

As Reported by the House Public Utilities Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 554

Representative Amstutz

A BILL

To amend sections 4928.143, 4928.64, 4928.643, 1
4928.645, 4928.65, 4928.66, 4928.6610, and 2
5727.75 and to enact sections 4928.664 and 3
4928.6620 of the Revised Code and to amend 4
Section 6 of Sub. S.B. 310 of the 130th General 5
Assembly to revise the requirements for 6
renewable energy, energy efficiency, and peak 7
demand reduction. 8

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

Section 1. That sections 4928.143, 4928.64, 4928.643, 9
4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 be amended 10
and sections 4928.664 and 4928.6620 of the Revised Code be 11
enacted to read as follows: 12

Sec. 4928.143. (A) For the purpose of complying with 13
section 4928.141 of the Revised Code, an electric distribution 14
utility may file an application for public utilities commission 15
approval of an electric security plan as prescribed under 16
division (B) of this section. The utility may file that 17
application prior to the effective date of any rules the 18
commission may adopt for the purpose of this section, and, as 19

the commission determines necessary, the utility immediately 20
shall conform its filing to those rules upon their taking 21
effect. 22

(B) Notwithstanding any other provision of Title XLIX of 23
the Revised Code to the contrary except division (D) of this 24
section, divisions (I), (J), and (K) of section 4928.20, 25
division ~~(E)~~ (G) of section 4928.64, and section 4928.69 of the 26
Revised Code: 27

(1) An electric security plan shall include provisions 28
relating to the supply and pricing of electric generation 29
service. In addition, if the proposed electric security plan has 30
a term longer than three years, it may include provisions in the 31
plan to permit the commission to test the plan pursuant to 32
division (E) of this section and any transitional conditions 33
that should be adopted by the commission if the commission 34
terminates the plan as authorized under that division. 35

(2) The plan may provide for or include, without 36
limitation, any of the following: 37

(a) Automatic recovery of any of the following costs of 38
the electric distribution utility, provided the cost is 39
prudently incurred: the cost of fuel used to generate the 40
electricity supplied under the offer; the cost of purchased 41
power supplied under the offer, including the cost of energy and 42
capacity, and including purchased power acquired from an 43
affiliate; the cost of emission allowances; and the cost of 44
federally mandated carbon or energy taxes; 45

(b) A reasonable allowance for construction work in 46
progress for any of the electric distribution utility's cost of 47
constructing an electric generating facility or for an 48

environmental expenditure for any electric generating facility 49
of the electric distribution utility, provided the cost is 50
incurred or the expenditure occurs on or after January 1, 2009. 51
Any such allowance shall be subject to the construction work in 52
progress allowance limitations of division (A) of section 53
4909.15 of the Revised Code, except that the commission may 54
authorize such an allowance upon the incurrence of the cost or 55
occurrence of the expenditure. No such allowance for generating 56
facility construction shall be authorized, however, unless the 57
commission first determines in the proceeding that there is need 58
for the facility based on resource planning projections 59
submitted by the electric distribution utility. Further, no such 60
allowance shall be authorized unless the facility's construction 61
was sourced through a competitive bid process, regarding which 62
process the commission may adopt rules. An allowance approved 63
under division (B) (2) (b) of this section shall be established as 64
a nonbypassable surcharge for the life of the facility. 65

(c) The establishment of a nonbypassable surcharge for the 66
life of an electric generating facility that is owned or 67
operated by the electric distribution utility, was sourced 68
through a competitive bid process subject to any such rules as 69
the commission adopts under division (B) (2) (b) of this section, 70
and is newly used and useful on or after January 1, 2009, which 71
surcharge shall cover all costs of the utility specified in the 72
application, excluding costs recovered through a surcharge under 73
division (B) (2) (b) of this section. However, no surcharge shall 74
be authorized unless the commission first determines in the 75
proceeding that there is need for the facility based on resource 76
planning projections submitted by the electric distribution 77
utility. Additionally, if a surcharge is authorized for a 78
facility pursuant to plan approval under division (C) of this 79

section and as a condition of the continuation of the surcharge, 80
the electric distribution utility shall dedicate to Ohio 81
consumers the capacity and energy and the rate associated with 82
the cost of that facility. Before the commission authorizes any 83
surcharge pursuant to this division, it may consider, as 84
applicable, the effects of any decommissioning, deratings, and 85
retirements. 86

(d) Terms, conditions, or charges relating to limitations 87
on customer shopping for retail electric generation service, 88
bypassability, standby, back-up, or supplemental power service, 89
default service, carrying costs, amortization periods, and 90
accounting or deferrals, including future recovery of such 91
deferrals, as would have the effect of stabilizing or providing 92
certainty regarding retail electric service; 93

(e) Automatic increases or decreases in any component of 94
the standard service offer price; 95

(f) Consistent with sections 4928.23 to 4928.2318 of the 96
Revised Code, both of the following: 97

(i) Provisions for the electric distribution utility to 98
securitize any phase-in, inclusive of carrying charges, of the 99
utility's standard service offer price, which phase-in is 100
authorized in accordance with section 4928.144 of the Revised 101
Code; 102

(ii) Provisions for the recovery of the utility's cost of 103
securitization. 104

(g) Provisions relating to transmission, ancillary, 105
congestion, or any related service required for the standard 106
service offer, including provisions for the recovery of any cost 107
of such service that the electric distribution utility incurs on 108

| | |
|--|-----|
| or after that date pursuant to the standard service offer; | 109 |
| (h) Provisions regarding the utility's distribution | 110 |
| service, including, without limitation and notwithstanding any | 111 |
| provision of Title XLIX of the Revised Code to the contrary, | 112 |
| provisions regarding single issue ratemaking, a revenue | 113 |
| decoupling mechanism or any other incentive ratemaking, and | 114 |
| provisions regarding distribution infrastructure and | 115 |
| modernization incentives for the electric distribution utility. | 116 |
| The latter may include a long-term energy delivery | 117 |
| infrastructure modernization plan for that utility or any plan | 118 |
| providing for the utility's recovery of costs, including lost | 119 |
| revenue, shared savings, and avoided costs, and a just and | 120 |
| reasonable rate of return on such infrastructure modernization. | 121 |
| As part of its determination as to whether to allow in an | 122 |
| electric distribution utility's electric security plan inclusion | 123 |
| of any provision described in division (B) (2) (h) of this | 124 |
| section, the commission shall examine the reliability of the | 125 |
| electric distribution utility's distribution system and ensure | 126 |
| that customers' and the electric distribution utility's | 127 |
| expectations are aligned and that the electric distribution | 128 |
| utility is placing sufficient emphasis on and dedicating | 129 |
| sufficient resources to the reliability of its distribution | 130 |
| system. | 131 |
| (i) Provisions under which the electric distribution | 132 |
| utility may implement economic development, job retention, and | 133 |
| energy efficiency programs, which provisions may allocate | 134 |
| program costs across all classes of customers of the utility and | 135 |
| those of electric distribution utilities in the same holding | 136 |
| company system. | 137 |
| (C) (1) The burden of proof in the proceeding shall be on | 138 |

the electric distribution utility. The commission shall issue an 139
order under this division for an initial application under this 140
section not later than one hundred fifty days after the 141
application's filing date and, for any subsequent application by 142
the utility under this section, not later than two hundred 143
seventy-five days after the application's filing date. Subject 144
to division (D) of this section, the commission by order shall 145
approve or modify and approve an application filed under 146
division (A) of this section if it finds that the electric 147
security plan so approved, including its pricing and all other 148
terms and conditions, including any deferrals and any future 149
recovery of deferrals, is more favorable in the aggregate as 150
compared to the expected results that would otherwise apply 151
under section 4928.142 of the Revised Code. Additionally, if the 152
commission so approves an application that contains a surcharge 153
under division (B) (2) (b) or (c) of this section, the commission 154
shall ensure that the benefits derived for any purpose for which 155
the surcharge is established are reserved and made available to 156
those that bear the surcharge. Otherwise, the commission by 157
order shall disapprove the application. 158

(2) (a) If the commission modifies and approves an 159
application under division (C) (1) of this section, the electric 160
distribution utility may withdraw the application, thereby 161
terminating it, and may file a new standard service offer under 162
this section or a standard service offer under section 4928.142 163
of the Revised Code. 164

(b) If the utility terminates an application pursuant to 165
division (C) (2) (a) of this section or if the commission 166
disapproves an application under division (C) (1) of this 167
section, the commission shall issue such order as is necessary 168
to continue the provisions, terms, and conditions of the 169

utility's most recent standard service offer, along with any 170
expected increases or decreases in fuel costs from those 171
contained in that offer, until a subsequent offer is authorized 172
pursuant to this section or section 4928.142 of the Revised 173
Code, respectively. 174

(D) Regarding the rate plan requirement of division (A) of 175
section 4928.141 of the Revised Code, if an electric 176
distribution utility that has a rate plan that extends beyond 177
December 31, 2008, files an application under this section for 178
the purpose of its compliance with division (A) of section 179
4928.141 of the Revised Code, that rate plan and its terms and 180
conditions are hereby incorporated into its proposed electric 181
security plan and shall continue in effect until the date 182
scheduled under the rate plan for its expiration, and that 183
portion of the electric security plan shall not be subject to 184
commission approval or disapproval under division (C) of this 185
section, and the earnings test provided for in division (F) of 186
this section shall not apply until after the expiration of the 187
rate plan. However, that utility may include in its electric 188
security plan under this section, and the commission may 189
approve, modify and approve, or disapprove subject to division 190
(C) of this section, provisions for the incremental recovery or 191
the deferral of any costs that are not being recovered under the 192
rate plan and that the utility incurs during that continuation 193
period to comply with section 4928.141, division (B) of section 194
4928.64, or division (A) of section 4928.66 of the Revised Code. 195

(E) If an electric security plan approved under division 196
(C) of this section, except one withdrawn by the utility as 197
authorized under that division, has a term, exclusive of phase- 198
ins or deferrals, that exceeds three years from the effective 199
date of the plan, the commission shall test the plan in the 200

fourth year, and if applicable, every fourth year thereafter, to 201
determine whether the plan, including its then-existing pricing 202
and all other terms and conditions, including any deferrals and 203
any future recovery of deferrals, continues to be more favorable 204
in the aggregate and during the remaining term of the plan as 205
compared to the expected results that would otherwise apply 206
under section 4928.142 of the Revised Code. The commission shall 207
also determine the prospective effect of the electric security 208
plan to determine if that effect is substantially likely to 209
provide the electric distribution utility with a return on 210
common equity that is significantly in excess of the return on 211
common equity that is likely to be earned by publicly traded 212
companies, including utilities, that face comparable business 213
and financial risk, with such adjustments for capital structure 214
as may be appropriate. The burden of proof for demonstrating 215
that significantly excessive earnings will not occur shall be on 216
the electric distribution utility. If the test results are in 217
the negative or the commission finds that continuation of the 218
electric security plan will result in a return on equity that is 219
significantly in excess of the return on common equity that is 220
likely to be earned by publicly traded companies, including 221
utilities, that will face comparable business and financial 222
risk, with such adjustments for capital structure as may be 223
appropriate, during the balance of the plan, the commission may 224
terminate the electric security plan, but not until it shall 225
have provided interested parties with notice and an opportunity 226
to be heard. The commission may impose such conditions on the 227
plan's termination as it considers reasonable and necessary to 228
accommodate the transition from an approved plan to the more 229
advantageous alternative. In the event of an electric security 230
plan's termination pursuant to this division, the commission 231
shall permit the continued deferral and phase-in of any amounts 232

that occurred prior to that termination and the recovery of 233
those amounts as contemplated under that electric security plan. 234

(F) With regard to the provisions that are included in an 235
electric security plan under this section, the commission shall 236
consider, following the end of each annual period of the plan, 237
if any such adjustments resulted in excessive earnings as 238
measured by whether the earned return on common equity of the 239
electric distribution utility is significantly in excess of the 240
return on common equity that was earned during the same period 241
by publicly traded companies, including utilities, that face 242
comparable business and financial risk, with such adjustments 243
for capital structure as may be appropriate. Consideration also 244
shall be given to the capital requirements of future committed 245
investments in this state. The burden of proof for demonstrating 246
that significantly excessive earnings did not occur shall be on 247
the electric distribution utility. If the commission finds that 248
such adjustments, in the aggregate, did result in significantly 249
excessive earnings, it shall require the electric distribution 250
utility to return to consumers the amount of the excess by 251
prospective adjustments; provided that, upon making such 252
prospective adjustments, the electric distribution utility shall 253
have the right to terminate the plan and immediately file an 254
application pursuant to section 4928.142 of the Revised Code. 255
Upon termination of a plan under this division, rates shall be 256
set on the same basis as specified in division (C)(2)(b) of this 257
section, and the commission shall permit the continued deferral 258
and phase-in of any amounts that occurred prior to that 259
termination and the recovery of those amounts as contemplated 260
under that electric security plan. In making its determination 261
of significantly excessive earnings under this division, the 262
commission shall not consider, directly or indirectly, the 263

revenue, expenses, or earnings of any affiliate or parent 264
company. 265

Sec. 4928.64. (A) (1) As used in this section, "qualifying 266
renewable energy resource" means a renewable energy resource, as 267
defined in section 4928.01 of the Revised Code that has a 268
placed-in-service date on or after January 1, 1998, or with 269
respect to any run-of-the-river hydroelectric facility, an in- 270
service date on or after January 1, 1980; a renewable energy 271
resource created on or after January 1, 1998, by the 272
modification or retrofit of any facility placed in service prior 273
to January 1, 1998; or a mercantile customer-sited renewable 274
energy resource, whether new or existing, that the mercantile 275
customer commits for integration into the electric distribution 276
utility's demand-response, energy efficiency, or peak demand 277
reduction programs as provided under division (A) (2) (c) of 278
section 4928.66 of the Revised Code, including, but not limited 279
to, any of the following: 280

(a) A resource that has the effect of improving the 281
relationship between real and reactive power; 282

(b) A resource that makes efficient use of waste heat or 283
other thermal capabilities owned or controlled by a mercantile 284
customer; 285

(c) Storage technology that allows a mercantile customer 286
more flexibility to modify its demand or load and usage 287
characteristics; 288

(d) Electric generation equipment owned or controlled by a 289
mercantile customer that uses a renewable energy resource. 290

(2) For the purpose of this section and as it considers 291
appropriate, the public utilities commission may classify any 292

new technology as such a qualifying renewable energy resource. 293

(B) (1) By 2027 and thereafter, an electric distribution 294
 utility shall provide from qualifying renewable energy 295
 resources, including, at its discretion, qualifying renewable 296
 energy resources obtained pursuant to an electricity supply 297
 contract, a portion of the electricity supply required for its 298
 standard service offer under section 4928.141 of the Revised 299
 Code, and an electric services company shall provide a portion 300
 of its electricity supply for retail consumers in this state 301
 from qualifying renewable energy resources, including, at its 302
 discretion, qualifying renewable energy resources obtained 303
 pursuant to an electricity supply contract. That portion shall 304
 equal twelve and one-half per cent of the total number of 305
 kilowatt hours of electricity sold by the subject utility or 306
 company to any and all retail electric consumers whose electric 307
 load centers are served by that utility and are located within 308
 the utility's certified territory or, in the case of an electric 309
 services company, are served by the company and are located 310
 within this state. However, nothing in this section precludes a 311
 utility or company from providing a greater percentage. 312

(2) The portion required under division (B) (1) of this 313
 section shall be generated from renewable energy resources, 314
 including one-half per cent from solar energy resources, in 315
 accordance with the following benchmarks, subject to section 316
4928.6620 of the Revised Code: 317

| By end of year | Renewable energy resources | Solar energy resources | |
|----------------|-------------------------------|---------------------------|-----|
| 2009 | 0.25% | 0.004% | 318 |
| 2010 | 0.50% | 0.010% | 319 |
| 2011 | 1% | 0.030% | 320 |
| | | | 321 |
| | | | 322 |

| | | | |
|---|-------|--------|------------|
| 2012 | 1.5% | 0.060% | 323 |
| 2013 | 2% | 0.090% | 324 |
| 2014 | 2.5% | 0.12% | 325 |
| 2015 | 2.5% | 0.12% | 326 |
| 2016 | 2.5% | 0.12% | 327 |
| 2017 | 3.5% | 0.15% | 328 |
| 2018 | 4.5% | 0.18% | 329 |
| 2019 | 5.5% | 0.22% | 330 |
| 2020 | 6.5% | 0.26% | 331 |
| 2021 | 7.5% | 0.3% | 332 |
| 2022 | 8.5% | 0.34% | 333 |
| 2023 | 9.5% | 0.38% | 334 |
| 2024 | 10.5% | 0.42% | 335 |
| 2025 | 11.5% | 0.46% | 336 |
| 2026 and each calendar year thereafter | 12.5% | 0.5%. | 337 338 |

(3) The qualifying renewable energy resources implemented 339
by the utility or company shall be met either: 340

(a) Through facilities located in this state; or 341

(b) With resources that can be shown to be deliverable 342
into this state. 343

(C) Beginning in 2021: 344

(1) ~~The~~ Based on the information reported under section 345
4928.6620 of the Revised Code and any other information that is 346
public, the commission annually shall review an electric 347
distribution utility's or electric services company's compliance 348
with the ~~most recent applicable~~ benchmark under division (B) (2) 349
of this section for the previous year and, in the course of that 350
review, shall identify any undercompliance or noncompliance of 351

the utility or company that it determines is weather-related, 352
related to equipment or resource shortages for qualifying 353
renewable energy resources as applicable, or is otherwise 354
outside the utility's or company's control. 355

(2) Subject to the cost cap provisions of division (C) (3) 356
of this section, if the commission determines, after notice and 357
opportunity for hearing, and based upon its findings in ~~that the~~ 358
review under division (C) (1) of this section regarding avoidable 359
undercompliance or noncompliance, but subject to division (C) (4) 360
of this section, that the utility or company has failed to 361
comply with ~~any such the benchmark for the previous year,~~ the 362
commission shall impose a renewable energy compliance payment on 363
the utility or company. 364

(a) The compliance payment pertaining to the solar energy 365
resource benchmarks under division (B) (2) of this section shall 366
be an amount per megawatt hour of undercompliance or 367
noncompliance in the period under review, as follows: 368

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 369

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 370

~~(iii) Two hundred dollars for 2019 and 2020;~~ 371

~~(iv) (ii) One hundred fifty dollars for 2021 and 2022;~~ 372

(iii) Similarly reduced every two years thereafter through 373
2026 by fifty dollars, to a minimum of fifty dollars. 374

(b) The compliance payment pertaining to the renewable 375
energy resource benchmarks under division (B) (2) of this section 376
shall equal the number of additional renewable energy credits 377
that the electric distribution utility or electric services 378
company would have needed to comply with the applicable 379

benchmark in the period under review times an amount that shall 380
begin at forty-five dollars and shall be adjusted annually by 381
the commission to reflect any change in the consumer price index 382
as defined in section 101.27 of the Revised Code, but shall not 383
be less than forty-five dollars. 384

(c) The compliance payment shall not be passed through by 385
the electric distribution utility or electric services company 386
to consumers. The compliance payment shall be remitted to the 387
commission, for deposit to the credit of the advanced energy 388
fund created under section 4928.61 of the Revised Code. Payment 389
of the compliance payment shall be subject to such collection 390
and enforcement procedures as apply to the collection of a 391
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 392
Revised Code. 393

(3) An electric distribution utility or an electric 394
services company need not comply with a benchmark under division 395
(B) (2) of this section to the extent that its reasonably 396
expected cost of that compliance exceeds its reasonably expected 397
cost of otherwise producing or acquiring the requisite 398
electricity by three per cent or more. The cost of compliance 399
shall be calculated as though any exemption from taxes and 400
assessments had not been granted under section 5727.75 of the 401
Revised Code. 402

(4) (a) An electric distribution utility or electric 403
services company may request the commission to make a force 404
majeure determination pursuant to this division regarding all or 405
part of the utility's or company's compliance with any minimum 406
benchmark under division (B) (2) of this section during the 407
period of review occurring pursuant to division (C) (2) of this 408
section. The commission may require the electric distribution 409

utility or electric services company to make solicitations for 410
renewable energy resource credits as part of its default service 411
before the utility's or company's request of force majeure under 412
this division can be made. 413

(b) Within ninety days after the filing of a request by an 414
electric distribution utility or electric services company under 415
division (C) (4) (a) of this section, the commission shall 416
determine if qualifying renewable energy resources are 417
reasonably available in the marketplace in sufficient quantities 418
for the utility or company to comply with the subject minimum 419
benchmark during the review period. In making this 420
determination, the commission shall consider whether the 421
electric distribution utility or electric services company has 422
made a good faith effort to acquire sufficient qualifying 423
renewable energy or, as applicable, solar energy resources to so 424
comply, including, but not limited to, by banking or seeking 425
renewable energy resource credits or by seeking the resources 426
through long-term contracts. Additionally, the commission shall 427
consider the availability of qualifying renewable energy or 428
solar energy resources in this state and other jurisdictions in 429
the PJM interconnection regional transmission organization, 430
L.L.C., or its successor and the midcontinent independent system 431
operator or its successor. 432

(c) If, pursuant to division (C) (4) (b) of this section, 433
the commission determines that qualifying renewable energy or 434
solar energy resources are not reasonably available to permit 435
the electric distribution utility or electric services company 436
to comply, during the period of review, with the subject minimum 437
benchmark prescribed under division (B) (2) of this section, the 438
commission shall modify that compliance obligation of the 439
utility or company as it determines appropriate to accommodate 440

the finding. Commission modification shall not automatically 441
reduce the obligation for the electric distribution utility's or 442
electric services company's compliance in subsequent years. If 443
it modifies the electric distribution utility or electric 444
services company obligation under division (C) (4) (c) of this 445
section, the commission may require the utility or company, if 446
sufficient renewable energy resource credits exist in the 447
marketplace, to acquire additional renewable energy resource 448
credits in subsequent years equivalent to the utility's or 449
company's modified obligation under division (C) (4) (c) of this 450
section. 451

~~(5)~~ (D) The sole penalty for an electric distribution 452
utility's or electric services company's failure to comply with 453
any provision of division (B) (2) of this section shall be the 454
imposition of compliance payments in accordance with division 455
(C) of this section. 456

(E) The commission shall establish a process to provide 457
for at least an annual review of the renewable energy resource 458
market in this state and in the service territories of the 459
regional transmission organizations that manage transmission 460
systems located in this state. The commission shall use the 461
results of this study to identify any needed changes to the 462
amount of the renewable energy compliance payment specified 463
under divisions (C) (2) (a) and (b) of this section. Specifically, 464
the commission may increase the amount to ensure that payment of 465
compliance payments is not used to achieve compliance with this 466
section in lieu of actually acquiring or realizing energy 467
derived from qualifying renewable energy resources. However, if 468
the commission finds that the amount of the compliance payment 469
should be otherwise changed, the commission shall present this 470
finding to the general assembly for legislative enactment. 471

~~(D)~~ (F) The commission annually shall submit to the 472
general assembly in accordance with section 101.68 of the 473
Revised Code a report describing all of the following: 474

(1) The compliance of electric distribution utilities and 475
electric services companies with division (B) of this section; 476

(2) The average annual cost of renewable energy credits 477
purchased by utilities and companies for the year covered in the 478
report; 479

(3) Any strategy for utility and company compliance or for 480
encouraging the use of qualifying renewable energy resources in 481
supplying this state's electricity needs in a manner that 482
considers available technology, costs, job creation, and 483
economic impacts. 484

~~The commission shall begin providing the information~~ 485
~~described in division (D) (2) of this section in each report~~ 486
~~submitted after September 10, 2012.~~ The commission shall allow 487
and consider public comments on the report prior to its 488
submission to the general assembly. Nothing in the report shall 489
be binding on any person, including any utility or company for 490
the purpose of its compliance with any benchmark under division 491
(B) of this section, or the enforcement of that provision under 492
division (C) of this section. 493

~~(E)~~ (G) All costs incurred by an electric distribution 494
utility in complying with the ~~requirements~~ provisions of this 495
section shall be bypassable by any consumer that has exercised 496
choice of supplier under section 4928.03 of the Revised Code. 497

Sec. 4928.643. (A) Except as provided in division (B) of 498
this section and section 4928.644 of the Revised Code, the 499
baseline for an electric distribution utility's or an electric 500

services company's compliance with the qualified renewable 501
energy resource ~~requirements~~provisions of section 4928.64 of 502
the Revised Code shall be the average of total kilowatt hours 503
sold by the utility or company in the preceding three calendar 504
years to the following: 505

(1) In the case of an electric distribution utility, any 506
and all retail electric consumers whose electric load centers 507
are served by that utility and are located within the utility's 508
certified territory; 509

(2) In the case of an electric services company, any and 510
all retail electric consumers who are served by the company and 511
are located within this state. 512

(B) Beginning with compliance year 2014, a utility or 513
company may choose for its baseline for compliance with the 514
qualified renewable energy resource ~~requirements~~provisions of 515
section 4928.64 of the Revised Code to be the total kilowatt 516
hours sold to the applicable consumers, as described in division 517
(A) (1) or (2) of this section, in the applicable compliance 518
year. 519

(C) A utility or company that uses the baseline permitted 520
under division (B) of this section may use the baseline 521
described in division (A) of this section in any subsequent 522
compliance year. A utility or company that makes this switch 523
shall use the baseline described in division (A) of this section 524
for at least three consecutive compliance years before again 525
using the baseline permitted under division (B) of this section. 526

Sec. 4928.645. (A) An electric distribution utility or 527
electric services company may use, for the purpose of complying 528
with the ~~requirements~~provisions under divisions (B) (1) and (2) 529

of section 4928.64 of the Revised Code, renewable energy credits 530
any time in the five calendar years following the date of their 531
purchase or acquisition from any entity, including, but not 532
limited to, the following: 533

(1) A mercantile customer; 534

(2) An owner or operator of a hydroelectric generating 535
facility that is located at a dam on a river, or on any water 536
discharged to a river, that is within or bordering this state or 537
within or bordering an adjoining state, or that produces power 538
that can be shown to be deliverable into this state; 539

(3) A seller of compressed natural gas that has been 540
produced from biologically derived methane gas, provided that 541
the seller may only provide renewable energy credits for metered 542
amounts of gas. 543

(B) (1) The public utilities commission shall adopt rules 544
specifying that one unit of credit shall equal one megawatt hour 545
of electricity derived from renewable energy resources, except 546
that, for a generating facility of seventy-five megawatts or 547
greater that is situated within this state and has committed by 548
December 31, 2009, to modify or retrofit its generating unit or 549
units to enable the facility to generate principally from 550
biomass energy by June 30, 2013, each megawatt hour of 551
electricity generated principally from that biomass energy shall 552
equal, in units of credit, the product obtained by multiplying 553
the actual percentage of biomass feedstock heat input used to 554
generate such megawatt hour by the quotient obtained by dividing 555
the then existing unit dollar amount used to determine a 556
renewable energy compliance payment as provided under division 557
(C) (2) (b) of section 4928.64 of the Revised Code by the then 558
existing market value of one renewable energy credit, but such 559

megawatt hour shall not equal less than one unit of credit. 560
Renewable energy resources do not have to be converted to 561
electricity in order to be eligible to receive renewable energy 562
credits. The rules shall specify that, for purposes of 563
converting the quantity of energy derived from biologically 564
derived methane gas to an electricity equivalent, one megawatt 565
hour equals 3,412,142 British thermal units. 566

(2) The rules also shall provide for this state a system 567
of registering renewable energy credits by specifying which of 568
any generally available registries shall be used for that 569
purpose and not by creating a registry. That selected system of 570
registering renewable energy credits shall allow a hydroelectric 571
generating facility to be eligible for obtaining renewable 572
energy credits and shall allow customer-sited projects or 573
actions the broadest opportunities to be eligible for obtaining 574
renewable energy credits. 575

Sec. 4928.65. (A) Not later than January 1, 2015, the 576
public utilities commission shall adopt rules governing the 577
disclosure of the costs to customers of the renewable energy 578
resource, energy efficiency savings, and peak demand reduction 579
~~requirements~~provisions of sections 4928.64 and 4928.66 of the 580
Revised Code. The rules shall include both of the following 581
requirements: 582

(1) That every electric distribution utility list, on all 583
customer bills sent by the utility, including utility 584
consolidated bills that include both electric distribution 585
utility and electric services company charges, the individual 586
customer cost of the utility's compliance with all of the 587
following for the applicable billing period: 588

(a) The renewable energy resource ~~requirements~~provisions 589

under section 4928.64 of the Revised Code, subject to division 590
(B) of this section; 591

(b) The energy efficiency savings ~~requirements~~ provisions 592
under section 4928.66 of the Revised Code; 593

(c) The peak demand reduction ~~requirements~~ provisions 594
under section 4928.66 of the Revised Code. 595

(2) That every electric services company list, on all 596
customer bills sent by the company, the individual customer 597
cost, subject to division (B) of this section, of the company's 598
compliance with the renewable energy resource ~~requirements~~ 599
provisions under section 4928.64 of the Revised Code for the 600
applicable billing period. 601

(B) (1) For purposes of division (A) (1) (a) of this section, 602
the cost of compliance with the renewable energy resource 603
~~requirements~~ provisions shall be calculated by multiplying the 604
individual customer's monthly usage by the combined weighted 605
average of renewable-energy-credit costs, including solar- 606
renewable-energy-credit costs, paid by all electric distribution 607
utilities, as listed in the commission's most recently available 608
alternative energy portfolio standard report. 609

(2) For purposes of division (A) (2) of this section, the 610
cost of compliance with the renewable energy resource 611
~~requirements~~ provisions shall be calculated by multiplying the 612
individual customer's monthly usage by the combined weighted 613
average of renewable-energy-credit costs, including solar- 614
renewable-energy-credit costs, paid by all electric services 615
companies, as listed in the commission's most recently available 616
alternative energy portfolio standard report. 617

(C) The costs required to be listed under division (A) (1) 618

of this section shall be listed on each customer's monthly bill 619
as three distinct line items. The cost required to be listed 620
under division (A) (2) of this section shall be listed on each 621
customer's monthly bill as a distinct line item. 622

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 623
distribution utility shall implement energy efficiency programs 624
that achieve energy savings equivalent to at least three-tenths 625
of one per cent of the total, annual average, and normalized 626
kilowatt-hour sales of the electric distribution utility during 627
the preceding three calendar years to customers in this state. 628
An energy efficiency program may include a combined heat and 629
power system placed into service or retrofitted on or after the 630
effective date of the amendment of this section by S.B. 315 of 631
the 129th general assembly, September 10, 2012, or a waste 632
energy recovery system placed into service or retrofitted on or 633
after September 10, 2012, except that a waste energy recovery 634
system described in division (A) (38) (b) of section 4928.01 of 635
the Revised Code may be included only if it was placed into 636
service between January 1, 2002, and December 31, 2004. For a 637
waste energy recovery or combined heat and power system, the 638
savings shall be as estimated by the public utilities 639
commission. The savings requirement, using such a three-year 640
average, shall increase to an additional five-tenths of one per 641
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 642
of one per cent in 2012, nine-tenths of one per cent in 2013, 643
and one per cent in 2014. In 2015 and 2016, an electric 644
distribution utility shall achieve energy savings equal to the 645
result of subtracting the cumulative energy savings achieved 646
since 2009 from the product of multiplying the baseline for 647
energy savings, described in division (A) (2) (a) of this section, 648
by four and two-tenths of one per cent. If the result is zero or 649

less for the year for which the calculation is being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. Thereafter, the annual savings requirements shall be, for years 2017, 2018, 2019, ~~and 2020~~, 2021, 2022, 2023, 2024, and 2025, one per cent of the baseline, and two per cent ~~each year thereafter~~ for years 2026 and 2027, achieving cumulative energy savings in excess of ~~twenty-two~~ seventeen per cent by the end of 2027. For purposes of a waste energy recovery or combined heat and power system, an electric distribution utility shall not apply more than the total annual percentage of the electric distribution utility's industrial-customer load, 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, but may achieve an additional reduction in peak demand for that year. In 2017 and each year thereafter through 2020, the utility shall achieve an additional seventy-five hundredths of one per cent reduction in peak demand.

(c) Subject to section 4928.6620 of the Revised Code, 681
noncompliance with the provisions of divisions (A) (1) (a) and (b) 682
of this section shall be subject to forfeitures under division 683
(C) of this section only for the requirements for years 2016, 684
2020, 2021, 2022, 2023, 2024, 2025, 2026, and 2027, as 685
applicable. The sole penalty for an electric distribution 686
utility's failure to comply with any provision of divisions (A) 687
(1) (a) and (b) of this section shall be the assessment of 688
forfeitures in accordance with division (C) of this section. 689

(2) For the purposes of divisions (A) (1) (a) and (b) of 690
this section: 691

(a) The baseline for energy savings under division (A) (1) 692
(a) of this section shall be the average of the total kilowatt 693
hours the electric distribution utility sold in the preceding 694
three calendar years. The baseline for a peak demand reduction 695
under division (A) (1) (b) of this section shall be the average 696
peak demand on the utility in the preceding three calendar 697
years, except that the commission may reduce either baseline to 698
adjust for new economic growth in the utility's certified 699
territory. Neither baseline shall include the load and usage of 700
any of the following customers: 701

(i) Beginning January 1, 2017, a customer for which a 702
reasonable arrangement has been approved under section 4905.31 703
of the Revised Code; 704

(ii) A customer that has opted out of the utility's 705
portfolio plan under section 4928.6611 of the Revised Code; 706

(iii) A customer that has opted out of the utility's 707
portfolio plan under Section 8 of S.B. 310 of the 130th general 708
assembly. 709

(b) The commission may amend the benchmarks set forth in 710
division (A) (1) (a) or (b) of this section if, after application 711
by the electric distribution utility, the commission determines 712
that the amendment is necessary because the utility cannot 713
reasonably achieve the benchmarks due to regulatory, economic, 714
or technological reasons beyond its reasonable control. 715

(c) Compliance with divisions (A) (1) (a) and (b) of this 716
section shall be measured by including the effects of all 717
demand-response programs for mercantile customers of the subject 718
electric distribution utility, all waste energy recovery systems 719
and all combined heat and power systems, and all such mercantile 720
customer-sited energy efficiency, including waste energy 721
recovery and combined heat and power, and peak demand reduction 722
programs, adjusted upward by the appropriate loss factors. Any 723
mechanism designed to recover the cost of energy efficiency, 724
including waste energy recovery and combined heat and power, and 725
peak demand reduction programs under divisions (A) (1) (a) and (b) 726
of this section may exempt mercantile customers that commit 727
their demand-response or other customer-sited capabilities, 728
whether existing or new, for integration into the electric 729
distribution utility's demand-response, energy efficiency, 730
including waste energy recovery and combined heat and power, or 731
peak demand reduction programs, if the commission determines 732
that that exemption reasonably encourages such customers to 733
commit those capabilities to those programs. If a mercantile 734
customer makes such existing or new demand-response, energy 735
efficiency, including waste energy recovery and combined heat 736
and power, or peak demand reduction capability available to an 737
electric distribution utility pursuant to division (A) (2) (c) of 738
this section, the electric utility's baseline under division (A) 739
(2) (a) of this section shall be adjusted to exclude the effects 740

of all such demand-response, energy efficiency, including waste 741
energy recovery and combined heat and power, or peak demand 742
reduction programs that may have existed during the period used 743
to establish the baseline. The baseline also shall be normalized 744
for changes in numbers of customers, sales, weather, peak 745
demand, and other appropriate factors so that the compliance 746
measurement is not unduly influenced by factors outside the 747
control of the electric distribution utility. 748

(d) (i) Programs implemented by a utility may include the 749
following: 750

(I) Demand-response programs; 751

(II) Smart grid investment programs, provided that such 752
programs are demonstrated to be cost-beneficial; 753

(III) Customer-sited programs, including waste energy 754
recovery and combined heat and power systems; 755

(IV) Transmission and distribution infrastructure 756
improvements that reduce line losses; 757

(V) Energy efficiency savings and peak demand reduction 758
that are achieved, in whole or in part, as a result of funding 759
provided from the universal service fund established by section 760
4928.51 of the Revised Code to benefit low-income customers 761
through programs that include, but are not limited to, energy 762
audits, the installation of energy efficiency insulation, 763
appliances, and windows, and other weatherization measures. 764

(ii) No energy efficiency or peak demand reduction 765
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 766
section shall qualify for shared savings. 767

(iii) Division (A) (2) (c) of this section shall be applied 768

to include facilitating efforts by a mercantile customer or 769
group of those customers to offer customer-sited demand- 770
response, energy efficiency, including waste energy recovery and 771
combined heat and power, or peak demand reduction capabilities 772
to the electric distribution utility as part of a reasonable 773
arrangement submitted to the commission pursuant to section 774
4905.31 of the Revised Code. 775

(e) No programs or improvements described in division (A) 776
(2) (d) of this section shall conflict with any statewide 777
building code adopted by the board of building standards. 778

(B) In accordance with rules it shall adopt, the public 779
utilities commission shall produce and docket at the commission 780
an annual report, based on the information reported under 781
section 4928.6620 of the Revised Code and any other information 782
that is public, containing the results of its verification of 783
the annual levels of energy efficiency and of peak demand 784
reductions achieved by each electric distribution utility 785
pursuant to division (A) of this section. A copy of the report 786
shall be provided to the consumers' counsel. 787

(C) If the commission determines, after notice and 788
opportunity for hearing and based upon its report under division 789
(B) of this section, that an electric distribution utility has 790
failed to comply with an energy efficiency or peak demand 791
reduction requirement ~~of~~ for years 2016, 2020, 2021, 2022, 2023, 792
2024, 2025, 2026, or 2027, as applicable, under division (A) of 793
this section, the commission shall assess a forfeiture on the 794
utility as provided under sections 4905.55 to 4905.60 and 795
4905.64 of the Revised Code, either in the amount, per day per 796
undercompliance or noncompliance, relative to the period of the 797
report, equal to that prescribed for noncompliances under 798

section 4905.54 of the Revised Code, or in an amount equal to 799
the then existing market value of one renewable energy credit 800
per megawatt hour of undercompliance or noncompliance. Revenue 801
from any forfeiture assessed under this division shall be 802
deposited to the credit of the advanced energy fund created 803
under section 4928.61 of the Revised Code. 804

(D) The commission may establish rules regarding the 805
content of an application by an electric distribution utility 806
for commission approval of a revenue decoupling mechanism under 807
this division. Such an application shall not be considered an 808
application to increase rates and may be included as part of a 809
proposal to establish, continue, or expand energy efficiency or 810
conservation programs. The commission by order may approve an 811
application under this division if it determines both that the 812
revenue decoupling mechanism provides for the recovery of 813
revenue that otherwise may be forgone by the utility as a result 814
of or in connection with the implementation by the electric 815
distribution utility of any energy efficiency or energy 816
conservation programs and reasonably aligns the interests of the 817
utility and of its customers in favor of those programs. 818

(E) The commission additionally shall adopt rules that 819
require an electric distribution utility to provide a customer 820
upon request with two years' consumption data in an accessible 821
form. 822

Sec. 4928.664. (A) If, under division (G) of section 823
4928.662 of the Revised Code, an electric distribution utility 824
applies banked energy efficiency savings or banked peak demand 825
reductions to achieve compliance with a benchmark under section 826
4928.66 of the Revised Code, the utility shall, in accordance 827
with applicable procedures and rules of the public utilities 828

commission, receive shared savings associated with the banked 829
savings or banked reductions for the year in which they are 830
applied toward the benchmark, provided that both of the 831
following apply: 832

(1) The utility did not previously receive shared savings 833
on those banked energy efficiency savings or banked peak demand 834
reductions. 835

(2) The utility is using only as much banked energy 836
efficiency savings or banked peak demand reductions as are 837
necessary to meet, and not exceed, the benchmark. 838

(B) Division (A) of this section shall not be construed to 839
affect commission procedures or rules governing shared savings 840
associated with nonbanked energy efficiency savings and 841
nonbanked peak demand reductions. 842

Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 843
of the Revised Code: 844

(A) "Customer" means ~~any~~ either of the following: 845

(1) A mercantile customer of an electric distribution 846
utility; 847

(2) Any customer of an electric distribution utility to 848
which either of the following applies: 849

~~(1)~~ (a) The customer receives service above the primary 850
voltage level as determined by the utility's tariff 851
classification. 852

~~(2)~~ (b) The customer is a commercial or industrial 853
customer to which both of the following apply: 854

~~(a)~~ (i) The customer receives electricity through a meter 855

of an end user or through more than one meter at a single 856
location in a quantity that exceeds forty-five million kilowatt 857
hours of electricity for the preceding calendar year. 858

~~(b)~~ (ii) The customer has made a written request for 859
registration as a self-assessing purchaser pursuant to section 860
5727.81 of the Revised Code. 861

(B) "Energy intensity" means the amount of energy, from 862
electricity, used or consumed per unit of production. 863

(C) "Portfolio plan" means the comprehensive energy 864
efficiency and peak-demand reduction program portfolio plan 865
required under rules adopted by the public utilities commission 866
and codified in Chapter 4901:1-39 of the Administrative Code or 867
hereafter recodified or amended. 868

Sec. 4928.6620. Every electric distribution utility and 869
electric services company shall submit an annual report for the 870
prior calendar year to the public utilities commission not later 871
than the first day of July of each year. The report shall detail 872
the utility's or company's status of compliance with the 873
provisions of sections 4928.64 and 4928.66 of the Revised Code, 874
as applicable. The commission shall modify its rules in 875
accordance with the reporting requirement, including the filing 876
date, set forth in this section. 877

Sec. 5727.75. (A) For purposes of this section: 878

(1) "Qualified energy project" means an energy project 879
certified by the director of development services pursuant to 880
this section. 881

(2) "Energy project" means a project to provide electric 882
power through the construction, installation, and use of an 883
energy facility. 884

(3) "Alternative energy zone" means a county declared as 885
such by the board of county commissioners under division (E) (1) 886
(b) or (c) of this section. 887

(4) "Full-time equivalent employee" means the total number 888
of employee-hours for which compensation was paid to individuals 889
employed at a qualified energy project for services performed at 890
the project during the calendar year divided by two thousand 891
eighty hours. 892

(5) "Solar energy project" means an energy project 893
composed of an energy facility using solar panels to generate 894
electricity. 895

(B) (1) Tangible personal property of a qualified energy 896
project using renewable energy resources is exempt from taxation 897
for tax years 2011 through 2021 if all of the following 898
conditions are satisfied: 899

(a) On or before December 31, 2020, the owner or a lessee 900
pursuant to a sale and leaseback transaction of the project 901
submits an application to the power siting board for a 902
certificate under section 4906.20 of the Revised Code, or if 903
that section does not apply, submits an application for any 904
approval, consent, permit, or certificate or satisfies any 905
condition required by a public agency or political subdivision 906
of this state for the construction or initial operation of an 907
energy project. 908

(b) Construction or installation of the energy facility 909
begins on or after January 1, 2009, and before January 1, 2021. 910
For the purposes of this division, construction begins on the 911
earlier of the date of application for a certificate or other 912
approval or permit described in division (B) (1) (a) of this 913

section, or the date the contract for the construction or 914
installation of the energy facility is entered into. 915

(c) For a qualified energy project with a nameplate 916
capacity of five megawatts or greater, a board of county 917
commissioners of a county in which property of the project is 918
located has adopted a resolution under division (E) (1) (b) or (c) 919
of this section to approve the application submitted under 920
division (E) of this section to exempt the property located in 921
that county from taxation. A board's adoption of a resolution 922
rejecting an application or its failure to adopt a resolution 923
approving the application does not affect the tax-exempt status 924
of the qualified energy project's property that is located in 925
another county. 926

(2) If tangible personal property of a qualified energy 927
project using renewable energy resources was exempt from 928
taxation under this section beginning in any of tax years 2011 929
through 2021, and the certification under division (E) (2) of 930
this section has not been revoked, the tangible personal 931
property of the qualified energy project is exempt from taxation 932
for tax year 2022 and all ensuing tax years if the property was 933
placed into service before January 1, 2022, as certified in the 934
construction progress report required under division (F) (2) of 935
this section. Tangible personal property that has not been 936
placed into service before that date is taxable property subject 937
to taxation. An energy project for which certification has been 938
revoked is ineligible for further exemption under this section. 939
Revocation does not affect the tax-exempt status of the 940
project's tangible personal property for the tax year in which 941
revocation occurs or any prior tax year. 942

(C) Tangible personal property of a qualified energy 943

project using clean coal technology, advanced nuclear 944
technology, or cogeneration technology is exempt from taxation 945
for the first tax year that the property would be listed for 946
taxation and all subsequent years if all of the following 947
circumstances are met: 948

(1) The property was placed into service before January 1, 949
2021. Tangible personal property that has not been placed into 950
service before that date is taxable property subject to 951
taxation. 952

(2) For such a qualified energy project with a nameplate 953
capacity of five megawatts or greater, a board of county 954
commissioners of a county in which property of the qualified 955
energy project is located has adopted a resolution under 956
division (E) (1) (b) or (c) of this section to approve the 957
application submitted under division (E) of this section to 958
exempt the property located in that county from taxation. A 959
board's adoption of a resolution rejecting the application or 960
its failure to adopt a resolution approving the application does 961
not affect the tax-exempt status of the qualified energy 962
project's property that is located in another county. 963

(3) The certification for the qualified energy project 964
issued under division (E) (2) of this section has not been 965
revoked. An energy project for which certification has been 966
revoked is ineligible for exemption under this section. 967
Revocation does not affect the tax-exempt status of the 968
project's tangible personal property for the tax year in which 969
revocation occurs or any prior tax year. 970

(D) Except as otherwise provided in this section, real 971
property of a qualified energy project is exempt from taxation 972
for any tax year for which the tangible personal property of the 973

qualified energy project is exempted under this section. 974

(E) (1) (a) A person may apply to the director of 975
development services for certification of an energy project as a 976
qualified energy project on or before the following dates: 977

(i) December 31, 2020, for an energy project using 978
renewable energy resources; 979

(ii) December 31, 2017, for an energy project using clean 980
coal technology, advanced nuclear technology, or cogeneration 981
technology. 982

(b) The director shall forward a copy of each application 983
for certification of an energy project with a nameplate capacity 984
of five megawatts or greater to the board of county 985
commissioners of each county in which the project is located and 986
to each taxing unit with territory located in each of the 987
affected counties. Any board that receives from the director a 988
copy of an application submitted under this division shall adopt 989
a resolution approving or rejecting the application unless it 990
has adopted a resolution under division (E) (1) (c) of this 991
section. A resolution adopted under division (E) (1) (b) or (c) of 992
this section may require an annual service payment to be made in 993
addition to the service payment required under division (G) of 994
this section. The sum of the service payment required in the 995
resolution and the service payment required under division (G) 996
of this section shall not exceed nine thousand dollars per 997
megawatt of nameplate capacity located in the county. The 998
resolution shall specify the time and manner in which the 999
payments required by the resolution shall be paid to the county 1000
treasurer. The county treasurer shall deposit the payment to the 1001
credit of the county's general fund to be used for any purpose 1002
for which money credited to that fund may be used. 1003

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

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

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

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

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E) (1) (b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any

requirement under this section. The director may revoke a 1033
certification if the director determines the person, or 1034
subsequent owner or lessee pursuant to a sale and leaseback 1035
transaction of the qualified energy project, has failed to 1036
comply with any requirement under this section. Upon 1037
certification or revocation, the director shall notify the 1038
person, owner, or lessee, the tax commissioner, and the county 1039
auditor of a county in which the project is located of the 1040
certification or revocation. Notice shall be provided in a 1041
manner convenient to the director. 1042

(F) The owner or a lessee pursuant to a sale and leaseback 1043
transaction of a qualified energy project shall do each of the 1044
following: 1045

(1) Comply with all applicable regulations; 1046

(2) File with the director of development services a 1047
certified construction progress report before the first day of 1048
March of each year during the energy facility's construction or 1049
installation indicating the percentage of the project completed, 1050
and the project's nameplate capacity, as of the preceding 1051
thirty-first day of December. Unless otherwise instructed by the 1052
director of development services, the owner or lessee of an 1053
energy project shall file a report with the director on or 1054
before the first day of March each year after completion of the 1055
energy facility's construction or installation indicating the 1056
project's nameplate capacity as of the preceding thirty-first 1057
day of December. Not later than sixty days after June 17, 2010, 1058
the owner or lessee of an energy project, the construction of 1059
which was completed before June 17, 2010, shall file a 1060
certificate indicating the project's nameplate capacity. 1061

(3) File with the director of development services, in a 1062

manner prescribed by the director, a report of the total number 1063
of full-time equivalent employees, and the total number of full- 1064
time equivalent employees domiciled in Ohio, who are employed in 1065
the construction or installation of the energy facility; 1066

(4) For energy projects with a nameplate capacity of five 1067
megawatts or greater, repair all roads, bridges, and culverts 1068
affected by construction as reasonably required to restore them 1069
to their preconstruction condition, as determined by the county 1070
engineer in consultation with the local jurisdiction responsible 1071
for the roads, bridges, and culverts. In the event that the 1072
county engineer deems any road, bridge, or culvert to be 1073
inadequate to support the construction or decommissioning of the 1074
energy facility, the road, bridge, or culvert shall be rebuilt 1075
or reinforced to the specifications established by the county 1076
engineer prior to the construction or decommissioning of the 1077
facility. The owner or lessee of the facility shall post a bond 1078
in an amount established by the county engineer and to be held 1079
by the board of county commissioners to ensure funding for 1080
repairs of roads, bridges, and culverts affected during the 1081
construction. The bond shall be released by the board not later 1082
than one year after the date the repairs are completed. The 1083
energy facility owner or lessee pursuant to a sale and leaseback 1084
transaction shall post a bond, as may be required by the Ohio 1085
power siting board in the certificate authorizing commencement 1086
of construction issued pursuant to section 4906.10 of the 1087
Revised Code, to ensure funding for repairs to roads, bridges, 1088
and culverts resulting from decommissioning of the facility. The 1089
energy facility owner or lessee and the county engineer may 1090
enter into an agreement regarding specific transportation plans, 1091
reinforcements, modifications, use and repair of roads, 1092
financial security to be provided, and any other relevant issue. 1093

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

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust

an estimate produced by a model to account for variables not 1125
accounted for by the model. 1126

(7) For energy projects with a nameplate capacity in 1127
excess of two megawatts, establish a relationship with a member 1128
of the university system of Ohio as defined in section 3345.011 1129
of the Revised Code or with a person offering an apprenticeship 1130
program registered with the employment and training 1131
administration within the United States department of labor or 1132
with the apprenticeship council created by section 4139.02 of 1133
the Revised Code, to educate and train individuals for careers 1134
in the wind or solar energy industry. The relationship may 1135
include endowments, cooperative programs, internships, 1136
apprenticeships, research and development projects, and 1137
curriculum development. 1138

(8) Offer to sell power or renewable energy credits from 1139
the energy project to electric distribution utilities or 1140
electric service companies subject to renewable energy resource 1141
~~requirements~~ provisions under section 4928.64 of the Revised 1142
Code that have issued requests for proposal for such power or 1143
renewable energy credits. If no electric distribution utility or 1144
electric service company issues a request for proposal on or 1145
before December 31, 2010, or accepts an offer for power or 1146
renewable energy credits within forty-five days after the offer 1147
is submitted, power or renewable energy credits from the energy 1148
project may be sold to other persons. Division (F) (8) of this 1149
section does not apply if: 1150

(a) The owner or lessee is a rural electric company or a 1151
municipal power agency as defined in section 3734.058 of the 1152
Revised Code. 1153

(b) The owner or lessee is a person that, before 1154

completion of the energy project, contracted for the sale of 1155
power or renewable energy credits with a rural electric company 1156
or a municipal power agency. 1157

(c) The owner or lessee contracts for the sale of power or 1158
renewable energy credits from the energy project before June 17, 1159
2010. 1160

(9) Make annual service payments as required by division 1161
(G) of this section and as may be required in a resolution 1162
adopted by a board of county commissioners under division (E) of 1163
this section. 1164

(G) The owner or a lessee pursuant to a sale and leaseback 1165
transaction of a qualified energy project shall make annual 1166
service payments in lieu of taxes to the county treasurer on or 1167
before the final dates for payments of taxes on public utility 1168
personal property on the real and public utility personal 1169
property tax list for each tax year for which property of the 1170
energy project is exempt from taxation under this section. The 1171
county treasurer shall allocate the payment on the basis of the 1172
project's physical location. Upon receipt of a payment, or if 1173
timely payment has not been received, the county treasurer shall 1174
certify such receipt or non-receipt to the director of 1175
development services and tax commissioner in a form determined 1176
by the director and commissioner, respectively. Each payment 1177
shall be in the following amount: 1178

(1) In the case of a solar energy project, seven thousand 1179
dollars per megawatt of nameplate capacity located in the county 1180
as of December 31, 2010, for tax year 2011, as of December 31, 1181
2011, for tax year 2012, as of December 31, 2012, for tax year 1182
2013, as of December 31, 2013, for tax year 2014, as of December 1183
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1184

year 2016, and as of December 31, 2016, for tax year 2017 and 1185
each tax year thereafter; 1186

(2) In the case of any other energy project using 1187
renewable energy resources, the following: 1188

(a) If the project maintains during the construction or 1189
installation of the energy facility a ratio of Ohio-domiciled 1190
full-time equivalent employees to total full-time equivalent 1191
employees of not less than seventy-five per cent, six thousand 1192
dollars per megawatt of nameplate capacity located in the county 1193
as of the thirty-first day of December of the preceding tax 1194
year; 1195

(b) If the project maintains during the construction or 1196
installation of the energy facility a ratio of Ohio-domiciled 1197
full-time equivalent employees to total full-time equivalent 1198
employees of less than seventy-five per cent but not less than 1199
sixty per cent, seven thousand dollars per megawatt of nameplate 1200
capacity located in the county as of the thirty-first day of 1201
December of the preceding tax year; 1202

(c) If the project maintains during the construction or 1203
installation of the energy facility a ratio of Ohio-domiciled 1204
full-time equivalent employees to total full-time equivalent 1205
employees of less than sixty per cent but not less than fifty 1206
per cent, eight thousand dollars per megawatt of nameplate 1207
capacity located in the county as of the thirty-first day of 1208
December of the preceding tax year. 1209

(3) In the case of an energy project using clean coal 1210
technology, advanced nuclear technology, or cogeneration 1211
technology, the following: 1212

(a) If the project maintains during the construction or 1213

installation of the energy facility a ratio of Ohio-domiciled 1214
full-time equivalent employees to total full-time equivalent 1215
employees of not less than seventy-five per cent, six thousand 1216
dollars per megawatt of nameplate capacity located in the county 1217
as of the thirty-first day of December of the preceding tax 1218
year; 1219

(b) If the project maintains during the construction or 1220
installation of the energy facility a ratio of Ohio-domiciled 1221
full-time equivalent employees to total full-time equivalent 1222
employees of less than seventy-five per cent but not less than 1223
sixty per cent, seven thousand dollars per megawatt of nameplate 1224
capacity located in the county as of the thirty-first day of 1225
December of the preceding tax year; 1226

(c) If the project maintains during the construction or 1227
installation of the energy facility a ratio of Ohio-domiciled 1228
full-time equivalent employees to total full-time equivalent 1229
employees of less than sixty per cent but not less than fifty 1230
per cent, eight thousand dollars per megawatt of nameplate 1231
capacity located in the county as of the thirty-first day of 1232
December of the preceding tax year. 1233

(H) The director of development services in consultation 1234
with the tax commissioner shall adopt rules pursuant to Chapter 1235
119. of the Revised Code to implement and enforce this section. 1236

Section 2. That existing sections 4928.143, 4928.64, 1237
4928.643, 4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 of 1238
the Revised Code are hereby repealed. 1239

Section 3. That Section 6 of Sub. S.B. 310 of the 130th 1240
General Assembly be amended to read as follows: 1241

Sec. 6. (A) If an electric distribution utility has a 1242

portfolio plan that is in effect on the effective date of this 1243
section, the utility shall do either of the following, at its 1244
sole discretion: 1245

(1) Continue to implement the portfolio plan with no 1246
amendments to the plan, for the duration that the Public 1247
Utilities Commission originally approved, subject to divisions 1248
(D) and (E) of this section; 1249

(2) Seek an amendment of the portfolio plan under division 1250
(B) of this section. 1251

(B) (1) An electric distribution utility that seeks to 1252
amend its portfolio plan under division (A) (2) of this section 1253
shall file an application with the Commission to amend the plan 1254
not later than thirty days after ~~the effective date of this~~ 1255
~~section~~ September 12, 2014. The Commission shall review the 1256
application in accordance with its rules as if the application 1257
were for a new portfolio plan. The Commission shall review and 1258
approve, or modify and approve, the application not later than 1259
sixty days after the date that the application is filed. Any 1260
portfolio plan amended under this division shall take effect on 1261
January 1, 2015, and expire on December 31, 2016. If the 1262
Commission fails to review and approve, or modify and approve, 1263
the application on or before January 1, 2015, the plan shall be 1264
deemed approved as amended in the application and shall take 1265
effect on January 1, 2015, and expire on December 31, 2016. 1266

(2) Section 4928.66 of the Revised Code, as amended by 1267
~~this act~~ Sub. S.B. 310 of the 130th General Assembly, shall 1268
apply to an electric distribution utility that applies to amend 1269
its portfolio plan under division (B) of this section. 1270

(C) If an electric distribution utility fails to file an 1271

application to amend its portfolio plan under division (B) of 1272
this section within the required thirty-day period, the electric 1273
distribution utility shall proceed in accordance with division 1274
(A) (1) of this section. 1275

(D) If an electric distribution utility implements its 1276
portfolio plan under division (A) (1) of this section for the 1277
plan's original duration and if the plan expires before December 1278
31, 2016, the Commission shall automatically extend the plan 1279
through December 31, 2016, with no amendments to the plan. 1280

(E) (1) The provisions of section 4928.66 of the Revised 1281
Code, as it existed prior to ~~the effective date of this section~~ 1282
September 12, 2014, shall apply to an electric distribution 1283
utility that has a portfolio plan that is implemented under 1284
division (A) (1) of this section for either of the following time 1285
periods: 1286

(a) The plan's original duration; 1287

(b) The plan's original duration and then, until December 1288
31, 2016, if the plan is extended under division (D) of this 1289
section. 1290

(2) Beginning January 1, 2017, the provisions of section 1291
4928.66 of the Revised Code as amended by ~~this act~~ Sub. S.B. 310 1292
of the 130th General Assembly shall apply to the electric 1293
distribution utility through the date that is the day before the 1294
provisions of that section, as amended by H.B. 554 of the 131st 1295
General Assembly, take effect. 1296

(3) The provisions of section 4928.66 of the Revised Code, 1297
as amended by H.B. 554 of the 131st General Assembly, shall 1298
apply to the electric distribution utility beginning on the 1299
effective date of the amendments to that section by that act. 1300

Section 4. That existing Section 6 of Sub. S.B. 310 of the 1301
130th General Assembly is hereby repealed. 1302

Section 5. (A) In 2017, the Public Utilities Commission 1303
shall review an electric distribution utility's or electric 1304
services company's compliance with the benchmarks for 2016 under 1305
division (B) (2) of section 4928.64 of the Revised Code as that 1306
division existed prior to the effective date of this section, 1307
and in the course of that review, shall identify any 1308
undercompliance or noncompliance of the utility or company that 1309
it determines is weather-related, related to equipment or 1310
resource shortages for qualifying renewable energy resources as 1311
applicable, or is otherwise outside the utility's or company's 1312
control. 1313

(B) Subject to the cost cap provisions of division (C) (3) 1314
of section 4928.64 of the Revised Code, if the commission 1315
determines, after notice and opportunity for hearing, and based 1316
upon its findings in the review under division (A) of this 1317
section regarding avoidable undercompliance or noncompliance, 1318
but subject to the force-majeure provisions of division (C) (4) 1319
(a) of section 4928.64 of the Revised Code, that the utility or 1320
company has failed to comply with the benchmarks for 2016, the 1321
commission shall impose a renewable energy compliance payment on 1322
the utility or company. 1323

(1) The compliance payment pertaining to the solar energy 1324
resource benchmark for 2016 shall be three hundred dollars per 1325
megawatt hour of undercompliance or noncompliance in the period 1326
under review. 1327

(2) The compliance payment pertaining to the renewable 1328
energy resource benchmark for 2016 shall be assessed in 1329
accordance with division (C) (2) (b) of section 4928.64 of the 1330

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| Revised Code. | 1331 |
| (C) Division (C) (2) (c) of section 4928.64 of the Revised | 1332 |
| Code applies to compliance payments imposed under this section. | 1333 |
| Section 6. The amendments to section 4928.6610 of the | 1334 |
| Revised Code by this act shall take effect January 1, 2019. | 1335 |