291 292 293 294 295 296 297
(ix) <u>(x)</u> Biologically derived methane gas;	298
(x) <u>(xi)</u> Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	299 300 301
(xi) <u>(xii)</u> Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including	302 303

bark, wood chips, sawdust, and lignin in spent pulping liquors. 304

"Renewable energy resource" includes, but is not limited 305
to, any fuel cell used in the generation of electricity, 306
including, but not limited to, a proton exchange membrane fuel 307
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 308
solid oxide fuel cell; wind turbine located in the state's 309
territorial waters of Lake Erie; methane gas emitted from an 310
abandoned coal mine; waste energy recovery system placed into 311
service or retrofitted on or after the effective date of the 312
amendment of this section by S.B. 315 of the 129th general 313
assembly, September 10, 2012, except that a waste energy 314
recovery system described in division (A)(38)(b) of this section 315
may be included only if it was placed into service between 316
January 1, 2002, and December 31, 2004; storage facility that 317
will promote the better utilization of a renewable energy 318
resource; or distributed generation system used by a customer to 319
generate electricity from any such energy. 320

"Renewable energy resource" does not include a waste 321
energy recovery system that is, or was, on or after January 1, 322
2012, included in an energy efficiency program of an electric 323
distribution utility pursuant to requirements under section 324
4928.66 of the Revised Code. 325

(b) As used in division (A)(37) of this section, 326
"hydroelectric facility" means a hydroelectric generating 327
facility that is located at a dam on a river, or on any water 328
discharged to a river, that is within or bordering this state or 329
within or bordering an adjoining state and meets all of the 330
following standards: 331

(i) The facility provides for river flows that are not 332
detrimental for fish, wildlife, and water quality, including 333

seasonal flow fluctuations as defined by the applicable 334
licensing agency for the facility. 335

(ii) The facility demonstrates that it complies with the 336
water quality standards of this state, which compliance may 337
consist of certification under Section 401 of the "Clean Water 338
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 339
demonstrates that it has not contributed to a finding by this 340
state that the river has impaired water quality under Section 341
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 342
U.S.C. 1313. 343

(iii) The facility complies with mandatory prescriptions 344
regarding fish passage as required by the federal energy 345
regulatory commission license issued for the project, regarding 346
fish protection for riverine, anadromous, and catadromous fish. 347

(iv) The facility complies with the recommendations of the 348
Ohio environmental protection agency and with the terms of its 349
federal energy regulatory commission license regarding watershed 350
protection, mitigation, or enhancement, to the extent of each 351
agency's respective jurisdiction over the facility. 352

(v) The facility complies with provisions of the 353
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 354
to 1544, as amended. 355

(vi) The facility does not harm cultural resources of the 356
area. This can be shown through compliance with the terms of its 357
federal energy regulatory commission license or, if the facility 358
is not regulated by that commission, through development of a 359
plan approved by the Ohio historic preservation office, to the 360
extent it has jurisdiction over the facility. 361

(vii) The facility complies with the terms of its federal 362

energy regulatory commission license or exemption that are 363
related to recreational access, accommodation, and facilities 364
or, if the facility is not regulated by that commission, the 365
facility complies with similar requirements as are recommended 366
by resource agencies, to the extent they have jurisdiction over 367
the facility; and the facility provides access to water to the 368
public without fee or charge. 369

(viii) The facility is not recommended for removal by any 370
federal agency or agency of any state, to the extent the 371
particular agency has jurisdiction over the facility. 372

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 373
this section do not apply to a small hydroelectric facility 374
under division (A) (37) (a) (iv) of this section. 375

(38) "Waste energy recovery system" means either of the 376
following: 377

(a) A facility that generates electricity through the 378
conversion of energy from either of the following: 379

(i) Exhaust heat from engines or manufacturing, 380
industrial, commercial, or institutional sites, except for 381
exhaust heat from a facility whose primary purpose is the 382
generation of electricity; 383

(ii) Reduction of pressure in gas pipelines before gas is 384
distributed through the pipeline, provided that the conversion 385
of energy to electricity is achieved without using additional 386
fossil fuels. 387

(b) A facility at a state institution of higher education 388
as defined in section 3345.011 of the Revised Code that recovers 389
waste heat from electricity-producing engines or combustion 390
turbines and that simultaneously uses the recovered heat to 391

produce steam, provided that the facility was placed into 392
service between January 1, 2002, and December 31, 2004. 393

(39) "Smart grid" means capital improvements to an 394
electric distribution utility's distribution infrastructure that 395
improve reliability, efficiency, resiliency, or reduce energy 396
demand or use, including, but not limited to, advanced metering 397
and automation of system functions. 398

(40) "Combined heat and power system" means the 399
coproduction of electricity and useful thermal energy from the 400
same fuel source designed to achieve thermal-efficiency levels 401
of at least sixty per cent, with at least twenty per cent of the 402
system's total useful energy in the form of thermal energy. 403

(B) For the purposes of this chapter, a retail electric 404
service component shall be deemed a competitive retail electric 405
service if the service component is competitive pursuant to a 406
declaration by a provision of the Revised Code or pursuant to an 407
order of the public utilities commission authorized under 408
division (A) of section 4928.04 of the Revised Code. Otherwise, 409
the service component shall be deemed a noncompetitive retail 410
electric service. 411

Sec. 4928.142. (A) For the purpose of complying with 412
section 4928.141 of the Revised Code and subject to division (D) 413
of this section and, as applicable, subject to the rate plan 414
requirement of division (A) of section 4928.141 of the Revised 415
Code, an electric distribution utility may establish a standard 416
service offer price for retail electric generation service that 417
is delivered to the utility under a market-rate offer. 418

(1) The market-rate offer shall be determined through a 419
competitive bidding process that provides for all of the 420

following: 421

(a) Open, fair, and transparent competitive solicitation; 422

(b) Clear product definition; 423

(c) Standardized bid evaluation criteria; 424

(d) Oversight by an independent third party that shall 425
design the solicitation, administer the bidding, and ensure that 426
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 427
this section are met; 428

(e) Evaluation of the submitted bids prior to the 429
selection of the least-cost bid winner or winners. 430

No generation supplier shall be prohibited from 431
participating in the bidding process. 432

(2) The public utilities commission shall modify rules, or 433
adopt new rules as necessary, concerning the conduct of the 434
competitive bidding process and the qualifications of bidders, 435
which rules shall foster supplier participation in the bidding 436
process and shall be consistent with the requirements of 437
division (A) (1) of this section. 438

(B) Prior to initiating a competitive bidding process for 439
a market-rate offer under division (A) of this section, the 440
electric distribution utility shall file an application with the 441
commission. An electric distribution utility may file its 442
application with the commission prior to the effective date of 443
the commission rules required under division (A) (2) of this 444
section, and, as the commission determines necessary, the 445
utility shall immediately conform its filing to the rules upon 446
their taking effect. 447

An application under this division shall detail the 448

electric distribution utility's proposed compliance with the 449
requirements of division (A) (1) of this section and with 450
commission rules under division (A) (2) of this section and 451
demonstrate that all of the following requirements are met: 452

(1) The electric distribution utility or its transmission 453
service affiliate belongs to at least one regional transmission 454
organization that has been approved by the federal energy 455
regulatory commission; or there otherwise is comparable and 456
nondiscriminatory access to the electric transmission grid. 457

(2) Any such regional transmission organization has a 458
market-monitor function and the ability to take actions to 459
identify and mitigate market power or the electric distribution 460
utility's market conduct; or a similar market monitoring 461
function exists with commensurate ability to identify and 462
monitor market conditions and mitigate conduct associated with 463
the exercise of market power. 464

(3) A published source of information is available 465
publicly or through subscription that identifies pricing 466
information for traded electricity on- and off-peak energy 467
products that are contracts for delivery beginning at least two 468
years from the date of the publication and is updated on a 469
regular basis. 470

The commission shall initiate a proceeding and, within 471
ninety days after the application's filing date, shall determine 472
by order whether the electric distribution utility and its 473
market-rate offer meet all of the foregoing requirements. If the 474
finding is positive, the electric distribution utility may 475
initiate its competitive bidding process. If the finding is 476
negative as to one or more requirements, the commission in the 477
order shall direct the electric distribution utility regarding 478

how any deficiency may be remedied in a timely manner to the 479
commission's satisfaction; otherwise, the electric distribution 480
utility shall withdraw the application. However, if such remedy 481
is made and the subsequent finding is positive and also if the 482
electric distribution utility made a simultaneous filing under 483
this section and section 4928.143 of the Revised Code, the 484
utility shall not initiate its competitive bid until at least 485
one hundred fifty days after the filing date of those 486
applications. 487

(C) Upon the completion of the competitive bidding process 488
authorized by divisions (A) and (B) of this section, including 489
for the purpose of division (D) of this section, the commission 490
shall select the least-cost bid winner or winners of that 491
process, and such selected bid or bids, as prescribed as retail 492
rates by the commission, shall be the electric distribution 493
utility's standard service offer unless the commission, by order 494
issued before the third calendar day following the conclusion of 495
the competitive bidding process for the market rate offer, 496
determines that one or more of the following criteria were not 497
met: 498

(1) Each portion of the bidding process was 499
oversubscribed, such that the amount of supply bid upon was 500
greater than the amount of the load bid out. 501

(2) There were four or more bidders. 502

(3) At least twenty-five per cent of the load is bid upon 503
by one or more persons other than the electric distribution 504
utility. 505

All costs incurred by the electric distribution utility as 506
a result of or related to the competitive bidding process or to 507

procuring generation service to provide the standard service 508
offer, including the costs of energy and capacity and the costs 509
of all other products and services procured as a result of the 510
competitive bidding process, shall be timely recovered through 511
the standard service offer price, and, for that purpose, the 512
commission shall approve a reconciliation mechanism, other 513
recovery mechanism, or a combination of such mechanisms for the 514
utility. 515

(D) The first application filed under this section by an 516
electric distribution utility that, as of July 31, 2008, 517
directly owns, in whole or in part, operating electric 518
generating facilities that had been used and useful in this 519
state shall require that a portion of that utility's standard 520
service offer load for the first five years of the market rate 521
offer be competitively bid under division (A) of this section as 522
follows: ten per cent of the load in year one, not more than 523
twenty per cent in year two, thirty per cent in year three, 524
forty per cent in year four, and fifty per cent in year five. 525
Consistent with those percentages, the commission shall 526
determine the actual percentages for each year of years one 527
through five. The standard service offer price for retail 528
electric generation service under this first application shall 529
be a proportionate blend of the bid price and the generation 530
service price for the remaining standard service offer load, 531
which latter price shall be equal to the electric distribution 532
utility's most recent standard service offer price, adjusted 533
upward or downward as the commission determines reasonable, 534
relative to the jurisdictional portion of any known and 535
measurable changes from the level of any one or more of the 536
following costs as reflected in that most recent standard 537
service offer price: 538

(1) The electric distribution utility's prudently incurred cost of fuel used to produce electricity;	539 540
(2) Its prudently incurred purchased power costs;	541
(3) Its prudently incurred costs of satisfying the supply and demand portfolio requirements of this state, including, but not limited to, renewable energy resource and energy efficiency requirements;	542 543 544 545
(4) Its costs prudently incurred to comply with environmental laws and regulations, with consideration of the derating of any facility associated with those costs.	546 547 548
In making any adjustment to the most recent standard service offer price on the basis of costs described in division (D) of this section, the commission shall include the benefits that may become available to the electric distribution utility as a result of or in connection with the costs included in the adjustment, including, but not limited to, the utility's receipt of emissions credits or its receipt of tax benefits or of other benefits, and, accordingly, the commission may impose such conditions on the adjustment to ensure that any such benefits are properly aligned with the associated cost responsibility. The commission shall also determine how such adjustments will affect the electric distribution utility's return on common equity that may be achieved by those adjustments. The commission shall not apply its consideration of the return on common equity to reduce any adjustments authorized under this division unless the adjustments will cause the electric distribution utility to earn a return on common equity that is significantly in excess of the return on common equity that is earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure	549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568

as may be appropriate. The burden of proof for demonstrating 569
that significantly excessive earnings will not occur shall be on 570
the electric distribution utility. 571

Additionally, the commission may adjust the electric 572
distribution utility's most recent standard service offer price 573
by such just and reasonable amount that the commission 574
determines necessary to address any emergency that threatens the 575
utility's financial integrity or to ensure that the resulting 576
revenue available to the utility for providing the standard 577
service offer is not so inadequate as to result, directly or 578
indirectly, in a taking of property without compensation 579
pursuant to Section 19 of Article I, Ohio Constitution. The 580
electric distribution utility has the burden of demonstrating 581
that any adjustment to its most recent standard service offer 582
price is proper in accordance with this division. 583

(E) Beginning in the second year of a blended price under 584
division (D) of this section and notwithstanding any other 585
requirement of this section, the commission may alter 586
prospectively the proportions specified in that division to 587
mitigate any effect of an abrupt or significant change in the 588
electric distribution utility's standard service offer price 589
that would otherwise result in general or with respect to any 590
rate group or rate schedule but for such alteration. Any such 591
alteration shall be made not more often than annually, and the 592
commission shall not, by altering those proportions and in any 593
event, including because of the length of time, as authorized 594
under division (C) of this section, taken to approve the market 595
rate offer, cause the duration of the blending period to exceed 596
ten years as counted from the effective date of the approved 597
market rate offer. Additionally, any such alteration shall be 598
limited to an alteration affecting the prospective proportions 599

used during the blending period and shall not affect any 600
blending proportion previously approved and applied by the 601
commission under this division. 602

(F) An electric distribution utility that has received 603
commission approval of its first application under division (C) 604
of this section shall not, nor ever shall be authorized or 605
required by the commission to, file an application under section 606
4928.143 of the Revised Code. 607

Sec. 4928.143. (A) For the purpose of complying with 608
section 4928.141 of the Revised Code, an electric distribution 609
utility may file an application for public utilities commission 610
approval of an electric security plan as prescribed under 611
division (B) of this section. The utility may file that 612
application prior to the effective date of any rules the 613
commission may adopt for the purpose of this section, and, as 614
the commission determines necessary, the utility immediately 615
shall conform its filing to those rules upon their taking 616
effect. 617

(B) Notwithstanding any other provision of Title XLIX of 618
the Revised Code to the contrary except division (D) of this 619
section, divisions (I), (J), and (K) of section 4928.20, 620
division ~~(E)~~(G) of section 4928.64, and section 4928.69 of the 621
Revised Code: 622

(1) An electric security plan shall include provisions 623
relating to the supply and pricing of electric generation 624
service. In addition, if the proposed electric security plan has 625
a term longer than three years, it may include provisions in the 626
plan to permit the commission to test the plan pursuant to 627
division (E) of this section and any transitional conditions 628
that should be adopted by the commission if the commission 629

terminates the plan as authorized under that division. 630

(2) The plan may provide for or include, without 631
limitation, any of the following: 632

(a) Automatic recovery of any of the following costs of 633
the electric distribution utility, provided the cost is 634
prudently incurred: the cost of fuel used to generate the 635
electricity supplied under the offer; the cost of purchased 636
power supplied under the offer, including the cost of energy and 637
capacity, and including purchased power acquired from an 638
affiliate; the cost of emission allowances; and the cost of 639
federally mandated carbon or energy taxes; 640

(b) A reasonable allowance for construction work in 641
progress for any of the electric distribution utility's cost of 642
constructing an electric generating facility or for an 643
environmental expenditure for any electric generating facility 644
of the electric distribution utility, provided the cost is 645
incurred or the expenditure occurs on or after January 1, 2009. 646
Any such allowance shall be subject to the construction work in 647
progress allowance limitations of division (A) of section 648
4909.15 of the Revised Code, except that the commission may 649
authorize such an allowance upon the incurrence of the cost or 650
occurrence of the expenditure. No such allowance for generating 651
facility construction shall be authorized, however, unless the 652
commission first determines in the proceeding that there is need 653
for the facility based on resource planning projections 654
submitted by the electric distribution utility. Further, no such 655
allowance shall be authorized unless the facility's construction 656
was sourced through a competitive bid process, regarding which 657
process the commission may adopt rules. An allowance approved 658
under division (B) (2) (b) of this section shall be established as 659

a nonbypassable surcharge for the life of the facility. 660

(c) The establishment of a nonbypassable surcharge for the 661
life of an electric generating facility that is owned or 662
operated by the electric distribution utility, was sourced 663
through a competitive bid process subject to any such rules as 664
the commission adopts under division (B) (2) (b) of this section, 665
and is newly used and useful on or after January 1, 2009, which 666
surcharge shall cover all costs of the utility specified in the 667
application, excluding costs recovered through a surcharge under 668
division (B) (2) (b) of this section. However, no surcharge shall 669
be authorized unless the commission first determines in the 670
proceeding that there is need for the facility based on resource 671
planning projections submitted by the electric distribution 672
utility. Additionally, if a surcharge is authorized for a 673
facility pursuant to plan approval under division (C) of this 674
section and as a condition of the continuation of the surcharge, 675
the electric distribution utility shall dedicate to Ohio 676
consumers the capacity and energy and the rate associated with 677
the cost of that facility. Before the commission authorizes any 678
surcharge pursuant to this division, it may consider, as 679
applicable, the effects of any decommissioning, deratings, and 680
retirements. 681

(d) Terms, conditions, or charges relating to limitations 682
on customer shopping for retail electric generation service, 683
bypassability, standby, back-up, or supplemental power service, 684
default service, carrying costs, amortization periods, and 685
accounting or deferrals, including future recovery of such 686
deferrals, as would have the effect of stabilizing or providing 687
certainty regarding retail electric service; 688

(e) Automatic increases or decreases in any component of 689

the standard service offer price; 690

(f) Consistent with sections 4928.23 to 4928.2318 of the 691
Revised Code, both of the following: 692

(i) Provisions for the electric distribution utility to 693
securitize any phase-in, inclusive of carrying charges, of the 694
utility's standard service offer price, which phase-in is 695
authorized in accordance with section 4928.144 of the Revised 696
Code; 697

(ii) Provisions for the recovery of the utility's cost of 698
securitization. 699

(g) Provisions relating to transmission, ancillary, 700
congestion, or any related service required for the standard 701
service offer, including provisions for the recovery of any cost 702
of such service that the electric distribution utility incurs on 703
or after that date pursuant to the standard service offer; 704

(h) Provisions regarding the utility's distribution 705
service, including, without limitation and notwithstanding any 706
provision of Title XLIX of the Revised Code to the contrary, 707
provisions regarding single issue ratemaking, a revenue 708
decoupling mechanism or any other incentive ratemaking, and 709
provisions regarding distribution infrastructure and 710
modernization incentives for the electric distribution utility. 711
The latter may include a long-term energy delivery 712
infrastructure modernization plan for that utility or any plan 713
providing for the utility's recovery of costs, including lost 714
revenue, shared savings, and avoided costs, and a just and 715
reasonable rate of return on such infrastructure modernization. 716
As part of its determination as to whether to allow in an 717
electric distribution utility's electric security plan inclusion 718

of any provision described in division (B) (2) (h) of this 719
section, the commission shall examine the reliability of the 720
electric distribution utility's distribution system and ensure 721
that customers' and the electric distribution utility's 722
expectations are aligned and that the electric distribution 723
utility is placing sufficient emphasis on and dedicating 724
sufficient resources to the reliability of its distribution 725
system. 726

(i) Provisions under which the electric distribution 727
utility may implement economic development, job retention, and 728
energy efficiency programs, which provisions may allocate 729
program costs across all classes of customers of the utility and 730
those of electric distribution utilities in the same holding 731
company system. 732

(C) (1) The burden of proof in the proceeding shall be on 733
the electric distribution utility. The commission shall issue an 734
order under this division for an initial application under this 735
section not later than one hundred fifty days after the 736
application's filing date and, for any subsequent application by 737
the utility under this section, not later than two hundred 738
seventy-five days after the application's filing date. Subject 739
to division (D) of this section, the commission by order shall 740
approve or modify and approve an application filed under 741
division (A) of this section if it finds that the electric 742
security plan so approved, including its pricing and all other 743
terms and conditions, including any deferrals and any future 744
recovery of deferrals, is more favorable in the aggregate as 745
compared to the expected results that would otherwise apply 746
under section 4928.142 of the Revised Code. Additionally, if the 747
commission so approves an application that contains a surcharge 748
under division (B) (2) (b) or (c) of this section, the commission 749

shall ensure that the benefits derived for any purpose for which 750
the surcharge is established are reserved and made available to 751
those that bear the surcharge. Otherwise, the commission by 752
order shall disapprove the application. 753

(2) (a) If the commission modifies and approves an 754
application under division (C) (1) of this section, the electric 755
distribution utility may withdraw the application, thereby 756
terminating it, and may file a new standard service offer under 757
this section or a standard service offer under section 4928.142 758
of the Revised Code. 759

(b) If the utility terminates an application pursuant to 760
division (C) (2) (a) of this section or if the commission 761
disapproves an application under division (C) (1) of this 762
section, the commission shall issue such order as is necessary 763
to continue the provisions, terms, and conditions of the 764
utility's most recent standard service offer, along with any 765
expected increases or decreases in fuel costs from those 766
contained in that offer, until a subsequent offer is authorized 767
pursuant to this section or section 4928.142 of the Revised 768
Code, respectively. 769

(D) Regarding the rate plan requirement of division (A) of 770
section 4928.141 of the Revised Code, if an electric 771
distribution utility that has a rate plan that extends beyond 772
December 31, 2008, files an application under this section for 773
the purpose of its compliance with division (A) of section 774
4928.141 of the Revised Code, that rate plan and its terms and 775
conditions are hereby incorporated into its proposed electric 776
security plan and shall continue in effect until the date 777
scheduled under the rate plan for its expiration, and that 778
portion of the electric security plan shall not be subject to 779

commission approval or disapproval under division (C) of this 780
section, and the earnings test provided for in division (F) of 781
this section shall not apply until after the expiration of the 782
rate plan. However, that utility may include in its electric 783
security plan under this section, and the commission may 784
approve, modify and approve, or disapprove subject to division 785
(C) of this section, provisions for the incremental recovery or 786
the deferral of any costs that are not being recovered under the 787
rate plan and that the utility incurs during that continuation 788
period to comply with section 4928.141, ~~division (B) of section~~ 789
~~4928.64,~~ or division (A) of section 4928.66 of the Revised Code. 790

(E) If an electric security plan approved under division 791
(C) of this section, except one withdrawn by the utility as 792
authorized under that division, has a term, exclusive of phase- 793
ins or deferrals, that exceeds three years from the effective 794
date of the plan, the commission shall test the plan in the 795
fourth year, and if applicable, every fourth year thereafter, to 796
determine whether the plan, including its then-existing pricing 797
and all other terms and conditions, including any deferrals and 798
any future recovery of deferrals, continues to be more favorable 799
in the aggregate and during the remaining term of the plan as 800
compared to the expected results that would otherwise apply 801
under section 4928.142 of the Revised Code. The commission shall 802
also determine the prospective effect of the electric security 803
plan to determine if that effect is substantially likely to 804
provide the electric distribution utility with a return on 805
common equity that is significantly in excess of the return on 806
common equity that is likely to be earned by publicly traded 807
companies, including utilities, that face comparable business 808
and financial risk, with such adjustments for capital structure 809
as may be appropriate. The burden of proof for demonstrating 810

that significantly excessive earnings will not occur shall be on 811
the electric distribution utility. If the test results are in 812
the negative or the commission finds that continuation of the 813
electric security plan will result in a return on equity that is 814
significantly in excess of the return on common equity that is 815
likely to be earned by publicly traded companies, including 816
utilities, that will face comparable business and financial 817
risk, with such adjustments for capital structure as may be 818
appropriate, during the balance of the plan, the commission may 819
terminate the electric security plan, but not until it shall 820
have provided interested parties with notice and an opportunity 821
to be heard. The commission may impose such conditions on the 822
plan's termination as it considers reasonable and necessary to 823
accommodate the transition from an approved plan to the more 824
advantageous alternative. In the event of an electric security 825
plan's termination pursuant to this division, the commission 826
shall permit the continued deferral and phase-in of any amounts 827
that occurred prior to that termination and the recovery of 828
those amounts as contemplated under that electric security plan. 829

(F) With regard to the provisions that are included in an 830
electric security plan under this section, the commission shall 831
consider, following the end of each annual period of the plan, 832
if any such adjustments resulted in excessive earnings as 833
measured by whether the earned return on common equity of the 834
electric distribution utility is significantly in excess of the 835
return on common equity that was earned during the same period 836
by publicly traded companies, including utilities, that face 837
comparable business and financial risk, with such adjustments 838
for capital structure as may be appropriate. Consideration also 839
shall be given to the capital requirements of future committed 840
investments in this state. The burden of proof for demonstrating 841

that significantly excessive earnings did not occur shall be on 842
the electric distribution utility. If the commission finds that 843
such adjustments, in the aggregate, did result in significantly 844
excessive earnings, it shall require the electric distribution 845
utility to return to consumers the amount of the excess by 846
prospective adjustments; provided that, upon making such 847
prospective adjustments, the electric distribution utility shall 848
have the right to terminate the plan and immediately file an 849
application pursuant to section 4928.142 of the Revised Code. 850
Upon termination of a plan under this division, rates shall be 851
set on the same basis as specified in division (C) (2) (b) of this 852
section, and the commission shall permit the continued deferral 853
and phase-in of any amounts that occurred prior to that 854
termination and the recovery of those amounts as contemplated 855
under that electric security plan. In making its determination 856
of significantly excessive earnings under this division, the 857
commission shall not consider, directly or indirectly, the 858
revenue, expenses, or earnings of any affiliate or parent 859
company. 860

Sec. 4928.20. (A) The legislative authority of a municipal 861
corporation may adopt an ordinance, or the board of township 862
trustees of a township or the board of county commissioners of a 863
county may adopt a resolution, under which, on or after the 864
starting date of competitive retail electric service, it may 865
aggregate in accordance with this section the retail electrical 866
loads located, respectively, within the municipal corporation, 867
township, or unincorporated area of the county and, for that 868
purpose, may enter into service agreements to facilitate for 869
those loads the sale and purchase of electricity. The 870
legislative authority or board also may exercise such authority 871
jointly with any other such legislative authority or board. For 872

customers that are not mercantile customers, an ordinance or 873
resolution under this division shall specify whether the 874
aggregation will occur only with the prior, affirmative consent 875
of each person owning, occupying, controlling, or using an 876
electric load center proposed to be aggregated or will occur 877
automatically for all such persons pursuant to the opt-out 878
requirements of division (D) of this section. The aggregation of 879
mercantile customers shall occur only with the prior, 880
affirmative consent of each such person owning, occupying, 881
controlling, or using an electric load center proposed to be 882
aggregated. Nothing in this division, however, authorizes the 883
aggregation of the retail electric loads of an electric load 884
center, as defined in section 4933.81 of the Revised Code, that 885
is located in the certified territory of a nonprofit electric 886
supplier under sections 4933.81 to 4933.90 of the Revised Code 887
or an electric load center served by transmission or 888
distribution facilities of a municipal electric utility. 889

(B) If an ordinance or resolution adopted under division 890
(A) of this section specifies that aggregation of customers that 891
are not mercantile customers will occur automatically as 892
described in that division, the ordinance or resolution shall 893
direct the board of elections to submit the question of the 894
authority to aggregate to the electors of the respective 895
municipal corporation, township, or unincorporated area of a 896
county at a special election on the day of the next primary or 897
general election in the municipal corporation, township, or 898
county. The legislative authority or board shall certify a copy 899
of the ordinance or resolution to the board of elections not 900
less than ninety days before the day of the special election. No 901
ordinance or resolution adopted under division (A) of this 902
section that provides for an election under this division shall 903

take effect unless approved by a majority of the electors voting 904
upon the ordinance or resolution at the election held pursuant 905
to this division. 906

(C) Upon the applicable requisite authority under 907
divisions (A) and (B) of this section, the legislative authority 908
or board shall develop a plan of operation and governance for 909
the aggregation program so authorized. Before adopting a plan 910
under this division, the legislative authority or board shall 911
hold at least two public hearings on the plan. Before the first 912
hearing, the legislative authority or board shall publish notice 913
of the hearings once a week for two consecutive weeks in a 914
newspaper of general circulation in the jurisdiction or as 915
provided in section 7.16 of the Revised Code. The notice shall 916
summarize the plan and state the date, time, and location of 917
each hearing. 918

(D) No legislative authority or board, pursuant to an 919
ordinance or resolution under divisions (A) and (B) of this 920
section that provides for automatic aggregation of customers 921
that are not mercantile customers as described in division (A) 922
of this section, shall aggregate the electrical load of any 923
electric load center located within its jurisdiction unless it 924
in advance clearly discloses to the person owning, occupying, 925
controlling, or using the load center that the person will be 926
enrolled automatically in the aggregation program and will 927
remain so enrolled unless the person affirmatively elects by a 928
stated procedure not to be so enrolled. The disclosure shall 929
state prominently the rates, charges, and other terms and 930
conditions of enrollment. The stated procedure shall allow any 931
person enrolled in the aggregation program the opportunity to 932
opt out of the program every three years, without paying a 933
switching fee. Any such person that opts out before the 934

commencement of the aggregation program pursuant to the stated 935
procedure shall default to the standard service offer provided 936
under section 4928.14 or division (D) of section 4928.35 of the 937
Revised Code until the person chooses an alternative supplier. 938

(E) (1) With respect to a governmental aggregation for a 939
municipal corporation that is authorized pursuant to divisions 940
(A) to (D) of this section, resolutions may be proposed by 941
initiative or referendum petitions in accordance with sections 942
731.28 to 731.41 of the Revised Code. 943

(2) With respect to a governmental aggregation for a 944
township or the unincorporated area of a county, which 945
aggregation is authorized pursuant to divisions (A) to (D) of 946
this section, resolutions may be proposed by initiative or 947
referendum petitions in accordance with sections 731.28 to 948
731.40 of the Revised Code, except that: 949

(a) The petitions shall be filed, respectively, with the 950
township fiscal officer or the board of county commissioners, 951
who shall perform those duties imposed under those sections upon 952
the city auditor or village clerk. 953

(b) The petitions shall contain the signatures of not less 954
than ten per cent of the total number of electors in, 955
respectively, the township or the unincorporated area of the 956
county who voted for the office of governor at the preceding 957
general election for that office in that area. 958

(F) A governmental aggregator under division (A) of this 959
section is not a public utility engaging in the wholesale 960
purchase and resale of electricity, and provision of the 961
aggregated service is not a wholesale utility transaction. A 962
governmental aggregator shall be subject to supervision and 963

regulation by the public utilities commission only to the extent 964
of any competitive retail electric service it provides and 965
commission authority under this chapter. 966

(G) This section does not apply in the case of a municipal 967
corporation that supplies such aggregated service to electric 968
load centers to which its municipal electric utility also 969
supplies a noncompetitive retail electric service through 970
transmission or distribution facilities the utility singly or 971
jointly owns or operates. 972

(H) A governmental aggregator shall not include in its 973
aggregation the accounts of any of the following: 974

(1) A customer that has opted out of the aggregation; 975

(2) A customer in contract with a certified electric 976
services company; 977

(3) A customer that has a special contract with an 978
electric distribution utility; 979

(4) A customer that is not located within the governmental 980
aggregator's governmental boundaries; 981

(5) Subject to division (C) of section 4928.21 of the 982
Revised Code, a customer who appears on the "do not aggregate" 983
list maintained under that section. 984

(I) Customers that are part of a governmental aggregation 985
under this section shall be responsible only for such portion of 986
a surcharge under section 4928.144 of the Revised Code that is 987
proportionate to the benefits, as determined by the commission, 988
that electric load centers within the jurisdiction of the 989
governmental aggregation as a group receive. The proportionate 990
surcharge so established shall apply to each customer of the 991

governmental aggregation while the customer is part of that 992
aggregation. If a customer ceases being such a customer, the 993
otherwise applicable surcharge shall apply. Nothing in this 994
section shall result in less than full recovery by an electric 995
distribution utility of any surcharge authorized under section 996
4928.144 of the Revised Code. Nothing in this section shall 997
result in less than the full and timely imposition, charging, 998
collection, and adjustment by an electric distribution utility, 999
its assignee, or any collection agent, of the phase-in-recovery 1000
charges authorized pursuant to a final financing order issued 1001
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 1002

(J) On behalf of the customers that are part of a 1003
governmental aggregation under this section and by filing 1004
written notice with the public utilities commission, the 1005
legislative authority that formed or is forming that 1006
governmental aggregation may elect not to receive standby 1007
service within the meaning of division (B) (2) (d) of section 1008
4928.143 of the Revised Code from an electric distribution 1009
utility in whose certified territory the governmental 1010
aggregation is located and that operates under an approved 1011
electric security plan under that section. Upon the filing of 1012
that notice, the electric distribution utility shall not charge 1013
any such customer to whom competitive retail electric generation 1014
service is provided by another supplier under the governmental 1015
aggregation for the standby service. Any such consumer that 1016
returns to the utility for competitive retail electric service 1017
shall pay the market price of power incurred by the utility to 1018
serve that consumer plus any additional amount attributable to 1019
the utility's cost of ~~compliance with the providing, after the~~ 1020
effective date of the amendments to this section by H.B. 114 of 1021
the 132nd general assembly, electricity from qualifying 1022

renewable energy ~~resource provisions of~~ resources as defined in 1023
section 4928.64 of the Revised Code ~~to serve the consumer,~~ 1024
unless that customer opts out under section 4928.647 of the 1025
Revised Code. Such market price shall include, but not be 1026
limited to, capacity and energy charges; all charges associated 1027
with the provision of that power supply through the regional 1028
transmission organization, including, but not limited to, 1029
transmission, ancillary services, congestion, and settlement and 1030
administrative charges; and all other costs incurred by the 1031
utility that are associated with the procurement, provision, and 1032
administration of that power supply, as such costs may be 1033
approved by the commission. The period of time during which the 1034
market price and qualifying renewable energy resource amount 1035
shall be so assessed on the consumer shall be from the time the 1036
consumer so returns to the electric distribution utility until 1037
the expiration of the electric security plan. However, if that 1038
period of time is expected to be more than two years, the 1039
commission may reduce the time period to a period of not less 1040
than two years. 1041

(K) The commission shall adopt rules to encourage and 1042
promote large-scale governmental aggregation in this state. For 1043
that purpose, the commission shall conduct an immediate review 1044
of any rules it has adopted for the purpose of this section that 1045
are in effect on the effective date of the amendment of this 1046
section by S.B. 221 of the 127th general assembly, July 31, 1047
2008. Further, within the context of an electric security plan 1048
under section 4928.143 of the Revised Code, the commission shall 1049
consider the effect on large-scale governmental aggregation of 1050
any nonbypassable generation charges, however collected, that 1051
would be established under that plan, except any nonbypassable 1052
generation charges that relate to any cost incurred by the 1053

electric distribution utility, the deferral of which has been 1054
authorized by the commission prior to the effective date of the 1055
amendment of this section by S.B. 221 of the 127th general 1056
assembly, July 31, 2008. 1057

Sec. 4928.61. (A) There is hereby established in the state 1058
treasury the advanced energy fund, into which shall be deposited 1059
all advanced energy revenues remitted to the director of 1060
development under division (B) of this section, for the 1061
exclusive purposes of funding the advanced energy program 1062
created under section 4928.62 of the Revised Code and paying the 1063
program's administrative costs. Interest on the fund shall be 1064
credited to the fund. 1065

(B) Advanced energy revenues shall include all of the 1066
following: 1067

(1) Revenues remitted to the director after collection by 1068
each electric distribution utility in this state of a temporary 1069
rider on retail electric distribution service rates as such 1070
rates are determined by the public utilities commission pursuant 1071
to this chapter. The rider shall be a uniform amount statewide, 1072
determined by the director of development, after consultation 1073
with the public benefits advisory board created by section 1074
4928.58 of the Revised Code. The amount shall be determined by 1075
dividing an aggregate revenue target for a given year as 1076
determined by the director, after consultation with the advisory 1077
board, by the number of customers of electric distribution 1078
utilities in this state in the prior year. Such aggregate 1079
revenue target shall not exceed more than fifteen million 1080
dollars in any year through 2005 and shall not exceed more than 1081
five million dollars in any year after 2005. The rider shall be 1082
imposed beginning on the effective date of the amendment of this 1083

section by Sub. H.B. 251 of the 126th general assembly, January 1084
4, 2007, and shall terminate at the end of ten years following 1085
the starting date of competitive retail electric service or 1086
until the advanced energy fund, including interest, reaches one 1087
hundred million dollars, whichever is first. 1088

(2) Revenues from payments, repayments, and collections 1089
under the advanced energy program and from program income; 1090

(3) Revenues remitted to the director after collection by 1091
a municipal electric utility or electric cooperative in this 1092
state upon the utility's or cooperative's decision to 1093
participate in the advanced energy fund; 1094

~~(4) Revenues from renewable energy compliance payments as~~ 1095
~~provided under division (C) (2) of section 4928.64 of the Revised~~ 1096
~~Code;~~ 1097

~~(5) Revenue from forfeitures under division (C) (B) of~~ 1098
section 4928.66 of the Revised Code; 1099

~~(6) (5) Funds transferred pursuant to division (B) of~~ 1100
Section 512.10 of S.B. 315 of the 129th general assembly; 1101

~~(7) (6) Interest earnings on the advanced energy fund.~~ 1102

(C) (1) Each electric distribution utility in this state 1103
shall remit to the director on a quarterly basis the revenues 1104
described in divisions (B) (1) and (2) of this section. Such 1105
remittances shall occur within thirty days after the end of each 1106
calendar quarter. 1107

(2) Each participating electric cooperative and 1108
participating municipal electric utility shall remit to the 1109
director on a quarterly basis the revenues described in division 1110
(B) (3) of this section. Such remittances shall occur within 1111

thirty days after the end of each calendar quarter. For the 1112
purpose of division (B) (3) of this section, the participation of 1113
an electric cooperative or municipal electric utility in the 1114
energy efficiency revolving loan program as it existed 1115
immediately prior to the effective date of the amendment of this 1116
section by Sub. H.B. 251 of the 126th general assembly, January 1117
4, 2007, does not constitute a decision to participate in the 1118
advanced energy fund under this section as so amended. 1119

(3) All remittances under divisions (C) (1) and (2) of this 1120
section shall continue only until the end of ten years following 1121
the starting date of competitive retail electric service or 1122
until the advanced energy fund, including interest, reaches one 1123
hundred million dollars, whichever is first. 1124

(D) Any moneys collected in rates for non-low-income 1125
customer energy efficiency programs, as of October 5, 1999, and 1126
not contributed to the energy efficiency revolving loan fund 1127
authorized under this section prior to the effective date of its 1128
amendment by Sub. H.B. 251 of the 126th general assembly, 1129
January 4, 2007, shall be used to continue to fund cost- 1130
effective, residential energy efficiency programs, be 1131
contributed into the universal service fund as a supplement to 1132
that required under section 4928.53 of the Revised Code, or be 1133
returned to ratepayers in the form of a rate reduction at the 1134
option of the affected electric distribution utility. 1135

Sec. 4928.62. (A) There is hereby created the advanced 1136
energy program, which shall be administered by the director of 1137
development. Under the program, the director may authorize the 1138
use of moneys in the advanced energy fund for financial, 1139
technical, and related assistance for advanced energy projects 1140
in this state or for economic development assistance, in 1141

furtherance of the purposes set forth in section 4928.63 of the Revised Code. 1142
1143

(1) To the extent feasible given approved applications for assistance, the assistance shall be distributed among the certified territories of electric distribution utilities and participating electric cooperatives, and among the service areas of participating municipal electric utilities, in amounts proportionate to the remittances of each utility and cooperative under divisions (B) (1) and (3) of section 4928.61 of the Revised Code. 1144
1145
1146
1147
1148
1149
1150
1151

(2) The funds described in division (B) ~~(6)~~ (5) of section 4928.61 of the Revised Code shall not be subject to the territorial requirements of division (A) (1) of this section. 1152
1153
1154

(3) The director shall not authorize financial assistance for an advanced energy project under the program unless the director first determines that the project will create new jobs or preserve existing jobs in this state or use innovative technologies or materials. 1155
1156
1157
1158
1159

(B) In carrying out sections 4928.61 to 4928.63 of the Revised Code, the director may do all of the following to further the public interest in advanced energy projects and economic development: 1160
1161
1162
1163

(1) Award grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; 1164
1165

(2) Acquire in the name of the director any property of any kind or character in accordance with this section, by purchase, purchase at foreclosure, or exchange, on such terms and in such manner as the director considers proper; 1166
1167
1168
1169

(3) Make and enter into all contracts and agreements 1170

necessary or incidental to the performance of the director's 1171
duties and the exercise of the director's powers under sections 1172
4928.61 to 4928.63 of the Revised Code; 1173

(4) Employ or enter into contracts with financial 1174
consultants, marketing consultants, consulting engineers, 1175
architects, managers, construction experts, attorneys, technical 1176
monitors, energy evaluators, or other employees or agents as the 1177
director considers necessary, and fix their compensation; 1178

(5) Adopt rules prescribing the application procedures for 1179
financial assistance under the advanced energy program; the 1180
fees, charges, interest rates, payment schedules, local match 1181
requirements, and other terms and conditions of any grants, 1182
contracts, loans, loan participation agreements, linked 1183
deposits, and energy production incentives; criteria pertaining 1184
to the eligibility of participating lending institutions; and 1185
any other matters necessary for the implementation of the 1186
program; 1187

(6) Do all things necessary and appropriate for the 1188
operation of the program. 1189

(C) The department of development may hold ownership to 1190
any unclaimed energy efficiency and renewable energy emission 1191
allowances provided for in Chapter 3745-14 of the Administrative 1192
Code or otherwise, that result from advanced energy projects 1193
that receive funding from the advanced energy fund, and it may 1194
use the allowances to further the public interest in advanced 1195
energy projects or for economic development. 1196

(D) Financial statements, financial data, and trade 1197
secrets submitted to or received by the director from an 1198
applicant or recipient of financial assistance under sections 1199

4928.61 to 4928.63 of the Revised Code, or any information taken 1200
from those statements, data, or trade secrets for any purpose, 1201
are not public records for the purpose of section 149.43 of the 1202
Revised Code. 1203

(E) Nothing in the amendments of sections 4928.61, 1204
4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 1205
126th general assembly shall affect any pending or effected 1206
assistance, pending or effected purchases or exchanges of 1207
property made, or pending or effected contracts or agreements 1208
entered into pursuant to division (A) or (B) of this section as 1209
the section existed prior to the effective date of those 1210
amendments, January 4, 2007, or shall affect the exemption 1211
provided under division (C) of this section as the section 1212
existed prior to that effective date. 1213

(F) Any assistance a school district receives for an 1214
advanced energy project, including a geothermal heating, 1215
ventilating, and air conditioning system, shall be in addition 1216
to any assistance provided under Chapter 3318. of the Revised 1217
Code and shall not be included as part of the district or state 1218
portion of the basic project cost under that chapter. 1219

Sec. 4928.64. (A) (1) As used in this section and sections 1220
4928.645, 4928.647, 4928.65, and 4928.6620 of the Revised Code, 1221
"qualifying renewable energy resource" means a renewable energy 1222
resource, as defined in section 4928.01 of the Revised Code that 1223
~~has~~; 1224

(a) Has a placed-in-service date on or after January 1, 1225
1998, ~~or with respect to~~; 1226

(b) Is any run-of-the-river hydroelectric facility, that 1227
has an in-service date on or after January 1, 1980; ~~a renewable~~ 1228

energy resource	1229
<u>(c) Is a small hydroelectric facility;</u>	1230
<u>(d) Is created on or after January 1, 1998, by the</u> modification or retrofit of any facility placed in service prior to January 1, 1998; or	1231 1232 1233
<u>(e) Is a mercantile customer-sited renewable energy</u> resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A) (2) (c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:	1234 1235 1236 1237 1238 1239 1240
(a) <u>(i)</u> A resource that has the effect of improving the relationship between real and reactive power;	1241 1242
(b) <u>(ii)</u> A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	1243 1244 1245
(c) <u>(iii)</u> Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	1246 1247 1248
(d) <u>(iv)</u> Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource.	1249 1250
(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such a qualifying renewable energy resource.	1251 1252 1253
<u>(B) Except as provided in division (D) of this section:</u>	1254
(1) By 2027 and thereafter , an electric distribution	1255

utility ~~shall~~ may provide from qualifying renewable energy 1256
resources, including, at its discretion, qualifying renewable 1257
energy resources obtained pursuant to an electricity supply 1258
contract, a portion of the electricity supply required for its 1259
standard service offer under section 4928.141 of the Revised 1260
Code, and an electric services company ~~shall~~ may provide a 1261
portion of its electricity supply for retail consumers in this 1262
state from qualifying renewable energy resources, including, at 1263
its discretion, qualifying renewable energy resources obtained 1264
pursuant to an electricity supply contract. That portion ~~shall~~ 1265
may equal twelve and one-half per cent of the ~~total number of~~ 1266
~~kilowatt hours of electricity sold by the subject utility or~~ 1267
~~company to any and all retail electric consumers whose electric~~ 1268
~~load centers are served by that utility and are located within~~ 1269
~~the utility's certified territory or, in the case of an electric~~ 1270
~~services company, are served by the company and are located~~ 1271
~~within this state~~ baseline as defined in section 4928.643 of the 1272
Revised Code. ~~However, nothing in this section precludes a~~ 1273
~~utility or company from providing a greater percentage.~~ 1274

(2) The portion ~~required~~ permitted under division (B) (1) 1275
of this section ~~shall~~ may be generated ~~from renewable energy~~ 1276
~~resources, including one half per cent from solar energy~~ 1277
~~resources,~~ in accordance with the following benchmarks, which 1278
are expressed as percentages of the baseline as defined in 1279
section 4928.643 of the Revised Code: 1280

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	1283
2010	0.50%	0.010%	1284
2011	1%	0.030%	1285

2012	1.5%	0.060%	1286
2013	2%	0.090%	1287
2014	2.5%	0.12%	1288
2015	2.5%	0.12%	1289
2016	2.5%	0.12%	1290
2017	3.5%	0.15%	1291
2018	4.5%	0.18%	1292
2019	5.5%	0.22%	1293
2020	6.5%	0.26%	1294
2021	7.5%	0.3%	1295
2022	8.5%	0.34%	1296
2023	9.5%	0.38%	1297
2024	10.5%	0.42%	1298
2025	11.5%	0.46%	1299
2026 and each calendar	12.5%	0.5%.	1300
year thereafter			1301

~~(3) (C) The qualifying renewable energy resources~~ 1302
implemented by the utility or company ~~shall~~ may be met either: 1303

~~(a) (1) Through facilities located in this state; or~~ 1304

~~(b) (2) With resources that can be shown to be deliverable~~ 1305
into this state. 1306

~~(C) (1) The commission annually shall review an electric-~~ 1307
~~distribution utility's or electric services company's compliance-~~ 1308
~~with the most recent applicable benchmark under division (B) (2)-~~ 1309
~~of this section and, in the course of that review, shall-~~ 1310
~~identify any undercompliance or noncompliance of the utility or-~~ 1311
~~company that it determines is weather-related, related to-~~ 1312
~~equipment or resource shortages for qualifying renewable energy-~~ 1313
~~resources as applicable, or is otherwise outside the utility's-~~ 1314
~~or company's control.~~ 1315

~~(2) Subject to the cost cap provisions of division (C) (3) of this section, if the commission determines, after notice and opportunity for hearing, and based upon its findings in that review regarding avoidable undercompliance or noncompliance, but subject to division (C) (4) of this section, that the utility or company has failed to comply with any such benchmark, the commission shall impose a renewable energy compliance payment on the utility or company.~~ 1316
1317
1318
1319
1320
1321
1322
1323

~~(a) The compliance payment pertaining to the solar energy resource benchmarks under division (B) (2) of this section shall be an amount per megawatt hour of undercompliance or noncompliance in the period under review, as follows:~~ 1324
1325
1326
1327

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 1328

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 1329

~~(iii) Two hundred dollars for 2019 and 2020;~~ 1330

~~(iv) Similarly reduced every two years thereafter through 2026 by fifty dollars, to a minimum of fifty dollars.~~ 1331
1332

~~(b) The compliance payment pertaining to the renewable energy resource benchmarks under division (B) (2) of this section shall equal the number of additional renewable energy credits that the electric distribution utility or electric services company would have needed to comply with the applicable benchmark in the period under review times an amount that shall begin at forty five dollars and shall be adjusted annually by the commission to reflect any change in the consumer price index as defined in section 101.27 of the Revised Code, but shall not be less than forty five dollars.~~ 1333
1334
1335
1336
1337
1338
1339
1340
1341
1342

~~(c) The compliance payment shall not be passed through by the electric distribution utility or electric services company~~ 1343
1344

~~to consumers. The compliance payment shall be remitted to the~~ 1345
~~commission, for deposit to the credit of the advanced energy~~ 1346
~~fund created under section 4928.61 of the Revised Code. Payment~~ 1347
~~of the compliance payment shall be subject to such collection~~ 1348
~~and enforcement procedures as apply to the collection of a~~ 1349
~~forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the~~ 1350
~~Revised Code.~~ 1351

~~(3) An (D) Neither an electric distribution utility or nor~~ 1352
~~an electric services company need not comply with a benchmark~~ 1353
~~under division (B) (2) of this section to the extent that may~~ 1354
~~provide a portion of its electricity from qualifying renewable~~ 1355
~~energy resources if its reasonably expected cost of that~~ 1356
~~compliance providing that portion from those resources exceeds~~ 1357
~~its reasonably expected cost of otherwise producing or acquiring~~ 1358
~~the requisite same amount of electricity by three per cent or~~ 1359
~~more. The cost of compliance providing the portion from~~ 1360
~~qualifying renewable energy resources shall be calculated as~~ 1361
~~though any exemption from taxes and assessments had not been~~ 1362
~~granted under section 5727.75 of the Revised Code. As long as~~ 1363
~~the cost of providing the portion from qualifying renewable~~ 1364
~~energy resources does not exceed the cost cap set forth in this~~ 1365
~~division, then the portion may exceed any of the benchmarks set~~ 1366
~~forth in division (B) (2) of this section.~~ 1367

~~(4) (a) (E) (1) An electric distribution utility or electric~~ 1368
~~services company may request the commission to make a force~~ 1369
~~majeure determination pursuant to this division regarding all or~~ 1370
~~part of the utility's or company's compliance with provision of~~ 1371
~~electricity from qualifying renewable energy resources at the~~ 1372
~~level of any minimum benchmark of the benchmarks under division~~ 1373
~~(B) (2) of this section during the period of review occurring~~ 1374
~~pursuant to division (C) (2) of this section. The commission may~~ 1375

~~require~~ encourage the electric distribution utility or electric 1376
services company to make solicitations for renewable energy 1377
resource credits as part of its default service before the 1378
utility's or company's request of force majeure under this 1379
division can be made. 1380

~~(b)~~ (2) Within ninety days after the filing of a request 1381
by an electric distribution utility or electric services company 1382
under division ~~(C) (4) (a)~~ (E) (1) of this section, the commission 1383
shall determine if qualifying renewable energy resources are 1384
reasonably available in the marketplace in sufficient quantities 1385
for the utility or company to ~~comply with the subject minimum~~ 1386
provide electricity from qualifying renewable energy resources 1387
at the level of the benchmark during the review period at issue. 1388
In making this determination, the commission shall consider 1389
whether the electric distribution utility or electric services 1390
company has made a good faith effort to acquire sufficient 1391
qualifying renewable energy or, as applicable, solar energy 1392
resources ~~to so comply~~, including, but not limited to, by 1393
banking or seeking renewable energy resource credits or by 1394
seeking the resources through long-term contracts. Additionally, 1395
the commission shall consider the availability of qualifying 1396
renewable energy or solar energy resources in this state and 1397
other jurisdictions in the PJM interconnection regional 1398
transmission organization, L.L.C., or its successor and the 1399
midcontinent independent system operator or its successor. 1400

~~(c)~~ (3) If, pursuant to division ~~(C) (4) (b)~~ (E) (2) of this 1401
section, the commission determines that qualifying renewable 1402
energy or solar energy resources are not reasonably available to 1403
permit the electric distribution utility or electric services 1404
company to ~~comply, during the period of review, with the subject~~ 1405
minimum provide electricity from qualifying renewable energy 1406

~~resources at the level of the benchmark prescribed under~~ 1407
~~division (B) (2) of this section at issue,~~ the commission shall 1408
modify that ~~compliance obligation of the utility or company~~ 1409
~~benchmark~~ as it determines appropriate to accommodate the 1410
finding. ~~Commission modification shall not automatically reduce~~ 1411
~~the obligation for the electric distribution utility's or~~ 1412
~~electric services company's compliance in subsequent years. If~~ 1413
~~it modifies the electric distribution utility or electric~~ 1414
~~services company obligation under division (C) (4) (c) of this~~ 1415
~~section, the commission may require the utility or company, if~~ 1416
~~sufficient renewable energy resource credits exist in the~~ 1417
~~marketplace, to acquire additional renewable energy resource~~ 1418
~~credits in subsequent years equivalent to the utility's or~~ 1419
~~company's modified obligation under division (C) (4) (c) of this~~ 1420
~~section.~~ 1421

~~(5) (F)~~ The commission shall establish a process to 1422
provide for at least an annual review of the renewable energy 1423
resource market in this state and in the service territories of 1424
the regional transmission organizations that manage transmission 1425
systems located in this state. ~~The commission shall use the~~ 1426
~~results of this study to identify any needed changes to the~~ 1427
~~amount of the renewable energy compliance payment specified~~ 1428
~~under divisions (C) (2) (a) and (b) of this section. Specifically,~~ 1429
~~the commission may increase the amount to ensure that payment of~~ 1430
~~compliance payments is not used to achieve compliance with this~~ 1431
~~section in lieu of actually acquiring or realizing energy~~ 1432
~~derived from qualifying renewable energy resources. However, if~~ 1433
~~the commission finds that the amount of the compliance payment~~ 1434
~~should be otherwise changed, the commission shall present this~~ 1435
~~finding to the general assembly for legislative enactment.~~ 1436

~~(D) The commission annually shall submit to the general~~ 1437

~~assembly in accordance with section 101.68 of the Revised Code a~~ 1438
~~report describing all of the following:~~ 1439

~~(1) The compliance of electric distribution utilities and~~ 1440
~~electric services companies with division (B) of this section;~~ 1441

~~(2) The average annual cost of renewable energy credits~~ 1442
~~purchased by utilities and companies for the year covered in the~~ 1443
~~report;~~ 1444

~~(3) Any strategy for utility and company compliance or for~~ 1445
~~encouraging the use of qualifying renewable energy resources in~~ 1446
~~supplying this state's electricity needs in a manner that~~ 1447
~~considers available technology, costs, job creation, and~~ 1448
~~economic impacts.~~ 1449

~~The commission shall begin providing the information~~ 1450
~~described in division (D) (2) of this section in each report~~ 1451
~~submitted after September 10, 2012. The commission shall allow~~ 1452
~~and consider public comments on the report prior to its~~ 1453
~~submission to the general assembly. Nothing in the report shall~~ 1454
~~be binding on any person, including any utility or company for~~ 1455
~~the purpose of its compliance with any benchmark under division~~ 1456
~~(B) of this section, or the enforcement of that provision under~~ 1457
~~division (C) of this section.~~ 1458

~~(E)~~ (G) All costs incurred by an electric distribution 1459
utility in ~~complying with the requirements of this section~~ 1460
providing electricity from qualifying renewable energy resources 1461
shall be bypassable by any consumer that has exercised choice of 1462
supplier under section 4928.03 of the Revised Code. 1463

Sec. 4928.641. (A) If an electric distribution utility has 1464
executed a contract before ~~April 1, 2014,~~ the effective date of 1465
the amendments to this section by H.B. 114 of the 132nd general 1466

assembly to procure renewable energy resources for compliance 1467
with section 4928.64 of the Revised Code as that section existed 1468
prior to that date and there are ongoing costs associated with 1469
that contract that are being recovered from customers through a 1470
bypassable charge as of ~~the effective that date of S.B. 310 of~~ 1471
~~the 130th general assembly~~, that cost recovery shall continue on 1472
a bypassable basis until the prudently incurred costs associated 1473
with that contract are fully recovered. 1474

(B) Division (A) of this section applies only to costs 1475
associated with the original term of a contract described in 1476
that division and entered into before ~~April 1, 2014~~ the 1477
effective date of the amendments to this section by H.B. 114 of 1478
the 132nd general assembly. This section does not permit 1479
recovery of costs associated with an extension of such a 1480
contract. This section does not permit recovery of costs 1481
associated with an amendment of such a contract if that 1482
amendment was made on or after ~~April 1, 2014~~ the effective date 1483
of the amendments to this section by H.B. 114 of the 132nd 1484
general assembly. 1485

Sec. 4928.643. (A) ~~Except As used in sections 4928.64 and~~ 1486
~~4928.6620 of the Revised Code, and except as provided in~~ 1487
division (B) of this section and section 4928.644 of the Revised 1488
Code, ~~the baseline for an electric distribution utility's or an~~ 1489
~~electric services company's compliance with the qualified~~ 1490
~~renewable energy resource requirements of section 4928.64 of the~~ 1491
~~Revised Code shall be~~ "baseline" means the average of total 1492
kilowatt hours sold by ~~the~~ an electric distribution utility or 1493
electric services company in the preceding three calendar years 1494
to the following: 1495

(1) In the case of an electric distribution utility, any 1496

and all retail electric consumers whose electric load centers 1497
are served by that utility and are located within the utility's 1498
certified territory, excluding customers of the utility who have 1499
opted out under section 4928.647 of the Revised Code; 1500

(2) In the case of an electric services company, any and 1501
all retail electric consumers who are served by the company and 1502
are located within this state, excluding customers of the 1503
company who have opted out under section 4928.647 of the Revised 1504
Code. 1505

(B) ~~Beginning with compliance year 2014, a A utility or~~ 1506
~~company may choose for its baseline for compliance with the~~ 1507
~~qualified renewable energy resource requirements of section~~ 1508
~~4928.64 of the Revised Code to be the total kilowatt hours sold~~ 1509
to the applicable consumers, as described in division (A) (1) or 1510
(2) of this section, in the applicable compliance calendar year 1511
described in the utility's report submitted under division (A) 1512
of section 4928.6620 of the Revised Code. 1513

(C) A utility or company that uses the baseline permitted 1514
under division (B) of this section may use the baseline 1515
described in division (A) of this section in any subsequent 1516
~~compliance calendar year~~. A utility or company that makes this 1517
switch shall use the baseline described in division (A) of this 1518
section for at least three consecutive ~~compliance calendar years~~ 1519
before again using the baseline permitted under division (B) of 1520
this section. 1521

Sec. 4928.644. The public utilities commission may reduce 1522
either baseline ~~described~~ defined in section 4928.643 of the 1523
Revised Code to adjust for new economic growth in the electric 1524
distribution utility's certified territory or in the electric 1525
services company's service area in this state. 1526

Sec. 4928.645. (A) An electric distribution utility or 1527
electric services company may use, for the purpose of ~~complying~~ 1528
~~with the requirements under divisions (B) (1) and (2) of section~~ 1529
~~4928.64 of the Revised Code~~ providing electricity from 1530
qualifying renewable energy resources, renewable energy credits 1531
any time in the five calendar years following the date of their 1532
purchase or acquisition from any entity, including, but not 1533
limited to, the following: 1534

(1) A mercantile customer; 1535

(2) An owner or operator of a hydroelectric generating 1536
facility that is located at a dam on a river, or on any water 1537
discharged to a river, that is within or bordering this state or 1538
within or bordering an adjoining state, or that produces power 1539
that can be shown to be deliverable into this state; 1540

(3) A seller of compressed natural gas that has been 1541
produced from biologically derived methane gas, provided that 1542
the seller may only provide renewable energy credits for metered 1543
amounts of gas. 1544

(B) (1) The public utilities commission shall adopt rules 1545
specifying that one unit of credit shall equal one megawatt hour 1546
of electricity derived from qualifying renewable energy 1547
resources, except that, for a generating facility of seventy- 1548
five megawatts or greater that is situated within this state and 1549
has committed by December 31, 2009, to modify or retrofit its 1550
generating unit or units to enable the facility to generate 1551
principally from biomass energy by June 30, 2013, each megawatt 1552
hour of electricity generated principally from that biomass 1553
energy shall equal, in units of credit, the product obtained by 1554
multiplying the actual percentage of biomass feedstock heat 1555
input used to generate such megawatt hour by the quotient 1556

obtained by dividing ~~the then existing unit dollar amount used~~ 1557
~~to determine a renewable energy compliance payment as provided~~ 1558
~~under division (C) (2) (b) of section 4928.64 of the Revised Code~~ 1559
forty-five by the then existing market value of one renewable 1560
energy credit, but such megawatt hour shall not equal less than 1561
one unit of credit. ~~Renewable~~ Qualifying renewable energy 1562
resources do not have to be converted to electricity in order to 1563
be eligible to receive renewable energy credits. The rules shall 1564
specify that, for purposes of converting the quantity of energy 1565
derived from biologically derived methane gas to an electricity 1566
equivalent, one megawatt hour equals 3,412,142 British thermal 1567
units. 1568

(2) The rules also shall provide for this state a system 1569
of registering renewable energy credits by specifying which of 1570
any generally available registries shall be used for that 1571
purpose and not by creating a registry. That selected system of 1572
registering renewable energy credits shall allow a hydroelectric 1573
generating facility to be eligible for obtaining renewable 1574
energy credits and shall allow customer-sited projects or 1575
actions the broadest opportunities to be eligible for obtaining 1576
renewable energy credits. 1577

Sec. 4928.647. (A) Beginning January 1, 2019, and in 1578
accordance with rules adopted by the public utilities commission 1579
under division (C) of this section, any customer of an electric 1580
distribution utility and any customer of an electric services 1581
company may opt out of paying any rider, charge, or other cost 1582
recovery mechanism designed to recover the costs of the 1583
utility's or company's, as applicable, provision of electricity 1584
from qualifying renewable energy resources. 1585

(B) Division (A) of this section does not apply to cost 1586

recovery under section 4928.641 of the Revised Code. 1587

(C) Not later than January 1, 2019, the commission shall 1588
adopt rules governing division (A) of this section. 1589

Sec. 4928.65. (A) Not later than January 1, ~~2015~~ 2018, the 1590
public utilities commission shall adopt rules governing the 1591
disclosure of the costs to customers of all of the following: 1592

(1) If applicable, the renewable energy resource 1593
requirements of section 4928.64 of the Revised Code as that 1594
section existed prior to the effective date of the amendments to 1595
this section by H.B. 114 of the 132nd general assembly, 1596
including costs recovered under section 4928.641 of the Revised 1597
Code; 1598

(2) The energy efficiency savings~~7~~ and peak demand 1599
reduction requirements ~~provisions~~ of sections ~~4928.64 and~~ 1600
section 4928.66 of the Revised Code; 1601

(3) Electricity provided after the effective date of the 1602
amendments to this section by H.B. 114 of the 132nd general 1603
assembly from qualifying renewable energy resources.~~The~~ 1604

(B) The rules shall include both of the following 1605
requirements: 1606

(1) That every electric distribution utility list, on all 1607
customer bills sent by the utility, including utility 1608
consolidated bills that include both electric distribution 1609
utility and electric services company charges, the individual 1610
customer cost of both of the following for the applicable 1611
billing period: 1612

(a) Electricity provided by the utility after the 1613
effective date of the amendments to this section by H.B. 114 of 1614

the 132nd general assembly from qualifying renewable energy 1615
resources; 1616

(b) The utility's compliance with all of the following 1617
for the applicable billing period: 1618

(a) The (i) If applicable, the renewable energy resource 1619
requirements under section 4928.64 of the Revised Code 1620
as that section existed prior to the effective date of the amendments to 1621
this section by H.B. 114 of the 132nd general assembly, 1622
including costs recovered under section 4928.641 of the Revised 1623
Code and subject to division (B) (C) of this section; 1624

(b) (ii) The energy efficiency savings requirements 1625
provisions under section 4928.66 of the Revised Code; 1626

(c) (iii) The peak demand reduction requirements 1627
provisions under section 4928.66 of the Revised Code. 1628

(2) That every electric services company list, on all 1629
customer bills sent by the company, the individual customer 1630
cost, ~~subject to division (B) of this section,~~ of both of the 1631
following for the applicable billing period: 1632

(a) Electricity provided by the company after the 1633
effective date of the amendments to this section by H.B. 114 of 1634
the 132nd general assembly from qualifying renewable energy 1635
resources; 1636

(b) If applicable, the company's compliance with the 1637
renewable energy resource requirements under section 4928.64 of 1638
the Revised Code ~~for the applicable billing period~~ as that 1639
section existed prior to the effective date of the amendments to 1640
this section by H.B. 114 of the 132nd general assembly, subject 1641
to division (C) of this section. 1642

~~(B)~~ (C) (1) For purposes of division ~~(A)~~ (B) (1) ~~(a)~~ (b) ~~(i)~~ of 1643
this section, ~~the~~ any cost of compliance with the renewable 1644
energy resource requirements, including costs recovered under 1645
section 4928.641 of the Revised Code, shall be calculated by 1646
multiplying the individual customer's monthly usage by the 1647
combined weighted average of renewable-energy-credit costs, 1648
including solar-renewable-energy-credit costs, paid by all 1649
electric distribution utilities, as listed in the commission's 1650
most recently available alternative energy portfolio standard 1651
report. 1652

(2) For purposes of division ~~(A)~~ (B) (2) ~~(b)~~ of this section, 1653
~~the~~ any cost of compliance with the renewable energy resource 1654
requirements shall be calculated by multiplying the individual 1655
customer's monthly usage by the combined weighted average of 1656
renewable-energy-credit costs, including solar-renewable-energy- 1657
credit costs, paid by all electric services companies, as listed 1658
in the commission's most recently available alternative energy 1659
portfolio standard report. 1660

~~(C)~~ (D) The costs required to be listed under division ~~(A)~~ 1661
(B) (1) of this section shall be listed on each customer's 1662
monthly bill as ~~three~~ four distinct line items. The ~~cost~~ costs 1663
required to be listed under division ~~(A)~~ (B) (2) of this section 1664
shall be listed on each customer's monthly bill as ~~a~~ two 1665
distinct line ~~item~~ items. 1666

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 1667
distribution utility shall implement energy efficiency programs 1668
that achieve energy savings equivalent to at least three-tenths 1669
of one per cent of the total, annual average, and normalized 1670
kilowatt-hour sales of the electric distribution utility during 1671
the preceding three calendar years to customers in this state. 1672

An energy efficiency program may include a combined heat and power system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, or a waste energy recovery system placed into service or retrofitted on or after September 10, 2012, except that a waste energy recovery system described in division (A)(38)(b) of section 4928.01 of the Revised Code may be included only if it was placed into service between January 1, 2002, and December 31, 2004. For a waste energy recovery or combined heat and power system, the savings shall be as estimated by the public utilities commission. The savings requirement, using such a three-year average, shall increase to an additional five-tenths of one per cent in 2010, seven-tenths of one per cent in 2011, eight-tenths of one per cent in 2012, nine-tenths of one per cent in 2013, and one per cent in 2014. In 2015 and 2016, an electric distribution utility shall achieve energy savings equal to the result of subtracting the cumulative energy savings achieved since 2009 from the product of multiplying the baseline for energy savings, described in division (A)(2)(a) of this section, by four and two-tenths of one per cent. If the result is zero or less for the year for which the calculation is being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. Thereafter, the annual savings requirements shall be, for years 2017, 2018, 2019, ~~and 2020~~, 2021, 2022, 2023, 2024, and 2025, one per cent of the baseline, and two per cent ~~each year thereafter for years 2026 and 2027~~, achieving cumulative energy savings in excess of ~~twenty-two~~ seventeen per cent by the end of 2027. For purposes of a waste energy recovery or combined heat and power system, an electric distribution utility shall not apply more than the total annual percentage of

the electric distribution utility's industrial-customer load, 1705
relative to the electric distribution utility's total load, to 1706
the annual energy savings requirement. 1707

(b) Beginning in 2009, an electric distribution utility 1708
shall implement peak demand reduction programs designed to 1709
achieve a one per cent reduction in peak demand in 2009 and an 1710
additional seventy-five hundredths of one per cent reduction 1711
each year through 2014. In 2015 and 2016, an electric 1712
distribution utility shall achieve a reduction in peak demand 1713
equal to the result of subtracting the cumulative peak demand 1714
reductions achieved since 2009 from the product of multiplying 1715
the baseline for peak demand reduction, described in division 1716
(A) (2) (a) of this section, by four and seventy-five hundredths 1717
of one per cent. If the result is zero or less for the year for 1718
which the calculation is being made, the utility shall not be 1719
required to achieve an additional reduction in peak demand for 1720
that year, but may achieve an additional reduction in peak 1721
demand for that year. In 2017 and each year thereafter through 1722
2020, the utility shall achieve an additional seventy-five 1723
hundredths of one per cent reduction in peak demand. 1724

(c) Subject to section 4928.6620 of the Revised Code, 1725
noncompliance with the provisions of division (A) (1) (a) of this 1726
section shall be subject to forfeitures under division (B) of 1727
this section only for the requirements for years 2016, 2019, 1728
2022, 2025, and 2027. Subject to section 4928.6620 of the 1729
Revised Code, noncompliance with the provisions of division (A) 1730
(1) (b) of this section shall be subject to forfeitures under 1731
division (B) of this section only for the requirements for years 1732
2016, 2019, and 2020. The sole penalty for an electric 1733
distribution utility's failure to comply with any provision of 1734
divisions (A) (1) (a) and (b) of this section shall be the 1735

assessment of forfeitures in accordance with division (B) of 1736
this section. 1737

(2) For the purposes of divisions (A) (1) (a) and (b) of 1738
this section: 1739

(a) The baseline for energy savings under division (A) (1) 1740
(a) of this section shall be the average of the total kilowatt 1741
hours the electric distribution utility sold in the preceding 1742
three calendar years. The baseline for a peak demand reduction 1743
under division (A) (1) (b) of this section shall be the average 1744
peak demand on the utility in the preceding three calendar 1745
years, except that the commission may reduce either baseline to 1746
adjust for new economic growth in the utility's certified 1747
territory. Neither baseline shall include the load and usage of 1748
any of the following customers: 1749

(i) Beginning January 1, 2017, a customer for which a 1750
reasonable arrangement has been approved under section 4905.31 1751
of the Revised Code; 1752

(ii) A customer that has opted out of the utility's 1753
portfolio plan under section 4928.6611 of the Revised Code; 1754

(iii) A customer that has opted out of the utility's 1755
portfolio plan under Section 8 of S.B. 310 of the 130th general 1756
assembly as that section existed prior to the effective date of 1757
the amendments to this section by H.B. 114 of the 132nd general 1758
assembly. 1759

(b) The commission may amend the benchmarks set forth in 1760
division (A) (1) (a) or (b) of this section if, after application 1761
by the electric distribution utility, the commission determines 1762
that the amendment is necessary because the utility cannot 1763
reasonably achieve the benchmarks due to regulatory, economic, 1764

or technological reasons beyond its reasonable control. 1765

(c) Compliance with divisions (A) (1) (a) and (b) of this 1766
section shall be measured by including the effects of all 1767
demand-response programs for mercantile customers of the subject 1768
electric distribution utility, all waste energy recovery systems 1769
and all combined heat and power systems, and all such mercantile 1770
customer-sited energy efficiency, including waste energy 1771
recovery and combined heat and power, and peak demand reduction 1772
programs, adjusted upward by the appropriate loss factors. Any 1773
mechanism designed to recover the cost of energy efficiency, 1774
including waste energy recovery and combined heat and power, and 1775
peak demand reduction programs under divisions (A) (1) (a) and (b) 1776
of this section may exempt mercantile customers that commit 1777
their demand-response or other customer-sited capabilities, 1778
whether existing or new, for integration into the electric 1779
distribution utility's demand-response, energy efficiency, 1780
including waste energy recovery and combined heat and power, or 1781
peak demand reduction programs, if the commission determines 1782
that that exemption reasonably encourages such customers to 1783
commit those capabilities to those programs. If a mercantile 1784
customer makes such existing or new demand-response, energy 1785
efficiency, including waste energy recovery and combined heat 1786
and power, or peak demand reduction capability available to an 1787
electric distribution utility pursuant to division (A) (2) (c) of 1788
this section, the electric utility's baseline under division (A) 1789
(2) (a) of this section shall be adjusted to exclude the effects 1790
of all such demand-response, energy efficiency, including waste 1791
energy recovery and combined heat and power, or peak demand 1792
reduction programs that may have existed during the period used 1793
to establish the baseline. The baseline also shall be normalized 1794
for changes in numbers of customers, sales, weather, peak 1795

demand, and other appropriate factors so that the compliance 1796
measurement is not unduly influenced by factors outside the 1797
control of the electric distribution utility. 1798

(d) (i) Programs implemented by a utility may include the 1799
following: 1800

(I) Demand-response programs; 1801

(II) Smart grid investment programs, provided that such 1802
programs are demonstrated to be cost-beneficial; 1803

(III) Customer-sited programs, including waste energy 1804
recovery and combined heat and power systems; 1805

(IV) Transmission and distribution infrastructure 1806
improvements that reduce line losses; 1807

(V) Energy intensity reductions resulting from heat rate 1808
improvements at electric generating plants. As used in this 1809
division, "energy intensity" has the same meaning as in section 1810
4928.6610 of the Revised Code. 1811

(VI) Energy efficiency savings and peak demand reduction 1812
that are achieved, in whole or in part, as a result of funding 1813
provided from the universal service fund established by section 1814
4928.51 of the Revised Code to benefit low-income customers 1815
through programs that include, but are not limited to, energy 1816
audits, the installation of energy efficiency insulation, 1817
appliances, and windows, and other weatherization measures. 1818

(ii) No energy efficiency or peak demand reduction 1819
achieved under divisions (A) (2) (d) (i) (IV) ~~and~~, (V), and (VI) of 1820
this section shall qualify for shared savings. 1821

(iii) Division (A) (2) (c) of this section shall be applied 1822
to include facilitating efforts by a mercantile customer or 1823

group of those customers to offer customer-sited demand- 1824
response, energy efficiency, including waste energy recovery and 1825
combined heat and power, or peak demand reduction capabilities 1826
to the electric distribution utility as part of a reasonable 1827
arrangement submitted to the commission pursuant to section 1828
4905.31 of the Revised Code. 1829

(e) No programs or improvements described in division (A) 1830
(2) (d) of this section shall conflict with any statewide 1831
building code adopted by the board of building standards. 1832

~~(B) In accordance with rules it shall adopt, the public- 1833
utilities commission shall produce and docket at the commission- 1834
an annual report containing the results of its verification of- 1835
the annual levels of energy efficiency and of peak demand- 1836
reductions achieved by each electric distribution utility- 1837
pursuant to division (A) of this section. A copy of the report- 1838
shall be provided to the consumers' counsel. 1839~~

~~(C) If the commission determines, after notice and 1840
opportunity for hearing and based upon its report the 1841
information reported under division ~~(B)~~ (A) of ~~this~~ section 1842
4928.6620 of the Revised Code and any other information that is 1843
public, that an electric distribution utility has failed to 1844
comply with an energy efficiency ~~or peak demand reduction~~ 1845
requirement ~~of~~ under division (A) (1) (a) of this section for 1846
years 2016, 2019, 2022, 2025, or 2027 or a peak demand reduction 1847
requirement under division (A) (1) (b) of this section for years 1848
2016, 2019, or 2020, the commission shall assess a forfeiture on 1849
the utility as provided under sections 4905.55 to 4905.60 and 1850
4905.64 of the Revised Code, either in the amount, per day per 1851
undercompliance or noncompliance, relative to the period of the 1852
report submitted under division (A) of section 4928.6620 of the 1853~~

Revised Code, equal to that prescribed for noncompliances under 1854
section 4905.54 of the Revised Code, or in an amount equal to 1855
the then existing market value of one renewable energy credit 1856
per megawatt hour of undercompliance or noncompliance. Revenue 1857
from any forfeiture assessed under this division shall be 1858
deposited to the credit of the advanced energy fund created 1859
under section 4928.61 of the Revised Code. 1860

~~(D)~~ (C) The commission may establish rules regarding the 1861
content of an application by an electric distribution utility 1862
for commission approval of a revenue decoupling mechanism under 1863
this division. Such an application shall not be considered an 1864
application to increase rates and may be included as part of a 1865
proposal to establish, continue, or expand energy efficiency or 1866
conservation programs. The commission by order may approve an 1867
application under this division if it determines both that the 1868
revenue decoupling mechanism provides for the recovery of 1869
revenue that otherwise may be forgone by the utility as a result 1870
of or in connection with the implementation by the electric 1871
distribution utility of any energy efficiency or energy 1872
conservation programs and reasonably aligns the interests of the 1873
utility and of its customers in favor of those programs. 1874

~~(E)~~ (D) The commission additionally shall adopt rules that 1875
require an electric distribution utility to provide a customer 1876
upon request with two years' consumption data in an accessible 1877
form. 1878

Sec. 4928.662. For the purpose of measuring and 1879
determining compliance with the energy efficiency and peak 1880
demand reduction requirements under section 4928.66 of the 1881
Revised Code, the public utilities commission shall count and 1882
recognize compliance as follows: 1883

(A) Energy efficiency savings and peak demand reduction 1884
achieved through actions taken by customers or through electric 1885
distribution utility programs that comply with federal standards 1886
for either or both energy efficiency and peak demand reduction 1887
requirements, including resources associated with such savings 1888
or reduction that are recognized as capacity resources by the 1889
regional transmission organization operating in Ohio in 1890
compliance with section 4928.12 of the Revised Code, shall count 1891
toward compliance with the energy efficiency and peak demand 1892
reduction requirements. 1893

(B) Energy efficiency savings and peak demand reduction 1894
achieved on and after the effective date of S.B. 310 of the 1895
130th general assembly, September 12, 2014, shall be measured on 1896
the higher of an as found or deemed basis, except that, solely 1897
at the option of the electric distribution utility, such savings 1898
and reduction achieved since 2006 may also be measured using 1899
this method. For new construction, the energy efficiency savings 1900
and peak demand reduction shall be counted based on 2008 federal 1901
standards, provided that when new construction replaces an 1902
existing facility, the difference in energy consumed, energy 1903
intensity, and peak demand between the new and replaced facility 1904
shall be counted toward meeting the energy efficiency and peak 1905
demand reduction requirements. 1906

(C) The commission shall count both the energy efficiency 1907
savings and peak demand reduction on an annualized basis. 1908

(D) The commission shall count both the energy efficiency 1909
savings and peak demand reduction on a gross savings basis. 1910

(E) The commission shall count energy efficiency savings 1911
and peak demand reductions associated with transmission and 1912
distribution infrastructure improvements that reduce line losses 1913

and with energy intensity reductions resulting from heat rate 1914
improvements at electric generating plants. No energy efficiency 1915
or peak demand reduction achieved under division (E) of this 1916
section shall qualify for shared savings. 1917

(F) Energy efficiency savings and peak demand reduction 1918
amounts approved by the commission shall continue to be counted 1919
toward achieving the energy efficiency and peak demand reduction 1920
requirements as long as the requirements remain in effect. 1921

~~(G) Any energy efficiency savings or peak demand reduction~~ 1922
~~amount achieved in excess of the requirements may, at the~~ 1923
~~discretion of the electric distribution utility, be banked and~~ 1924
~~applied toward achieving the energy efficiency or peak demand~~ 1925
~~reduction requirements in future years.~~ The commission shall 1926
recognize and count energy efficiency savings and peak demand 1927
reductions that occur as a consequence of consumer reductions in 1928
water usage or reductions and improvements in wastewater 1929
treatment. No energy efficiency savings or peak demand 1930
reductions achieved under division (G) of this section shall 1931
qualify for shared savings. 1932

(H) The commission shall recognize and count, on a 1933
British-thermal-unit-equivalent basis, nonelectric energy 1934
efficiency savings or nonelectric peak demand reductions that 1935
occur as a consequence of a portfolio plan, as defined in 1936
section 4928.6610 of the Revised Code. No nonelectric energy 1937
efficiency savings and no nonelectric peak demand reductions 1938
shall qualify for shared savings. 1939

(I) The commission shall recognize and count, as energy 1940
efficiency savings and peak demand reduction, the savings and 1941
reduction associated with heat rate improvements, other 1942
efficiency improvements, or other energy intensity improvements, 1943

if such savings and reduction are both of the following: 1944

(1) Proposed by an electric distribution utility in its 1945
sole discretion; 1946

(2) Achieved since 2006 from an electric generating plant 1947
that is either: 1948

(a) Owned by the electric distribution utility; or 1949

(b) Owned and operated by an affiliate of the electric 1950
distribution utility provided that the generating plant was 1951
previously owned, in whole or in part, by an electric 1952
distribution utility located in this state. 1953

No energy efficiency savings or peak demand reduction 1954
achieved under division (I) of this section shall qualify for 1955
shared savings. 1956

(J) The commission shall count energy efficiency savings 1957
associated with any plan, policy, behavior, or practice that 1958
reduces either of the following: 1959

(1) The total energy intensity of a facility, pipeline, 1960
building, plant, or equipment, regardless of the type of energy 1961
intensity reduction; 1962

(2) The energy intensity of any water supply function or 1963
water treatment function. 1964

Energy efficiency savings achieved under division (J) of 1965
this section shall not qualify for shared savings if the savings 1966
were not the direct result of an electric distribution utility's 1967
energy efficiency programs. 1968

(K) As used in this section: 1969

(1) "Energy intensity" has the same meaning as in section 1970

<u>4928.6610 of the Revised Code.</u>	1971
<u>(2) "Water supply function" means the functions associated</u>	1972
<u>with the following:</u>	1973
<u>(a) Raw water collection, purification, treatment, and</u>	1974
<u>storage;</u>	1975
<u>(b) Establishing or maintaining pressure to balance water</u>	1976
<u>supply and demand;</u>	1977
<u>(c) Water delivery and transfer.</u>	1978
<u>(3) "Water treatment function" means any of the</u>	1979
<u>preliminary, secondary, tertiary, and advanced activities,</u>	1980
<u>whether physical, biological, or chemical, associated with the</u>	1981
<u>removal of contaminants from, or conditioning of, wastewater</u>	1982
<u>prior to its return to the environment or recycled use.</u>	1983
<u>Sec. 4928.664. (A) An electric services company may apply</u>	1984
<u>on behalf of its customers for energy efficiency programs</u>	1985
<u>offered by an electric distribution utility.</u>	1986
<u>(B) An electric services company that has applied for a</u>	1987
<u>program on behalf of a customer under division (A) of this</u>	1988
<u>section may collect rebates under that program on behalf of the</u>	1989
<u>customer upon producing evidence that the customer completed the</u>	1990
<u>program. This evidence may be in the form of a product</u>	1991
<u>identification code, a product serial number, an acknowledgment</u>	1992
<u>letter from the customer, or similar evidence that proves</u>	1993
<u>installation or delivery of a product. Once the evidence is</u>	1994
<u>produced, the electric distribution utility shall send the</u>	1995
<u>rebate to the electric services company or the customer, at the</u>	1996
<u>direction of the customer.</u>	1997
<u>(C) An electric distribution utility shall be entitled to</u>	1998

<u>lost distribution revenue and full program costs.</u>	1999
<u>(D) Not later than one hundred eighty days after the</u>	2000
<u>effective date of this section, the public utilities commission</u>	2001
<u>shall initiate an investigation to ensure that energy efficiency</u>	2002
<u>programs are consistent with the requirements and permissive</u>	2003
<u>provisions of this section.</u>	2004
<u>(E) Not later than January 1, 2018, the commission shall</u>	2005
<u>amend its rules to bring them into conformity with this section.</u>	2006
<u>Sec. 4928.665. All energy savings from an energy</u>	2007
<u>efficiency program shall be eligible for inclusion in any</u>	2008
<u>incentive calculation by the public utilities commission.</u>	2009
<u>Sec. 4928.666. For a customer to be eligible for a rebate</u>	2010
<u>from an electric distribution utility, that customer shall be</u>	2011
<u>located within the utility's service territory.</u>	2012
<u>Sec. 4928.667. All parts of an energy efficiency program</u>	2013
<u>transaction shall be shown to be cost effective, which shall be</u>	2014
<u>determined by the public utilities commission.</u>	2015
<u>Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616</u>	2016
<u>of the Revised Code:</u>	2017
<u>(A) "Customer" means any either of the following:</u>	2018
<u>(1) A mercantile customer of an electric distribution</u>	2019
<u>utility;</u>	2020
<u>(2) Any customer of an electric distribution utility to</u>	2021
<u>which either of the following applies:</u>	2022
<u>(1)(a) The customer receives service above the primary</u>	2023
<u>voltage level as determined by the utility's tariff</u>	2024
<u>classification.</u>	2025

~~(2)(b)~~ The customer is a commercial or industrial customer to which both of the following apply: 2026
2027

~~(a)(i)~~ The customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year. 2028
2029
2030
2031

~~(b)(ii)~~ The customer has made a written request for registration as a self-assessing purchaser pursuant to section 5727.81 of the Revised Code. 2032
2033
2034

(B) "Energy intensity" means the amount of energy, ~~from electricity, used or consumed per unit of production to produce a certain level of output or activity, measured by the quantity of energy needed to perform a particular activity, expressed as energy per unit of output, energy per unit of gross total floor space, or an activity measure of service.~~ 2035
2036
2037
2038
2039
2040

(C) "Portfolio plan" means the comprehensive energy efficiency and peak-demand reduction program portfolio plan required under rules adopted by the public utilities commission and codified in Chapter 4901:1-39 of the Administrative Code or hereafter recodified or amended. 2041
2042
2043
2044
2045

Sec. 4928.6611. Beginning January 1, 2017, a customer of an electric distribution utility may opt out of the opportunity and ability to obtain direct benefits from the utility's portfolio plan, regardless of whether the portfolio plan has been amended or continued under Section 4 of H.B. 114 of the 132nd general assembly. Such an opt out shall extend to all of the customer's accounts, irrespective of the size or service voltage level that are associated with the activities performed by the customer and that are located on or adjacent to the 2046
2047
2048
2049
2050
2051
2052
2053
2054

customer's premises. 2055

Sec. 4928.6620. (A) Beginning in 2018, every electric 2056
distribution utility and electric services company shall submit 2057
an annual report for the prior calendar year to the public 2058
utilities commission not later than the first day of July of 2059
each year. The report shall detail the amount of electricity 2060
that the utility or company provided from qualifying renewable 2061
energy resources during that calendar year and, in the case of a 2062
utility, the utility's status of compliance with the provisions 2063
of section 4928.66 of the Revised Code. The commission shall 2064
modify its rules in accordance with this reporting requirement, 2065
including the filing date. 2066

If an electric distribution utility reports the amount of 2067
electricity that it provided from qualifying renewable energy 2068
resources as a portion of the electricity supply required for 2069
its standard service offer under section 4928.141 of the Revised 2070
Code, or if an electric services company reports the amount of 2071
electricity that it provided from qualifying renewable energy 2072
resources as a portion of its electricity supply for retail 2073
consumers in this state, those portions shall be reported as 2074
percentages of the baseline as defined in section 4928.643 of 2075
the Revised Code. 2076

(B) Beginning in 2018, the commission shall submit a 2077
report to the general assembly and the Ohio consumers' counsel 2078
not later than the first day of August of each year and in 2079
accordance with section 101.68 of the Revised Code. The report 2080
shall detail all of the following: 2081

(1) The compliance of electric distribution utilities with 2082
section 4928.66 of the Revised Code, based on the information 2083
reported under division (A) of this section and any other 2084

information that is public; 2085

(2) The amount of electricity provided by electric 2086
distribution utilities and electric services companies from 2087
qualifying renewable energy resources during the year covered in 2088
the report, based on the information reported under division (A) 2089
of this section and any other information that is public; 2090

(3) The average annual cost of renewable energy credits 2091
purchased by utilities and companies for the year covered in the 2092
report; 2093

(4) Any strategy for encouraging the use of qualifying 2094
renewable energy resources in supplying this state's electricity 2095
needs in a manner that considers available technology, costs, 2096
job creation, and economic impacts. 2097

(C) Not later than the first day of September of each 2098
year, the commission chairperson shall provide testimony on the 2099
report required in that year under division (B) of this section 2100
to the standing committees of both houses of the general 2101
assembly that deal with public utility matters. 2102

Sec. 4928.6621. (A) Any energy efficiency savings or peak 2103
demand reduction amount achieved in excess of the requirements 2104
under section 4928.66 of the Revised Code may, at the discretion 2105
of the electric distribution utility, be banked and applied 2106
toward achieving the energy efficiency or peak demand reduction 2107
requirements in future years. 2108

(B) An electric distribution utility shall be deemed in 2109
compliance with the energy efficiency and peak demand reduction 2110
savings requirements and shall be eligible for incentives 2111
approved by the public utilities commission in any year in which 2112
the utility's actual cumulative energy efficiency and peak 2113

demand reduction savings meet or exceed the cumulative mandates 2114
under division (A) (1) of section 4928.66 of the Revised Code. 2115

Sec. 5727.75. (A) For purposes of this section: 2116

(1) "Qualified energy project" means an energy project 2117
certified by the director of development services pursuant to 2118
this section. 2119

(2) "Energy project" means a project to provide electric 2120
power through the construction, installation, and use of an 2121
energy facility. 2122

(3) "Alternative energy zone" means a county declared as 2123
such by the board of county commissioners under division (E) (1) 2124
(b) or (c) of this section. 2125

(4) "Full-time equivalent employee" means the total number 2126
of employee-hours for which compensation was paid to individuals 2127
employed at a qualified energy project for services performed at 2128
the project during the calendar year divided by two thousand 2129
eighty hours. 2130

(5) "Solar energy project" means an energy project 2131
composed of an energy facility using solar panels to generate 2132
electricity. 2133

(B) (1) Tangible personal property of a qualified energy 2134
project using renewable energy resources is exempt from taxation 2135
for tax years 2011 through 2021 if all of the following 2136
conditions are satisfied: 2137

(a) On or before December 31, 2020, the owner or a lessee 2138
pursuant to a sale and leaseback transaction of the project 2139
submits an application to the power siting board for a 2140
certificate under section 4906.20 of the Revised Code, or if 2141

that section does not apply, submits an application for any 2142
approval, consent, permit, or certificate or satisfies any 2143
condition required by a public agency or political subdivision 2144
of this state for the construction or initial operation of an 2145
energy project. 2146

(b) Construction or installation of the energy facility 2147
begins on or after January 1, 2009, and before January 1, 2021. 2148
For the purposes of this division, construction begins on the 2149
earlier of the date of application for a certificate or other 2150
approval or permit described in division (B) (1) (a) of this 2151
section, or the date the contract for the construction or 2152
installation of the energy facility is entered into. 2153

(c) For a qualified energy project with a nameplate 2154
capacity of five megawatts or greater, a board of county 2155
commissioners of a county in which property of the project is 2156
located has adopted a resolution under division (E) (1) (b) or (c) 2157
of this section to approve the application submitted under 2158
division (E) of this section to exempt the property located in 2159
that county from taxation. A board's adoption of a resolution 2160
rejecting an application or its failure to adopt a resolution 2161
approving the application does not affect the tax-exempt status 2162
of the qualified energy project's property that is located in 2163
another county. 2164

(2) If tangible personal property of a qualified energy 2165
project using renewable energy resources was exempt from 2166
taxation under this section beginning in any of tax years 2011 2167
through 2021, and the certification under division (E) (2) of 2168
this section has not been revoked, the tangible personal 2169
property of the qualified energy project is exempt from taxation 2170
for tax year 2022 and all ensuing tax years if the property was 2171

placed into service before January 1, 2022, as certified in the 2172
construction progress report required under division (F) (2) of 2173
this section. Tangible personal property that has not been 2174
placed into service before that date is taxable property subject 2175
to taxation. An energy project for which certification has been 2176
revoked is ineligible for further exemption under this section. 2177
Revocation does not affect the tax-exempt status of the 2178
project's tangible personal property for the tax year in which 2179
revocation occurs or any prior tax year. 2180

(C) Tangible personal property of a qualified energy 2181
project using clean coal technology, advanced nuclear 2182
technology, or cogeneration technology is exempt from taxation 2183
for the first tax year that the property would be listed for 2184
taxation and all subsequent years if all of the following 2185
circumstances are met: 2186

(1) The property was placed into service before January 1, 2187
2021. Tangible personal property that has not been placed into 2188
service before that date is taxable property subject to 2189
taxation. 2190

(2) For such a qualified energy project with a nameplate 2191
capacity of five megawatts or greater, a board of county 2192
commissioners of a county in which property of the qualified 2193
energy project is located has adopted a resolution under 2194
division (E) (1) (b) or (c) of this section to approve the 2195
application submitted under division (E) of this section to 2196
exempt the property located in that county from taxation. A 2197
board's adoption of a resolution rejecting the application or 2198
its failure to adopt a resolution approving the application does 2199
not affect the tax-exempt status of the qualified energy 2200
project's property that is located in another county. 2201

(3) The certification for the qualified energy project 2202
issued under division (E) (2) of this section has not been 2203
revoked. An energy project for which certification has been 2204
revoked is ineligible for exemption under this section. 2205
Revocation does not affect the tax-exempt status of the 2206
project's tangible personal property for the tax year in which 2207
revocation occurs or any prior tax year. 2208

(D) Except as otherwise provided in this section, real 2209
property of a qualified energy project is exempt from taxation 2210
for any tax year for which the tangible personal property of the 2211
qualified energy project is exempted under this section. 2212

(E) (1) (a) A person may apply to the director of 2213
development services for certification of an energy project as a 2214
qualified energy project on or before the following dates: 2215

(i) December 31, 2020, for an energy project using 2216
renewable energy resources; 2217

(ii) December 31, 2017, for an energy project using clean 2218
coal technology, advanced nuclear technology, or cogeneration 2219
technology. 2220

(b) The director shall forward a copy of each application 2221
for certification of an energy project with a nameplate capacity 2222
of five megawatts or greater to the board of county 2223
commissioners of each county in which the project is located and 2224
to each taxing unit with territory located in each of the 2225
affected counties. Any board that receives from the director a 2226
copy of an application submitted under this division shall adopt 2227
a resolution approving or rejecting the application unless it 2228
has adopted a resolution under division (E) (1) (c) of this 2229
section. A resolution adopted under division (E) (1) (b) or (c) of 2230

this section may require an annual service payment to be made in 2231
addition to the service payment required under division (G) of 2232
this section. The sum of the service payment required in the 2233
resolution and the service payment required under division (G) 2234
of this section shall not exceed nine thousand dollars per 2235
megawatt of nameplate capacity located in the county. The 2236
resolution shall specify the time and manner in which the 2237
payments required by the resolution shall be paid to the county 2238
treasurer. The county treasurer shall deposit the payment to the 2239
credit of the county's general fund to be used for any purpose 2240
for which money credited to that fund may be used. 2241

The board shall send copies of the resolution by certified 2242
mail to the owner of the facility and the director within thirty 2243
days after receipt of the application, or a longer period of 2244
time if authorized by the director. 2245

(c) A board of county commissioners may adopt a resolution 2246
declaring the county to be an alternative energy zone and 2247
declaring all applications submitted to the director of 2248
development services under this division after the adoption of 2249
the resolution, and prior to its repeal, to be approved by the 2250
board. 2251

All tangible personal property and real property of an 2252
energy project with a nameplate capacity of five megawatts or 2253
greater is taxable if it is located in a county in which the 2254
board of county commissioners adopted a resolution rejecting the 2255
application submitted under this division or failed to adopt a 2256
resolution approving the application under division (E) (1) (b) or 2257
(c) of this section. 2258

(2) The director shall certify an energy project if all of 2259
the following circumstances exist: 2260

- (a) The application was timely submitted. 2261
- (b) For an energy project with a nameplate capacity of 2262
five megawatts or greater, a board of county commissioners of at 2263
least one county in which the project is located has adopted a 2264
resolution approving the application under division (E) (1) (b) or 2265
(c) of this section. 2266
- (c) No portion of the project's facility was used to 2267
supply electricity before December 31, 2009. 2268
- (3) The director shall deny a certification application if 2269
the director determines the person has failed to comply with any 2270
requirement under this section. The director may revoke a 2271
certification if the director determines the person, or 2272
subsequent owner or lessee pursuant to a sale and leaseback 2273
transaction of the qualified energy project, has failed to 2274
comply with any requirement under this section. Upon 2275
certification or revocation, the director shall notify the 2276
person, owner, or lessee, the tax commissioner, and the county 2277
auditor of a county in which the project is located of the 2278
certification or revocation. Notice shall be provided in a 2279
manner convenient to the director. 2280
- (F) The owner or a lessee pursuant to a sale and leaseback 2281
transaction of a qualified energy project shall do each of the 2282
following: 2283
- (1) Comply with all applicable regulations; 2284
- (2) File with the director of development services a 2285
certified construction progress report before the first day of 2286
March of each year during the energy facility's construction or 2287
installation indicating the percentage of the project completed, 2288
and the project's nameplate capacity, as of the preceding 2289

thirty-first day of December. Unless otherwise instructed by the 2290
director of development services, the owner or lessee of an 2291
energy project shall file a report with the director on or 2292
before the first day of March each year after completion of the 2293
energy facility's construction or installation indicating the 2294
project's nameplate capacity as of the preceding thirty-first 2295
day of December. Not later than sixty days after June 17, 2010, 2296
the owner or lessee of an energy project, the construction of 2297
which was completed before June 17, 2010, shall file a 2298
certificate indicating the project's nameplate capacity. 2299

(3) File with the director of development services, in a 2300
manner prescribed by the director, a report of the total number 2301
of full-time equivalent employees, and the total number of full- 2302
time equivalent employees domiciled in Ohio, who are employed in 2303
the construction or installation of the energy facility; 2304

(4) For energy projects with a nameplate capacity of five 2305
megawatts or greater, repair all roads, bridges, and culverts 2306
affected by construction as reasonably required to restore them 2307
to their preconstruction condition, as determined by the county 2308
engineer in consultation with the local jurisdiction responsible 2309
for the roads, bridges, and culverts. In the event that the 2310
county engineer deems any road, bridge, or culvert to be 2311
inadequate to support the construction or decommissioning of the 2312
energy facility, the road, bridge, or culvert shall be rebuilt 2313
or reinforced to the specifications established by the county 2314
engineer prior to the construction or decommissioning of the 2315
facility. The owner or lessee of the facility shall post a bond 2316
in an amount established by the county engineer and to be held 2317
by the board of county commissioners to ensure funding for 2318
repairs of roads, bridges, and culverts affected during the 2319
construction. The bond shall be released by the board not later 2320

than one year after the date the repairs are completed. The 2321
energy facility owner or lessee pursuant to a sale and leaseback 2322
transaction shall post a bond, as may be required by the Ohio 2323
power siting board in the certificate authorizing commencement 2324
of construction issued pursuant to section 4906.10 of the 2325
Revised Code, to ensure funding for repairs to roads, bridges, 2326
and culverts resulting from decommissioning of the facility. The 2327
energy facility owner or lessee and the county engineer may 2328
enter into an agreement regarding specific transportation plans, 2329
reinforcements, modifications, use and repair of roads, 2330
financial security to be provided, and any other relevant issue. 2331

(5) Provide or facilitate training for fire and emergency 2332
responders for response to emergency situations related to the 2333
energy project and, for energy projects with a nameplate 2334
capacity of five megawatts or greater, at the person's expense, 2335
equip the fire and emergency responders with proper equipment as 2336
reasonably required to enable them to respond to such emergency 2337
situations; 2338

(6) Maintain a ratio of Ohio-domiciled full-time 2339
equivalent employees employed in the construction or 2340
installation of the energy project to total full-time equivalent 2341
employees employed in the construction or installation of the 2342
energy project of not less than eighty per cent in the case of a 2343
solar energy project, and not less than fifty per cent in the 2344
case of any other energy project. In the case of an energy 2345
project for which certification from the power siting board is 2346
required under section 4906.20 of the Revised Code, the number 2347
of full-time equivalent employees employed in the construction 2348
or installation of the energy project equals the number actually 2349
employed or the number projected to be employed in the 2350
certificate application, if such projection is required under 2351

regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers in the wind or solar energy industry. The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies ~~subject to renewable energy resource requirements under section 4928.64 of the Revised Code~~ that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service

company issues a request for proposal on or before December 31, 2383
2010, or accepts an offer for power or renewable energy credits 2384
within forty-five days after the offer is submitted, power or 2385
renewable energy credits from the energy project may be sold to 2386
other persons. Division (F)(8) of this section does not apply 2387
if: 2388

(a) The owner or lessee is a rural electric company or a 2389
municipal power agency as defined in section 3734.058 of the 2390
Revised Code. 2391

(b) The owner or lessee is a person that, before 2392
completion of the energy project, contracted for the sale of 2393
power or renewable energy credits with a rural electric company 2394
or a municipal power agency. 2395

(c) The owner or lessee contracts for the sale of power or 2396
renewable energy credits from the energy project before June 17, 2397
2010. 2398

(9) Make annual service payments as required by division 2399
(G) of this section and as may be required in a resolution 2400
adopted by a board of county commissioners under division (E) of 2401
this section. 2402

(G) The owner or a lessee pursuant to a sale and leaseback 2403
transaction of a qualified energy project shall make annual 2404
service payments in lieu of taxes to the county treasurer on or 2405
before the final dates for payments of taxes on public utility 2406
personal property on the real and public utility personal 2407
property tax list for each tax year for which property of the 2408
energy project is exempt from taxation under this section. The 2409
county treasurer shall allocate the payment on the basis of the 2410
project's physical location. Upon receipt of a payment, or if 2411

timely payment has not been received, the county treasurer shall 2412
certify such receipt or non-receipt to the director of 2413
development services and tax commissioner in a form determined 2414
by the director and commissioner, respectively. Each payment 2415
shall be in the following amount: 2416

(1) In the case of a solar energy project, seven thousand 2417
dollars per megawatt of nameplate capacity located in the county 2418
as of December 31, 2010, for tax year 2011, as of December 31, 2419
2011, for tax year 2012, as of December 31, 2012, for tax year 2420
2013, as of December 31, 2013, for tax year 2014, as of December 2421
31, 2014, for tax year 2015, as of December 31, 2015, for tax 2422
year 2016, and as of December 31, 2016, for tax year 2017 and 2423
each tax year thereafter; 2424

(2) In the case of any other energy project using 2425
renewable energy resources, the following: 2426

(a) If the project maintains during the construction or 2427
installation of the energy facility a ratio of Ohio-domiciled 2428
full-time equivalent employees to total full-time equivalent 2429
employees of not less than seventy-five per cent, six thousand 2430
dollars per megawatt of nameplate capacity located in the county 2431
as of the thirty-first day of December of the preceding tax 2432
year; 2433

(b) If the project maintains during the construction or 2434
installation of the energy facility a ratio of Ohio-domiciled 2435
full-time equivalent employees to total full-time equivalent 2436
employees of less than seventy-five per cent but not less than 2437
sixty per cent, seven thousand dollars per megawatt of nameplate 2438
capacity located in the county as of the thirty-first day of 2439
December of the preceding tax year; 2440

(c) If the project maintains during the construction or 2441
installation of the energy facility a ratio of Ohio-domiciled 2442
full-time equivalent employees to total full-time equivalent 2443
employees of less than sixty per cent but not less than fifty 2444
per cent, eight thousand dollars per megawatt of nameplate 2445
capacity located in the county as of the thirty-first day of 2446
December of the preceding tax year. 2447

(3) In the case of an energy project using clean coal 2448
technology, advanced nuclear technology, or cogeneration 2449
technology, the following: 2450

(a) If the project maintains during the construction or 2451
installation of the energy facility a ratio of Ohio-domiciled 2452
full-time equivalent employees to total full-time equivalent 2453
employees of not less than seventy-five per cent, six thousand 2454
dollars per megawatt of nameplate capacity located in the county 2455
as of the thirty-first day of December of the preceding tax 2456
year; 2457

(b) If the project maintains during the construction or 2458
installation of the energy facility a ratio of Ohio-domiciled 2459
full-time equivalent employees to total full-time equivalent 2460
employees of less than seventy-five per cent but not less than 2461
sixty per cent, seven thousand dollars per megawatt of nameplate 2462
capacity located in the county as of the thirty-first day of 2463
December of the preceding tax year; 2464

(c) If the project maintains during the construction or 2465
installation of the energy facility a ratio of Ohio-domiciled 2466
full-time equivalent employees to total full-time equivalent 2467
employees of less than sixty per cent but not less than fifty 2468
per cent, eight thousand dollars per megawatt of nameplate 2469
capacity located in the county as of the thirty-first day of 2470

December of the preceding tax year. 2471

(H) The director of development services in consultation 2472
with the tax commissioner shall adopt rules pursuant to Chapter 2473
119. of the Revised Code to implement and enforce this section. 2474

Section 2. That existing sections 4928.01, 4928.142, 2475
4928.143, 4928.20, 4928.61, 4928.62, 4928.64, 4928.641, 2476
4928.643, 4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 2477
4928.6610, 4928.6611, and 5727.75 of the Revised Code are hereby 2478
repealed. 2479

Section 3. That Sections 5, 6, 7, 8, 9, 10, and 11 of Sub. 2480
S.B. 310 of the 130th General Assembly are hereby repealed. 2481

Section 4. (A) As used in this section, "portfolio plan" 2482
has the same meaning as in section 4928.6610 of the Revised 2483
Code. 2484

(B) (1) If an electric distribution utility has a portfolio 2485
plan that is in effect on the effective date of this section, 2486
the utility may file an application with the Public Utilities 2487
Commission not later than thirty days after the effective date 2488
of this section to amend the plan. The Commission shall review 2489
the application in accordance with its rules as if the 2490
application were for a new portfolio plan. The Commission shall 2491
review and approve, or modify and approve, the application not 2492
later than sixty days after the date the application is filed. 2493
If the Commission fails to review and approve, or modify and 2494
approve, the application within those sixty days, the plan shall 2495
be deemed approved as amended in the application and shall take 2496
effect on the sixty-first day after the application was filed. 2497

(2) A portfolio plan that is amended under division (B) (1) 2498
of this section shall accord with Chapter 4928. of the Revised 2499

Code as amended by this act. 2500

(C) If an electric distribution utility has a portfolio 2501
plan that is in effect on the effective date of this section and 2502
the utility does not apply to amend the plan within the thirty 2503
days required by division (B) (1) of this section, the utility 2504
shall continue to implement the portfolio plan with no 2505
amendments to the plan, for the duration that the Commission 2506
originally approved, regardless of whether the portfolio plan 2507
accords with Chapter 4928. of the Revised Code as amended by 2508
this act. 2509

Section 5. (A) In 2017, the Public Utilities Commission 2510
shall review an electric distribution utility's or electric 2511
services company's compliance with the benchmarks for 2016 under 2512
division (B) (2) of section 4928.64 of the Revised Code as that 2513
division existed prior to the effective date of this section, 2514
and in the course of that review, shall identify any 2515
undercompliance or noncompliance of the utility or company that 2516
it determines is weather-related, related to equipment or 2517
resource shortages for qualifying renewable energy resources as 2518
applicable, or is otherwise outside the utility's or company's 2519
control. 2520

(B) Subject to the cost cap provisions of division (C) (3) 2521
of section 4928.64 of the Revised Code as that division existed 2522
prior to the effective date of this section, if the Commission 2523
determines, after notice and opportunity for hearing, and based 2524
upon its findings in the review under division (A) of this 2525
section regarding avoidable undercompliance or noncompliance, 2526
but subject to the force-majeure provisions of division (C) (4) 2527
(a) of section 4928.64 of the Revised Code as that division 2528
existed prior to the effective date of this section, that the 2529

utility or company has failed to comply with the benchmarks for 2530
2016, the commission shall impose a renewable energy compliance 2531
payment on the utility or company. 2532

(1) The compliance payment pertaining to the solar energy 2533
resource benchmark for 2016 shall be three hundred dollars per 2534
megawatt hour of undercompliance or noncompliance in the period 2535
under review. 2536

(2) The compliance payment pertaining to the renewable 2537
energy resource benchmark for 2016 shall be assessed in 2538
accordance with division (C) (2) (b) of section 4928.64 of the 2539
Revised Code as that division existed prior to the effective 2540
date of this section. 2541

(C) Division (C) (2) (c) of section 4928.64 of the Revised 2542
Code as that division existed prior to the effective date of 2543
this section applies to compliance payments imposed under this 2544
section. 2545

Section 6. The amendments to division (A) of section 2546
4928.6610 of the Revised Code by this act take effect January 1, 2547
2019. 2548

Section 7. That Section 257.80 of Am. Sub. H.B. 64 of the 2549
131st General Assembly be amended to read as follows: 2550

Sec. 257.80. HEAP WEATHERIZATION 2551

~~Up to twenty-five~~ Twenty-five per cent of the federal 2552
funds deposited to the credit of the Home Energy Assistance 2553
Block Grant Fund (Fund 3K90) ~~may~~ shall be expended from 2554
appropriation item 195614, HEAP Weatherization, to provide home 2555
weatherization services in the state as determined by the 2556
Director of Development Services. ~~Any transfers or increases in~~ 2557
~~appropriation for the foregoing appropriation items 195614, HEAP~~ 2558

~~Weatherization, or 195611, Home Energy Assistance Block Grant,~~ 2559
~~shall be subject to approval by the Controlling Board.~~ 2560

The Director of Development Services shall, in good faith, 2561
take all necessary steps, including, but not limited to, 2562
applying for any waivers that are needed from the United States 2563
Department of Health and Human Services and any other applicable 2564
federal agencies to secure and execute this allocation. 2565

Section 8. That existing Section 257.80 of Am. Sub. H.B. 2566
64 of the 131st General Assembly is hereby repealed. 2567

Section 9. Sections 7 and 8 of this act take effect June 2568
30, 2017. 2569