

As Introduced

**130th General Assembly
Regular Session
2013-2014**

S. B. No. 310

Senator Balderson

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A B I L L

To amend sections 4928.20, 4928.64, 4928.65, and 1
4928.66 and to enact sections 4928.641 and 2
4928.661 of the Revised Code to make changes to 3
the renewable energy, energy efficiency, and peak 4
demand reduction requirements and to create a 5
study committee. 6

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

Section 1. That sections 4928.20, 4928.64, 4928.65, and 7
4928.66 be amended and sections 4928.641 and 4928.661 of the 8
Revised Code be enacted to read as follows: 9

Sec. 4928.20. (A) The legislative authority of a municipal 10
corporation may adopt an ordinance, or the board of township 11
trustees of a township or the board of county commissioners of a 12
county may adopt a resolution, under which, on or after the 13
starting date of competitive retail electric service, it may 14
aggregate in accordance with this section the retail electrical 15
loads located, respectively, within the municipal corporation, 16
township, or unincorporated area of the county and, for that 17
purpose, may enter into service agreements to facilitate for those 18
loads the sale and purchase of electricity. The legislative 19
authority or board also may exercise such authority jointly with 20

any other such legislative authority or board. For customers that 21
are not mercantile customers, an ordinance or resolution under 22
this division shall specify whether the aggregation will occur 23
only with the prior, affirmative consent of each person owning, 24
occupying, controlling, or using an electric load center proposed 25
to be aggregated or will occur automatically for all such persons 26
pursuant to the opt-out requirements of division (D) of this 27
section. The aggregation of mercantile customers shall occur only 28
with the prior, affirmative consent of each such person owning, 29
occupying, controlling, or using an electric load center proposed 30
to be aggregated. Nothing in this division, however, authorizes 31
the aggregation of the retail electric loads of an electric load 32
center, as defined in section 4933.81 of the Revised Code, that is 33
located in the certified territory of a nonprofit electric 34
supplier under sections 4933.81 to 4933.90 of the Revised Code or 35
an electric load center served by transmission or distribution 36
facilities of a municipal electric utility. 37

(B) If an ordinance or resolution adopted under division (A) 38
of this section specifies that aggregation of customers that are 39
not mercantile customers will occur automatically as described in 40
that division, the ordinance or resolution shall direct the board 41
of elections to submit the question of the authority to aggregate 42
to the electors of the respective municipal corporation, township, 43
or unincorporated area of a county at a special election on the 44
day of the next primary or general election in the municipal 45
corporation, township, or county. The legislative authority or 46
board shall certify a copy of the ordinance or resolution to the 47
board of elections not less than ninety days before the day of the 48
special election. No ordinance or resolution adopted under 49
division (A) of this section that provides for an election under 50
this division shall take effect unless approved by a majority of 51
the electors voting upon the ordinance or resolution at the 52
election held pursuant to this division. 53

(C) Upon the applicable requisite authority under divisions 54
(A) and (B) of this section, the legislative authority or board 55
shall develop a plan of operation and governance for the 56
aggregation program so authorized. Before adopting a plan under 57
this division, the legislative authority or board shall hold at 58
least two public hearings on the plan. Before the first hearing, 59
the legislative authority or board shall publish notice of the 60
hearings once a week for two consecutive weeks in a newspaper of 61
general circulation in the jurisdiction or as provided in section 62
7.16 of the Revised Code. The notice shall summarize the plan and 63
state the date, time, and location of each hearing. 64

(D) No legislative authority or board, pursuant to an 65
ordinance or resolution under divisions (A) and (B) of this 66
section that provides for automatic aggregation of customers that 67
are not mercantile customers as described in division (A) of this 68
section, shall aggregate the electrical load of any electric load 69
center located within its jurisdiction unless it in advance 70
clearly discloses to the person owning, occupying, controlling, or 71
using the load center that the person will be enrolled 72
automatically in the aggregation program and will remain so 73
enrolled unless the person affirmatively elects by a stated 74
procedure not to be so enrolled. The disclosure shall state 75
prominently the rates, charges, and other terms and conditions of 76
enrollment. The stated procedure shall allow any person enrolled 77
in the aggregation program the opportunity to opt out of the 78
program every three years, without paying a switching fee. Any 79
such person that opts out before the commencement of the 80
aggregation program pursuant to the stated procedure shall default 81
to the standard service offer provided under section 4928.14 or 82
division (D) of section 4928.35 of the Revised Code until the 83
person chooses an alternative supplier. 84

(E)(1) With respect to a governmental aggregation for a 85

municipal corporation that is authorized pursuant to divisions (A) 86
to (D) of this section, resolutions may be proposed by initiative 87
or referendum petitions in accordance with sections 731.28 to 88
731.41 of the Revised Code. 89

(2) With respect to a governmental aggregation for a township 90
or the unincorporated area of a county, which aggregation is 91
authorized pursuant to divisions (A) to (D) of this section, 92
resolutions may be proposed by initiative or referendum petitions 93
in accordance with sections 731.28 to 731.40 of the Revised Code, 94
except that: 95

(a) The petitions shall be filed, respectively, with the 96
township fiscal officer or the board of county commissioners, who 97
shall perform those duties imposed under those sections upon the 98
city auditor or village clerk. 99

(b) The petitions shall contain the signatures of not less 100
than ten per cent of the total number of electors in, 101
respectively, the township or the unincorporated area of the 102
county who voted for the office of governor at the preceding 103
general election for that office in that area. 104

(F) A governmental aggregator under division (A) of this 105
section is not a public utility engaging in the wholesale purchase 106
and resale of electricity, and provision of the aggregated service 107
is not a wholesale utility transaction. A governmental aggregator 108
shall be subject to supervision and regulation by the public 109
utilities commission only to the extent of any competitive retail 110
electric service it provides and commission authority under this 111
chapter. 112

(G) This section does not apply in the case of a municipal 113
corporation that supplies such aggregated service to electric load 114
centers to which its municipal electric utility also supplies a 115
noncompetitive retail electric service through transmission or 116

distribution facilities the utility singly or jointly owns or	117
operates.	118
(H) A governmental aggregator shall not include in its	119
aggregation the accounts of any of the following:	120
(1) A customer that has opted out of the aggregation;	121
(2) A customer in contract with a certified electric services	122
company;	123
(3) A customer that has a special contract with an electric	124
distribution utility;	125
(4) A customer that is not located within the governmental	126
aggregator's governmental boundaries;	127
(5) Subject to division (C) of section 4928.21 of the Revised	128
Code, a customer who appears on the "do not aggregate" list	129
maintained under that section.	130
(I) Customers that are part of a governmental aggregation	131
under this section shall be responsible only for such portion of a	132
surcharge under section 4928.144 of the Revised Code that is	133
proportionate to the benefits, as determined by the commission,	134
that electric load centers within the jurisdiction of the	135
governmental aggregation as a group receive. The proportionate	136
surcharge so established shall apply to each customer of the	137
governmental aggregation while the customer is part of that	138
aggregation. If a customer ceases being such a customer, the	139
otherwise applicable surcharge shall apply. Nothing in this	140
section shall result in less than full recovery by an electric	141
distribution utility of any surcharge authorized under section	142
4928.144 of the Revised Code. Nothing in this section shall result	143
in less than the full and timely imposition, charging, collection,	144
and adjustment by an electric distribution utility, its assignee,	145
or any collection agent, of the phase-in-recovery charges	146
authorized pursuant to a final financing order issued pursuant to	147

sections 4928.23 to 4928.2318 of the Revised Code. 148

(J) On behalf of the customers that are part of a 149
governmental aggregation under this section and by filing written 150
notice with the public utilities commission, the legislative 151
authority that formed or is forming that governmental aggregation 152
may elect not to receive standby service within the meaning of 153
division (B)(2)(d) of section 4928.143 of the Revised Code from an 154
electric distribution utility in whose certified territory the 155
governmental aggregation is located and that operates under an 156
approved electric security plan under that section. Upon the 157
filing of that notice, the electric distribution utility shall not 158
charge any such customer to whom competitive retail electric 159
generation service is provided by another supplier under the 160
governmental aggregation for the standby service. Any such 161
consumer that returns to the utility for competitive retail 162
electric service shall pay the market price of power incurred by 163
the utility to serve that consumer plus any amount attributable to 164
the utility's cost of compliance with the ~~alternative~~ renewable 165
energy resource provisions of section 4928.64 of the Revised Code 166
to serve the consumer. Such market price shall include, but not be 167
limited to, capacity and energy charges; all charges associated 168
with the provision of that power supply through the regional 169
transmission organization, including, but not limited to, 170
transmission, ancillary services, congestion, and settlement and 171
administrative charges; and all other costs incurred by the 172
utility that are associated with the procurement, provision, and 173
administration of that power supply, as such costs may be approved 174
by the commission. The period of time during which the market 175
price and ~~alternative~~ renewable energy resource amount shall be so 176
assessed on the consumer shall be from the time the consumer so 177
returns to the electric distribution utility until the expiration 178
of the electric security plan. However, if that period of time is 179
expected to be more than two years, the commission may reduce the 180

time period to a period of not less than two years. 181

(K) The commission shall adopt rules to encourage and promote 182
large-scale governmental aggregation in this state. For that 183
purpose, the commission shall conduct an immediate review of any 184
rules it has adopted for the purpose of this section that are in 185
effect on the effective date of the amendment of this section by 186
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 187
within the context of an electric security plan under section 188
4928.143 of the Revised Code, the commission shall consider the 189
effect on large-scale governmental aggregation of any 190
nonbypassable generation charges, however collected, that would be 191
established under that plan, except any nonbypassable generation 192
charges that relate to any cost incurred by the electric 193
distribution utility, the deferral of which has been authorized by 194
the commission prior to the effective date of the amendment of 195
this section by S.B. 221 of the 127th general assembly, July 31, 196
2008. 197

Sec. 4928.64. (A)(1) As used in ~~sections 4928.64 and 4928.65~~ 198
~~of the Revised Code~~ this section, "alternative qualifying 199
renewable energy resource" means ~~an advanced energy resource or a~~ 200
renewable energy resource, as defined in section 4928.01 of the 201
Revised Code that has a placed-in-service date of January 1, 1998, 202
or after; a renewable energy resource created on or after January 203
1, 1998, by the modification or retrofit of any facility placed in 204
service prior to January 1, 1998; or a mercantile customer-sited 205
~~advanced energy resource or~~ renewable energy resource, whether new 206
or existing, that the mercantile customer commits for integration 207
into the electric distribution utility's demand-response, energy 208
efficiency, or peak demand reduction programs as provided under 209
division (A)(2)(c) of section 4928.66 of the Revised Code, 210
including, but not limited to, any of the following: 211

(a) A resource that has the effect of improving the relationship between real and reactive power;	212 213
(b) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	214 215 216
(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	217 218 219
(d) Electric generation equipment owned or controlled by a mercantile customer that uses an advanced energy resource or a renewable energy resource;	220 221 222
(e) Any advanced energy resource or renewable energy resource of the mercantile customer that can be utilized effectively as part of any advanced energy resource plan of an electric distribution utility and would otherwise qualify as an alternative energy resource if it were utilized directly by an electric distribution utility.	223 224 225 226 227 228
(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such an advanced energy resource or a <u>qualifying</u> renewable energy resource.	229 230 231 232
(B)(1) By 2025 <u>2014</u> and thereafter, an electric distribution utility shall provide from alternative <u>qualifying renewable</u> energy resources, including, at its discretion, alternative <u>qualifying renewable</u> 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 alternative <u>qualifying renewable</u> energy resources, including, at its discretion, alternative <u>qualifying renewable</u> energy resources	233 234 235 236 237 238 239 240 241 242

obtained pursuant to an electricity supply contract. That portion 243
shall equal ~~twenty five~~ two and one-half per cent of the total 244
number of kilowatt hours of electricity sold by the subject 245
utility or company to any and all retail electric consumers whose 246
electric load centers are served by that utility and are located 247
within the utility's certified territory or, in the case of an 248
electric services company, are served by the company and are 249
located within this state. However, nothing in this section 250
precludes a utility or company from providing a greater 251
percentage. The baseline for a utility's or company's compliance 252
with the ~~alternative~~ renewable energy resource requirements of 253
this section shall be the average of such total kilowatt hours it 254
sold in the preceding three calendar years, except that the 255
commission may reduce a utility's or company's baseline to adjust 256
for new economic growth in the utility's certified territory or, 257
in the case of an electric services company, in the company's 258
service area in this state. 259

~~Of the alternative energy resources implemented by the 260
subject utility or company by 2025 and thereafter:~~ 261

~~(1) Half may be generated from advanced energy resources;~~ 262

(2) ~~At least half~~ The portion required under division (B)(1) 263
of this section shall be generated from renewable energy 264
~~resources, including one half~~ include twelve-hundredths of one per 265
cent from solar energy resources, ~~in accordance with the following~~ 266
~~benchmarks:~~ 267

By end of year	Renewable energy	Solar energy	
	resources	resources	
2009	0.25%	0.004%	269
2010	0.50%	0.010%	270
2011	1%	0.030%	271
2012	1.5%	0.060%	272
2013	2%	0.090%	273

2014	2.5%	0.12%	274
2015	3.5%	0.15%	275
2016	4.5%	0.18%	276
2017	5.5%	0.22%	277
2018	6.5%	0.26%	278
2019	7.5%	0.3%	279
2020	8.5%	0.34%	280
2021	9.5%	0.38%	281
2022	10.5%	0.42%	282
2023	11.5%	0.46%	283
2024 and each calendar year thereafter	12.5%	0.5%.	284

(3) At least one-half of the qualifying renewable energy resources implemented by the utility or company shall be met through facilities located in this state; the remainder shall be met 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 requirements under divisions~~ (B)(1) and (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 ~~advanced energy or~~ 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 305
requirements under divisions (B)(1) and (2) of this section, the 306
commission shall impose a renewable energy compliance payment on 307
the utility or company. 308

(a) The compliance payment pertaining to the solar energy 309
resource ~~benchmarks~~ requirement under division (B)(2) of this 310
section shall be ~~an amount~~ three hundred dollars per megawatt hour 311
of undercompliance or noncompliance in the period under review, 312
~~starting at four hundred fifty dollars for 2009, four hundred~~ 313
~~dollars for 2010 and 2011, and similarly reduced every two years~~ 314
~~thereafter through 2024 by fifty dollars, to a minimum of fifty~~ 315
~~dollars.~~ 316

(b) The compliance payment pertaining to the renewable energy 317
resource ~~benchmarks~~ requirement under division (B)~~(2)~~(1) of this 318
section shall equal the number of additional renewable energy 319
credits that the electric distribution utility or electric 320
services company would have needed to comply with the ~~applicable~~ 321
~~benchmark~~ requirement in the period under review times an amount 322
that shall begin at forty-five dollars and shall be adjusted 323
annually by the commission to reflect any change in the consumer 324
price index as defined in section 101.27 of the Revised Code, but 325
shall not be less than forty-five dollars. 326

(c) The compliance payment shall not be passed through by the 327
electric distribution utility or electric services company to 328
consumers. The compliance payment shall be remitted to the 329
commission, for deposit to the credit of the advanced energy fund 330
created under section 4928.61 of the Revised Code. Payment of the 331
compliance payment shall be subject to such collection and 332
enforcement procedures as apply to the collection of a forfeiture 333
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 334

(3) An electric distribution utility or an electric services 335
company ~~need not comply with a benchmark under division (B)(1) or~~ 336

~~(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 shall not continue to comply, or be subject to any obligation to continue to comply, in any year, with a requirement under division (B)(1) or (2) of this section, if continued compliance for that year would exceed a cost cap that equals the product of three per cent multiplied by the sales supply amount. The sales supply amount is the product of the sales baseline multiplied by the generation supply dollar amount. For purposes of division (C)(3) of this section:~~

(a) "Sales baseline" means the sales baseline in megawatt hours for the applicable compliance year, which consists of an average of the utility's or company's annual retail sales of electricity sold in the state from the three preceding years.

(b) "Generation supply dollar amount" means the reasonably expected dollar amount per megawatt hour for the generation supply available to consumers pursuant to section 4928.141 of the Revised Code during the applicable compliance year, which consists of a weighted average of the cost of the standard service offer supply for delivery during that compliance year, net of distribution losses. With respect to an electric services company, generation supply dollar amount means the average weighted cost of generation supply of the relevant electric distribution utility.

(c) In making the calculation under division (C)(3) of this section, any exemption from taxes and assessments granted under section 5727.75 of the Revised Code shall be treated as if it had not been granted.

(4)(a) An electric distribution utility or electric services

company may request the commission to make a force majeure 369
determination pursuant to this division regarding all or part of 370
the utility's or company's compliance with any minimum ~~benchmark~~ 371
requirement under division (B)(1) or (2) of this section during 372
the period of review occurring pursuant to division (C)(2) of this 373
section. The commission may require the electric distribution 374
utility or electric services company to make solicitations for 375
renewable energy resource credits as part of its default service 376
before the utility's or company's request of force majeure under 377
this division can be made. 378

(b) Within ninety days after the filing of a request by an 379
electric distribution utility or electric services company under 380
division (C)(4)(a) of this section, the commission shall determine 381
if qualifying renewable energy resources are reasonably available 382
in the marketplace in sufficient quantities for the utility or 383
company to comply with the ~~subject~~ minimum ~~benchmark~~ requirement 384
during the review period. In making this determination, the 385
commission shall consider whether the electric distribution 386
utility or electric services company has made a good faith effort 387
to acquire sufficient qualifying renewable energy or, as 388
applicable, solar energy resources to so comply, including, but 389
not limited to, by banking or seeking renewable energy resource 390
credits or by seeking the resources through long-term contracts. 391
Additionally, the commission shall consider the availability of 392
qualifying renewable energy or solar energy resources in this 393
state and other jurisdictions in the PJM interconnection regional 394
transmission organization or its successor and the ~~midwest~~ 395
midcontinent independent system operator or its successor. 396

(c) If, pursuant to division (C)(4)(b) of this section, the 397
commission determines that qualifying renewable energy or solar 398
energy resources are not reasonably available to permit the 399
electric distribution utility or electric services company to 400

comply, during the period of review, with the ~~subject~~ minimum 401
~~benchmark requirements~~ prescribed under ~~division~~ divisions (B)(1) 402
and (2) of this section, the commission shall modify that 403
compliance obligation of the utility or company as it determines 404
appropriate to accommodate the finding. Commission modification 405
shall not automatically reduce the obligation for the electric 406
distribution utility's or electric services company's compliance 407
in subsequent years. If it modifies the electric distribution 408
utility or electric services company obligation under division 409
(C)(4)(c) of this section, the commission may require the utility 410
or company, if sufficient renewable energy resource credits exist 411
in the marketplace, to acquire additional renewable energy 412
resource credits in subsequent years equivalent to the utility's 413
or company's modified obligation under division (C)(4)(c) of this 414
section. 415

(5) The commission shall establish a process to provide for 416
at least an annual review of the ~~alternative~~ renewable energy 417
resource market in this state and in the service territories of 418
the regional transmission organizations that manage transmission 419
systems located in this state. The commission shall use the 420
results of this study to identify any needed changes to the amount 421
of the renewable energy compliance payment specified under 422
divisions (C)(2)(a) and (b) of this section. Specifically, the 423
commission may increase the amount to ensure that payment of 424
compliance payments is not used to achieve compliance with this 425
section in lieu of actually acquiring or realizing energy derived 426
from qualifying renewable energy resources. However, if the 427
commission finds that the amount of the compliance payment should 428
be otherwise changed, the commission shall present this finding to 429
the general assembly for legislative enactment. 430

(D)~~(1)~~ The commission annually shall submit to the general 431
assembly in accordance with section 101.68 of the Revised Code a 432

report describing all of the following: 433

~~(a)(1)~~ The compliance of electric distribution utilities and 434
electric services companies with division (B) of this section; 435

~~(b)(2)~~ The average annual cost of renewable energy credits 436
purchased by utilities and companies for the year covered in the 437
report; 438

~~(c)(3)~~ Any strategy for utility and company compliance or for 439
encouraging the use of alternative qualifying renewable energy 440
resources in supplying this state's electricity needs in a manner 441
that considers available technology, costs, job creation, and 442
economic impacts. 443

The commission shall begin providing the information 444
described in division (D)~~(1)~~~~(b)(2)~~ of this section in each report 445
submitted after ~~the effective date of the amendment of this~~ 446
~~section by S.B. 315 of the 129th general assembly~~ September 10, 447
2012. The commission shall allow and consider public comments on 448
the report prior to its submission to the general assembly. 449
Nothing in the report shall be binding on any person, including 450
any utility or company for the purpose of its compliance with any 451
~~benchmark~~ requirement under division (B) of this section, or the 452
enforcement of that provision under division (C) of this section. 453

~~(2) The governor, in consultation with the commission~~ 454
~~chairperson, shall appoint an alternative energy advisory~~ 455
~~committee. The committee shall examine available technology for~~ 456
~~and related timetables, goals, and costs of the alternative energy~~ 457
~~resource requirements under division (B) of this section and shall~~ 458
~~submit to the commission a semiannual report of its~~ 459
~~recommendations.~~ 460

(E) All costs incurred by an electric distribution utility in 461
complying with the requirements of this section shall be 462
bypassable by any consumer that has exercised choice of supplier 463

under section 4928.03 of the Revised Code. 464

Sec. 4928.641. If an electric distribution utility has 465
executed a contract to procure renewable energy resources and 466
there are ongoing costs associated with that contract that are 467
being recovered from customers through a bypassable charge as of 468
the effective date of ...B... of the 130th general assembly, that 469
cost recovery shall continue until the costs associated with the 470
contract are fully recovered. This division applies regardless of 471
whether the utility has, in any year, met the cost cap under 472
division (C)(3) of section 4928.64 of the Revised Code. 473

Sec. 4928.65. An electric distribution utility or electric 474
services company may use renewable energy credits any time in the 475
five calendar years following the date of their purchase or 476
acquisition from any entity, including, but not limited to, a 477
mercantile customer or an owner or operator of a hydroelectric 478
generating facility that is located at a dam on a river, or on any 479
water discharged to a river, that is within or bordering this 480
state or within or bordering an adjoining state, for the purpose 481
of complying with the renewable energy and solar energy resource 482
requirements of ~~division~~ divisions (B)(1) and (2) of section 483
4928.64 of the Revised Code. The public utilities commission shall 484
adopt rules specifying that one unit of credit shall equal one 485
megawatt hour of electricity derived from renewable energy 486
resources, except that, for a generating facility of seventy-five 487
megawatts or greater that is situated within this state and has 488
committed by December 31, 2009, to modify or retrofit its 489
generating unit or units to enable the facility to generate 490
principally from biomass energy by June 30, 2013, each megawatt 491
hour of electricity generated principally from that biomass energy 492
shall equal, in units of credit, the product obtained by 493
multiplying the actual percentage of biomass feedstock heat input 494

used to generate such megawatt hour by the quotient obtained by 495
dividing the then existing unit dollar amount used to determine a 496
renewable energy compliance payment as provided under division 497
(C)(2)(b) of section 4928.64 of the Revised Code by the then 498
existing market value of one renewable energy credit, but such 499
megawatt hour shall not equal less than one unit of credit. The 500
rules also shall provide for this state a system of registering 501
renewable energy credits by specifying which of any generally 502
available registries shall be used for that purpose and not by 503
creating a registry. That selected system of registering renewable 504
energy credits shall allow a hydroelectric generating facility to 505
be eligible for obtaining renewable energy credits and shall allow 506
customer-sited projects or actions the broadest opportunities to 507
be eligible for obtaining renewable energy credits. 508

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric 509
distribution utility shall implement energy efficiency programs 510
that achieve energy savings equivalent to at least three-tenths of 511
one per cent of the total, annual average, and normalized 512
kilowatt-hour sales of the electric distribution utility during 513
the preceding three calendar years to customers in this state. An 514
energy efficiency program may include a combined heat and power 515
system placed into service or retrofitted on or after the 516
effective date of the amendment of this section by S.B. 315 of the 517
129th general assembly, September 10, 2012, or a waste energy 518
recovery system placed into service or retrofitted on or after ~~the~~ 519
~~same date~~ September 10, 2012, except that a waste energy recovery 520
system described in division (A)(38)(b) of section 4928.01 of the 521
Revised Code may be included only if it was placed into service 522
between January 1, 2002, and December 31, 2004. For a waste energy 523
recovery or combined heat and power system, the savings shall be 524
as estimated by the public utilities commission. The savings 525
requirement, using such a three-year average, shall increase to an 526

additional five-tenths of one per cent in 2010, seven-tenths of 527
one per cent in 2011, eight-tenths of one per cent in 2012, 528
nine-tenths of one per cent in 2013, and one per cent from in 2014 529
~~to 2018, . In 2015 and two per cent each year thereafter, achieving~~ 530
~~a cumulative, the annual energy savings in excess of twenty two~~ 531
~~requirement shall be four and two-tenths of one per cent by the~~ 532
~~end of 2025 of the baseline described in division (A)(2)(a) of~~ 533
this section for energy savings. For purposes of a waste energy 534
recovery or combined heat and power system, an electric 535
distribution utility shall not apply more than the total annual 536
percentage of the electric distribution utility's 537
industrial-customer load, relative to the electric distribution 538
utility's total load, to the annual energy savings requirement. 539

(b) Beginning in 2009, an electric distribution utility shall 540
implement peak demand reduction programs designed to achieve a one 541
per cent reduction in peak demand in 2009 and an additional 542
seventy-five hundredths of one per cent reduction each year 543
through 2018 2014. ~~In 2018, the standing committees in the house~~ 544
~~of representatives and the senate primarily dealing with energy~~ 545
~~issues shall make recommendations to the general assembly~~ 546
~~regarding future peak demand reduction targets.~~ 547

(2) For the purposes of divisions (A)(1)(a) and (b) of this 548
section: 549

(a) The baseline for energy savings under division (A)(1)(a) 550
of this section shall be the average of the total kilowatt hours 551
the electric distribution utility sold in the preceding three 552
calendar years, and the baseline for a peak demand reduction under 553
division (A)(1)(b) of this section shall be the average peak 554
demand on the utility in the preceding three calendar years, 555
except that the commission may reduce either baseline to adjust 556
for new economic growth in the utility's certified territory. 557

(b) The commission may amend the benchmarks set forth in 558
division (A)(1)(a) or (b) of this section if, after application by 559
the electric distribution utility, the commission determines that 560
the amendment is necessary because the utility cannot reasonably 561
achieve the benchmarks due to regulatory, economic, or 562
technological reasons beyond its reasonable control. 563

(c) Compliance with divisions (A)(1)(a) and (b) of this 564
section shall be measured by including the effects of all 565
demand-response programs for mercantile customers of the subject 566
electric distribution utility, all waste energy recovery systems 567
and all combined heat and power systems, and all such mercantile 568
customer-sited energy efficiency, including waste energy recovery 569
and combined heat and power, and peak demand reduction programs, 570
adjusted upward by the appropriate loss factors. Any mechanism 571
designed to recover the cost of energy efficiency, including waste 572
energy recovery and combined heat and power, and peak demand 573
reduction programs under divisions (A)(1)(a) and (b) of this 574
section may exempt mercantile customers that commit their 575
demand-response or other customer-sited capabilities, whether 576
existing or new, for integration into the electric distribution 577
utility's demand-response, energy efficiency, including waste 578
energy recovery and combined heat and power, or peak demand 579
reduction programs, if the commission determines that that 580
exemption reasonably encourages such customers to commit those 581
capabilities to those programs. If a mercantile customer makes 582
such existing or new demand-response, energy efficiency, including 583
waste energy recovery and combined heat and power, or peak demand 584
reduction capability available to an electric distribution utility 585
pursuant to division (A)(2)(c) of this section, the electric 586
utility's baseline under division (A)(2)(a) of this section shall 587
be adjusted to exclude the effects of all such demand-response, 588
energy efficiency, including waste energy recovery and combined 589
heat and power, or peak demand reduction programs that may have 590

existed during the period used to establish the baseline. The 591
baseline also shall be normalized for changes in numbers of 592
customers, sales, weather, peak demand, and other appropriate 593
factors so that the compliance measurement is not unduly 594
influenced by factors outside the control of the electric 595
distribution utility. 596

(d) Programs implemented by a utility may include 597
demand-response programs grid investment programs, provided that 598
such programs are demonstrated to be cost-beneficial, 599
customer-sited programs, including waste energy recovery and 600
combined heat and power systems, and transmission and distribution 601
infrastructure improvements that reduce line losses. Division 602
(A)(2)(c) of this section shall be applied to include facilitating 603
efforts by a mercantile customer or group of those customers to 604
offer customer-sited demand-response, energy efficiency, including 605
waste energy recovery and combined heat and power, or peak demand 606
reduction capabilities to the electric distribution utility as 607
part of a reasonable arrangement submitted to the commission 608
pursuant to section 4905.31 of the Revised Code. 609

(e) No programs or improvements described in division 610
(A)(2)(d) of this section shall conflict with any statewide 611
building code adopted by the board of building standards. 612

(B) In accordance with rules it shall adopt, the public 613
utilities commission shall produce and docket at the commission an 614
annual report containing the results of its verification of the 615
annual levels of energy efficiency and of peak demand reductions 616
achieved by each electric distribution utility pursuant to 617
division (A) of this section. A copy of the report shall be 618
provided to the consumers' counsel. 619

(C) If the commission determines, after notice and 620
opportunity for hearing and based upon its report under division 621
(B) of this section, that an electric distribution utility has 622

failed to comply with an energy efficiency or peak demand 623
reduction requirement of division (A) of this section, the 624
commission shall assess a forfeiture on the utility as provided 625
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 626
either in the amount, per day per undercompliance or 627
noncompliance, relative to the period of the report, equal to that 628
prescribed for noncompliances under section 4905.54 of the Revised 629
Code, or in an amount equal to the then existing market value of 630
one renewable energy credit per megawatt hour of undercompliance 631
or noncompliance. Revenue from any forfeiture assessed under this 632
division shall be deposited to the credit of the advanced energy 633
fund created under section 4928.61 of the Revised Code. 634

(D) The commission may establish rules regarding the content 635
of an application by an electric distribution utility for 636
commission approval of a revenue decoupling mechanism under this 637
division. Such an application shall not be considered an 638
application to increase rates and may be included as part of a 639
proposal to establish, continue, or expand energy efficiency or 640
conservation programs. The commission by order may approve an 641
application under this division if it determines both that the 642
revenue decoupling mechanism provides for the recovery of revenue 643
that otherwise may be forgone by the utility as a result of or in 644
connection with the implementation by the electric distribution 645
utility of any energy efficiency or energy conservation programs 646
and reasonably aligns the interests of the utility and of its 647
customers in favor of those programs. 648

(E) The commission additionally shall adopt rules that 649
require an electric distribution utility to provide a customer 650
upon request with two years' consumption data in an accessible 651
form. 652

Sec. 4928.661. (A) Not later than January 1, 2015, the public 653

utilities commission shall adopt rules governing the disclosure of 654
the costs to customers of the renewable energy resource and energy 655
efficiency savings requirements of sections 4928.64 and 4928.66 of 656
the Revised Code. The rules shall include both of the following 657
requirements: 658

(1) That every electric distribution utility list, on all 659
customer bills, the cost to each individual customer of the 660
utility's compliance with both of the following for the applicable 661
billing period: 662

(a) The renewable energy resource requirements under section 663
4928.64 of the Revised Code; 664

(b) The energy efficiency savings requirements under section 665
4928.66 of the Revised Code. 666

(2) That every electric services company list, on all 667
customer bills, the cost to each individual customer of the 668
company's compliance with the renewable energy resource 669
requirements under section 4928.64 of the Revised Code for the 670
applicable billing period. 671

(B) The costs required to be listed under division (A)(1) of 672
this section shall be listed on each customer's monthly bill as 673
two distinct line items. The cost required to be listed under 674
division (A)(2) of this section shall be listed on each customer's 675
monthly bill as a distinct line item. 676

Section 2. That existing sections 4928.20, 4928.64, 4928.65, 677
and 4928.66 of the Revised Code are hereby repealed. 678

Section 3. (A) There is hereby created the Energy Mandates 679
Study Committee to study Ohio's renewable energy, energy 680
efficiency, and peak demand reduction mandates. The Committee 681
shall consist of the following members: 682

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives, with not more than three members from the same political party; 683
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- (2) Five members of the Senate appointed by the President of the Senate, with not more than three members from the same political party; 686
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- (3) The Chairperson of the Public Utilities Commission; 689
- (4) The Ohio Consumers' Counsel; 690
- (5) Two representatives from different electric distribution utilities, as defined in section 4928.01 of the Revised Code, one of whom shall be appointed by the Speaker of the House of Representatives and one of whom shall be appointed by the President of the Senate; 691
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- (6) One representative from an electric services company, as defined in section 4928.01 of the Revised Code, jointly appointed by the Speaker of the House of Representatives and the President of the Senate; 696
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- (7) One representative from an advocacy group that focuses on issues related to environmental preservation or the promotion of clean energy, appointed by the Governor; 700
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- (8) One representative from an advocacy group that focuses on business issues for manufacturers in this state, appointed by the President of the Senate; 703
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- (9) One representative of industrial customers described in division (A)(19) of section 4928.01 of the Revised Code, appointed by the President of the Senate; 706
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- (10) One representative of the small business community, appointed by the President of the Senate; 709
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- (11) One representative of the large business community, appointed by the Speaker of the House of Representatives; 711
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(12) One representative of residential consumers, as defined 713
in section 4911.01 of the Revised Code, appointed by the Speaker 714
of the House of Representatives. 715

(B) The Speaker of the House of Representatives and the 716
President of the Senate shall each appoint one legislative member 717
of the Committee to serve as a cochairperson of the Committee. Any 718
vacancies that occur on the Committee shall be filled in the same 719
manner as the original appointment. 720

(C) Not later than December 15, 2015, the Committee shall 721
submit a report of its findings to the House of Representatives 722
and the Senate in accordance with division (B) of section 101.68 723
of the Revised Code. The Committee shall cease to exist on 724
December 16, 2015. The report shall include, at a minimum, all of 725
the following: 726

(1) A cost-benefit analysis of the renewable energy, energy 727
efficiency, and peak demand reduction mandates, including the 728
projected impact on electric customers if the mandates were to 729
remain at the percentage levels required for 2014, and the 730
projected impact on electric customers if the mandates were to 731
return to the percentage levels required under sections 4928.64 732
and 4928.66 of the Revised Code as those sections existed prior to 733
the effective date of this section; 734

(2) A recommendation of the best, evidence-based standard for 735
reviewing the mandates in the future, including an examination of 736
readily available technology to attain such a standard; 737

(3) The potential effects of an opt-in system for the 738
mandates, in contrast to an opt-out system for the mandates, and a 739
recommendation as to whether an opt-in system should apply to all 740
electric customers, whether an opt-out system should apply to only 741
industrial customers, or whether a hybrid of these two systems is 742
recommended. 743

Section 4. As used in Sections 5, 6, 7, 8, 9, and 10 of this act: 744
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(A) "Customer" means any retail customer of an electric distribution utility to which either of the following applies: 746
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(1) The retail customer receives service above the primary voltage level as determined by the utility's tariff classification. 748
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(2) The retail customer is a commercial or industrial customer to which both of the following apply: 751
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(a) The retail customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year. 753
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(b) The retail customer has made a written request for registration as a self-assessing purchaser pursuant to section 5727.81 of the Revised Code. 757
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(B) "Electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code. 760
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(C) "Portfolio plan" means the comprehensive energy efficiency and peak-demand reduction program portfolio plan required under rules adopted by the Public Utilities Commission and codified in Chapter 4901:1-39 of the Administrative Code or hereafter recodified or amended. 762
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Section 5. (A) If an electric distribution utility has a portfolio plan that is in effect on the effective date of this section, the utility shall do either of the following, at its sole discretion: 767
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(1) Continue to implement the portfolio plan with no amendments to the plan, for the duration that the Public Utilities 771
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Commission originally approved, subject to divisions (D) and (E) 773
of this section; 774

(2) Seek an amendment of the portfolio plan under division 775
(B) of this section. 776

(B)(1) An electric distribution utility that seeks to amend 777
its portfolio plan under division (A)(2) of this section shall 778
file an application with the Commission to amend the plan not 779
later than thirty days after the effective date of this section. 780
The Commission shall review the application in accordance with its 781
rules as if the application were for a new portfolio plan. The 782
Commission shall review and approve, or modify and approve, the 783
application not later than sixty days after the date that the 784
application is filed. Any portfolio plan amended under this 785
division shall expire on December 31, 2016. 786

(2) Section 4928.66 of the Revised Code, as amended by this 787
act, shall apply to an electric distribution utility that seeks to 788
amend its portfolio plan under division (B) of this section. 789

(C) If an electric distribution utility fails to file an 790
application to amend its portfolio plan under division (B) of this 791
section within the required thirty-day period, the electric 792
distribution utility shall proceed in accordance with division 793
(A)(1) of this section. 794

(D) If an electric distribution utility implements its 795
portfolio plan under division (A)(1) of this section for the 796
plan's original duration and if the plan expires before December 797
31, 2016, the Commission shall automatically extend the plan 798
through December 31, 2016, with no amendments to the plan. 799

(E)(1) The provisions of section 4928.66 of the Revised Code, 800
as it existed prior to the effective date of this section, shall 801
apply to an electric distribution utility that has a portfolio 802
plan that is implemented under division (A)(1) of this section for 803

either of the following time periods: 804

(a) The plan's original duration; 805

(b) The plan's original duration and then, until December 31, 806
2016, if the plan is extended under division (D) of this section. 807

(2) Beginning January 1, 2017, the provisions of section 808
4928.66 of the Revised Code as amended by this act shall apply to 809
the electric distribution utility. 810

Section 6. (A) The Public Utilities Commission shall neither 811
review nor approve an application for a portfolio plan if the 812
application is pending on the effective date of this section. 813

(B) Prior to January 1, 2017, the Commission shall not take 814
any action with regard to any portfolio plan or application 815
regarding a portfolio plan except those actions expressly 816
authorized or required by Section 5 of this act. 817

Section 7. A customer of an electric distribution utility may 818
opt out of the opportunity and ability to obtain direct benefits 819
from the utility's portfolio plan that is amended under division 820
(B) of Section 5 of this act. The opt out shall apply only to the 821
amended plan. The opt out shall extend to all of the customer's 822
accounts, irrespective of the size or service voltage level that 823
are associated with the activities performed by the customer and 824
that are located on or adjacent to the customer's premises. 825

Section 8. Any customer electing to opt out under Section 7 826
of this act shall do so by providing a written notice of intent to 827
opt out to the electric distribution utility from which it 828
receives service and submitting a complete copy of the opt-out 829
notice to the Secretary of the Public Utilities Commission. 830

The notice provided to the utility shall include all of the 831
following: 832

- (A) A statement indicating that the customer has elected to opt out; 833
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- (B) The effective date of the election to opt out; 835
- (C) The account number for each customer account to which the opt out may apply; 836
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- (D) The physical location of the customer's load center; 838
- (E) The date upon which the customer established or plans to establish a process and implement cost-effective measures to improve its energy efficiency savings. 839
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Section 9. Upon a customer's election to opt out under Section 7 of this act, no account properly identified under division (C) of Section 8 of this act shall be subject to any cost recovery mechanism under section 4928.66 of the Revised Code, as amended by this act, for the duration of the amended portfolio plan or eligible to participate in, or directly benefit from, programs arising from the amended portfolio plan. This section shall not be interpreted to exempt such an account from any other cost recovery mechanism, including any cost recovery mechanism associated with the renewable energy resource requirements governed by section 4928.64 of the Revised Code. 842
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Section 10. (A) Upon a customer's election to opt out under Section 7 of this act, the customer shall prepare and submit a report to the staff of the Public Utilities Commission. The report shall, for the period that the opt out is in effect, summarize the energy efficiency measures implemented by the customer and identify the cumulative energy efficiency savings achieved. The report shall be filed not later than January 1, 2017. 853
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(B) Upon submission of the report, the staff of the Commission may request the customer to provide additional information on the measures adopted by the customer and the amount 860
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of energy efficiency savings achieved during the period covered by 863
the report. 864

(C) All information contained in a report submitted under 865
this section and any customer responses to requests for additional 866
information shall be deemed to be confidential, proprietary, and a 867
trade secret. No such information or response shall be publicly 868
divulged without written authorization by the customer or used for 869
any purpose other than to identify the measures adopted by the 870
customer and the quantity of energy efficiency savings achieved by 871
the customer. 872