

AN ACT

To amend sections 3706.40, 3706.41, 3706.43, 3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 4928.143, 4928.642, and 4928.645; to enact sections 3706.491, 3706.551, and 4906.105; and to repeal sections 3706.53, 3706.61, 4928.471, and 5727.231 of the Revised Code to make changes regarding electric utility service law, to repeal certain provisions of, and limit to solar resources the credit payment provisions of, H.B. 6 of the 133rd General Assembly, and to provide refunds to retail electric customers in the state.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3706.40, 3706.41, 3706.43, 3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 4928.143, 4928.642, and 4928.645 be amended and sections 3706.491, 3706.551, and 4906.105 of the Revised Code be enacted to read as follows:

Sec. 3706.40. As used in sections 3706.40 to 3706.65 of the Revised Code:

(A) "~~Qualifying nuclear resource~~" means an electric generating facility in this state fueled by nuclear power.

(~~B~~) "~~Qualifying renewable solar resource~~" means an electric generating facility in this state to which all of the following apply:

(1) The facility uses or will use solar energy as the primary energy source.

(2) The facility obtained a certificate for construction of a major utility facility from the power siting board prior to June 1, 2019.

(3) The facility is interconnected with the transmission grid that is subject to the operational control of PJM interconnection, L.L.C., or its successor organization.

(~~C~~) "~~Credit price adjustment~~" means a reduction to the price for each nuclear resource credit equal to the market price index minus the strike price.

(~~D~~) "~~Strike price~~" means forty-six dollars per megawatt hour.

(~~E~~) "~~Market price index~~" means the sum, expressed in dollars per megawatt hour, of both of the following for the upcoming twelve-month period that begins the first day of June and ends the thirty-first day of May:

(1) Projected energy prices, determined using futures contracts for the PJM AEP-Dayton hub;

(2) Projected capacity prices, determined using PJM's rest-of-RTO market clearing price.

(~~F~~) (~~B~~) "~~Electric distribution utility~~" has the same meaning as in section 4928.01 of the Revised Code.

Sec. 3706.41. (~~A~~) Not later than February 1, 2020, the owner or operator of a ~~qualifying nuclear resource~~ or ~~qualifying renewable solar resource~~ may apply to the Ohio air quality development authority to receive payments for ~~nuclear resource credits~~ or ~~renewable solar energy~~

credits, as applicable, under section 3706.55 of the Revised Code.

~~(B) An application submitted under division (A) of this section for a qualifying nuclear resource shall include all of the following information pertaining to the resource:~~

- ~~(1) Financial information;~~
- ~~(2) Certified cost and revenue projections through December 31, 2026;~~
- ~~(3) Operation and maintenance expenses;~~
- ~~(4) Fuel expenses, including spent-fuel expenses;~~
- ~~(5) Nonfuel capital expenses;~~
- ~~(6) Fully allocated overhead costs;~~
- ~~(7) The cost of operational risks and market risks that would be avoided by ceasing operation of the resource;~~
- ~~(8) Any other information, financial or otherwise, that demonstrates that the resource is projected not to continue being operational.~~

~~(C) As used in this section:~~

~~(1) "Operational risks" include the risk that operating costs will be higher than anticipated because of new regulatory mandates or equipment failures and the risk that per-megawatt-hour costs will be higher than anticipated because of a lower than expected capacity factor.~~

~~(2) "Market risks" include the risk of a forced outage and the associated costs arising from contractual obligations, and the risk that output from the resource may not be able to be sold at projected levels.~~

Sec. 3706.43. After receiving an application under section 3706.41 of the Revised Code, the Ohio air quality development authority shall review and approve the application, not later than March 31, 2020, if all of the following apply, as applicable:

~~(A) The resource meets the definition of a qualifying nuclear resource or qualifying renewable solar resource in section 3706.40 of the Revised Code.~~

~~(B) For a qualifying nuclear resource only, both of the following apply:~~

- ~~(1) The application meets the requirements of section 3706.41 of the Revised Code.~~
- ~~(2) The resource's operator maintains both a principal place of business in this state and a substantial presence in this state with regard to its business operations, offices, and transactions.~~

Sec. 3706.45. (A) An owner or operator of a qualifying nuclear resource or qualifying renewable solar resource whose application was approved under section 3706.43 of the Revised Code shall report to the Ohio air quality development authority, not later than seven days after the close of each quarter, the number of megawatt hours the resource produced, if any, in the previous quarter. The first report shall be made not later than April 7, 2020, and the last report shall be made not later than January 7, 2027. The information reported shall be in accordance with data from the generation attribute tracking designated by the authority.

~~(B) The authority shall issue one nuclear resource credit to a qualifying nuclear resource for each megawatt hour of electricity that is both reported under division (A) of this section and approved by the authority. The authority shall issue one renewable solar energy credit to a qualifying renewable solar resource for each megawatt hour of electricity that is both reported under division (A) of this section and approved by the authority.~~

~~(C) Except as provided in section 3706.61 of the Revised Code, the price for a nuclear~~

resource credit paid under section 3706.55 of the Revised Code shall be nine dollars.

~~(D)~~ The price for a renewable solar energy credit paid under section 3706.55 of the Revised Code shall be nine dollars.

Sec. 3706.46. (A)(1) Beginning for all bills rendered on or after January 1, 2021, by an electric distribution utility in this state, such electric distribution utility shall collect from all of its retail electric customers in this state, each month, a charge ~~or charges~~ which, in the aggregate, ~~are is~~ sufficient to produce ~~the following a~~ revenue requirements:

~~(a) One hundred fifty million dollars annually for total disbursements required under section 3706.55 of the Revised Code from the nuclear generation fund;~~

~~(b) Twenty requirement of twenty million dollars annually for total disbursements required under section 3706.55 of the Revised Code from the renewable solar generation fund.~~

(2) The public utilities commission shall determine the method by which the revenue is allocated or assigned to each electric distribution utility for billing and collection, provided that the method of allocation shall be based on the relative number of customers, relative quantity of kilowatt hour sales, or a combination of the two. The level and structure of the charge shall be authorized by the commission through a process that the commission shall determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Title XLIX of the Revised Code.

(B) In authorizing the level and structure of any charge ~~or charges~~ to be billed and collected by each electric distribution utility, the commission shall ensure that the per-customer monthly charge for residential customers does not exceed ~~eighty-five ten~~ cents and that the per-customer monthly charge for industrial customers eligible to become self-assessing purchasers pursuant to division (C) of section 5727.81 of the Revised Code does not exceed two ~~thousand four~~ hundred ~~forty-two~~ dollars. For nonresidential customers that are not self-assessing purchasers, the level and design of the charge ~~or charges~~ shall be established in a manner that avoids abrupt or excessive total net electric bill impacts for typical customers.

(C) Each charge authorized by the commission under this section shall be subject to adjustment so as to reconcile actual revenue collected with the revenue needed to meet the revenue ~~requirements requirement~~ under division (A)(1) of this section. The commission shall authorize each electric distribution utility to adopt accounting practices to facilitate such reconciliation. Notwithstanding any other provisions of the Revised Code, the charge ~~or charges~~ authorized by the commission may continue beyond December 31, 2027, only if it is necessary to reconcile actual revenue collected under this section during the period ending on December 31, 2027, with the actual revenue needed to meet the revenue ~~requirements requirement~~ under division (A)(1) of this section for required disbursements under section 3706.55 of the Revised Code that may be due and owing during the same period. Such continuation shall be authorized only for such period of time beyond December 31, 2027, as may be reasonably necessary to complete the reconciliation.

Sec. 3706.49. (A) There is hereby created ~~the nuclear generation fund and the renewable solar generation fund~~. ~~Each~~ The fund shall be in the custody of the treasurer of state but shall not be part of the state treasury. ~~Each~~ The fund shall consist of the charges collected under section 3706.46 of the Revised Code and deposited ~~in accordance with section 3706.53 of the Revised Code~~ by the Ohio air quality development authority, in consultation with the public utilities commission. The

interest generated by ~~each the~~ fund shall be retained by ~~each respective~~ in the fund and used for the purposes set forth in sections 3706.40 to 3706.65 of the Revised Code.

(B) ~~The fund shall be administered by the Ohio air quality development authority, and the authority shall request the treasurer of state to create the account for the fund. The treasurer of state shall distribute the moneys in the funds-fund in accordance with directions provided by the Ohio air quality development authority. Before giving directions under this division, the authority shall consult with the public utilities commission.~~

Sec. 3706.491. (A) Except as provided in division (B) of this section, each fiscal year, beginning July 1, 2021, and ending June 30, 2029, and subject to controlling board approval, the Ohio air quality development authority may use, from the solar generation fund created under section 3706.49 of the Revised Code, up to a maximum of three hundred thousand dollars to pay for the authority's administrative costs for that year under sections 3706.40 to 3706.65 of the Revised Code.

(B) In addition to the amount approved in division (A) of this section for fiscal year 2022 and subject to controlling board approval, the authority may use the following amounts in fiscal year 2022 from the solar generation fund:

(1) Up to three hundred thousand dollars to pay for the authority's administrative costs incurred in fiscal year 2020;

(2) Up to three hundred thousand dollars to pay for the authority's administrative costs incurred in fiscal year 2021.

Sec. 3706.55. (A) For the period beginning with April of 2021 and ending with January of 2028, the Ohio air quality development authority shall, in April of 2021 and every three months thereafter through the end of the period, and not later than the twenty-first day of the month, direct the treasurer of state to remit money from the ~~funds-solar generation fund~~ created under section 3706.49 of the Revised Code as follows:

(1) Subject to sections 3706.59 and 3706.61 of the Revised Code, ~~from the nuclear generation fund to the owner or operator of a qualifying nuclear resource, in the amount equivalent to the number of credits earned by the resource during the quarter that ended twelve months prior to the last day of the previous quarter multiplied by the credit price, and as directed by the authority in accordance with section 3706.61 of the Revised Code;~~

(2) ~~Subject to section 3706.59 of the Revised Code, from the renewable generation fund the~~ moneys from the fund shall be remitted to the owners or operators of qualifying ~~renewable-solar~~ resources, in the amount equivalent to the number of credits earned by the resources during the quarter that ended twelve months prior to the last day of the previous quarter multiplied by the credit price.

(B) Notwithstanding section 4905.32 of the Revised Code, any amounts remaining in the ~~nuclear generation fund and the renewable generation fund~~ as of December 31, 2027, minus the remittances that are required to be made between that date and January 21, 2028, shall be refunded to customers in a manner that shall be determined by the authority in consultation with the public utilities commission.

Sec. 3706.551. (A) Notwithstanding the solar energy credit application deadlines for qualifying solar resources under sections 3706.41 and 3706.43 of the Revised Code, the Ohio air quality development authority shall rereview and approve an application from a qualifying solar

resource if the resource submitted the application before March 1, 2020.

(B) The deadlines for the quarterly reports required under section 3706.45 of the Revised Code that have passed before the effective date of this section do not apply to a qualifying solar resource whose application for solar energy credits is approved under division (A) of this section.

~~Sec. 3706.59. (A) If the money in the nuclear generation fund is insufficient in a particular quarter to make the payments in the amount required under division (A)(1) of section 3706.55 of the Revised Code, then the Ohio air quality development authority shall, not later than twenty-one days after the close of any quarter in which the owner or operator was not fully compensated, direct the treasurer of state to remit money from the nuclear generation fund to pay for the unpaid credits.~~

~~(B) If the money in the renewable solar generation fund is insufficient to make the payments in the amounts required under division (A)(2) of section 3706.55 of the Revised Code for all owners and operators of qualifying renewable solar resources, then the authority shall do both of the following:~~

~~(1)(A) Not later than twenty-one days after the close of the quarter in which the charges collected were insufficient, direct the treasurer to prorate payments from the total amount available in the renewable solar generation fund, based on the number of each resource's credits earned during the quarter that ended twelve months prior to the last day of the previous quarter;~~

~~(2)(B) Not later than twenty-one days after the close of any quarter in which the owners or operators received prorated payments under division (B)(1)(A) of this section, direct the treasurer of state to remit money from the renewable solar generation fund to pay for the unpaid credits. Unpaid credits paid for under division (B)(2) of this section shall be paid before any other remittances are made under division (A)(2) of section 3706.55 of the Revised Code.~~

Sec. 4906.105. The power siting board shall submit a report to the general assembly, not later than December 1, 2021, on whether the current requirements for the planning of the power transmission system and associated facilities investment in this state are cost effective and in the interest of consumers. The board shall hold at least one public meeting before completing the report. The board shall complete the report in consultation with JobsOhio and may consult with or request the assistance of PJM interconnection regional transmission organization, L.L.C., the independent market monitor for PJM interconnection regional transmission organization, L.L.C. and other interested stakeholders, such as transmission owners. The report may include any recommendations for legislative changes to ensure transmission planning is cost effective and in the interest of consumers, including recommendations regarding any of the following:

(A) Whether the definition of a major utility facility should include an electric transmission line of a design capacity at or above sixty-nine kilovolts and associated facilities the costs of which are recovered as a transmission asset by the transmission owners;

(B) Whether the criteria for an accelerated certificate application should be modified;

(C) Whether the certification process is sufficiently transparent;

(D) Whether the board should require the following for, or determine if the following apply to, a transmission project certification application:

(1) That alternative transmission projects were considered;

(2) That the project was competitively bid or compared to the results of a competitive bid;

(3) That the project has been considered in the context of the utility's larger transmission

plan:

(4) That the project has been considered in the context of the regional transmission planning process of PJM interconnection regional transmission organization, L.L.C.;

(5) That the project could not have been deferred or redesigned to achieve the same operational result at a lower overall cost;

(6) That the project has provided historical information for an existing transmission project or information for a planned or proposed project.

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

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

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

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

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

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

(c) The establishment of a nonbypassable surcharge for the life of an electric generating facility that is owned or operated by the electric distribution utility, was sourced through a

competitive bid process subject to any such rules as the commission adopts under division (B)(2)(b) of this section, and is newly used and useful on or after January 1, 2009, which surcharge shall cover all costs of the utility specified in the application, excluding costs recovered through a surcharge under division (B)(2)(b) of this section. However, no surcharge shall be authorized unless the commission first determines in the proceeding that there is need for the facility based on resource planning projections submitted by the electric distribution utility. Additionally, if a surcharge is authorized for a facility pursuant to plan approval under division (C) of this section and as a condition of the continuation of the surcharge, the electric distribution utility shall dedicate to Ohio consumers the capacity and energy and the rate associated with the cost of that facility. Before the commission authorizes any surcharge pursuant to this division, it may consider, as applicable, the effects of any decommissioning, deratings, and retirements.

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

(e) Automatic increases or decreases in any component of the standard service offer price;

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

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

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

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

(h) Provisions regarding the utility's distribution service, including, without limitation and notwithstanding any provision of Title XLIX of the Revised Code to the contrary, provisions regarding single issue ratemaking, a revenue decoupling mechanism or any other incentive ratemaking, and provisions regarding distribution infrastructure and modernization incentives for the electric distribution utility. The latter may include a long-term energy delivery infrastructure modernization plan for that utility or any plan providing for the utility's recovery of costs, including lost revenue, shared savings, and avoided costs, and a just and reasonable rate of return on such infrastructure modernization. As part of its determination as to whether to allow in an electric distribution utility's electric security plan inclusion of any provision described in division (B)(2)(h) of this section, the commission shall examine the reliability of the electric distribution utility's distribution system and ensure that customers' and the electric distribution utility's expectations are aligned and that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system.

(i) Provisions under which the electric distribution utility may implement economic development, job retention, and energy efficiency programs, which provisions may allocate program costs across all classes of customers of the utility and those of electric distribution utilities in the

same holding company system.

(C)(1) The burden of proof in the proceeding shall be on the electric distribution utility. The commission shall issue an order under this division for an initial application under this section not later than one hundred fifty days after the application's filing date and, for any subsequent application by the utility under this section, not later than two hundred seventy-five days after the application's filing date. Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. Additionally, if the commission so approves an application that contains a surcharge under division (B)(2)(b) or (c) of this section, the commission shall ensure that the benefits derived for any purpose for which the surcharge is established are reserved and made available to those that bear the surcharge. Otherwise, the commission by order shall disapprove the application.

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

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

(D) Regarding the rate plan requirement of division (A) of section 4928.141 of the Revised Code, if an electric distribution utility that has a rate plan that extends beyond December 31, 2008, files an application under this section for the purpose of its compliance with division (A) of section 4928.141 of the Revised Code, that rate plan and its terms and conditions are hereby incorporated into its proposed electric security plan and shall continue in effect until the date scheduled under the rate plan for its expiration, and that portion of the electric security plan shall not be subject to commission approval or disapproval under division (C) of this section, and the earnings test provided for in division (F) of this section shall not apply until after the expiration of the rate plan. However, that utility may include in its electric security plan under this section, and the commission may approve, modify and approve, or disapprove subject to division (C) of this section, provisions for the incremental recovery or the deferral of any costs that are not being recovered under the rate plan and that the utility incurs during that continuation period to comply with section 4928.141, division (B) of section 4928.64, or division (A) of section 4928.66 of the Revised Code.

(E) If an electric security plan approved under division (C) of this section, except one withdrawn by the utility as authorized under that division, has a term, exclusive of phase-ins or deferrals, that exceeds three years from the effective date of the plan, the commission shall test the plan in the fourth year, and if applicable, every fourth year thereafter, to determine whether the plan, including its then-existing pricing and all other terms and conditions, including any deferrals and any

future recovery of deferrals, continues to be more favorable in the aggregate and during the remaining term of the plan as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. The commission shall also determine the prospective effect of the electric security plan to determine if that effect is substantially likely to provide the electric distribution utility with a return on common equity that is significantly in excess of the return on common equity that is likely to be earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility. ~~For affiliated Ohio electric distribution utilities that operate under a joint electric security plan, their total earned return on common equity shall be used for purposes of assessing significantly excessive earnings.~~ If the test results are in the negative or the commission finds that continuation of the electric security plan will result in a return on equity that is significantly in excess of the return on common equity that is likely to be earned by publicly traded companies, including utilities, that will face comparable business and financial risk, with such adjustments for capital structure as may be appropriate, during the balance of the plan, the commission may terminate the electric security plan, but not until it shall have provided interested parties with notice and an opportunity to be heard. The commission may impose such conditions on the plan's termination as it considers reasonable and necessary to accommodate the transition from an approved plan to the more advantageous alternative. In the event of an electric security plan's termination pursuant to this division, the commission shall permit the continued deferral and phase-in of any amounts that occurred prior to that termination and the recovery of those amounts as contemplated under that electric security plan.

(F) With regard to the provisions that are included in an electric security plan under this section, the commission shall consider, following the end of each annual period of the plan, if any such adjustments resulted in excessive earnings as measured by whether the earned return on common equity of the electric distribution utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. ~~In making its determination of significantly excessive earnings under this division, the commission shall, for affiliated Ohio electric distribution utilities that operate under a joint electric security plan, use the total of the utilities' earned return on common equity.~~ Consideration also shall be given to the capital requirements of future committed investments in this state. The burden of proof for demonstrating that significantly excessive earnings did not occur shall be on the electric distribution utility. If the commission finds that such adjustments, in the aggregate, did result in significantly excessive earnings, it shall require the electric distribution utility to return to consumers the amount of the excess by prospective adjustments; provided that, upon making such prospective adjustments, the electric distribution utility shall have the right to terminate the plan and immediately file an application pursuant to section 4928.142 of the Revised Code. Upon termination of a plan under this division, rates shall be set on the same basis as specified in division (C)(2)(b) of this section, and the commission shall permit the continued deferral and phase-in of any amounts that occurred prior to that termination and the recovery of those amounts as contemplated under that electric security plan. In making its determination of significantly excessive earnings under this

division, the commission shall not consider, directly or indirectly, the revenue, expenses, or earnings of any affiliate ~~that is not an Ohio electric distribution utility~~ or parent company.

Sec. 4928.642. Beginning with compliance year 2020, the public utilities commission shall, in accordance with this section, reduce the number of kilowatt hours required for compliance with section 4928.64 of the Revised Code for all electric distribution utilities and all electric services companies in this state. The commission shall determine each utility's and each company's reduction by taking the total amount of kilowatt hours produced, if any, by all qualifying ~~renewable solar~~ resources, as defined in section 3706.40 of the Revised Code, during the preceding compliance year, allocating that total among all electric distribution utilities and electric services companies in proportion to their baselines for the subject compliance year, and subtracting that allocated amount from the utility's or company's compliance amount as otherwise determined under section 4928.64 of the Revised Code.

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

- (1) A mercantile customer;
- (2) An owner or operator of a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state, or that produces power that can be shown to be deliverable into this state;
- (3) A seller of compressed natural gas that has been produced from biologically derived methane gas, provided that the seller may only provide renewable energy credits for metered amounts of gas.

(B)(1) The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or greater that is situated within this state and has committed by December 31, 2009, to modify or retrofit its generating unit or units to enable the facility to generate principally from biomass energy by June 30, 2013, each megawatt hour of electricity generated principally from that biomass energy shall equal, in units of credit, the product obtained by multiplying the actual percentage of biomass feedstock heat input used to generate such megawatt hour by the quotient obtained by dividing the then existing unit dollar amount used to determine a renewable energy compliance payment as provided under division (C)(2)(b) of section 4928.64 of the Revised Code by the then existing market value of one renewable energy credit, but such megawatt hour shall not equal less than one unit of credit. Renewable energy resources do not have to be converted to electricity in order to be eligible to receive renewable energy credits. The rules shall specify that, for purposes of converting the quantity of energy derived from biologically derived methane gas to an electricity equivalent, one megawatt hour equals 3,412,142 British thermal units.

(2) The rules also shall provide for this state a system of registering renewable energy credits by specifying which of any generally available registries shall be used for that purpose and not by creating a registry. That selected system of registering renewable energy credits shall allow a

hydroelectric generating facility to be eligible for obtaining renewable energy credits and shall allow customer-sited projects or actions the broadest opportunities to be eligible for obtaining renewable energy credits.

(C) Beginning January 1, 2020, a qualifying ~~renewable-solar~~ resource as defined in section 3706.40 of the Revised Code is not eligible to obtain a renewable energy credit under this section for any megawatt hour for which the resource has been issued a ~~renewable-solar~~ energy credit under section 3706.45 of the Revised Code.

SECTION 2. That existing sections 3706.40, 3706.41, 3706.43, 3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 4928.143, 4928.642, and 4928.645 of the Revised Code are hereby repealed.

SECTION 3. That sections 3706.53, 3706.61, 4928.471, and 5727.231 of the Revised Code are hereby repealed.

SECTION 4. On and after the effective date of this section, and notwithstanding any provision in Title XLIX of the Revised Code to the contrary, no decoupling mechanism established under section 4928.471 of the Revised Code, as that section existed prior to the effective date of this section, shall remain in effect, and no amount, charge, mechanism, or rider related to that section may be assessed or collected from customers.

SECTION 5. Upon the effective date of this section, and notwithstanding section 4905.32 of the Revised Code and any other provision in Title XLIX of the Revised Code to the contrary, the full amount of revenues collected from customers through an amount, charge, mechanism, or rider established under section 4928.471 of the Revised Code, as that section existed prior to the effective date of this section, shall be promptly refunded to customers from whom the revenues were collected. Refunds paid to customers shall be allocated to customer classes in the same proportion as originally collected.

SECTION 6. Upon the effective date of this section, and notwithstanding section 4905.32 of the Revised Code and any other provision in Title XLIX of the Revised Code to the contrary, both of the following apply:

(A) The amounts of money collected from customers resulting from, or attributable to, the amendments to divisions (E) and (F) of section 4928.143 of the Revised Code by H.B. 166 of the 133rd General Assembly, shall be treated as follows:

(1) The amounts shall be promptly refunded to customers from whom they were collected.
(2) The amounts refunded shall be allocated to customer classes in the same proportion as originally collected.

(B) The public utilities commission shall reconsider any order or determination it made in compliance with the amendments to divisions (E) and (F) of section 4928.143 of the Revised Code made by H.B. 166 of the 133rd General Assembly prior to the effective date of this section and shall

issue a new order or determination in compliance with the provisions of divisions (E) and (F) of section 4928.143 as amended by this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____