

Sub. H.B. 6
1_133_0905-14

Topic: Various changes regarding energy efficiency

_____ moved to amend as follows:

In line 1 of the title, after "713.081," insert "717.25,	1
1710.061,"	2
In line 2 of the title, after "3706.03," insert "4905.31,";	3
after "4928.01," insert "4928.02, 4928.142, 4928.143, 4928.621,	4
4928.64,"; after "4928.644," insert "4928.65,"	5
In line 3 of the title, delete "4928.6610" and insert	6
"4928.662, 4928.6612"	7
In line 8 of the title, delete "4928.661" and insert	8
"4928.663"	9
In line 19, after "713.081," insert "717.25, 1710.061,"	10
In line 20, after "3706.03," insert "4905.31,"; after	11
"4928.01," insert "4928.02, 4928.142, 4928.143, 4928.621,	12
4928.64,"; after "4928.644," insert "4928.65,"	13
In line 21, delete "4928.6610" and insert "4928.662,	14
4928.6612"	15
In line 25, delete "4928.661" and insert "4928.663"	16
After line 106, insert:	17
" Sec. 717.25. (A) As used in this section:	18

(1) "Customer-generated energy project" means a wind,	19
biomass, or gasification facility for the generation of	20
electricity that meets either of the following requirements:	21
(a) The facility is designed to have a generating capacity of	22
two hundred fifty kilowatts of electricity or less.	23
(b) The facility is:	24
(i) Designed to have a generating capacity of more than two	25
hundred fifty kilowatts of electricity;	26
(ii) Operated in parallel with electric transmission and	27
distribution facilities serving the real property at the site of	28
the customer-generated energy project;	29
(iii) Intended primarily to offset part or all of the	30
facility owner's requirements for electricity at the site of the	31
customer-generated energy project and is located on the facility	32
owner's real property; and	33
(iv) Not producing energy for direct sale by the facility	34
owner to the public.	35
(2) "Electric distribution utility" and "mercantile customer"	36
have the same meanings as in section 4928.01 of the Revised Code.	37
(3) "Reduction in demand" has the same meaning as in section	38
1710.01 of the Revised Code.	39
(B) The legislative authority of a municipal corporation may	40
establish a low-cost alternative energy revolving loan program to	41
assist owners of real property within the municipal corporation	42
with installing and implementing either of the following on their	43
real property:	44
(1) Alternative energy technologies limited to solar	45
photovoltaic projects, solar thermal energy projects, geothermal	46

energy projects, and customer-generated energy projects;	47
(2) Energy efficiency technologies, products, and activities	48
that reduce or support the reduction of energy consumption, allow	49
for the reduction in demand, or support the production of clean,	50
renewable energy.	51
(C) If the legislative authority decides to establish such a	52
program, the legislative authority shall adopt an ordinance that	53
provides for the following:	54
(1) Creation in the municipal treasury of an alternative	55
energy revolving loan fund;	56
(2) A source of money, such as gifts, bond issues, real	57
property assessments, or federal subsidies, to seed the	58
alternative energy revolving loan fund;	59
(3) Facilities for making loans from the alternative energy	60
revolving loan fund, including an explanation of how owners of	61
real property within the municipal corporation may qualify for	62
loans from the fund, a description of the alternative energy and	63
energy efficiency technologies and related equipment for which a	64
loan can be made from the fund, authorization of a municipal	65
agency to process applications for loans and otherwise to	66
administer the low-cost alternative energy revolving loan program,	67
a procedure whereby loans can be applied for, criteria for	68
reviewing and accepting or denying applications for loans,	69
criteria for determining the appropriate amount of a loan, the	70
interest rate to be charged, the repayment schedule, and other	71
terms and conditions of a loan, and procedures for collecting	72
loans that are not repaid according to the repayment schedule;	73
(4) A specification that repayments of loans from the	74
alternative energy revolving loan fund may be made in installments	75

and, at the option of the real property owner repaying the loan, 76
 the installments may be paid and collected as if they were special 77
 assessments paid and collected in the manner specified in Chapter 78
 727. of the Revised Code and as specified in the ordinance; 79

(5) A specification that repayments of loans from the 80
 alternative energy revolving loan fund are to be credited to the 81
 fund, that the money in the fund is to be invested pending its 82
 being lent out, and that investment earnings on the money in the 83
 fund are to be credited to the fund; and 84

(6) Other matters necessary and proper for efficient 85
 operation of the low-cost alternative energy revolving loan 86
 program as a means of encouraging use of alternative energy and 87
 energy efficiency technologies. 88

The interest rate charged on a loan from the alternative 89
 energy revolving loan fund shall be below prevailing market rates. 90
 The legislative authority may specify the interest rate in the 91
 ordinance or may, after establishing a standard in the ordinance 92
 whereby the interest rate can be specified, delegate authority to 93
 specify the interest rate to the administrator of loans from the 94
 alternative energy revolving loan fund. 95

The alternative energy revolving loan fund shall be seeded 96
 with sufficient money to enable loans to be made until the fund 97
 accumulates sufficient reserves through investment and repayment 98
 of loans for revolving operation. 99

(D) Except as provided in division (E) of this section, an 100
 electric distribution utility may count toward its compliance with 101
 the energy ~~efficiency~~ performance and waste reduction program and 102
 peak demand reduction requirements of section 4928.66 of the 103
 Revised Code any energy ~~efficiency~~ savings or any reduction in 104
 demand that is produced by projects utilizing alternative energy 105

technologies or energy ~~efficiency~~ savings technologies, products, 106
 and activities that are located in its certified territory and for 107
 which a loan has been made under this section. 108

(E) A mercantile customer that realizes energy ~~efficiency~~ 109
 savings or reduction in demand produced by alternative energy 110
 technologies or energy ~~efficiency~~ savings technologies, products, 111
 or activities that it owns and for which a loan has been made 112
 under this section may elect to commit the savings or reduction to 113
 the electric distribution utility in exchange for an exemption 114
 from an energy ~~efficiency~~ savings cost recovery mechanism 115
 permitted under section 4928.66 of the Revised Code, approved by 116
 the public utilities commission. 117

(F) The legislative authority shall submit a quarterly report 118
 to the electric distribution utility that includes, but is not 119
 limited to, both of the following: 120

(1) The number and a description of each new and ongoing 121
 project utilizing alternative energy technologies or energy 122
~~efficiency~~ savings technologies, products, or activities located 123
 in the utility's certified territory that produces energy 124
~~efficiency~~ savings or reduction in demand and for which a loan has 125
 been made under this section; 126

(2) Any additional information that the electric distribution 127
 utility needs in order to obtain credit under section 4928.66 of 128
 the Revised Code for energy ~~efficiency~~ savings or reduction in 129
 demand from such projects. 130

Sec. 1710.061. (A) Except as provided in division (B) of this 131
 section, an electric distribution utility may count toward its 132
 compliance with the energy ~~efficiency~~ performance and waste 133
reduction program and peak demand reduction requirements of 134

section 4928.66 of the Revised Code any ~~efficiency~~ savings or 135
reduction in demand produced by a special energy improvement 136
project located in its certified territory. 137

(B) A mercantile customer that realizes energy ~~efficiency~~ 138
savings or reduction in demand produced by a special energy 139
improvement project that it owns may elect to commit the savings 140
or reduction to the electric distribution utility in exchange for 141
an exemption from an energy ~~efficiency~~ savings cost recovery 142
mechanism permitted under section 4928.66 of the Revised Code, 143
approved by the public utilities commission. 144

(C) The board of directors of a special improvement district 145
shall submit a quarterly report to the electric distribution 146
utility that includes, but is not limited to, both of the 147
following: 148

(1) The total number and a description of each new and 149
ongoing special energy improvement project located within the 150
special improvement district that produces energy ~~efficiency~~ 151
savings or reduction in demand; 152

(2) Any additional information that the electric distribution 153
utility needs in order to obtain credit under section 4928.66 of 154
the Revised Code for energy ~~efficiency~~ savings or reduction in 155
demand from such projects." 156

After line 582, insert: 157

"**Sec. 4905.31.** Chapters 4901., 4903., 4905., 4907., 4909., 158
4921., 4923., 4927., 4928., and 4929. of the Revised Code do not 159
prohibit a public utility from filing a schedule or establishing 160
or entering into any reasonable arrangement with another public 161
utility or with one or more of its customers, consumers, or 162
employees, and do not prohibit a mercantile customer of an 163

electric distribution utility as those terms are defined in 164
 section 4928.01 of the Revised Code or a group of those customers 165
 from establishing a reasonable arrangement with that utility or 166
 another public utility electric light company, providing for any 167
 of the following: 168

(A) The division or distribution of its surplus profits; 169

(B) A sliding scale of charges, including variations in rates 170
 based upon stipulated variations in cost as provided in the 171
 schedule or arrangement. 172

(C) A minimum charge for service to be rendered unless such 173
 minimum charge is made or prohibited by the terms of the 174
 franchise, grant, or ordinance under which such public utility is 175
 operated; 176

(D) A classification of service based upon the quantity used, 177
 the time when used, the purpose for which used, the duration of 178
 use, and any other reasonable consideration; 179

(E) Any other financial device that may be practicable or 180
 advantageous to the parties interested. In the case of a schedule 181
 or arrangement concerning a public utility electric light company, 182
 such other financial device may include a device to recover costs 183
 incurred in conjunction with any economic development and job 184
 retention program of the utility within its certified territory, 185
 including recovery of revenue ~~foregone~~ forgone as a result of any 186
 such program; any development and implementation of peak demand 187
 reduction and energy ~~efficiency~~ performance and waste reduction 188
 programs under section 4928.66 of the Revised Code; any 189
 acquisition and deployment of advanced metering, including the 190
 costs of any meters prematurely retired as a result of the 191
 advanced metering implementation; and compliance with any 192
 government mandate. 193

No such schedule or arrangement is lawful unless it is filed 194
with and approved by the commission pursuant to an application 195
that is submitted by the public utility or the mercantile customer 196
or group of mercantile customers of an electric distribution 197
utility and is posted on the commission's docketing information 198
system and is accessible through the internet. 199

Every such public utility is required to conform its 200
schedules of rates, tolls, and charges to such arrangement, 201
sliding scale, classification, or other device, and where variable 202
rates are provided for in any such schedule or arrangement, the 203
cost data or factors upon which such rates are based and fixed 204
shall be filed with the commission in such form and at such times 205
as the commission directs. 206

Every such schedule or reasonable arrangement shall be under 207
the supervision and regulation of the commission, and is subject 208
to change, alteration, or modification by the commission." 209

In line 850, strike through "efficiency" and insert 210
"performance and waste reduction" 211

In line 862, strike through "efficiency" and insert 212
"performance and waste reduction" 213

In line 863, strike through "requirements" and insert 214
"standards" 215

In line 922, strike through "efficiency" and insert 216
"performance and waste reduction" 217

In line 923, strike through "requirements" and insert 218
"standards" 219

After line 1010, insert: 220

"**Sec. 4928.02.** It is the policy of this state to do the 221

following throughout this state:	222
(A) Ensure the availability to consumers of adequate,	223
reliable, safe, efficient, nondiscriminatory, and reasonably	224
priced retail electric service;	225
(B) Ensure the availability of unbundled and comparable	226
retail electric service that provides consumers with the supplier,	227
price, terms, conditions, and quality options they elect to meet	228
their respective needs;	229
(C) Ensure diversity of electricity supplies and suppliers,	230
by giving consumers effective choices over the selection of those	231
supplies and suppliers and by encouraging the development of	232
distributed and small generation facilities;	233
(D) Encourage innovation and market access for cost-effective	234
supply- and demand-side retail electric service including, but not	235
limited to, demand-side management, time-differentiated pricing,	236
waste energy recovery systems, smart grid programs, and	237
implementation of advanced metering infrastructure;	238
(E) Encourage cost-effective and efficient access to	239
information regarding the operation of the transmission and	240
distribution systems of electric utilities in order to promote	241
both effective customer choice of retail electric service and the	242
development of performance standards and targets for service	243
quality for all consumers, including annual achievement reports	244
written in plain language;	245
(F) Ensure that an electric utility's transmission and	246
distribution systems are available to a customer-generator or	247
owner of distributed generation, so that the customer-generator or	248
owner can market and deliver the electricity it produces;	249
(G) Recognize the continuing emergence of competitive	250

electricity markets through the development and implementation of	251
flexible regulatory treatment;	252
(H) Ensure effective competition in the provision of retail	253
electric service by avoiding anticompetitive subsidies flowing	254
from a noncompetitive retail electric service to a competitive	255
retail electric service or to a product or service other than	256
retail electric service, and vice versa, including by prohibiting	257
the recovery of any generation-related costs through distribution	258
or transmission rates;	259
(I) Ensure retail electric service consumers protection	260
against unreasonable sales practices, market deficiencies, and	261
market power;	262
(J) Provide coherent, transparent means of giving appropriate	263
incentives to technologies that can adapt successfully to	264
potential environmental mandates;	265
(K) Encourage implementation of distributed generation across	266
customer classes through regular review and updating of	267
administrative rules governing critical issues such as, but not	268
limited to, interconnection standards, standby charges, and net	269
metering;	270
(L) Protect at-risk populations, including, but not limited	271
to, when considering the implementation of any new advanced energy	272
or renewable energy resource;	273
(M) Encourage the education of small business owners in this	274
state regarding the use of, and encourage the use of, energy	275
efficiency <u>performance and waste reduction</u> programs and	276
alternative energy resources in their businesses;	277
(N) Facilitate the state's effectiveness in the global	278
economy.	279

In carrying out this policy, the commission shall consider 280
 rules as they apply to the costs of electric distribution 281
 infrastructure, including, but not limited to, line extensions, 282
 for the purpose of development in this state. 283

Sec. 4928.142. (A) For the purpose of complying with section 284
 4928.141 of the Revised Code and subject to division (D) of this 285
 section and, as applicable, subject to the rate plan requirement 286
 of division (A) of section 4928.141 of the Revised Code, an 287
 electric distribution utility may establish a standard service 288
 offer price for retail electric generation service that is 289
 delivered to the utility under a market-rate offer. 290

(1) The market-rate offer shall be determined through a 291
 competitive bidding process that provides for all of the 292
 following: 293

(a) Open, fair, and transparent competitive solicitation; 294

(b) Clear product definition; 295

(c) Standardized bid evaluation criteria; 296

(d) Oversight by an independent third party that shall design 297
 the solicitation, administer the bidding, and ensure that the 298
 criteria specified in ~~division~~ divisions (A)(1)(a) to (c) of this 299
 section are met; 300

(e) Evaluation of the submitted bids prior to the selection 301
 of the least-cost bid winner or winners. 302

No generation supplier shall be prohibited from participating 303
 in the bidding process. 304

(2) The public utilities commission shall modify rules, or 305
 adopt new rules as necessary, concerning the conduct of the 306
 competitive bidding process and the qualifications of bidders, 307

which rules shall foster supplier participation in the bidding 308
 process and shall be consistent with the requirements of division 309
 (A)(1) of this section. 310

(B) Prior to initiating a competitive bidding process for a 311
 market-rate offer under division (A) of this section, the electric 312
 distribution utility shall file an application with the 313
 commission. An electric distribution utility may file its 314
 application with the commission prior to the effective date of the 315
 commission rules required under division (A)(2) of this section, 316
 and, as the commission determines necessary, the utility shall 317
 immediately conform its filing to the rules upon their taking 318
 effect. 319

An application under this division shall detail the electric 320
 distribution utility's proposed compliance with the requirements 321
 of division (A)(1) of this section and with commission rules under 322
 division (A)(2) of this section and demonstrate that all of the 323
 following requirements are met: 324

(1) The electric distribution utility or its transmission 325
 service affiliate belongs to at least one regional transmission 326
 organization that has been approved by the federal energy 327
 regulatory commission; or there otherwise is comparable and 328
 nondiscriminatory access to the electric transmission grid. 329

(2) Any such regional transmission organization has a 330
 market-monitor function and the ability to take actions to 331
 identify and mitigate market power or the electric distribution 332
 utility's market conduct; or a similar market monitoring function 333
 exists with commensurate ability to identify and monitor market 334
 conditions and mitigate conduct associated with the exercise of 335
 market power. 336

(3) A published source of information is available publicly 337

or through subscription that identifies pricing information for 338
traded electricity on- and off-peak energy products that are 339
contracts for delivery beginning at least two years from the date 340
of the publication and is updated on a regular basis. 341

The commission shall initiate a proceeding and, within ninety 342
days after the application's filing date, shall determine by order 343
whether the electric distribution utility and its market-rate 344
offer meet all of the foregoing requirements. If the finding is 345
positive, the electric distribution utility may initiate its 346
competitive bidding process. If the finding is negative as to one 347
or more requirements, the commission in the order shall direct the 348
electric distribution utility regarding how any deficiency may be 349
remedied in a timely manner to the commission's satisfaction; 350
otherwise, the electric distribution utility shall withdraw the 351
application. However, if such remedy is made and the subsequent 352
finding is positive and also if the electric distribution utility 353
made a simultaneous filing under this section and section 4928.143 354
of the Revised Code, the utility shall not initiate its 355
competitive bid until at least one hundred fifty days after the 356
filing date of those applications. 357

(C) Upon the completion of the competitive bidding process 358
authorized by divisions (A) and (B) of this section, including for 359
the purpose of division (D) of this section, the commission shall 360
select the least-cost bid winner or winners of that process, and 361
such selected bid or bids, as prescribed as retail rates by the 362
commission, shall be the electric distribution utility's standard 363
service offer unless the commission, by order issued before the 364
third calendar day following the conclusion of the competitive 365
bidding process for the market rate offer, determines that one or 366
more of the following criteria were not met: 367

(1) Each portion of the bidding process was oversubscribed, 368
 such that the amount of supply bid upon was greater than the 369
 amount of the load bid out. 370

(2) There were four or more bidders. 371

(3) At least twenty-five per cent of the load is bid upon by 372
 one or more persons other than the electric distribution utility. 373

All costs incurred by the electric distribution utility as a 374
 result of or related to the competitive bidding process or to 375
 procuring generation service to provide the standard service 376
 offer, including the costs of energy and capacity and the costs of 377
 all other products and services procured as a result of the 378
 competitive bidding process, shall be timely recovered through the 379
 standard service offer price, and, for that purpose, the 380
 commission shall approve a reconciliation mechanism, other 381
 recovery mechanism, or a combination of such mechanisms for the 382
 utility. 383

(D) The first application filed under this section by an 384
 electric distribution utility that, as of July 31, 2008, directly 385
 owns, in whole or in part, operating electric generating 386
 facilities that had been used and useful in this state shall 387
 require that a portion of that utility's standard service offer 388
 load for the first five years of the market rate offer be 389
 competitively bid under division (A) of this section as follows: 390
 ten per cent of the load in year one, not more than twenty per 391
 cent in year two, thirty per cent in year three, forty per cent in 392
 year four, and fifty per cent in year five. Consistent with those 393
 percentages, the commission shall determine the actual percentages 394
 for each year of years one through five. The standard service 395
 offer price for retail electric generation service under this 396
 first application shall be a proportionate blend of the bid price 397

and the generation service price for the remaining standard 398
 service offer load, which latter price shall be equal to the 399
 electric distribution utility's most recent standard service offer 400
 price, adjusted upward or downward as the commission determines 401
 reasonable, relative to the jurisdictional portion of any known 402
 and measurable changes from the level of any one or more of the 403
 following costs as reflected in that most recent standard service 404
 offer price: 405

(1) The electric distribution utility's prudently incurred 406
 cost of fuel used to produce electricity; 407

(2) Its prudently incurred purchased power costs; 408

(3) Its prudently incurred costs of satisfying the supply and 409
 demand portfolio requirements of this state, including, but not 410
 limited to, renewable energy resource requirements and energy 411
~~efficiency requirements~~ performance and waste reduction standards; 412

(4) Its costs prudently incurred to comply with environmental 413
 laws and regulations, with consideration of the derating of any 414
 facility associated with those costs. 415

In making any adjustment to the most recent standard service 416
 offer price on the basis of costs described in division (D) of 417
 this section, the commission shall include the benefits that may 418
 become available to the electric distribution utility as a result 419
 of or in connection with the costs included in the adjustment, 420
 including, but not limited to, the utility's receipt of emissions 421
 credits or its receipt of tax benefits or of other benefits, and, 422
 accordingly, the commission may impose such conditions on the 423
 adjustment to ensure that any such benefits are properly aligned 424
 with the associated cost responsibility. The commission shall also 425
 determine how such adjustments will affect the electric 426
 distribution utility's return on common equity that may be 427

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.

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(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.

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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.

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(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:

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(1) An electric security plan shall include provisions 488
relating to the supply and pricing of electric generation service. 489
In addition, if the proposed electric security plan has a term 490
longer than three years, it may include provisions in the plan to 491
permit the commission to test the plan pursuant to division (E) of 492
this section and any transitional conditions that should be 493
adopted by the commission if the commission terminates the plan as 494
authorized under that division. 495

(2) The plan may provide for or include, without limitation, 496
any of the following: 497

(a) Automatic recovery of any of the following costs of the 498
electric distribution utility, provided the cost is prudently 499
incurred: the cost of fuel used to generate the electricity 500
supplied under the offer; the cost of purchased power supplied 501
under the offer, including the cost of energy and capacity, and 502
including purchased power acquired from an affiliate; the cost of 503
emission allowances; and the cost of federally mandated carbon or 504
energy taxes; 505

(b) A reasonable allowance for construction work in progress 506
for any of the electric distribution utility's cost of 507
constructing an electric generating facility or for an 508
environmental expenditure for any electric generating facility of 509
the electric distribution utility, provided the cost is incurred 510
or the expenditure occurs on or after January 1, 2009. Any such 511
allowance shall be subject to the construction work in progress 512
allowance limitations of division (A) of section 4909.15 of the 513
Revised Code, except that the commission may authorize such an 514
allowance upon the incurrence of the cost or occurrence of the 515
expenditure. No such allowance for generating facility 516
construction shall be authorized, however, unless the commission 517

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.

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(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.

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(d) Terms, conditions, or charges relating to limitations on
customer shopping for retail electric generation service,
bypassability, standby, back-up, or supplemental power service,

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default service, carrying costs, amortization periods, and	549
accounting or deferrals, including future recovery of such	550
deferrals, as would have the effect of stabilizing or providing	551
certainty regarding retail electric service;	552
(e) Automatic increases or decreases in any component of the	553
standard service offer price;	554
(f) Consistent with sections 4928.23 to 4928.2318 of the	555
Revised Code, both of the following:	556
(i) Provisions for the electric distribution utility to	557
securitize any phase-in, inclusive of carrying charges, of the	558
utility's standard service offer price, which phase-in is	559
authorized in accordance with section 4928.144 of the Revised	560
Code;	561
(ii) Provisions for the recovery of the utility's cost of	562
securitization.	563
(g) Provisions relating to transmission, ancillary,	564
congestion, or any related service required for the standard	565
service offer, including provisions for the recovery of any cost	566
of such service that the electric distribution utility incurs on	567
or after that date pursuant to the standard service offer;	568
(h) Provisions regarding the utility's distribution service,	569
including, without limitation and notwithstanding any provision of	570
Title XLIX of the Revised Code to the contrary, provisions	571
regarding single issue ratemaking, a revenue decoupling mechanism	572
or any other incentive ratemaking, and provisions regarding	573
distribution infrastructure and modernization incentives for the	574
electric distribution utility. The latter may include a long-term	575
energy delivery infrastructure modernization plan for that utility	576
or any plan providing for the utility's recovery of costs,	577

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. 609
Additionally, if the commission so approves an application that 610
contains a surcharge under division (B)(2)(b) or (c) of this 611
section, the commission shall ensure that the benefits derived for 612
any purpose for which the surcharge is established are reserved 613
and made available to those that bear the surcharge. Otherwise, 614
the commission by order shall disapprove the application. 615

(2)(a) If the commission modifies and approves an application 616
under division (C)(1) of this section, the electric distribution 617
utility may withdraw the application, thereby terminating it, and 618
may file a new standard service offer under this section or a 619
standard service offer under section 4928.142 of the Revised Code. 620

(b) If the utility terminates an application pursuant to 621
division (C)(2)(a) of this section or if the commission 622
disapproves an application under division (C)(1) of this section, 623
the commission shall issue such order as is necessary to continue 624
the provisions, terms, and conditions of the utility's most recent 625
standard service offer, along with any expected increases or 626
decreases in fuel costs from those contained in that offer, until 627
a subsequent offer is authorized pursuant to this section or 628
section 4928.142 of the Revised Code, respectively. 629

(D) Regarding the rate plan requirement of division (A) of 630
section 4928.141 of the Revised Code, if an electric distribution 631
utility that has a rate plan that extends beyond December 31, 632
2008, files an application under this section for the purpose of 633
its compliance with division (A) of section 4928.141 of the 634
Revised Code, that rate plan and its terms and conditions are 635
hereby incorporated into its proposed electric security plan and 636
shall continue in effect until the date scheduled under the rate 637
plan for its expiration, and that portion of the electric security 638

plan shall not be subject to commission approval or disapproval 639
under division (C) of this section, and the earnings test provided 640
for in division (F) of this section shall not apply until after 641
the expiration of the rate plan. However, that utility may include 642
in its electric security plan under this section, and the 643
commission may approve, modify and approve, or disapprove subject 644
to division (C) of this section, provisions for the incremental 645
recovery or the deferral of any costs that are not being recovered 646
under the rate plan and that the utility incurs during that 647
continuation period to comply with section 4928.141, division (B) 648
of section 4928.64, or division (A) of section 4928.66 of the 649
Revised Code. 650

(E) If an electric security plan approved under division (C) 651
of this section, except one withdrawn by the utility as authorized 652
under that division, has a term, exclusive of phase-ins or 653
deferrals, that exceeds three years from the effective date of the 654
plan, the commission shall test the plan in the fourth year, and 655
if applicable, every fourth year thereafter, to determine whether 656
the plan, including its then-existing pricing and all other terms 657
and conditions, including any deferrals and any future recovery of 658
deferrals, continues to be more favorable in the aggregate and 659
during the remaining term of the plan as compared to the expected 660
results that would otherwise apply under section 4928.142 of the 661
Revised Code. The commission shall also determine the prospective 662
effect of the electric security plan to determine if that effect 663
is substantially likely to provide the electric distribution 664
utility with a return on common equity that is significantly in 665
excess of the return on common equity that is likely to be earned 666
by publicly traded companies, including utilities, that face 667
comparable business and financial risk, with such adjustments for 668
capital structure as may be appropriate. The burden of proof for 669

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 701
 electric distribution utility. If the commission finds that such 702
 adjustments, in the aggregate, did result in significantly 703
 excessive earnings, it shall require the electric distribution 704
 utility to return to consumers the amount of the excess by 705
 prospective adjustments; provided that, upon making such 706
 prospective adjustments, the electric distribution utility shall 707
 have the right to terminate the plan and immediately file an 708
 application pursuant to section 4928.142 of the Revised Code. Upon 709
 termination of a plan under this division, rates shall be set on 710
 the same basis as specified in division (C)(2)(b) of this section, 711
 and the commission shall permit the continued deferral and 712
 phase-in of any amounts that occurred prior to that termination 713
 and the recovery of those amounts as contemplated under that 714
 electric security plan. In making its determination of 715
 significantly excessive earnings under this division, the 716
 commission shall not consider, directly or indirectly, the 717
 revenue, expenses, or earnings of any affiliate or parent 718
 company." 719

After line 1124, insert: 720

"Sec. 4928.621. (A) Any Edison technology center in this 721
 state is eligible to apply for and receive assistance pursuant to 722
 section 4928.62 of the Revised Code for the purposes of creating 723
 an advanced energy manufacturing center in this state that will 724
 provide for the exchange of information and expertise regarding 725
 advanced energy, assisting with the design of advanced energy 726
 projects, developing workforce training programs for such 727
 projects, and encouraging investment in advanced energy 728
 manufacturing technologies for advanced energy products and 729
 investment in sustainable manufacturing operations that create 730

high-paying jobs in this state. 731

(B) Any university or group of universities in this state 732
 that conducts research on any advanced energy resource or any 733
 not-for-profit corporation formed to address issues affecting the 734
 price and availability of electricity and having members that are 735
 small businesses may apply for and receive assistance pursuant to 736
 section 4928.62 of the Revised Code for the purpose of encouraging 737
 research in this state that is directed at innovation in or the 738
 refinement of those resources or for the purpose of educational 739
 outreach regarding those resources and, to that end, shall use 740
 that assistance to establish such a program of research or 741
 education outreach. Any such educational outreach shall be 742
 directed at an increase in, innovation regarding, or refinement of 743
 access by or of application or understanding of businesses and 744
 consumers in this state regarding, advanced energy resources. 745

(C) Any independent group located in this state the express 746
 objective of which is to educate small businesses in this state 747
 regarding renewable energy resources and energy ~~efficiency~~ 748
performance and waste reduction programs, or any small business 749
 located in this state electing to utilize an advanced energy 750
 project or participate in an energy ~~efficiency~~ performance and 751
waste reduction program, is eligible to apply for and receive 752
 assistance pursuant to section 4928.62 of the Revised Code. 753

(D) Nothing in this section shall be construed as limiting 754
 the eligibility of any qualifying entity to apply for or receive 755
 assistance pursuant to section 4928.62 of the Revised Code. 756

Sec. 4928.64. (A)(1) As used in this section, "qualifying 757
 renewable energy resource" means a renewable energy resource, as 758
 defined in section 4928.01 of the Revised Code that: 759

- (a) Has a placed-in-service date on or after January 1, 1998; 760
- (b) Is any run-of-the-river hydroelectric facility that has 761
an in-service date on or after January 1, 1980; 762
- (c) Is a small hydroelectric facility; 763
- (d) Is created on or after January 1, 1998, by the 764
modification or retrofit of any facility placed in service prior 765
to January 1, 1998; or 766
- (e) Is a mercantile customer-sited renewable energy resource, 767
whether new or existing, that the mercantile customer commits for 768
integration into the electric distribution utility's 769
demand-response, energy ~~efficiency~~ performance and waste 770
reduction, or peak demand reduction programs as provided under 771
division (A)(2)(c) of section 4928.66 of the Revised Code, 772
including, but not limited to, any of the following: 773
- (i) A resource that has the effect of improving the 774
relationship between real and reactive power; 775
- (ii) A resource that makes efficient use of waste heat or 776
other thermal capabilities owned or controlled by a mercantile 777
customer; 778
- (iii) Storage technology that allows a mercantile customer 779
more flexibility to modify its demand or load and usage 780
characteristics; 781
- (iv) Electric generation equipment owned or controlled by a 782
mercantile customer that uses a renewable energy resource. 783
- (2) For the purpose of this section and as it considers 784
appropriate, the public utilities commission may classify any new 785
technology as such a qualifying renewable energy resource. 786
- (B)(1) By 2027 and thereafter, an electric distribution 787

utility shall provide from qualifying renewable energy resources, 788
 including, at its discretion, qualifying renewable energy 789
 resources obtained pursuant to an electricity supply contract, a 790
 portion of the electricity supply required for its standard 791
 service offer under section 4928.141 of the Revised Code, and an 792
 electric services company shall provide a portion of its 793
 electricity supply for retail consumers in this state from 794
 qualifying renewable energy resources, including, at its 795
 discretion, qualifying renewable energy resources obtained 796
 pursuant to an electricity supply contract. That portion shall 797
 equal twelve and one-half per cent of the total number of kilowatt 798
 hours of electricity sold by the subject utility or company to any 799
 and all retail electric consumers whose electric load centers are 800
 served by that utility and are located within the utility's 801
 certified territory or, in the case of an electric services 802
 company, are served by the company and are located within this 803
 state. However, nothing in this section precludes a utility or 804
 company from providing a greater percentage. 805

(2) The portion required under division (B)(1) of this 806
 section shall be generated from renewable energy resources, 807
 including one-half per cent from solar energy resources, in 808
 accordance with the following benchmarks: 809

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	811
2010	0.50%	0.010%	812
2011	1%	0.030%	813
2012	1.5%	0.060%	814
2013	2%	0.090%	815
2014	2.5%	0.12%	816
2015	2.5%	0.12%	817

2016	2.5%	0.12%	818
2017	3.5%	0.15%	819
2018	4.5%	0.18%	820
2019	5.5%	0.22%	821
2020	6.5%	0.26%	822
2021	7.5%	0.3%	823
2022	8.5%	0.34%	824
2023	9.5%	0.38%	825
2024	10.5%	0.42%	826
2025	11.5%	0.46%	827
2026 and each calendar year thereafter	12.5%	0.5%.	828

(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 847
 commission shall impose a renewable energy compliance payment on 848
 the utility or company. 849

(a) The compliance payment pertaining to the solar energy 850
 resource benchmarks under division (B)(2) of this section shall be 851
 an amount per megawatt hour of undercompliance or noncompliance in 852
 the period under review, as follows: 853

(i) Three hundred dollars for 2014, 2015, and 2016; 854

(ii) Two hundred fifty dollars for 2017 and 2018; 855

(iii) Two hundred dollars for 2019 and 2020; 856

(iv) Similarly reduced every two years thereafter through 857
 2026 by fifty dollars, to a minimum of fifty dollars. 858

(b) The compliance payment pertaining to the renewable energy 859
 resource benchmarks under division (B)(2) of this section shall 860
 equal the number of additional renewable energy credits that the 861
 electric distribution utility or electric services company would 862
 have needed to comply with the applicable benchmark in the period 863
 under review times an amount that shall begin at forty-five 864
 dollars and shall be adjusted annually by the commission to 865
 reflect any change in the consumer price index as defined in 866
 section 101.27 of the Revised Code, but shall not be less than 867
 forty-five dollars. 868

(c) The compliance payment shall not be passed through by the 869
 electric distribution utility or electric services company to 870
 consumers. The compliance payment shall be remitted to the 871
 commission, for deposit to the credit of the advanced energy fund 872
 created under section 4928.61 of the Revised Code. Payment of the 873
 compliance payment shall be subject to such collection and 874
 enforcement procedures as apply to the collection of a forfeiture 875

under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 876

(3) An electric distribution utility or an electric services 877
company need not comply with a benchmark under division (B)(2) of 878
this section to the extent that its reasonably expected cost of 879
that compliance exceeds its reasonably expected cost of otherwise 880
producing or acquiring the requisite electricity by three per cent 881
or more. The cost of compliance shall be calculated as though any 882
exemption from taxes and assessments had not been granted under 883
section 5727.75 of the Revised Code. 884

(4)(a) An electric distribution utility or electric services 885
company may request the commission to make a force majeure 886
determination pursuant to this division regarding all or part of 887
the utility's or company's compliance with any minimum benchmark 888
under division (B)(2) of this section during the period of review 889
occurring pursuant to division (C)(2) of this section. The 890
commission may require the electric distribution utility or 891
electric services company to make solicitations for renewable 892
energy resource credits as part of its default service before the 893
utility's or company's request of force majeure under this 894
division can be made. 895

(b) Within ninety days after the filing of a request by an 896
electric distribution utility or electric services company under 897
division (C)(4)(a) of this section, the commission shall determine 898
if qualifying renewable energy resources are reasonably available 899
in the marketplace in sufficient quantities for the utility or 900
company to comply with the subject minimum benchmark during the 901
review period. In making this determination, the commission shall 902
consider whether the electric distribution utility or electric 903
services company has made a good faith effort to acquire 904
sufficient qualifying renewable energy or, as applicable, solar 905

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) 967
of this section. 968

(E) All costs incurred by an electric distribution utility in 969
complying with the requirements of this section shall be 970
bypassable by any consumer that has exercised choice of supplier 971
under section 4928.03 of the Revised Code." 972

After line 1184, insert: 973

"**Sec. 4928.65.** (A) Not later than January 1, 2015, the public 974
utilities commission shall adopt rules governing the disclosure of 975
the costs to customers of the renewable energy resource 976
requirements, energy efficiency-savings performance and waste 977
reduction program, and peak demand reduction requirements of 978
sections 4928.64 and 4928.66 of the Revised Code. The rules shall 979
include both of the following requirements: 980

(1) That every electric distribution utility list, on all 981
customer bills sent by the utility, including utility consolidated 982
bills that include both electric distribution utility and electric 983
services company charges, the individual customer cost of the 984
utility's compliance with all of the following for the applicable 985
billing period: 986

(a) The renewable energy resource requirements under section 987
4928.64 of the Revised Code, subject to division (B) of this 988
section; 989

(b) The energy efficiency-savings requirements performance 990
and waste reduction program under section 4928.66 of the Revised 991
Code; 992

(c) The peak demand reduction requirements under section 993
4928.66 of the Revised Code. 994

(2) That every electric services company list, on all 995
customer bills sent by the company, the individual customer cost, 996
subject to division (B) of this section, of the company's 997
compliance with the renewable energy resource requirements under 998
section 4928.64 of the Revised Code for the applicable billing 999
period. 1000

(B)(1) For purposes of division (A)(1)(a) of this section, 1001
the cost of compliance with the renewable energy resource 1002
requirements shall be calculated by multiplying the individual 1003
customer's monthly usage by the combined weighted average of 1004
renewable-energy-credit costs, including 1005
solar-renewable-energy-credit costs, paid by all electric 1006
distribution utilities, as listed in the commission's most 1007
recently available alternative energy portfolio standard report. 1008

(2) For purposes of division (A)(2) of this section, the cost 1009
of compliance with the renewable energy resource requirements 1010
shall be calculated by multiplying the individual customer's 1011
monthly usage by the combined weighted average of 1012
renewable-energy-credit costs, including 1013
solar-renewable-energy-credit costs, paid by all electric services 1014
companies, as listed in the commission's most recently available 1015
alternative energy portfolio standard report. 1016

(C) The costs required to be listed under division (A)(1) of 1017
this section shall be listed on each customer's monthly bill as 1018
three distinct line items. The cost required to be listed under 1019
division (A)(2) of this section shall be listed on each customer's 1020
monthly bill as a distinct line item." 1021

In line 1186, strike through "efficiency" and insert 1022
"performance and waste reduction" 1023

In line 1191, strike through "efficiency" and insert 1024

" <u>performance and waste reduction</u> "	1025
In line 1215, reinsert "Thereafter, the"; delete " <u>The</u> "	1026
In line 1216, delete " <u>an additional</u> "	1027
In line 1217, reinsert ", and two per cent each year"	1028
Reinsert line 1218	1029
In line 1219, reinsert "twenty-two per cent by the end of 2027"	1030 1031
In line 1273, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1032 1033
In line 1276, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1034 1035
In line 1282, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1036 1037
In line 1288, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1038 1039
In line 1293, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1040 1041
In line 1310, strike through "efficiency"	1042
In line 1315, strike through "efficiency" and insert <u>performance and waste reduction</u>	1043 1044
In line 1317, strike through "efficiency" and insert " <u>savings</u> "	1045 1046
In line 1323, strike through "efficiency" and insert " <u>performance and waste reduction</u> "	1047 1048
In line 1334, strike through "efficiency" and insert " <u>savings</u> "	1049 1050
In line 1341, strike through "efficiency" and insert	1051

" <u>performance and waste reduction standard</u> "	1052
In line 1359, strike through "efficiency" and insert	1053
" <u>performance and waste reduction</u> "	1054
In line 1365, strike through "efficiency" and insert	1055
" <u>performance and waste reduction</u> "	1056
Delete lines 1372 through 1446 and insert:	1057
" Sec. 4928.662. (A) For the purpose of measuring and	1058
determining compliance with the energy efficiency <u>performance and</u>	1059
<u>waste reduction program</u> and peak demand reduction requirements	1060
under section 4928.66 of the Revised Code, the public utilities	1061
commission shall count and recognize compliance as follows:	1062
(A) Energy efficiency savings and peak demand reduction	1063
achieved through actions taken by customers or through electric	1064
distribution utility programs that comply with federal standards	1065
for either or both energy efficiency and peak demand reduction	1066
requirements, including resources associated with such savings or	1067
reduction that are recognized as capacity resources by the	1068
regional transmission organization operating in Ohio in compliance	1069
with section 4928.12 of the Revised Code, shall count toward	1070
compliance with the energy efficiency and peak demand reduction	1071
requirements.	1072
(B) Energy efficiency savings and peak demand reduction	1073
achieved on and after the effective date of S.B. 310 of the 130th	1074
general assembly shall be measured on the higher of an as found or	1075
deemed basis, except that, solely at the option of the electric	1076
distribution utility, such savings and reduction achieved since	1077
2006 may also be measured using this method. For new construction,	1078
the energy efficiency savings and peak demand reduction shall be	1079
counted based on 2008 federal standards, provided that when new	1080

~~construction replaces an existing facility, the difference in~~ 1081
~~energy consumed, energy intensity, and peak demand between the new~~ 1082
~~and replaced facility shall be counted toward meeting the energy~~ 1083
~~efficiency and peak demand reduction requirements.~~ 1084

~~(C) The commission shall count both the energy efficiency~~ 1085
~~savings and peak demand reduction on an annualized basis.~~ 1086

~~(D) The commission shall count both the energy efficiency~~ 1087
~~savings and peak demand reduction on a gross savings basis.~~ 1088

~~(E)(1)~~ The commission shall count energy efficiency savings 1089
and peak demand reductions associated with transmission and 1090
distribution infrastructure improvements that reduce line losses. 1091
No energy efficiency savings or peak demand reduction achieved 1092
under division ~~(E)~~ (A)(1) of this section shall qualify for shared 1093
savings. 1094

~~(F)(2)~~ Energy efficiency savings and peak demand reduction 1095
amounts approved by the commission shall continue to be counted 1096
toward achieving the energy efficiency performance and waste 1097
reduction standards and peak demand reduction requirements as long 1098
as ~~the requirements~~ they remain in effect. 1099

~~(G)(3)~~ Any energy efficiency savings or peak demand reduction 1100
amount achieved in excess of the energy performance and waste 1101
reduction standards and peak demand reduction requirements may, at 1102
the discretion of the electric distribution utility, be banked and 1103
applied toward achieving the energy efficiency performance and 1104
waste reduction standards or peak demand reduction requirements in 1105
future years. 1106

(B) The commission shall adopt rules to develop methods for 1107
determining compliance with the energy performance and waste 1108
reduction program and peak demand reduction requirements. The 1109

methods shall involve calculating energy savings and peak demand 1110
reduction based on the latest best practices. 1111

Sec. 4928.6612. Any customer electing to opt out under 1112
 section 4928.6611 of the Revised Code shall do so by providing a 1113
 verified written notice of intent to opt out to the electric 1114
 distribution utility from which it receives service and submitting 1115
 a complete copy of the opt-out notice to the secretary of the 1116
 public utilities commission. 1117

The notice provided to the utility shall include all of the 1118
 following: 1119

(A) A statement indicating that the customer has elected to 1120
 opt out; 1121

(B) The effective date of the election to opt out; 1122

(C) The account number for each customer account to which the 1123
 opt out shall apply; 1124

(D) The physical location of the customer's load center; 1125

(E) The date upon which the customer established, or plans to 1126
 establish a process and implement, cost-effective measures to 1127
 improve its energy ~~efficiency~~ savings and peak demand reductions. 1128

Sec. 4928.663. (A) As used in this section, "cost-effective 1129
program" means a program that delivers savings to customers 1130
participating in the program in an amount that exceeds the 1131
customers' costs for the program. 1132

(B) The public utilities commission shall ensure that energy 1133
performance and waste reduction programs and peak demand reduction 1134
programs administered by an electric distribution utility under 1135
section 4928.66 of the Revised Code are cost-effective programs. 1136
The commission shall not limit the amount that an electric 1137

distribution utility may spend on cost-effective programs." 1138

In line 1824, after "713.081," insert "717.25, 1710.061,"; 1139

after "3706.03," insert "4905.31,"; after "4928.01," insert 1140

"4928.02, 4928.142, 4928.143, 4928.621, 4928.64,"; after 1141

"4928.644," insert "4928.65," 1142

In line 1825, delete "4928.6610" and insert "4928.662, 1143

4928.6612" 1144