As Introduced

131st General Assembly
Regular Session 2015-2016
H. B. No. 472

Representative Strahorn
Cosponsors: Representatives O'Brien, M., Ramos, Howse, Curtin, Antonio, Driehaus, Patterson, Rogers, Phillips, Boyce, Smith, K., Fedor

A BILL
To amend sections 4906.20, 4906.201, 4928.64, and 4928.66 of the Revised Code and to amend Section 5 of S.B. 310 of the 130th General Assembly and to repeal Sections 6 and 7 of S.B. 310 of the 130th General Assembly to unfreeze the requirements for renewable energy, energy efficiency, and peak demand reduction, to permit changes in and Public Utilities Commission action on electric distribution utility portfolio plans in 2016, to revise the setback requirement for economically significant wind farms, and to repeal the setback requirement for wind farms of fifty megawatts or more.

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

Section 1. That sections 4906.20, 4906.201, 4928.64, and 4928.66 of the Revised Code be amended to read as follows:

Sec. 4906.20. (A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An
economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

(B) The board shall adopt rules governing the certificating of economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after June 24, 2008.

(1) The rules shall provide for an application process for certificating economically significant wind farms that is identical to the extent practicable to the process applicable to certificating major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the Revised Code and shall prescribe a reasonable schedule of application filing fees structured in the manner of the schedule of filing fees required for major utility facilities.

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear,
shadow flicker, decommissioning, and necessary cooperation for site visits and enforcement investigations.

(a) The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least one thousand one hundred twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the property line of the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time of the certification application.

(b)(i) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(ii) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly and before the effective date of the amendment of this section by ...B... of the 131st general assembly shall be subject to the setback provision of this section as amended by that act H.B. 483. The amendments to this section by that act H.B. 483 shall not be construed to limit or abridge any rights or remedies in equity or under the common law.
(iii) Any amendment made to an existing certificate after the effective date of the amendment of this section by ...B...
of the 131st general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

(c) The setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waive application of the setback to that property pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary.

Sec. 4906.201. (A) An electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is designed for, or capable of, operation at an aggregate capacity of fifty megawatts or more is subject to the minimum setback requirements established in rules adopted by the power siting board under division (B)(2) of section 4906.20 of the Revised Code.

(B)(1) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(2) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483
of the 130th general assembly, September 15, 2014, and before the effective date of the amendment of this section by H.B. of the 131st general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

(3) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. of the 131st general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

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 has a placed-in-service date on or after January 1, 1998, or with respect to any run-of-the-river hydroelectric facility, an in-service date on or after January 1, 1980; a renewable energy resource created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or 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, 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:

(a) A resource that has the effect of improving the
relationship between real and reactive power;

(b) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;

(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;

(d) 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>2016</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
<td>2017</td>
<td>2.5%</td>
<td>0.15%</td>
</tr>
<tr>
<td>2018</td>
<td>2.5%</td>
<td>0.18%</td>
</tr>
<tr>
<td>2019</td>
<td>2.5%</td>
<td>0.22%</td>
</tr>
<tr>
<td>2020</td>
<td>2.5%</td>
<td>0.26%</td>
</tr>
<tr>
<td>2021</td>
<td>2.5%</td>
<td>0.30%</td>
</tr>
<tr>
<td>2022</td>
<td>2.5%</td>
<td>0.34%</td>
</tr>
<tr>
<td>2023</td>
<td>2.5%</td>
<td>0.38%</td>
</tr>
<tr>
<td>2024</td>
<td>2.5%</td>
<td>0.42%</td>
</tr>
<tr>
<td>2025 and each calendar</td>
<td>2.5%</td>
<td>0.46%</td>
</tr>
<tr>
<td>2026 and each calendar</td>
<td>2.5%</td>
<td>0.5%</td>
</tr>
</tbody>
</table>

year thereafter

(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
2024–2025 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.

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs
that achieve energy savings equivalent to at least three-tenths of one per cent of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state. An energy efficiency program may include a combined heat and power system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, or a waste energy recovery system placed into service or retrofitted on or after September 10, 2012, except that a waste energy recovery system described in division (A)(38)(b) of section 4928.01 of the Revised Code may be included only if it was placed into service between January 1, 2002, and December 31, 2004. For a waste energy recovery or combined heat and power system, the savings shall be as estimated by the public utilities commission. The savings requirement, using such a three-year average, shall increase to an additional five-tenths of one per cent in 2010, seven-tenths of one per cent in 2011, eight-tenths of one per cent in 2012, nine-tenths of one per cent in 2013, and one per cent in 2014. In 2015 and 2016, an electric distribution utility shall achieve energy savings equal to the result of subtracting the cumulative energy savings achieved since 2009 from the product of multiplying the baseline for energy savings, described in division (A)(2)(a) of this section, by four and two-tenths of one per cent. If the result is zero or less for the year for which the calculation is being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. Thereafter, the annual savings requirements shall be, for years 2016, 2017, 2018, and 2019, and 2020, one per cent of the baseline, and two per cent each year thereafter, achieving cumulative energy savings in excess of
twenty-two per cent by the end of 2026. For purposes of a 
waste energy recovery or combined heat and power system, an 
electric distribution utility shall not apply more than the 
total annual percentage of the electric distribution utility's 
industrial-customer load, relative to the electric distribution 
utility's total load, to the annual energy savings requirement.

(b) Beginning in 2009, an electric distribution utility 
shall implement peak demand reduction programs designed to 
achieve a one per cent reduction in peak demand in 2009 and an 
additional seventy-five hundredths of one per cent reduction 
each year through 2014. In 2015 and 2016, an electric 
distribution utility shall achieve a reduction in peak demand 
equal to the result of subtracting the cumulative peak demand 
reductions achieved since 2009 from the product of multiplying 
the baseline for peak demand reduction, described in division 
(A)(2)(a) of this section, by four and seventy-five hundredths 
of one per cent. If the result is zero or less for the year for 
which the calculation is being made, the utility shall not be 
required to achieve an additional reduction in peak demand for 
that year 2015, but may achieve an additional reduction in peak 
demand for that year. In 2017 and each year thereafter 
through 2019, the utility shall achieve an additional 
seventy-five hundredths of one per cent reduction in peak 
demand.

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

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

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

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

(iii) A customer that has opted out of the utility's portfolio plan under Section 8 of S.B. 310 of the 130th general assembly.

(b) The commission may amend the benchmarks set forth in division (A)(1)(a) or (b) of this section if, after application by the electric distribution utility, the commission determines that the amendment is necessary because the utility cannot reasonably achieve the benchmarks due to regulatory, economic, or technological reasons beyond its reasonable control.

(c) Compliance with divisions (A)(1)(a) and (b) of this section shall be measured by including the effects of all demand-response programs for mercantile customers of the subject electric distribution utility, all waste energy recovery systems and all combined heat and power systems, and all such mercantile customer-sited energy efficiency, including waste energy recovery and combined heat and power, and peak demand reduction programs, adjusted upward by the appropriate loss factors. Any mechanism designed to recover the cost of energy efficiency,
including waste energy recovery and combined heat and power, and peak demand reduction programs under divisions (A)(1)(a) and (b) of this section may exempt mercantile customers that commit their demand-response or other customer-sited capabilities, whether existing or new, for integration into the electric distribution utility's demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction programs, if the commission determines that that exemption reasonably encourages such customers to commit those capabilities to those programs. If a mercantile customer makes such existing or new demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capability available to an electric distribution utility pursuant to division (A)(2)(c) of this section, the electric utility's baseline under division (A)(2)(a) of this section shall be adjusted to exclude the effects of all such demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction programs that may have existed during the period used to establish the baseline. The baseline also shall be normalized for changes in numbers of customers, sales, weather, peak demand, and other appropriate factors so that the compliance measurement is not unduly influenced by factors outside the control of the electric distribution utility.

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

(I) Demand-response programs;

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

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

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

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

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

(iii) Division (A)(2)(c) of this section shall be applied to include facilitating efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code.

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

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

(C) If the commission determines, after notice and opportunity for hearing and based upon its report under division (B) of this section, that an electric distribution utility has failed to comply with an energy efficiency or peak demand reduction requirement of division (A) of this section, the commission shall assess a forfeiture on the utility as provided under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, either in the amount, per day per undercompliance or noncompliance, relative to the period of the report, equal to that prescribed for noncompliances under section 4905.54 of the Revised Code, or in an amount equal to the then existing market value of one renewable energy credit per megawatt hour of undercompliance or noncompliance. Revenue from any forfeiture assessed under this division shall be deposited to the credit of the advanced energy fund created under section 4928.61 of the Revised Code.

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

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

Section 2. That existing sections 4906.20, 4906.201, 4928.64, and 4928.66 of the Revised Code are hereby repealed.

Section 3. That Section 5 of S.B. 310 of the 130th General Assembly be amended to read as follows:

Sec. 5. As used in Sections 6, 7, 8, 9, 10, and 11 of this act:

"Customer," "energy intensity," and "portfolio plan" have the same meanings as in section 4928.6610 of the Revised Code.

"Electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code.

Section 4. That existing Section 5 of S.B. 310 of the 130th General Assembly and Sections 6 and 7 of S.B. 310 of the 130th General Assembly are hereby repealed.

Section 5. As used in Sections 6 and 7 of this act:

(A) "Portfolio plan" has the same meaning as in section 4928.6610 of the Revised Code.

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

Section 6. (A) If an electric distribution utility has a portfolio plan that was continued or extended under division (A) (1) or (D) of Section 6 of S.B. 310 of the 130th General Assembly, the utility shall file a new plan with the Public
Utilities Commission. The plan shall be filed as soon as possible after the effective date of this act to allow sufficient time for the Commission to review the plan in accordance with division (A) of Section 7 of this act and for the plan to become effective on January 1, 2017.

(B)(1) If an electric distribution utility amended its portfolio plan under divisions (A)(2) and (B) of Section 6 of S.B. 310 of the 130th General Assembly, the utility shall do one of the following:

(a) Continue the amended plan without changes until December 31, 2016;

(b) Not later than thirty days after the effective date of this section, file an application with the Commission to amend the amended plan to reinstate previous, or establish new, energy efficiency and peak demand reduction programs pursuant to divisions (B)(2) and (3) of this section.

(2) If the utility elects to amend the plan under division (B)(1)(b) of this section, the utility shall meet a portion of the benchmarks for 2016 under the amended plan as described in division (B)(3) of this section before the expiration of the plan on December 31, 2016.

(3) For portfolio plans amended under division (B)(1)(b) of this section, the benchmarks for calendar year 2016 established in section 4928.66 of the Revised Code, as amended by this act, shall be prorated using a formula based on the number of days remaining in the calendar year on the effective date of this act.

(C)(1) An electric distribution utility described in division (B)(1) of this section shall file a new portfolio plan...
with the Public Utilities Commission as soon as possible after
the effective date of this act to allow sufficient time for the
Commission to review and approve, or modify and approve, the
plan in accordance with division (A) of Section 7 of this act
and for the plan to become effective on January 1, 2017.

(2) A plan filed under division (C)(1) of this section
shall provide for compliance with the benchmarks for calendar
year 2016 established in section 4928.66 of the Revised Code, as
amended by this act, to the extent those benchmarks have not
been met as provided under divisions (B)(2) and (3) of this
section. The plan shall require compliance with those benchmarks
by December 31, 2019.

(D) A portfolio plan continued or extended under division
(A)(1) or (D) of Section 6 of S.B. 310 of the 130th General
Assembly respectively, and a portfolio plan amended under
division (B)(1) of Section 6 of S.B. 310 of the 130th General
Assembly shall remain in effect until the Commission approves a
plan submitted under division (A), (B)(1)(b), or (C) of this
section to replace it.

(E) Beginning on the effective date of this act, the
provisions of section 4928.66 of the Revised Code as amended by
this act, shall apply to portfolio plans filed under divisions
(A) and (C) of this section and approved by the Commission.

Section 7. The Public Utilities Commission shall review
and approve, or modify and approve, portfolio plans filed by
electric distribution utilities pursuant to Section 6 of this
act.

(A) A portfolio plan filed under division (A) or (C) of
Section 6 of this act shall be reviewed and approved, or
modified and approved, in accordance with existing Commission rules for portfolio plans.

(B) A portfolio plan filed under division (B)(1)(b) of Section 6 of this act shall be reviewed and approved, or modified and approved, within thirty days after the filing date of the plan. If the Commission fails to approve, or modify and approve, the plan within thirty days of the filing of the plan, the plan shall be deemed approved as filed on the thirty-first day after filing.