Topic: Various changes regarding energy efficiency

moved to amend as follows:

In line 1 of the title, after "713.081," insert "717.25, 1710.061,"

In line 2 of the title, after "3706.03," insert "4905.31,"; after "4928.01," insert "4928.02, 4928.142, 4928.143, 4928.621, 4928.64,;" after "4928.644," insert "4928.65,"

In line 3 of the title, delete "4928.6610" and insert "4928.662, 4928.6612"

In line 8 of the title, delete "4928.661" and insert "4928.663"

In line 19, after "713.081," insert "717.25, 1710.061,"

In line 20, after "3706.03," insert "4905.31,"; after "4928.01," insert "4928.02, 4928.142, 4928.143, 4928.621, 4928.64,;" after "4928.644," insert "4928.65,"

In line 21, delete "4928.6610" and insert "4928.662, 4928.6612"

In line 25, delete "4928.661" and insert "4928.663"

After line 106, insert:

"Sec. 717.25. (A) As used in this section:
(1) "Customer-generated energy project" means a wind, biomass, or gasification facility for the generation of electricity that meets either of the following requirements:

(a) The facility is designed to have a generating capacity of two hundred fifty kilowatts of electricity or less.

(b) The facility is:

(i) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity;

(ii) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;

(iii) Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and

(iv) Not producing energy for direct sale by the facility owner to the public.

(2) "Electric distribution utility" and "mercantile customer" have the same meanings as in section 4928.01 of the Revised Code.

(3) "Reduction in demand" has the same meaning as in section 1710.01 of the Revised Code.

(B) The legislative authority of a municipal corporation may establish a low-cost alternative energy revolving loan program to assist owners of real property within the municipal corporation with installing and implementing either of the following on their real property:

(1) Alternative energy technologies limited to solar photovoltaic projects, solar thermal energy projects, geothermal
energy projects, and customer-generated energy projects;

(2) Energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy.

(C) If the legislative authority decides to establish such a program, the legislative authority shall adopt an ordinance that provides for the following:

(1) Creation in the municipal treasury of an alternative energy revolving loan fund;

(2) A source of money, such as gifts, bond issues, real property assessments, or federal subsidies, to seed the alternative energy revolving loan fund;

(3) Facilities for making loans from the alternative energy revolving loan fund, including an explanation of how owners of real property within the municipal corporation may qualify for loans from the fund, a description of the alternative energy and energy efficiency technologies and related equipment for which a loan can be made from the fund, authorization of a municipal agency to process applications for loans and otherwise to administer the low-cost alternative energy revolving loan program, a procedure whereby loans can be applied for, criteria for reviewing and accepting or denying applications for loans, criteria for determining the appropriate amount of a loan, the interest rate to be charged, the repayment schedule, and other terms and conditions of a loan, and procedures for collecting loans that are not repaid according to the repayment schedule;

(4) A specification that repayments of loans from the alternative energy revolving loan fund may be made in installments
and, at the option of the real property owner repaying the loan,  
the installments may be paid and collected as if they were special  
assessments paid and collected in the manner specified in Chapter  
727. of the Revised Code and as specified in the ordinance;  

(5) A specification that repayments of loans from the  
alternative energy revolving loan fund are to be credited to the  
fund, that the money in the fund is to be invested pending its  
being lent out, and that investment earnings on the money in the  
fund are to be credited to the fund; and  

(6) Other matters necessary and proper for efficient  
operation of the low-cost alternative energy revolving loan  
program as a means of encouraging use of alternative energy and  
energy efficiency technologies.  

The interest rate charged on a loan from the alternative  
energy revolving loan fund shall be below prevailing market rates.  
The legislative authority may specify the interest rate in the  
ordinance or may, after establishing a standard in the ordinance  
whereby the interest rate can be specified, delegate authority to  
specify the interest rate to the administrator of loans from the  
alternative energy revolving loan fund.  

The alternative energy revolving loan fund shall be seeded  
with sufficient money to enable loans to be made until the fund  
accumulates sufficient reserves through investment and repayment  
of loans for revolving operation.  

(D) Except as provided in division (E) of this section, an  
electric distribution utility may count toward its compliance with  
the energy efficiency performance and waste reduction program and  
peak demand reduction requirements of section 4928.66 of the  
Revised Code any energy efficiency savings or any reduction in  
demand that is produced by projects utilizing alternative energy
technologies or energy efficiency savings technologies, products, and activities that are located in its certified territory and for which a loan has been made under this section.

(E) A mercantile customer that realizes energy efficiency savings or reduction in demand produced by alternative energy technologies or energy efficiency savings technologies, products, or activities that it owns and for which a loan has been made under this section may elect to commit the savings or reduction to the electric distribution utility in exchange for an exemption from an energy efficiency savings cost recovery mechanism permitted under section 4928.66 of the Revised Code, approved by the public utilities commission.

(F) The legislative authority shall submit a quarterly report to the electric distribution utility that includes, but is not limited to, both of the following:

(1) The number and a description of each new and ongoing project utilizing alternative energy technologies or energy efficiency savings technologies, products, or activities located in the utility's certified territory that produces energy efficiency savings or reduction in demand and for which a loan has been made under this section;

(2) Any additional information that the electric distribution utility needs in order to obtain credit under section 4928.66 of the Revised Code for energy efficiency savings or reduction in demand from such projects.

Sec. 1710.061. (A) Except as provided in division (B) of this section, an electric distribution utility may count toward its compliance with the energy efficiency performance and waste reduction program and peak demand reduction requirements of
section 4928.66 of the Revised Code any energy efficiency savings or reduction in demand produced by a special energy improvement project located in its certified territory.

(B) A mercantile customer that realizes energy efficiency savings or reduction in demand produced by a special energy improvement project that it owns may elect to commit the savings or reduction to the electric distribution utility in exchange for an exemption from an energy efficiency savings cost recovery mechanism permitted under section 4928.66 of the Revised Code, approved by the public utilities commission.

(C) The board of directors of a special improvement district shall submit a quarterly report to the electric distribution utility that includes, but is not limited to, both of the following:

(1) The total number and a description of each new and ongoing special energy improvement project located within the special improvement district that produces energy efficiency savings or reduction in demand;

(2) Any additional information that the electric distribution utility needs in order to obtain credit under section 4928.66 of the Revised Code for energy efficiency savings or reduction in demand from such projects."

After line 582, insert:

"Sec. 4905.31. Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., 4927., 4928., and 4929. of the Revised Code do not prohibit a public utility from filing a schedule or establishing or entering into any reasonable arrangement with another public utility or with one or more of its customers, consumers, or employees, and do not prohibit a mercantile customer of an
electric distribution utility as those terms are defined in section 4928.01 of the Revised Code or a group of those customers from establishing a reasonable arrangement with that utility or another public utility electric light company, providing for any of the following:

(A) The division or distribution of its surplus profits;

(B) A sliding scale of charges, including variations in rates based upon stipulated variations in cost as provided in the schedule or arrangement.

(C) A minimum charge for service to be rendered unless such minimum charge is made or prohibited by the terms of the franchise, grant, or ordinance under which such public utility is operated;

(D) A classification of service based upon the quantity used, the time when used, the purpose for which used, the duration of use, and any other reasonable consideration;

(E) Any other financial device that may be practicable or advantageous to the parties interested. In the case of a schedule or arrangement concerning a public utility electric light company, such other financial device may include a device to recover costs incurred in conjunction with any economic development and job retention program of the utility within its certified territory, including recovery of revenue foregone as a result of any such program; any development and implementation of peak demand reduction and energy efficiency performance and waste reduction programs under section 4928.66 of the Revised Code; any acquisition and deployment of advanced metering, including the costs of any meters prematurely retired as a result of the advanced metering implementation; and compliance with any government mandate.
No such schedule or arrangement is lawful unless it is filed with and approved by the commission pursuant to an application that is submitted by the public utility or the mercantile customer or group of mercantile customers of an electric distribution utility and is posted on the commission's docketing information system and is accessible through the internet.

Every such public utility is required to conform its schedules of rates, tolls, and charges to such arrangement, sliding scale, classification, or other device, and where variable rates are provided for in any such schedule or arrangement, the cost data or factors upon which such rates are based and fixed shall be filed with the commission in such form and at such times as the commission directs.

Every such schedule or reasonable arrangement shall be under the supervision and regulation of the commission, and is subject to change, alteration, or modification by the commission."

In line 850, strike through "efficiency" and insert "performance and waste reduction"

In line 862, strike through "efficiency" and insert "performance and waste reduction"

In line 863, strike through "requirements" and insert "standards"

In line 922, strike through "efficiency" and insert "performance and waste reduction"

In line 923, strike through "requirements" and insert "standards"

After line 1010, insert: "Sec. 4928.02. It is the policy of this state to do the
following throughout this state:

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

(D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(F) Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;

(G) Recognize the continuing emergence of competitive
electricity markets through the development and implementation of flexible regulatory treatment;

(H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;

(I) Ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power;

(J) Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates;

(K) Encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;

(L) Protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource;

(M) Encourage the education of small business owners in this state regarding the use of, and encourage the use of, energy efficiency performance and waste reduction programs and alternative energy resources in their businesses;

(N) Facilitate the state's effectiveness in the global economy.
In carrying out this policy, the commission shall consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in this state.

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

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

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

(b) Clear product definition;

(c) Standardized bid evaluation criteria;

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

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

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

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

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

An application under this division shall detail the electric distribution utility's proposed compliance with the requirements of division (A)(1) of this section and with commission rules under division (A)(2) of this section and demonstrate that all of the following requirements are met:

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

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

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

The commission shall initiate a proceeding and, within ninety days after the application's filing date, shall determine by order whether the electric distribution utility and its market-rate offer meet all of the foregoing requirements. If the finding is positive, the electric distribution utility may initiate its competitive bidding process. If the finding is negative as to one or more requirements, the commission in the order shall direct the electric distribution utility regarding how any deficiency may be remedied in a timely manner to the commission's satisfaction; otherwise, the electric distribution utility shall withdraw the application. However, if such remedy is made and the subsequent finding is positive and also if the electric distribution utility made a simultaneous filing under this section and section 4928.143 of the Revised Code, the utility shall not initiate its competitive bid until at least one hundred fifty days after the filing date of those applications.

(C) Upon the completion of the competitive bidding process authorized by divisions (A) and (B) of this section, including for the purpose of division (D) of this section, the commission shall select the least-cost bid winner or winners of that process, and such selected bid or bids, as prescribed as retail rates by the commission, shall be the electric distribution utility's standard service offer unless the commission, by order issued before the third calendar day following the conclusion of the competitive bidding process for the market rate offer, determines that one or more of the following criteria were not met:
(1) Each portion of the bidding process was oversubscribed, such that the amount of supply bid upon was greater than the amount of the load bid out.

(2) There were four or more bidders.

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

All costs incurred by the electric distribution utility as a result of or related to the competitive bidding process or to procuring generation service to provide the standard service offer, including the costs of energy and capacity and the costs of all other products and services procured as a result of the competitive bidding process, shall be timely recovered through the standard service offer price, and, for that purpose, the commission shall approve a reconciliation mechanism, other recovery mechanism, or a combination of such mechanisms for the utility.

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

1. The electric distribution utility's prudently incurred cost of fuel used to produce electricity;
2. Its prudently incurred purchased power costs;
3. Its prudently incurred costs of satisfying the supply and demand portfolio requirements of this state, including, but not limited to, renewable energy resource requirements and energy efficiency requirements performance and waste reduction standards;
4. Its costs prudently incurred to comply with environmental laws and regulations, with consideration of the derating of any facility associated with those costs.

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

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

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

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

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 performance and waste reduction 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. 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. 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 or parent company."

After line 1124, insert:

"Sec. 4928.621. (A) Any Edison technology center in this state is eligible to apply for and receive assistance pursuant to section 4928.62 of the Revised Code for the purposes of creating an advanced energy manufacturing center in this state that will provide for the exchange of information and expertise regarding advanced energy, assisting with the design of advanced energy projects, developing workforce training programs for such projects, and encouraging investment in advanced energy manufacturing technologies for advanced energy products and investment in sustainable manufacturing operations that create
high-paying jobs in this state.

(B) Any university or group of universities in this state that conducts research on any advanced energy resource or any not-for-profit corporation formed to address issues affecting the price and availability of electricity and having members that are small businesses may apply for and receive assistance pursuant to section 4928.62 of the Revised Code for the purpose of encouraging research in this state that is directed at innovation in or the refinement of those resources or for the purpose of educational outreach regarding those resources and, to that end, shall use that assistance to establish such a program of research or education outreach. Any such educational outreach shall be directed at an increase in, innovation regarding, or refinement of access by or of application or understanding of businesses and consumers in this state regarding, advanced energy resources.

(C) Any independent group located in this state the express objective of which is to educate small businesses in this state regarding renewable energy resources and energy efficiency performance and waste reduction programs, or any small business located in this state electing to utilize an advanced energy project or participate in an energy efficiency performance and waste reduction program, is eligible to apply for and receive assistance pursuant to section 4928.62 of the Revised Code.

(D) Nothing in this section shall be construed as limiting the eligibility of any qualifying entity to apply for or receive assistance pursuant to section 4928.62 of the Revised Code.

Sec. 4928.64. (A)(1) As used in this section, "qualifying renewable energy resource" means a renewable energy resource, as defined in section 4928.01 of the Revised Code that:
(a) Has a placed-in-service date on or after January 1, 1998;
(b) Is any run-of-the-river hydroelectric facility that has
an in-service date on or after January 1, 1980;
(c) Is a small hydroelectric facility;
(d) Is created on or after January 1, 1998, by the
modification or retrofit of any facility placed in service prior
to January 1, 1998; or
(e) Is a mercantile customer-sited renewable energy resource,
whether new or existing, that the mercantile customer commits for
integration into the electric distribution utility's
demand-response, energy efficiency, performance and waste
reduction, 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:
(i) A resource that has the effect of improving the
relationship between real and reactive power;
(ii) A resource that makes efficient use of waste heat or
other thermal capabilities owned or controlled by a mercantile
customer;
(iii) Storage technology that allows a mercantile customer
more flexibility to modify its demand or load and usage
characteristics;
(iv) Electric generation equipment owned or controlled by a
mercantile customer that uses a renewable energy resource.
(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.
(B)(1) By 2027 and thereafter, an electric distribution
utility shall provide from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion shall equal twelve and one-half per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state. However, nothing in this section precludes a utility or company from providing a greater percentage.

(2) The portion required under division (B)(1) of this section shall be generated from renewable energy resources, including one-half per cent from solar energy resources, in accordance with the following benchmarks:

<table>
<thead>
<tr>
<th>By end of year</th>
<th>Renewable energy resources</th>
<th>Solar energy resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>0.25%</td>
<td>0.004%</td>
</tr>
<tr>
<td>2010</td>
<td>0.50%</td>
<td>0.010%</td>
</tr>
<tr>
<td>2011</td>
<td>1%</td>
<td>0.030%</td>
</tr>
<tr>
<td>2012</td>
<td>1.5%</td>
<td>0.060%</td>
</tr>
<tr>
<td>2013</td>
<td>2%</td>
<td>0.090%</td>
</tr>
<tr>
<td>2014</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
<td>2015</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
<td>Year</td>
<td>Baseline %</td>
<td>Technology %</td>
</tr>
<tr>
<td>--------------</td>
<td>------------</td>
<td>--------------</td>
</tr>
<tr>
<td>2016</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
<td>2017</td>
<td>3.5%</td>
<td>0.15%</td>
</tr>
<tr>
<td>2018</td>
<td>4.5%</td>
<td>0.18%</td>
</tr>
<tr>
<td>2019</td>
<td>5.5%</td>
<td>0.22%</td>
</tr>
<tr>
<td>2020</td>
<td>6.5%</td>
<td>0.26%</td>
</tr>
<tr>
<td>2021</td>
<td>7.5%</td>
<td>0.3%</td>
</tr>
<tr>
<td>2022</td>
<td>8.5%</td>
<td>0.34%</td>
</tr>
<tr>
<td>2023</td>
<td>9.5%</td>
<td>0.38%</td>
</tr>
<tr>
<td>2024</td>
<td>10.5%</td>
<td>0.42%</td>
</tr>
<tr>
<td>2025</td>
<td>11.5%</td>
<td>0.46%</td>
</tr>
<tr>
<td>2026 and each calendar year thereafter</td>
<td>12.5%</td>
<td>0.5%</td>
</tr>
</tbody>
</table>

(3) The qualifying renewable energy resources implemented by the utility or company shall be met either:

(a) Through facilities located in this state; or

(b) With resources that can be shown to be deliverable into this state.

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

(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.

(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:

(i) Three hundred dollars for 2014, 2015, and 2016;
(ii) Two hundred fifty dollars for 2017 and 2018;
(iii) Two hundred dollars for 2019 and 2020;
(iv) Similarly reduced every two years thereafter through 2026 by fifty dollars, to a minimum of fifty dollars.

(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.

(c) The compliance payment shall not be passed through by the electric distribution utility or electric services company to consumers. The compliance payment shall be remitted to the commission, for deposit to the credit of the advanced energy fund created under section 4928.61 of the Revised Code. Payment of the compliance payment shall be subject to such collection and enforcement procedures as apply to the collection of a forfeiture.
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code.  

(3) An electric distribution utility or an electric services company need not comply with a benchmark under division (B)(2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more. The cost of compliance shall be calculated as though any exemption from taxes and assessments had not been granted under section 5727.75 of the Revised Code. 

(4)(a) An electric distribution utility or electric services company may request the commission to make a force majeure determination pursuant to this division regarding all or part of the utility's or company's compliance with any minimum benchmark under division (B)(2) of this section during the period of review occurring pursuant to division (C)(2) of this section. The commission may require the electric distribution utility or electric services company to make solicitations for renewable energy resource credits as part of its default service before the utility's or company's request of force majeure under this division can be made. 

(b) Within ninety days after the filing of a request by an electric distribution utility or electric services company under division (C)(4)(a) of this section, the commission shall determine if qualifying renewable energy resources are reasonably available in the marketplace in sufficient quantities for the utility or company to comply with the subject minimum benchmark during the review period. In making this determination, the commission shall consider whether the electric distribution utility or electric services company has made a good faith effort to acquire sufficient qualifying renewable energy or, as applicable, solar
energy resources to so comply, including, but not limited to, by banking or seeking renewable energy resource credits or by seeking the resources through long-term contracts. Additionally, the commission shall consider the availability of qualifying renewable energy or solar energy resources in this state and other jurisdictions in the PJM interconnection regional transmission organization, L.L.C., or its successor and the midcontinent independent system operator or its successor.

(c) If, pursuant to division (C)(4)(b) of this section, the commission determines that qualifying renewable energy or solar energy resources are not reasonably available to permit the electric distribution utility or electric services company to comply, during the period of review, with the subject minimum benchmark prescribed under division (B)(2) of this section, the commission shall modify that compliance obligation of the utility or company as it determines appropriate to accommodate the finding. Commission modification shall not automatically reduce the obligation for the electric distribution utility's or electric services company's compliance in subsequent years. If it modifies the electric distribution utility or electric services company obligation under division (C)(4)(c) of this section, the commission may require the utility or company, if sufficient renewable energy resource credits exist in the marketplace, to acquire additional renewable energy resource credits in subsequent years equivalent to the utility's or company's modified obligation under division (C)(4)(c) of this section.

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

(D) The commission annually shall submit to the general assembly in accordance with section 101.68 of the Revised Code a report describing all of the following:

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

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

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

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

(E) All costs incurred by an electric distribution utility in complying with the requirements of this section shall be bypassable by any consumer that has exercised choice of supplier under section 4928.03 of the Revised Code."

After line 1184, insert:

"Sec. 4928.65. (A) Not later than January 1, 2015, the public utilities commission shall adopt rules governing the disclosure of the costs to customers of the renewable energy resource requirements, energy efficiency savings performance and waste reduction program, and peak demand reduction requirements of sections 4928.64 and 4928.66 of the Revised Code. The rules shall include both of the following requirements:

(1) That every electric distribution utility list, on all customer bills sent by the utility, including utility consolidated bills that include both electric distribution utility and electric services company charges, the individual customer cost of the utility's compliance with all of the following for the applicable billing period:

(a) The renewable energy resource requirements under section 4928.64 of the Revised Code, subject to division (B) of this section;

(b) The energy efficiency savings requirements performance and waste reduction program under section 4928.66 of the Revised Code;

(c) The peak demand reduction requirements under section 4928.66 of the Revised Code.
(2) That every electric services company list, on all customer bills sent by the company, the individual customer cost, subject to division (B) of this section, of the company's compliance with the renewable energy resource requirements under section 4928.64 of the Revised Code for the applicable billing period.

(B)(1) For purposes of division (A)(1)(a) of this section, the cost of compliance with the renewable energy resource requirements shall be calculated by multiplying the individual customer's monthly usage by the combined weighted average of renewable-energy-credit costs, including solar-renewable-energy-credit costs, paid by all electric distribution utilities, as listed in the commission's most recently available alternative energy portfolio standard report.

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

(C) The costs required to be listed under division (A)(1) of this section shall be listed on each customer's monthly bill as three distinct line items. The cost required to be listed under division (A)(2) of this section shall be listed on each customer's monthly bill as a distinct line item."

In line 1186, strike through "efficiency" and insert "performance and waste reduction"

In line 1191, strike through "efficiency" and insert
"performance and waste reduction"

In line 1215, reinsert "Thereafter, the"; delete "The"

In line 1216, delete "an additional"

In line 1217, reinsert ", and two per cent each year"

Reinsert line 1218

In line 1219, reinsert "twenty-two per cent by the end of 2027"

In line 1273, strike through "efficiency" and insert "performance and waste reduction"

In line 1276, strike through "efficiency" and insert "performance and waste reduction"

In line 1282, strike through "efficiency" and insert "performance and waste reduction"

In line 1288, strike through "efficiency" and insert "performance and waste reduction"

In line 1293, strike through "efficiency" and insert "performance and waste reduction"

In line 1310, strike through "efficiency"

In line 1315, strike through "efficiency" and insert "performance and waste reduction"

In line 1317, strike through "efficiency" and insert "savings"

In line 1323, strike through "efficiency" and insert "performance and waste reduction"

In line 1334, strike through "efficiency" and insert "savings"

In line 1341, strike through "efficiency" and insert
"performance and waste reduction standard"

In line 1359, strike through "efficiency" and insert "performance and waste reduction"

In line 1365, strike through "efficiency" and insert "performance and waste reduction"

Delete lines 1372 through 1446 and insert:

"Sec. 4928.662. (A) For the purpose of measuring and determining compliance with the energy efficiency performance and waste reduction program and peak demand reduction requirements under section 4928.66 of the Revised Code, the public utilities commission shall count and recognize compliance as follows:

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

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

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

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

(E)(1) The commission shall count energy efficiency savings and peak demand reductions associated with transmission and distribution infrastructure improvements that reduce line losses. No energy efficiency savings or peak demand reduction achieved under division (E) (A)(1) of this section shall qualify for shared savings.

(F)(2) Energy efficiency savings and peak demand reduction amounts approved by the commission shall continue to be counted toward achieving the energy efficiency performance and waste reduction standards and peak demand reduction requirements as long as the requirements they remain in effect.

(G)(3) Any energy efficiency savings or peak demand reduction amount achieved in excess of the energy performance and waste reduction standards and peak demand reduction requirements may, at the discretion of the electric distribution utility, be banked and applied toward achieving the energy efficiency performance and waste reduction standards or peak demand reduction requirements in future years.

(B) The commission shall adopt rules to develop methods for determining compliance with the energy performance and waste reduction program and peak demand reduction requirements. The
methods shall involve calculating energy savings and peak demand reduction based on the latest best practices.

Sec. 4928.6612. Any customer electing to opt out under section 4928.6611 of the Revised Code shall do so by providing a verified written notice of intent to opt out to the electric distribution utility from which it receives service and submitting a complete copy of the opt-out notice to the secretary of the public utilities commission.

The notice provided to the utility shall include all of the following:

(A) A statement indicating that the customer has elected to opt out;

(B) The effective date of the election to opt out;

(C) The account number for each customer account to which the opt out shall apply;

(D) The physical location of the customer's load center;

(E) The date upon which the customer established, or plans to establish a process and implement, cost-effective measures to improve its energy efficiency savings and peak demand reductions.

Sec. 4928.663. (A) As used in this section, "cost-effective program" means a program that delivers savings to customers participating in the program in an amount that exceeds the customers' costs for the program.

(B) The public utilities commission shall ensure that energy performance and waste reduction programs and peak demand reduction programs administered by an electric distribution utility under section 4928.66 of the Revised Code are cost-effective programs. The commission shall not limit the amount that an electric
distribution utility may spend on cost-effective programs."

In line 1824, after "713.081," insert "717.25, 1710.061,"; after "3706.03," insert "4905.31,"; after "4928.01," insert "4928.02, 4928.142, 4928.143, 4928.621, 4928.64,"; after "4928.644," insert "4928.65,"

In line 1825, delete "4928.6610" and insert "4928.662, 4928.6612"