

As Reported by the House Public Utilities Committee

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Sub. S. B. No. 310

Senator Balderson

Cosponsors: Senators Coley, Eklund, Faber, Jones, Seitz

Representative Stautberg

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A B I L L

To amend sections 3706.25, 4928.01, 4928.20, 4928.53, 1
4928.64, 4928.65, and 4928.66, to amend, for the 2
purpose of adopting a new section number as 3
indicated in parentheses, section 4928.65 4
(4928.645), and to enact new section 4928.65 and 5
sections 4928.112, 4928.641, 4928.643, 4928.644, 6
4928.662, 4928.6610, 4928.6611, 4928.6612, 7
4928.6613, 4928.6614, 4928.6615, and 4928.6616 of 8
the Revised Code to make changes to the renewable 9
energy, energy efficiency, and peak demand 10
reduction requirements, to prohibit the imposition 11
of a waiting period before enrolling an eligible 12
customer in the percentage of income payment plan, 13
and to create a study committee. 14

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

Section 1. That sections 3706.25, 4928.01, 4928.20, 4928.53, 15
4928.64, 4928.65, and 4928.66 be amended, section 4928.65 16
(4928.645) be amended for the purpose of adopting a new section 17
number as indicated in parentheses, and new section 4928.65 and 18
sections 4928.112, 4928.641, 4928.643, 4928.644, 4928.662, 19

4928.6610, 4928.6611, 4928.6612, 4928.6613, 4928.6614, 4928.6615, 20
and 4928.6616 of the Revised Code be enacted to read as follows: 21

Sec. 3706.25. As used in sections 3706.25 to 3706.30 of the 22
Revised Code: 23

(A) "Advanced energy project" means any technologies, 24
products, activities, or management practices or strategies that 25
facilitate the generation or use of electricity or energy and that 26
reduce or support the reduction of energy consumption or support 27
the production of clean, renewable energy for industrial, 28
distribution, commercial, institutional, governmental, research, 29
not-for-profit, or residential energy users including, but not 30
limited to, advanced energy resources and renewable energy 31
resources. "Advanced energy project" includes any project 32
described in division (A), (B), or (C) of section 4928.621 of the 33
Revised Code. 34

(B) "Advanced energy resource" means any of the following: 35

(1) Any method or any modification or replacement of any 36
property, process, device, structure, or equipment that increases 37
the generation output of an electric generating facility to the 38
extent such efficiency is achieved without additional carbon 39
dioxide emissions by that facility; 40

(2) Any distributed generation system consisting of customer 41
cogeneration technology, primarily to meet the energy needs of the 42
customer's facilities; 43

(3) Advanced nuclear energy technology consisting of 44
generation III technology as defined by the nuclear regulatory 45
commission; other, later technology; or significant improvements 46
to existing facilities; 47

(4) Any fuel cell used in the generation of electricity, 48
including, but not limited to, a proton exchange membrane fuel 49

cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 50
solid oxide fuel cell; 51

(5) Advanced solid waste or construction and demolition 52
debris conversion technology, including, but not limited to, 53
advanced stoker technology, and advanced fluidized bed 54
gasification technology, that results in measurable greenhouse gas 55
emissions reductions as calculated pursuant to the United States 56
environmental protection agency's waste reduction model (WARM). 57

(C) "Air contaminant source" has the same meaning as in 58
section 3704.01 of the Revised Code. 59

(D) "Cogeneration technology" means technology that produces 60
electricity and useful thermal output simultaneously. 61

(E) "Renewable energy resource" means solar photovoltaic or 62
solar thermal energy, wind energy, power produced by a 63
hydroelectric facility, power produced by a run-of-the-river 64
hydroelectric facility placed in service on or after January 1, 65
1980, that is located within this state, relies upon the Ohio 66
river, and operates, or is rated to operate, at an aggregate 67
capacity of forty or more megawatts, geothermal energy, fuel 68
derived from solid wastes, as defined in section 3734.01 of the 69
Revised Code, through fractionation, biological decomposition, or 70
other process that does not principally involve combustion, 71
biomass energy, energy produced by cogeneration technology that is 72
placed into service on or before December 31, 2015, and for which 73
more than ninety per cent of the total annual energy input is from 74
combustion of a waste or byproduct gas from an air contaminant 75
source in this state, which source has been in operation since on 76
or before January 1, 1985, provided that the cogeneration 77
technology is a part of a facility located in a county having a 78
population of more than three hundred sixty-five thousand but less 79
than three hundred seventy thousand according to the most recent 80
federal decennial census, biologically derived methane gas, heat 81

captured from a generator of electricity, boiler, or heat 82
exchanger fueled by biologically derived methane gas, or energy 83
derived from nontreated by-products of the pulping process or wood 84
manufacturing process, including bark, wood chips, sawdust, and 85
lignin in spent pulping liquors. "Renewable energy resource" 86
includes, but is not limited to, any fuel cell used in the 87
generation of electricity, including, but not limited to, a proton 88
exchange membrane fuel cell, phosphoric acid fuel cell, molten 89
carbonate fuel cell, or solid oxide fuel cell; wind turbine 90
located in the state's territorial waters of Lake Erie; methane 91
gas emitted from an abandoned coal mine; storage facility that 92
will promote the better utilization of a renewable energy resource 93
that primarily generates off peak; or distributed generation 94
system used by a customer to generate electricity from any such 95
energy. As used in this division, "hydroelectric facility" means a 96
hydroelectric generating facility that is located at a dam on a 97
river, or on any water discharged to a river, that is within or 98
bordering this state or within or bordering an adjoining state and 99
meets all of the following standards: 100

(1) The facility provides for river flows that are not 101
detrimental for fish, wildlife, and water quality, including 102
seasonal flow fluctuations as defined by the applicable licensing 103
agency for the facility. 104

(2) The facility demonstrates that it complies with the water 105
quality standards of this state, which compliance may consist of 106
certification under Section 401 of the "Clean Water Act of 1977," 107
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 108
not contributed to a finding by this state that the river has 109
impaired water quality under Section 303(d) of the "Clean Water 110
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 111

(3) The facility complies with mandatory prescriptions 112
regarding fish passage as required by the federal energy 113

regulatory commission license issued for the project, regarding 114
fish protection for riverine, anadromous, and catadromous fish. 115

(4) The facility complies with the recommendations of the 116
Ohio environmental protection agency and with the terms of its 117
federal energy regulatory commission license regarding watershed 118
protection, mitigation, or enhancement, to the extent of each 119
agency's respective jurisdiction over the facility. 120

(5) The facility complies with provisions of the "Endangered 121
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 122
amended. 123

(6) The facility does not harm cultural resources of the 124
area. This can be shown through compliance with the terms of its 125
federal energy regulatory commission license or, if the facility 126
is not regulated by that commission, through development of a plan 127
approved by the Ohio historic preservation office, to the extent 128
it has jurisdiction over the facility. 129

(7) The facility complies with the terms of its federal 130
energy regulatory commission license or exemption that are related 131
to recreational access, accommodation, and facilities or, if the 132
facility is not regulated by that commission, the facility 133
complies with similar requirements as are recommended by resource 134
agencies, to the extent they have jurisdiction over the facility; 135
and the facility provides access to water to the public without 136
fee or charge. 137

(8) The facility is not recommended for removal by any 138
federal agency or agency of any state, to the extent the 139
particular agency has jurisdiction over the facility. 140

Sec. 4928.01. (A) As used in this chapter: 141

(1) "Ancillary service" means any function necessary to the 142
provision of electric transmission or distribution service to a 143

retail customer and includes, but is not limited to, scheduling, 144
system control, and dispatch services; reactive supply from 145
generation resources and voltage control service; reactive supply 146
from transmission resources service; regulation service; frequency 147
response service; energy imbalance service; operating 148
reserve-spinning reserve service; operating reserve-supplemental 149
reserve service; load following; back-up supply service; 150
real-power loss replacement service; dynamic scheduling; system 151
black start capability; and network stability service. 152

(2) "Billing and collection agent" means a fully independent 153
agent, not affiliated with or otherwise controlled by an electric 154
utility, electric services company, electric cooperative, or 155
governmental aggregator subject to certification under section 156
4928.08 of the Revised Code, to the extent that the agent is under 157
contract with such utility, company, cooperative, or aggregator 158
solely to provide billing and collection for retail electric 159
service on behalf of the utility company, cooperative, or 160
aggregator. 161

(3) "Certified territory" means the certified territory 162
established for an electric supplier under sections 4933.81 to 163
4933.90 of the Revised Code. 164

(4) "Competitive retail electric service" means a component 165
of retail electric service that is competitive as provided under 166
division (B) of this section. 167

(5) "Electric cooperative" means a not-for-profit electric 168
light company that both is or has been financed in whole or in 169
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 170
7 U.S.C. 901, and owns or operates facilities in this state to 171
generate, transmit, or distribute electricity, or a not-for-profit 172
successor of such company. 173

(6) "Electric distribution utility" means an electric utility 174

that supplies at least retail electric distribution service.	175
(7) "Electric light company" has the same meaning as in	176
section 4905.03 of the Revised Code and includes an electric	177
services company, but excludes any self-generator to the extent	178
that it consumes electricity it so produces, sells that	179
electricity for resale, or obtains electricity from a generating	180
facility it hosts on its premises.	181
(8) "Electric load center" has the same meaning as in section	182
4933.81 of the Revised Code.	183
(9) "Electric services company" means an electric light	184
company that is engaged on a for-profit or not-for-profit basis in	185
the business of supplying or arranging for the supply of only a	186
competitive retail electric service in this state. "Electric	187
services company" includes a power marketer, power broker,	188
aggregator, or independent power producer but excludes an electric	189
cooperative, municipal electric utility, governmental aggregator,	190
or billing and collection agent.	191
(10) "Electric supplier" has the same meaning as in section	192
4933.81 of the Revised Code.	193
(11) "Electric utility" means an electric light company that	194
has a certified territory and is engaged on a for-profit basis	195
either in the business of supplying a noncompetitive retail	196
electric service in this state or in the businesses of supplying	197
both a noncompetitive and a competitive retail electric service in	198
this state. "Electric utility" excludes a municipal electric	199
utility or a billing and collection agent.	200
(12) "Firm electric service" means electric service other	201
than nonfirm electric service.	202
(13) "Governmental aggregator" means a legislative authority	203
of a municipal corporation, a board of township trustees, or a	204
board of county commissioners acting as an aggregator for the	205

provision of a competitive retail electric service under authority 206
conferred under section 4928.20 of the Revised Code. 207

(14) A person acts "knowingly," regardless of the person's 208
purpose, when the person is aware that the person's conduct will 209
probably cause a certain result or will probably be of a certain 210
nature. A person has knowledge of circumstances when the person is 211
aware that such circumstances probably exist. 212

(15) "Level of funding for low-income customer energy 213
efficiency programs provided through electric utility rates" means 214
the level of funds specifically included in an electric utility's 215
rates on October 5, 1999, pursuant to an order of the public 216
utilities commission issued under Chapter 4905. or 4909. of the 217
Revised Code and in effect on October 4, 1999, for the purpose of 218
improving the energy efficiency of housing for the utility's 219
low-income customers. The term excludes the level of any such 220
funds committed to a specific nonprofit organization or 221
organizations pursuant to a stipulation or contract. 222

(16) "Low-income customer assistance programs" means the 223
percentage of income payment plan program, the home energy 224
assistance program, the home weatherization assistance program, 225
and the targeted energy efficiency and weatherization program. 226

(17) "Market development period" for an electric utility 227
means the period of time beginning on the starting date of 228
competitive retail electric service and ending on the applicable 229
date for that utility as specified in section 4928.40 of the 230
Revised Code, irrespective of whether the utility applies to 231
receive transition revenues under this chapter. 232

(18) "Market power" means the ability to impose on customers 233
a sustained price for a product or service above the price that 234
would prevail in a competitive market. 235

(19) "Mercantile customer" means a commercial or industrial 236

customer if the electricity consumed is for nonresidential use and 237
the customer consumes more than seven hundred thousand kilowatt 238
hours per year or is part of a national account involving multiple 239
facilities in one or more states. 240

(20) "Municipal electric utility" means a municipal 241
corporation that owns or operates facilities to generate, 242
transmit, or distribute electricity. 243

(21) "Noncompetitive retail electric service" means a 244
component of retail electric service that is noncompetitive as 245
provided under division (B) of this section. 246

(22) "Nonfirm electric service" means electric service 247
provided pursuant to a schedule filed under section 4905.30 of the 248
Revised Code or pursuant to an arrangement under section 4905.31 249
of the Revised Code, which schedule or arrangement includes 250
conditions that may require the customer to curtail or interrupt 251
electric usage during nonemergency circumstances upon notification 252
by an electric utility. 253

(23) "Percentage of income payment plan arrears" means funds 254
eligible for collection through the percentage of income payment 255
plan rider, but uncollected as of July 1, 2000. 256

(24) "Person" has the same meaning as in section 1.59 of the 257
Revised Code. 258

(25) "Advanced energy project" means any technologies, 259
products, activities, or management practices or strategies that 260
facilitate the generation or use of electricity or energy and that 261
reduce or support the reduction of energy consumption or support 262
the production of clean, renewable energy for industrial, 263
distribution, commercial, institutional, governmental, research, 264
not-for-profit, or residential energy users, including, but not 265
limited to, advanced energy resources and renewable energy 266
resources. "Advanced energy project" also includes any project 267

described in division (A), (B), or (C) of section 4928.621 of the Revised Code. 268
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(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs currently deferred pursuant to the terms of one or more settlement agreements approved by the commission. 270
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(27) "Retail electric service" means any service involved in supplying or arranging for the supply of electricity to ultimate consumers in this state, from the point of generation to the point of consumption. For the purposes of this chapter, retail electric service includes one or more of the following "service components": generation service, aggregation service, power marketing service, power brokerage service, transmission service, distribution service, ancillary service, metering service, and 292
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billing and collection service.	300
(28) "Starting date of competitive retail electric service"	301
means January 1, 2001.	302
(29) "Customer-generator" means a user of a net metering	303
system.	304
(30) "Net metering" means measuring the difference in an	305
applicable billing period between the electricity supplied by an	306
electric service provider and the electricity generated by a	307
customer-generator that is fed back to the electric service	308
provider.	309
(31) "Net metering system" means a facility for the	310
production of electrical energy that does all of the following:	311
(a) Uses as its fuel either solar, wind, biomass, landfill	312
gas, or hydropower, or uses a microturbine or a fuel cell;	313
(b) Is located on a customer-generator's premises;	314
(c) Operates in parallel with the electric utility's	315
transmission and distribution facilities;	316
(d) Is intended primarily to offset part or all of the	317
customer-generator's requirements for electricity.	318
(32) "Self-generator" means an entity in this state that owns	319
or hosts on its premises an electric generation facility that	320
produces electricity primarily for the owner's consumption and	321
that may provide any such excess electricity to another entity,	322
whether the facility is installed or operated by the owner or by	323
an agent under a contract.	324
(33) "Rate plan" means the standard service offer in effect	325
on the effective date of the amendment of this section by S.B. 221	326
of the 127th general assembly, July 31, 2008.	327
(34) "Advanced energy resource" means any of the following:	328

(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(b) Any distributed generation system consisting of customer cogeneration technology;

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

(d) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;

(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(f) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to,

advanced stoker technology, and advanced fluidized bed 360
gasification technology, that results in measurable greenhouse gas 361
emissions reductions as calculated pursuant to the United States 362
environmental protection agency's waste reduction model (WARM); 363

(g) Demand-side management and any energy efficiency 364
improvement; 365

(h) Any new, retrofitted, refueled, or repowered generating 366
facility located in Ohio, including a simple or combined-cycle 367
natural gas generating facility or a generating facility that uses 368
biomass, coal, modular nuclear, or any other fuel as its input; 369

(i) Any uprated capacity of an existing electric generating 370
facility if the uprated capacity results from the deployment of 371
advanced technology. 372

"Advanced energy resource" does not include a waste energy 373
recovery system that is, or has been, included in an energy 374
efficiency program of an electric distribution utility pursuant to 375
requirements under section 4928.66 of the Revised Code. 376

(35) "Air contaminant source" has the same meaning as in 377
section 3704.01 of the Revised Code. 378

(36) "Cogeneration technology" means technology that produces 379
electricity and useful thermal output simultaneously. 380

(37)(a) "Renewable energy resource" means any of the 381
following: 382

(i) Solar photovoltaic or solar thermal energy; 383

(ii) Wind energy; 384

(iii) Power produced by a hydroelectric facility; 385

(iv) Power produced by a run-of-the-river hydroelectric 386
facility placed in service on or after January 1, 1980, that is 387
located within this state, relies upon the Ohio river, and 388
operates, or is rated to operate, at an aggregate capacity of 389

<u>forty or more megawatts;</u>	390
<u>(v) Geothermal energy;</u>	391
(v) <u>(vi) Fuel derived from solid wastes, as defined in section</u>	392
3734.01 of the Revised Code, through fractionation, biological	393
decomposition, or other process that does not principally involve	394
combustion;	395
(vi) <u>(vii) Biomass energy;</u>	396
(vii) <u>(viii) Energy produced by cogeneration technology that</u>	397
is placed into service on or before December 31, 2015, and for	398
which more than ninety per cent of the total annual energy input	399
is from combustion of a waste or byproduct gas from an air	400
contaminant source in this state, which source has been in	401
operation since on or before January 1, 1985, provided that the	402
cogeneration technology is a part of a facility located in a	403
county having a population of more than three hundred sixty-five	404
thousand but less than three hundred seventy thousand according to	405
the most recent federal decennial census;	406
(viii) <u>(ix) Biologically derived methane gas;</u>	407
(ix) <u>(x) Heat captured from a generator of electricity,</u>	408
<u>boiler, or heat exchanger fueled by biologically derived methane</u>	409
<u>gas;</u>	410
<u>(xi) Energy derived from nontreated by-products of the</u>	411
pulping process or wood manufacturing process, including bark,	412
wood chips, sawdust, and lignin in spent pulping liquors.	413
"Renewable energy resource" includes, but is not limited to,	414
any fuel cell used in the generation of electricity, including,	415
but not limited to, a proton exchange membrane fuel cell,	416
phosphoric acid fuel cell, molten carbonate fuel cell, or solid	417
oxide fuel cell; wind turbine located in the state's territorial	418
waters of Lake Erie; methane gas emitted from an abandoned coal	419

mine; waste energy recovery system placed into service or 420
retrofitted on or after the effective date of the amendment of 421
this section by S.B. 315 of the 129th general assembly, September 422
10, 2012, except that a waste energy recovery system described in 423
division (A)(38)(b) of this section may be included only if it was 424
placed into service between January 1, 2002, and December 31, 425
2004; storage facility that will promote the better utilization of 426
a renewable energy resource; or distributed generation system used 427
by a customer to generate electricity from any such energy. 428

"Renewable energy resource" does not include a waste energy 429
recovery system that is, or was, on or after January 1, 2012, 430
included in an energy efficiency program of an electric 431
distribution utility pursuant to requirements under section 432
4928.66 of the Revised Code. 433

(b) As used in division (A)(37) of this section, 434
"hydroelectric facility" means a hydroelectric generating facility 435
that is located at a dam on a river, or on any water discharged to 436
a river, that is within or bordering this state or within or 437
bordering an adjoining state and meets all of the following 438
standards: 439

(i) The facility provides for river flows that are not 440
detrimental for fish, wildlife, and water quality, including 441
seasonal flow fluctuations as defined by the applicable licensing 442
agency for the facility. 443

(ii) The facility demonstrates that it complies with the 444
water quality standards of this state, which compliance may 445
consist of certification under Section 401 of the "Clean Water Act 446
of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates 447
that it has not contributed to a finding by this state that the 448
river has impaired water quality under Section 303(d) of the 449
"Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 450

(iii) The facility complies with mandatory prescriptions 451
regarding fish passage as required by the federal energy 452
regulatory commission license issued for the project, regarding 453
fish protection for riverine, anadromous, and catadromous fish. 454

(iv) The facility complies with the recommendations of the 455
Ohio environmental protection agency and with the terms of its 456
federal energy regulatory commission license regarding watershed 457
protection, mitigation, or enhancement, to the extent of each 458
agency's respective jurisdiction over the facility. 459

(v) The facility complies with provisions of the "Endangered 460
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 461
amended. 462

(vi) The facility does not harm cultural resources of the 463
area. This can be shown through compliance with the terms of its 464
federal energy regulatory commission license or, if the facility 465
is not regulated by that commission, through development of a plan 466
approved by the Ohio historic preservation office, to the extent 467
it has jurisdiction over the facility. 468

(vii) The facility complies with the terms of its federal 469
energy regulatory commission license or exemption that are related 470
to recreational access, accommodation, and facilities or, if the 471
facility is not regulated by that commission, the facility 472
complies with similar requirements as are recommended by resource 473
agencies, to the extent they have jurisdiction over the facility; 474
and the facility provides access to water to the public without 475
fee or charge. 476

(viii) The facility is not recommended for removal by any 477
federal agency or agency of any state, to the extent the 478
particular agency has jurisdiction over the facility. 479

(38) "Waste energy recovery system" means either of the 480
following: 481

(a) A facility that generates electricity through the 482
conversion of energy from either of the following: 483

(i) Exhaust heat from engines or manufacturing, industrial, 484
commercial, or institutional sites, except for exhaust heat from a 485
facility whose primary purpose is the generation of electricity; 486

(ii) Reduction of pressure in gas pipelines before gas is 487
distributed through the pipeline, provided that the conversion of 488
energy to electricity is achieved without using additional fossil 489
fuels. 490

(b) A facility at a state institution of higher education as 491
defined in section 3345.011 of the Revised Code that recovers 492
waste heat from electricity-producing engines or combustion 493
turbines and that simultaneously uses the recovered heat to 494
produce steam, provided that the facility was placed into service 495
between January 1, 2002, and December 31, 2004. 496

(39) "Smart grid" means capital improvements to an electric 497
distribution utility's distribution infrastructure that improve 498
reliability, efficiency, resiliency, or reduce energy demand or 499
use, including, but not limited to, advanced metering and 500
automation of system functions. 501

(40) "Combined heat and power system" means the coproduction 502
of electricity and useful thermal energy from the same fuel source 503
designed to achieve thermal-efficiency levels of at least sixty 504
per cent, with at least twenty per cent of the system's total 505
useful energy in the form of thermal energy. 506

(B) For the purposes of this chapter, a retail electric 507
service component shall be deemed a competitive retail electric 508
service if the service component is competitive pursuant to a 509
declaration by a provision of the Revised Code or pursuant to an 510
order of the public utilities commission authorized under division 511
(A) of section 4928.04 of the Revised Code. Otherwise, the service 512

component shall be deemed a noncompetitive retail electric 513
service. 514

Sec. 4928.112. (A) In the event of an interruption of 515
electric service during a period of emergency or disaster, an 516
electric distribution utility's service restoration plan shall 517
give priority to hospitals that are customers of the electric 518
distribution utility. 519

(B) If requested by a hospital that is its customer, an 520
electric distribution utility shall confer at least biennially 521
with that hospital regarding power quality issues and concerns 522
related to the utility's facilities, including voltage sags, 523
spikes, and harmonic disturbances, in an effort to minimize those 524
events or their impact on the hospital. 525

(C) The public utilities commission shall adopt rules to 526
carry out this section. 527

Sec. 4928.20. (A) The legislative authority of a municipal 528
corporation may adopt an ordinance, or the board of township 529
trustees of a township or the board of county commissioners of a 530
county may adopt a resolution, under which, on or after the 531
starting date of competitive retail electric service, it may 532
aggregate in accordance with this section the retail electrical 533
loads located, respectively, within the municipal corporation, 534
township, or unincorporated area of the county and, for that 535
purpose, may enter into service agreements to facilitate for those 536
loads the sale and purchase of electricity. The legislative 537
authority or board also may exercise such authority jointly with 538
any other such legislative authority or board. For customers that 539
are not mercantile customers, an ordinance or resolution under 540
this division shall specify whether the aggregation will occur 541
only with the prior, affirmative consent of each person owning, 542

occupying, controlling, or using an electric load center proposed 543
to be aggregated or will occur automatically for all such persons 544
pursuant to the opt-out requirements of division (D) of this 545
section. The aggregation of mercantile customers shall occur only 546
with the prior, affirmative consent of each such person owning, 547
occupying, controlling, or using an electric load center proposed 548
to be aggregated. Nothing in this division, however, authorizes 549
the aggregation of the retail electric loads of an electric load 550
center, as defined in section 4933.81 of the Revised Code, that is 551
located in the certified territory of a nonprofit electric 552
supplier under sections 4933.81 to 4933.90 of the Revised Code or 553
an electric load center served by transmission or distribution 554
facilities of a municipal electric utility. 555

(B) If an ordinance or resolution adopted under division (A) 556
of this section specifies that aggregation of customers that are 557
not mercantile customers will occur automatically as described in 558
that division, the ordinance or resolution shall direct the board 559
of elections to submit the question of the authority to aggregate 560
to the electors of the respective municipal corporation, township, 561
or unincorporated area of a county at a special election on the 562
day of the next primary or general election in the municipal 563
corporation, township, or county. The legislative authority or 564
board shall certify a copy of the ordinance or resolution to the 565
board of elections not less than ninety days before the day of the 566
special election. No ordinance or resolution adopted under 567
division (A) of this section that provides for an election under 568
this division shall take effect unless approved by a majority of 569
the electors voting upon the ordinance or resolution at the 570
election held pursuant to this division. 571

(C) Upon the applicable requisite authority under divisions 572
(A) and (B) of this section, the legislative authority or board 573
shall develop a plan of operation and governance for the 574

aggregation program so authorized. Before adopting a plan under 575
this division, the legislative authority or board shall hold at 576
least two public hearings on the plan. Before the first hearing, 577
the legislative authority or board shall publish notice of the 578
hearings once a week for two consecutive weeks in a newspaper of 579
general circulation in the jurisdiction or as provided in section 580
7.16 of the Revised Code. The notice shall summarize the plan and 581
state the date, time, and location of each hearing. 582

(D) No legislative authority or board, pursuant to an 583
ordinance or resolution under divisions (A) and (B) of this 584
section that provides for automatic aggregation of customers that 585
are not mercantile customers as described in division (A) of this 586
section, shall aggregate the electrical load of any electric load 587
center located within its jurisdiction unless it in advance 588
clearly discloses to the person owning, occupying, controlling, or 589
using the load center that the person will be enrolled 590
automatically in the aggregation program and will remain so 591
enrolled unless the person affirmatively elects by a stated 592
procedure not to be so enrolled. The disclosure shall state 593
prominently the rates, charges, and other terms and conditions of 594
enrollment. The stated procedure shall allow any person enrolled 595
in the aggregation program the opportunity to opt out of the 596
program every three years, without paying a switching fee. Any 597
such person that opts out before the commencement of the 598
aggregation program pursuant to the stated procedure shall default 599
to the standard service offer provided under section 4928.14 or 600
division (D) of section 4928.35 of the Revised Code until the 601
person chooses an alternative supplier. 602

(E)(1) With respect to a governmental aggregation for a 603
municipal corporation that is authorized pursuant to divisions (A) 604
to (D) of this section, resolutions may be proposed by initiative 605
or referendum petitions in accordance with sections 731.28 to 606

731.41 of the Revised Code. 607

(2) With respect to a governmental aggregation for a township 608
or the unincorporated area of a county, which aggregation is 609
authorized pursuant to divisions (A) to (D) of this section, 610
resolutions may be proposed by initiative or referendum petitions 611
in accordance with sections 731.28 to 731.40 of the Revised Code, 612
except that: 613

(a) The petitions shall be filed, respectively, with the 614
township fiscal officer or the board of county commissioners, who 615
shall perform those duties imposed under those sections upon the 616
city auditor or village clerk. 617

(b) The petitions shall contain the signatures of not less 618
than ten per cent of the total number of electors in, 619
respectively, the township or the unincorporated area of the 620
county who voted for the office of governor at the preceding 621
general election for that office in that area. 622

(F) A governmental aggregator under division (A) of this 623
section is not a public utility engaging in the wholesale purchase 624
and resale of electricity, and provision of the aggregated service 625
is not a wholesale utility transaction. A governmental aggregator 626
shall be subject to supervision and regulation by the public 627
utilities commission only to the extent of any competitive retail 628
electric service it provides and commission authority under this 629
chapter. 630

(G) This section does not apply in the case of a municipal 631
corporation that supplies such aggregated service to electric load 632
centers to which its municipal electric utility also supplies a 633
noncompetitive retail electric service through transmission or 634
distribution facilities the utility singly or jointly owns or 635
operates. 636

(H) A governmental aggregator shall not include in its 637

aggregation the accounts of any of the following:	638
(1) A customer that has opted out of the aggregation;	639
(2) A customer in contract with a certified electric services company;	640 641
(3) A customer that has a special contract with an electric distribution utility;	642 643
(4) A customer that is not located within the governmental aggregator's governmental boundaries;	644 645
(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.	646 647 648
(I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code. Nothing in this section shall result in less than the full and timely imposition, charging, collection, and adjustment by an electric distribution utility, its assignee, or any collection agent, of the phase-in-recovery charges authorized pursuant to a final financing order issued pursuant to sections 4928.23 to 4928.2318 of the Revised Code.	649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666
(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written	667 668

notice with the public utilities commission, the legislative 669
authority that formed or is forming that governmental aggregation 670
may elect not to receive standby service within the meaning of 671
division (B)(2)(d) of section 4928.143 of the Revised Code from an 672
electric distribution utility in whose certified territory the 673
governmental aggregation is located and that operates under an 674
approved electric security plan under that section. Upon the 675
filing of that notice, the electric distribution utility shall not 676
charge any such customer to whom competitive retail electric 677
generation service is provided by another supplier under the 678
governmental aggregation for the standby service. Any such 679
consumer that returns to the utility for competitive retail 680
electric service shall pay the market price of power incurred by 681
the utility to serve that consumer plus any amount attributable to 682
the utility's cost of compliance with the ~~alternative~~ renewable 683
energy resource provisions of section 4928.64 of the Revised Code 684
to serve the consumer. Such market price shall include, but not be 685
limited to, capacity and energy charges; all charges associated 686
with the provision of that power supply through the regional 687
transmission organization, including, but not limited to, 688
transmission, ancillary services, congestion, and settlement and 689
administrative charges; and all other costs incurred by the 690
utility that are associated with the procurement, provision, and 691
administration of that power supply, as such costs may be approved 692
by the commission. The period of time during which the market 693
price and ~~alternative~~ renewable energy resource amount shall be so 694
assessed on the consumer shall be from the time the consumer so 695
returns to the electric distribution utility until the expiration 696
of the electric security plan. However, if that period of time is 697
expected to be more than two years, the commission may reduce the 698
time period to a period of not less than two years. 699

(K) The commission shall adopt rules to encourage and promote 700
large-scale governmental aggregation in this state. For that 701

purpose, the commission shall conduct an immediate review of any 702
rules it has adopted for the purpose of this section that are in 703
effect on the effective date of the amendment of this section by 704
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 705
within the context of an electric security plan under section 706
4928.143 of the Revised Code, the commission shall consider the 707
effect on large-scale governmental aggregation of any 708
nonbypassable generation charges, however collected, that would be 709
established under that plan, except any nonbypassable generation 710
charges that relate to any cost incurred by the electric 711
distribution utility, the deferral of which has been authorized by 712
the commission prior to the effective date of the amendment of 713
this section by S.B. 221 of the 127th general assembly, July 31, 714
2008. 715

Sec. 4928.53. (A) Beginning July 1, 2000, the director of 716
development is hereby authorized to administer the low-income 717
customer assistance programs. For that purpose, the public 718
utilities commission shall cooperate with and provide such 719
assistance as the director requires for administration of the 720
low-income customer assistance programs. The director shall 721
consolidate the administration of and redesign and coordinate the 722
operations of those programs within the department to provide, to 723
the maximum extent possible, for efficient program administration 724
and a one-stop application and eligibility determination process 725
at the local level for consumers. 726

(B)(1) Not later than March 1, 2000, the director, in 727
accordance with Chapter 119. of the Revised Code, shall adopt 728
rules to carry out sections 4928.51 to 4928.58 of the Revised Code 729
and ensure the effective and efficient administration and 730
operation of the low-income customer assistance programs. The 731
rules shall take effect on ~~the~~ July 1, 2000. 732

(2) The director's authority to adopt rules under this 733
division for the Ohio energy credit program shall be subject to 734
such rule-making authority as is conferred on the director by 735
sections 5117.01 to 5117.12 of the Revised Code, as amended by 736
Sub. S.B. No. 3 of the 123rd general assembly, except that rules 737
initially adopted by the director for the Ohio energy credit 738
program shall incorporate the substance of those sections as they 739
exist on the effective date of this section. 740

(3) The director's authority to adopt rules under this 741
division for the percentage of income payment plan program shall 742
include authority to adopt rules prescribing criteria for customer 743
eligibility and policies regarding payment and crediting 744
arrangements and responsibilities, procedures for verifying 745
customer eligibility, procedures for disbursing public funds to 746
suppliers and otherwise administering funds under the director's 747
jurisdiction, and requirements as to timely remittances of 748
revenues described in division (B) of section 4928.51 of the 749
Revised Code. The rules shall prohibit the imposition of a waiting 750
period before enrolling an eligible customer in the percentage of 751
income payment plan. The director's authority in division (B)(3) 752
of this section excludes authority to prescribe service 753
disconnection and customer billing policies and procedures and to 754
address complaints against suppliers under the percentage of 755
payment plan program, which excluded authority shall be exercised 756
by the public utilities commission, in coordination with the 757
director. Rules adopted by the director under this division for 758
the percentage of income payment plan program shall specify a 759
level of payment responsibility to be borne by an eligible 760
customer based on a percentage of the customer's income. Rules 761
initially adopted by the director for the percentage of income 762
payment plan program shall incorporate the eligibility criteria 763
and payment arrangement and responsibility policies set forth in 764
rule 4901:1-18-04(B) of the Ohio Administrative Code in effect on 765

the effective date of this section. 766

Sec. 4928.64. (A)(1) As used in ~~sections 4928.64 and 4928.65~~ 767
~~of the Revised Code~~ this section, "alternative qualifying 768
renewable energy resource" means ~~an advanced energy resource or a~~ 769
renewable energy resource, as defined in section 4928.01 of the 770
Revised Code that has a placed-in-service date ~~of~~ on or after 771
January 1, 1998, or ~~after~~ with respect to any run-of-the-river 772
hydroelectric facility, an in-service date on or after January 1, 773
1980; a renewable energy resource created on or after January 1, 774
1998, by the modification or retrofit of any facility placed in 775
service prior to January 1, 1998; or a mercantile customer-sited 776
~~advanced energy resource or~~ renewable energy resource, whether new 777
or existing, that the mercantile customer commits for integration 778
into the electric distribution utility's demand-response, energy 779
efficiency, or peak demand reduction programs as provided under 780
division (A)(2)(c) of section 4928.66 of the Revised Code, 781
including, but not limited to, any of the following: 782

(a) A resource that has the effect of improving the 783
relationship between real and reactive power; 784

(b) A resource that makes efficient use of waste heat or 785
other thermal capabilities owned or controlled by a mercantile 786
customer; 787

(c) Storage technology that allows a mercantile customer more 788
flexibility to modify its demand or load and usage 789
characteristics; 790

(d) Electric generation equipment owned or controlled by a 791
mercantile customer that uses ~~an advanced energy resource or a~~ 792
renewable energy resource; 793

~~(e) Any advanced energy resource or renewable energy resource~~ 794
~~of the mercantile customer that can be utilized effectively as~~ 795

~~part of any advanced energy resource plan of an electric 796
distribution utility and would otherwise qualify as an alternative 797
energy resource if it were utilized directly by an electric 798
distribution utility. 799~~

(2) For the purpose of this section and as it considers 800
appropriate, the public utilities commission may classify any new 801
technology as such ~~an advanced energy resource or a~~ qualifying 802
renewable energy resource. 803

(B)(1) By ~~2025~~ 2027 and thereafter, an electric distribution 804
utility shall provide from ~~alternative~~ qualifying renewable energy 805
resources, including, at its discretion, ~~alternative~~ qualifying 806
renewable energy resources obtained pursuant to an electricity 807
supply contract, a portion of the electricity supply required for 808
its standard service offer under section 4928.141 of the Revised 809
Code, and an electric services company shall provide a portion of 810
its electricity supply for retail consumers in this state from 811
~~alternative~~ qualifying renewable energy resources, including, at 812
its discretion, ~~alternative~~ qualifying renewable energy resources 813
obtained pursuant to an electricity supply contract. That portion 814
shall equal ~~twenty-five~~ twelve and one-half per cent of the total 815
number of kilowatt hours of electricity sold by the subject 816
utility or company to any and all retail electric consumers whose 817
electric load centers are served by that utility and are located 818
within the utility's certified territory or, in the case of an 819
electric services company, are served by the company and are 820
located within this state. However, nothing in this section 821
precludes a utility or company from providing a greater 822
percentage. ~~The baseline for a utility's or company's compliance~~ 823
~~with the alternative energy resource requirements of this section~~ 824
~~shall be the average of such total kilowatt hours it sold in the~~ 825
~~preceding three calendar years, except that the commission may~~ 826
~~reduce a utility's or company's baseline to adjust for new~~ 827

~~economic growth in the utility's certified territory or, in the~~ 828
~~ease of an electric services company, in the company's service~~ 829
~~area in this state.~~ 830

~~Of the alternative energy resources implemented by the~~ 831
~~subject utility or company by 2025 and thereafter:~~ 832

~~(1) Half may be generated from advanced energy resources;~~ 833

(2) ~~At least half~~ The portion required under division (B)(1) 834
~~of this section~~ shall be generated from renewable energy 835
resources, including one-half per cent from solar energy 836
resources, in accordance with the following benchmarks: 837

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	839
2010	0.50%	0.010%	840
2011	1%	0.030%	841
2012	1.5%	0.060%	842
2013	2%	0.090%	843
2014	2.5%	0.12%	844
2015	3.5 <u>2.5%</u>	0.15 <u>0.12%</u>	845
2016	4.5 <u>2.5%</u>	0.18 <u>0.12%</u>	846
2017	5.5 <u>3.5%</u>	0.22 <u>0.15%</u>	847
2018	6.5 <u>4.5%</u>	0.26 <u>0.18%</u>	848
2019	7.5 <u>5.5%</u>	0.3 <u>0.22%</u>	849
2020	8.5 <u>6.5%</u>	0.34 <u>0.26%</u>	850
2021	9.5 <u>7.5%</u>	0.38 <u>0.3%</u>	851
2022	10.5 <u>8.5%</u>	0.42 <u>0.34%</u>	852
2023	11.5 <u>9.5%</u>	0.46 <u>0.38%</u>	853
2024 and each calendar year thereafter	12.5 <u>10.5%</u>	0.5 <u>0.42%</u>	854
<u>2025</u>	<u>11.5%</u>	<u>0.46%</u>	855
<u>2026 and each calendar</u> <u>year thereafter</u>	<u>12.5%</u>	<u>0.5%.</u>	856

(3) ~~At least one half of the~~ The qualifying renewable energy 857
resources implemented by the utility or company shall be met 858
~~through either:~~ 859

(a) Through facilities located in this state; ~~the remainder~~ 860
~~shall be met with or~~ 861

(b) With resources that can be shown to be deliverable into 862
this state. 863

(C)(1) The commission annually shall review an electric 864
distribution utility's or electric services company's compliance 865
with the most recent applicable benchmark under division (B)(2) of 866
this section and, in the course of that review, shall identify any 867
undercompliance or noncompliance of the utility or company that it 868
determines is weather-related, related to equipment or resource 869
shortages for ~~advanced energy or~~ qualifying renewable energy 870
resources as applicable, or is otherwise outside the utility's or 871
company's control. 872

(2) Subject to the cost cap provisions of division (C)(3) of 873
this section, if the commission determines, after notice and 874
opportunity for hearing, and based upon its findings in that 875
review regarding avoidable undercompliance or noncompliance, but 876
subject to division (C)(4) of this section, that the utility or 877
company has failed to comply with any such benchmark, the 878
commission shall impose a renewable energy compliance payment on 879
the utility or company. 880

(a) The compliance payment pertaining to the solar energy 881
resource benchmarks under division (B)(2) of this section shall be 882
an amount per megawatt hour of undercompliance or noncompliance in 883
the period under review, ~~starting at four~~ as follows: 884

(i) Three hundred ~~fifty~~ dollars for ~~2009, four~~ 2014, 2015, 885
and 2016; 886

(ii) Two hundred fifty dollars for ~~2010~~ 2017 and ~~2011, and~~ 887

similarly 2018; 888

(iii) Two hundred dollars for 2019 and 2020; 889

(iv) Similarly reduced every two years thereafter through 890
2024 2026 by fifty dollars, to a minimum of fifty dollars. 891

(b) The compliance payment pertaining to the renewable energy 892
resource benchmarks under division (B)(2) of this section shall 893
equal the number of additional renewable energy credits that the 894
electric distribution utility or electric services company would 895
have needed to comply with the applicable benchmark in the period 896
under review times an amount that shall begin at forty-five 897
dollars and shall be adjusted annually by the commission to 898
reflect any change in the consumer price index as defined in 899
section 101.27 of the Revised Code, but shall not be less than 900
forty-five dollars. 901

(c) The compliance payment shall not be passed through by the 902
electric distribution utility or electric services company to 903
consumers. The compliance payment shall be remitted to the 904
commission, for deposit to the credit of the advanced energy fund 905
created under section 4928.61 of the Revised Code. Payment of the 906
compliance payment shall be subject to such collection and 907
enforcement procedures as apply to the collection of a forfeiture 908
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 909

(3) An electric distribution utility or an electric services 910
company need not comply with a benchmark under division (B)~~(1) or~~ 911
(2) of this section to the extent that its reasonably expected 912
cost of that compliance exceeds its reasonably expected cost of 913
otherwise producing or acquiring the requisite electricity by 914
three per cent or more. The cost of compliance shall be calculated 915
as though any exemption from taxes and assessments had not been 916
granted under section 5727.75 of the Revised Code. 917

(4)(a) An electric distribution utility or electric services 918

company may request the commission to make a force majeure 919
determination pursuant to this division regarding all or part of 920
the utility's or company's compliance with any minimum benchmark 921
under division (B)(2) of this section during the period of review 922
occurring pursuant to division (C)(2) of this section. The 923
commission may require the electric distribution utility or 924
electric services company to make solicitations for renewable 925
energy resource credits as part of its default service before the 926
utility's or company's request of force majeure under this 927
division can be made. 928

(b) Within ninety days after the filing of a request by an 929
electric distribution utility or electric services company under 930
division (C)(4)(a) of this section, the commission shall determine 931
if qualifying renewable energy resources are reasonably available 932
in the marketplace in sufficient quantities for the utility or 933
company to comply with the subject minimum benchmark during the 934
review period. In making this determination, the commission shall 935
consider whether the electric distribution utility or electric 936
services company has made a good faith effort to acquire 937
sufficient qualifying renewable energy or, as applicable, solar 938
energy resources to so comply, including, but not limited to, by 939
banking or seeking renewable energy resource credits or by seeking 940
the resources through long-term contracts. Additionally, the 941
commission shall consider the availability of qualifying renewable 942
energy or solar energy resources in this state and other 943
jurisdictions in the PJM interconnection regional transmission 944
organization, L.L.C., or its successor and the ~~midwest~~ 945
midcontinent independent system operator or its successor. 946

(c) If, pursuant to division (C)(4)(b) of this section, the 947
commission determines that qualifying renewable energy or solar 948
energy resources are not reasonably available to permit the 949
electric distribution utility or electric services company to 950

comply, during the period of review, with the subject minimum 951
benchmark prescribed under division (B)(2) of this section, the 952
commission shall modify that compliance obligation of the utility 953
or company as it determines appropriate to accommodate the 954
finding. Commission modification shall not automatically reduce 955
the obligation for the electric distribution utility's or electric 956
services company's compliance in subsequent years. If it modifies 957
the electric distribution utility or electric services company 958
obligation under division (C)(4)(c) of this section, the 959
commission may require the utility or company, if sufficient 960
renewable energy resource credits exist in the marketplace, to 961
acquire additional renewable energy resource credits in subsequent 962
years equivalent to the utility's or company's modified obligation 963
under division (C)(4)(c) of this section. 964

(5) The commission shall establish a process to provide for 965
at least an annual review of the ~~alternative~~ renewable energy 966
resource market in this state and in the service territories of 967
the regional transmission organizations that manage transmission 968
systems located in this state. The commission shall use the 969
results of this study to identify any needed changes to the amount 970
of the renewable energy compliance payment specified under 971
divisions (C)(2)(a) and (b) of this section. Specifically, the 972
commission may increase the amount to ensure that payment of 973
compliance payments is not used to achieve compliance with this 974
section in lieu of actually acquiring or realizing energy derived 975
from qualifying renewable energy resources. However, if the 976
commission finds that the amount of the compliance payment should 977
be otherwise changed, the commission shall present this finding to 978
the general assembly for legislative enactment. 979

(D)~~(1)~~ The commission annually shall submit to the general 980
assembly in accordance with section 101.68 of the Revised Code a 981
report describing all of the following: 982

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

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

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

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

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

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

Sec. 4928.641. (A) If an electric distribution utility has 1014
executed a contract before April 1, 2014, to procure renewable 1015
energy resources and there are ongoing costs associated with that 1016
contract that are being recovered from customers through a 1017
bypassable charge as of the effective date of S.B. 310 of the 1018
130th general assembly, that cost recovery shall continue on a 1019
bypassable basis until the prudently incurred costs associated 1020
with that contract are fully recovered. 1021

(B) Division (A) of this section applies only to costs 1022
associated with the original term of a contract described in that 1023
division and entered into before April 1, 2014. This section does 1024
not permit recovery of costs associated with an extension of such 1025
a contract. This section does not permit recovery of costs 1026
associated with an amendment of such a contract if that amendment 1027
was made on or after April 1, 2014. 1028

Sec. 4928.643. (A) Except as provided in division (B) of this 1029
section and section 4928.644 of the Revised Code, the baseline for 1030
an electric distribution utility's or an electric services 1031
company's compliance with the qualified renewable energy resource 1032
requirements of section 4928.64 of the Revised Code shall be the 1033
average of total kilowatt hours sold by the utility or company in 1034
the preceding three calendar years to the following: 1035

(1) In the case of an electric distribution utility, any and 1036
all retail electric consumers whose electric load centers are 1037
served by that utility and are located within the utility's 1038
certified territory; 1039

(2) In the case of an electric services company, any and all 1040
retail electric consumers who are served by the company and are 1041
located within this state. 1042

(B) Beginning with compliance year 2014, a utility or company 1043

may choose for its baseline for compliance with the qualified 1044
renewable energy resource requirements of section 4928.64 of the 1045
Revised Code to be the total kilowatt hours sold to the applicable 1046
consumers, as described in division (A)(1) or (2) of this section, 1047
in the applicable compliance year. 1048

(C) A utility or company that uses the baseline permitted 1049
under division (B) of this section may use the baseline described 1050
in division (A) of this section in any subsequent compliance year. 1051
A utility or company that makes this switch shall use the baseline 1052
described in division (A) of this section for at least three 1053
consecutive compliance years before again using the baseline 1054
permitted under division (B) of this section. 1055

Sec. 4928.644. The public utilities commission may reduce 1056
either baseline described in section 4928.643 of the Revised Code 1057
to adjust for new economic growth in the electric distribution 1058
utility's certified territory or in the electric services 1059
company's service area in this state. 1060

Sec. ~~4928.65~~ 4928.645. (A) An electric distribution utility 1061
or electric services company may use, for the purpose of complying 1062
with the requirements under divisions (B)(1) and (2) of section 1063
4928.64 of the Revised Code, renewable energy credits any time in 1064
the five calendar years following the date of their purchase or 1065
acquisition from any entity, including, but not limited to, a the 1066
following: 1067

(1) A mercantile customer ~~or an~~; 1068

(2) An owner or operator of a hydroelectric generating 1069
facility that is located at a dam on a river, or on any water 1070
discharged to a river, that is within or bordering this state or 1071
within or bordering an adjoining state, ~~for the purpose of~~ 1072
~~complying with the renewable energy and solar energy resource~~ 1073

~~requirements of division (B)(2) of section 4928.64 of the Revised Code or that produces power that can be shown to be deliverable into this state;~~

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

(B)(1) The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or greater that is situated within this state and has committed by December 31, 2009, to modify or retrofit its generating unit or units to enable the facility to generate principally from biomass energy by June 30, 2013, each megawatt hour of electricity generated principally from that biomass energy shall equal, in units of credit, the product obtained by multiplying the actual percentage of biomass feedstock heat input used to generate such megawatt hour by the quotient obtained by dividing the then existing unit dollar amount used to determine a renewable energy compliance payment as provided under division (C)(2)(b) of section 4928.64 of the Revised Code by the then existing market value of one renewable energy credit, but such megawatt hour shall not equal less than one unit of credit. Renewable energy resources do not have to be converted to electricity in order to be eligible to receive renewable energy credits. The rules shall specify that, for purposes of converting the quantity of energy derived from biologically derived methane gas to an electricity equivalent, one megawatt hour equals 3,412,142 British thermal units.

(2) The rules also shall provide for this state a system of registering renewable energy credits by specifying which of any generally available registries shall be used for that purpose and

not by creating a registry. That selected system of registering 1106
renewable energy credits shall allow a hydroelectric generating 1107
facility to be eligible for obtaining renewable energy credits and 1108
shall allow customer-sited projects or actions the broadest 1109
opportunities to be eligible for obtaining renewable energy 1110
credits. 1111

Sec. 4928.65. (A) Not later than January 1, 2015, the public 1112
utilities commission shall adopt rules governing the disclosure of 1113
the costs to customers of the renewable energy resource, energy 1114
efficiency savings, and peak demand reduction requirements of 1115
sections 4928.64 and 4928.66 of the Revised Code. The rules shall 1116
include both of the following requirements: 1117

(1) That every electric distribution utility list, on all 1118
customer bills sent by the utility, including utility consolidated 1119
bills that include both electric distribution utility and electric 1120
services company charges, the individual customer cost of the 1121
utility's compliance with all of the following for the applicable 1122
billing period: 1123

(a) The renewable energy resource requirements under section 1124
4928.64 of the Revised Code, subject to division (B) of this 1125
section; 1126

(b) The energy efficiency savings requirements under section 1127
4928.66 of the Revised Code; 1128

(c) The peak demand reduction requirements under section 1129
4928.66 of the Revised Code. 1130

(2) That every electric services company list, on all 1131
customer bills sent by the company, the individual customer cost, 1132
subject to division (B) of this section, of the company's 1133
compliance with the renewable energy resource requirements under 1134
section 4928.64 of the Revised Code for the applicable billing 1135

period. 1136

(B)(1) For purposes of division (A)(1)(a) of this section, 1137
the cost of compliance with the renewable energy resource 1138
requirements shall be calculated by multiplying the individual 1139
customer's monthly usage by the combined weighted average of 1140
renewable-energy-credit costs, including 1141
solar-renewable-energy-credit costs, paid by all electric 1142
distribution utilities, as listed in the commission's most 1143
recently available alternative energy portfolio standard report. 1144

(2) For purposes of division (A)(2) of this section, the cost 1145
of compliance with the renewable energy resource requirements 1146
shall be calculated by multiplying the individual customer's 1147
monthly usage by the combined weighted average of 1148
renewable-energy-credit costs, including 1149
solar-renewable-energy-credit costs, paid by all electric services 1150
companies, as listed in the commission's most recently available 1151
alternative energy portfolio standard report. 1152

(C) The costs required to be listed under division (A)(1) of 1153
this section shall be listed on each customer's monthly bill as 1154
three distinct line items. The cost required to be listed under 1155
division (A)(2) of this section shall be listed on each customer's 1156
monthly bill as a distinct line item. 1157

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric 1158
distribution utility shall implement energy efficiency programs 1159
that achieve energy savings equivalent to at least three-tenths of 1160
one per cent of the total, annual average, and normalized 1161
kilowatt-hour sales of the electric distribution utility during 1162
the preceding three calendar years to customers in this state. An 1163
energy efficiency program may include a combined heat and power 1164
system placed into service or retrofitted on or after the 1165
effective date of the amendment of this section by S.B. 315 of the 1166

129th general assembly, September 10, 2012, or a waste energy 1167
recovery system placed into service or retrofitted on or after ~~the~~ 1168
~~same date~~ September 10, 2012, except that a waste energy recovery 1169
system described in division (A)(38)(b) of section 4928.01 of the 1170
Revised Code may be included only if it was placed into service 1171
between January 1, 2002, and December 31, 2004. For a waste energy 1172
recovery or combined heat and power system, the savings shall be 1173
as estimated by the public utilities commission. The savings 1174
requirement, using such a three-year average, shall increase to an 1175
additional five-tenths of one per cent in 2010, seven-tenths of 1176
one per cent in 2011, eight-tenths of one per cent in 2012, 1177
nine-tenths of one per cent in 2013, and one per cent from in 2014 1178
to. In 2015 and 2016, an electric distribution utility shall 1179
achieve energy savings equal to the result of subtracting the 1180
cumulative energy savings achieved since 2009 from the product of 1181
multiplying the baseline for energy savings, described in division 1182
(A)(2)(a) of this section, by four and two-tenths of one per cent. 1183
If the result is zero or less for the year for which the 1184
calculation is being made, the utility shall not be required to 1185
achieve additional energy savings for that year, but may achieve 1186
additional energy savings for that year. Thereafter, the annual 1187
savings requirements shall be, for years 2017, 2018, 2019, and 1188
2020, one per cent of the baseline, and two per cent each year 1189
thereafter, achieving a cumulative, ~~annual~~ energy savings in 1190
excess of twenty-two per cent by the end of ~~2025~~ 2027. For 1191
purposes of a waste energy recovery or combined heat and power 1192
system, an electric distribution utility shall not apply more than 1193
the total annual percentage of the electric distribution utility's 1194
industrial-customer load, relative to the electric distribution 1195
utility's total load, to the annual energy savings requirement. 1196

(b) Beginning in 2009, an electric distribution utility shall 1197
implement peak demand reduction programs designed to achieve a one 1198

per cent reduction in peak demand in 2009 and an additional 1199
seventy-five hundredths of one per cent reduction each year 1200
through ~~2018~~ 2014. In ~~2018~~ 2015 and 2016, ~~the standing committees~~ 1201
~~in the house of representatives and the senate primarily dealing~~ 1202
~~with energy issues shall make recommendations to the general~~ 1203
~~assembly regarding future~~ an electric distribution utility shall 1204
achieve a reduction in peak demand equal to the result of 1205
subtracting the cumulative peak demand reductions achieved since 1206
2009 from the product of multiplying the baseline for peak demand 1207
reduction, described in division (A)(2)(a) of this section, by 1208
four and seventy-five hundredths of one per cent. If the result is 1209
zero or less for the year for which the calculation is being made, 1210
the utility shall not be required to achieve an additional 1211
reduction in peak demand for that year, but may achieve an 1212
additional reduction in peak demand for that year. In 2017 and 1213
each year thereafter through 2020, the utility shall achieve an 1214
additional seventy-five hundredths of one per cent reduction in 1215
peak demand ~~reduction targets~~. 1216

(2) For the purposes of divisions (A)(1)(a) and (b) of this 1217
section: 1218

(a) The baseline for energy savings under division (A)(1)(a) 1219
of this section shall be the average of the total kilowatt hours 1220
the electric distribution utility sold in the preceding three 1221
calendar years, ~~and the~~. The baseline for a peak demand reduction 1222
under division (A)(1)(b) of this section shall be the average peak 1223
demand on the utility in the preceding three calendar years, 1224
except that the commission may reduce either baseline to adjust 1225
for new economic growth in the utility's certified territory. 1226
Neither baseline shall include the load and usage of any of the 1227
following customers: 1228

(i) Beginning January 1, 2017, a customer for which a 1229
reasonable arrangement has been approved under section 4905.31 of 1230

<u>the Revised Code;</u>	1231
<u>(ii) A customer that has opted out of the utility's portfolio plan under section 4928.6611 of the Revised Code;</u>	1232
<u>(iii) A customer that has opted out of the utility's portfolio plan under Section 8 of S.B. 310 of the 130th general assembly.</u>	1234
(b) The commission may amend the benchmarks set forth in division (A)(1)(a) or (b) of this section if, after application by the electric distribution utility, the commission determines that the amendment is necessary because the utility cannot reasonably achieve the benchmarks due to regulatory, economic, or technological reasons beyond its reasonable control.	1237
(c) Compliance with divisions (A)(1)(a) and (b) of this section shall be measured by including the effects of all demand-response programs for mercantile customers of the subject electric distribution utility, all waste energy recovery systems and all combined heat and power systems, and all such mercantile customer-sited energy efficiency, including waste energy recovery and combined heat and power, and peak demand reduction programs, adjusted upward by the appropriate loss factors. Any mechanism designed to recover the cost of energy efficiency, including waste energy recovery and combined heat and power, and peak demand reduction programs under divisions (A)(1)(a) and (b) of this section may exempt mercantile customers that commit their demand-response or other customer-sited capabilities, whether existing or new, for integration into the electric distribution utility's demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction programs, if the commission determines that that exemption reasonably encourages such customers to commit those capabilities to those programs. If a mercantile customer makes such existing or new demand-response, energy efficiency, including	1238
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waste energy recovery and combined heat and power, or peak demand 1263
reduction capability available to an electric distribution utility 1264
pursuant to division (A)(2)(c) of this section, the electric 1265
utility's baseline under division (A)(2)(a) of this section shall 1266
be adjusted to exclude the effects of all such demand-response, 1267
energy efficiency, including waste energy recovery and combined 1268
heat and power, or peak demand reduction programs that may have 1269
existed during the period used to establish the baseline. The 1270
baseline also shall be normalized for changes in numbers of 1271
customers, sales, weather, peak demand, and other appropriate 1272
factors so that the compliance measurement is not unduly 1273
influenced by factors outside the control of the electric 1274
distribution utility. 1275

(d)(i) Programs implemented by a utility may include 1276
~~demand response~~ the following: 1277

(I) Demand-response programs ~~grid;~~ 1278

(II) Smart grid investment programs, provided that such 1279
programs are demonstrated to be cost-beneficial, ~~customer sited;~~ 1280

(III) Customer-sited programs, including waste energy 1281
recovery and combined heat and power systems, ~~and transmission;~~ 1282

(IV) Transmission and distribution infrastructure 1283
improvements that reduce line losses; 1284

(V) Energy efficiency savings and peak demand reduction that 1285
are achieved, in whole or in part, as a result of funding provided 1286
from the universal service fund established by section 4928.51 of 1287
the Revised Code to benefit low-income customers through programs 1288
that include, but are not limited to, energy audits, the 1289
installation of energy efficiency insulation, appliances, and 1290
windows, and other weatherization measures. 1291

(ii) No energy efficiency or peak demand reduction achieved 1292
under divisions (A)(2)(d)(i)(IV) and (V) of this section shall 1293

qualify for shared savings. 1294

(iii) Division (A)(2)(c) of this section shall be applied to 1295
include facilitating efforts by a mercantile customer or group of 1296
those customers to offer customer-sited demand-response, energy 1297
efficiency, including waste energy recovery and combined heat and 1298
power, or peak demand reduction capabilities to the electric 1299
distribution utility as part of a reasonable arrangement submitted 1300
to the commission pursuant to section 4905.31 of the Revised Code. 1301

(e) No programs or improvements described in division 1302
(A)(2)(d) of this section shall conflict with any statewide 1303
building code adopted by the board of building standards. 1304

(B) In accordance with rules it shall adopt, the public 1305
utilities commission shall produce and docket at the commission an 1306
annual report containing the results of its verification of the 1307
annual levels of energy efficiency and of peak demand reductions 1308
achieved by each electric distribution utility pursuant to 1309
division (A) of this section. A copy of the report shall be 1310
provided to the consumers' counsel. 1311

(C) If the commission determines, after notice and 1312
opportunity for hearing and based upon its report under division 1313
(B) of this section, that an electric distribution utility has 1314
failed to comply with an energy efficiency or peak demand 1315
reduction requirement of division (A) of this section, the 1316
commission shall assess a forfeiture on the utility as provided 1317
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 1318
either in the amount, per day per undercompliance or 1319
noncompliance, relative to the period of the report, equal to that 1320
prescribed for noncompliances under section 4905.54 of the Revised 1321
Code, or in an amount equal to the then existing market value of 1322
one renewable energy credit per megawatt hour of undercompliance 1323
or noncompliance. Revenue from any forfeiture assessed under this 1324
division shall be deposited to the credit of the advanced energy 1325

fund created under section 4928.61 of the Revised Code. 1326

(D) The commission may establish rules regarding the content 1327
of an application by an electric distribution utility for 1328
commission approval of a revenue decoupling mechanism under this 1329
division. Such an application shall not be considered an 1330
application to increase rates and may be included as part of a 1331
proposal to establish, continue, or expand energy efficiency or 1332
conservation programs. The commission by order may approve an 1333
application under this division if it determines both that the 1334
revenue decoupling mechanism provides for the recovery of revenue 1335
that otherwise may be forgone by the utility as a result of or in 1336
connection with the implementation by the electric distribution 1337
utility of any energy efficiency or energy conservation programs 1338
and reasonably aligns the interests of the utility and of its 1339
customers in favor of those programs. 1340

(E) The commission additionally shall adopt rules that 1341
require an electric distribution utility to provide a customer 1342
upon request with two years' consumption data in an accessible 1343
form. 1344

Sec. 4928.662. For the purpose of measuring and determining 1345
compliance with the energy efficiency and peak demand reduction 1346
requirements under section 4928.66 of the Revised Code, the public 1347
utilities commission shall count and recognize compliance as 1348
follows: 1349

(A) Energy efficiency savings and peak demand reduction 1350
achieved through actions taken by customers or through electric 1351
distribution utility programs that comply with federal standards 1352
for either or both energy efficiency and peak demand reduction 1353
requirements, including resources associated with such savings or 1354
reduction that are recognized as capacity resources by the 1355
regional transmission organization operating in Ohio in compliance 1356

with section 4928.12 of the Revised Code, shall count toward 1357
compliance with the energy efficiency and peak demand reduction 1358
requirements. 1359

(B) Energy efficiency savings and peak demand reduction 1360
achieved on and after the effective date of S.B. 310 of the 130th 1361
general assembly shall be measured on the higher of an as found or 1362
deemed basis, except that, solely at the option of the electric 1363
distribution utility, such savings and reduction achieved since 1364
2006 may also be measured using this method. For new construction, 1365
the energy efficiency savings and peak demand reduction shall be 1366
counted based on 2008 federal standards, provided that when new 1367
construction replaces an existing facility, the difference in 1368
energy consumed, energy intensity, and peak demand between the new 1369
and replaced facility shall be counted toward meeting the energy 1370
efficiency and peak demand reduction requirements. 1371

(C) The commission shall count both the energy efficiency 1372
savings and peak demand reduction on an annualized basis. 1373

(D) The commission shall count both the energy efficiency 1374
savings and peak demand reduction on a gross savings basis. 1375

(E) The commission shall count energy efficiency savings and 1376
peak demand reductions associated with transmission and 1377
distribution infrastructure improvements that reduce line losses. 1378
No energy efficiency or peak demand reduction achieved under 1379
division (E) of this section shall qualify for shared savings. 1380

(F) Energy efficiency savings and peak demand reduction 1381
amounts approved by the commission shall continue to be counted 1382
toward achieving the energy efficiency and peak demand reduction 1383
requirements as long as the requirements remain in effect. 1384

(G) Any energy efficiency savings or peak demand reduction 1385
amount achieved in excess of the requirements may, at the 1386
discretion of the electric distribution utility, be banked and 1387

applied toward achieving the energy efficiency or peak demand 1388
reduction requirements in future years. 1389

Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 of 1390
the Revised Code: 1391

(A) "Customer" means any customer of an electric distribution 1392
utility to which either of the following applies: 1393

(1) The customer receives service above the primary voltage 1394
level as determined by the utility's tariff classification. 1395

(2) The customer is a commercial or industrial customer to 1396
which both of the following apply: 1397

(a) The customer receives electricity through a meter of an 1398
end user or through more than one meter at a single location in a 1399
quantity that exceeds forty-five million kilowatt hours of 1400
electricity for the preceding calendar year. 1401

(b) The customer has made a written request for registration 1402
as a self-assessing purchaser pursuant to section 5727.81 of the 1403
Revised Code. 1404

(B) "Energy intensity" means the amount of energy, from 1405
electricity, used or consumed per unit of production. 1406

(C) "Portfolio plan" means the comprehensive energy 1407
efficiency and peak-demand reduction program portfolio plan 1408
required under rules adopted by the public utilities commission 1409
and codified in Chapter 4901:1-39 of the Administrative Code or 1410
hereafter recodified or amended. 1411

Sec. 4928.6611. Beginning January 1, 2017, a customer of an 1412
electric distribution utility may opt out of the opportunity and 1413
ability to obtain direct benefits from the utility's portfolio 1414
plan. Such an opt out shall extend to all of the customer's 1415
accounts, irrespective of the size or service voltage level that 1416

are associated with the activities performed by the customer and 1417
that are located on or adjacent to the customer's premises. 1418

Sec. 4928.6612. Any customer electing to opt out under 1419
section 4928.6611 of the Revised Code shall do so by providing a 1420
verified written notice of intent to opt out to the electric 1421
distribution utility from which it receives service and submitting 1422
a complete copy of the opt-out notice to the secretary of the 1423
public utilities commission. 1424

The notice provided to the utility shall include all of the 1425
following: 1426

(A) A statement indicating that the customer has elected to 1427
opt out; 1428

(B) The effective date of the election to opt out; 1429

(C) The account number for each customer account to which the 1430
opt out shall apply; 1431

(D) The physical location of the customer's load center; 1432

(E) The date upon which the customer established, or plans to 1433
establish a process and implement, cost-effective measures to 1434
improve its energy efficiency savings and peak demand reductions. 1435

Sec. 4928.6613. Upon a customer's election to opt out under 1436
section 4928.6611 of the Revised Code and commencing on the 1437
effective date of the election to opt out, no account properly 1438
identified in the customer's verified notice under division (C) of 1439
section 4928.6612 of the Revised Code shall be subject to any cost 1440
recovery mechanism under section 4928.66 of the Revised Code or 1441
eligible to participate in, or directly benefit from, programs 1442
arising from electric distribution utility portfolio plans 1443
approved by the public utilities commission. 1444

Sec. 4928.6614. (A) A customer subsequently may opt in to an electric distribution utility's portfolio plan after a previous election to opt out under section 4928.6611 of the Revised Code if both of the following apply: 1445
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(1) The customer has previously opted out for a period of at least three consecutive calendar years. 1449
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(2) The customer gives twelve months' advance notice of its intent to opt in to the public utilities commission and the electric distribution utility from which it receives service. 1451
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(B) A customer that opts in under this section shall maintain its opt-in status for three consecutive calendar years before being eligible subsequently to exercise its right to opt out after giving the utility twelve months' advance notice. 1454
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Sec. 4928.6615. Any customer electing to opt in under section 4928.6614 of the Revised Code shall do so by providing a written notice of intent to opt in to the electric distribution utility from which it receives service and submitting a complete copy of the opt-in notice to the secretary of the public utilities commission. The notice shall include all of the following: 1458
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(A) A statement indicating that the customer has elected to opt in; 1464
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(B) The effective date of the election to opt in; 1466

(C) The account number for each customer account to which the opt in shall apply; 1467
1468

(D) The physical location of the customer's load center. 1469

Sec. 4928.6616. (A) Not later than sixty days after the effective date at a customer's election to opt out under section 4928.6611 of the Revised Code, the customer shall prepare and 1470
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submit an initial report to the staff of the public utilities 1473
commission. The report shall summarize the projects, actions, 1474
policies, or practices that the customer may consider 1475
implementing, based on the customer's cost-effectiveness criteria, 1476
for the purpose of reducing energy intensity. 1477

(B) For as long as the opt out is in effect, the customer 1478
shall, at least once every twenty-four months, commencing with the 1479
effective date of the election to opt out, prepare and submit, to 1480
the staff of the commission, an updated report. The updated report 1481
shall include a general description of any cumulative amount of 1482
energy-intensity reductions achieved by the customer during the 1483
period beginning on the effective date of the election to opt out 1484
and ending not later than sixty days prior to the date that the 1485
updated report is submitted. 1486

(C) All reports filed under this section shall be verified by 1487
the customer. 1488

(D) Upon submission of any updated report under division (B) 1489
of this section, the staff of the commission may request the 1490
customer to provide additional information on the 1491
energy-intensity-reducing projects, actions, policies, or 1492
practices implemented by the customer and the amount of 1493
energy-intensity reductions achieved during the period covered by 1494
the updated report. 1495

(E) Any information contained in any report submitted under 1496
this section and any customer responses to requests for additional 1497
information shall be deemed to be confidential, proprietary, and a 1498
trade secret. No such information or response shall be publicly 1499
divulged without written authorization by the customer or used for 1500
any purpose other than to identify the amount of energy-intensity 1501
reductions achieved by the customer. 1502

(F) If the commission finds, after notice and a hearing, that 1503

the customer has failed to achieve any substantial cumulative 1504
reduction in energy intensity identified by the customer in an 1505
updated report submitted under division (B) of this section, and 1506
if the failure is not excusable for good cause shown by the 1507
customer, the commission may suspend the opt out for the period of 1508
time that it may take the customer to achieve the cumulative 1509
reduction in energy intensity identified by the customer but no 1510
longer. 1511

Section 2. That existing sections 3706.25, 4928.01, 4928.20, 1512
4928.53, 4928.64, 4928.65, and 4928.66 of the Revised Code are 1513
hereby repealed. 1514

Section 3. It is the intent of the General Assembly to ensure 1515
that customers in Ohio have access to affordable energy. It is the 1516
intent of the General Assembly to incorporate as many forms of 1517
inexpensive, reliable energy sources in the state of Ohio as 1518
possible. It is also the intent of the General Assembly to get a 1519
better understanding of how energy mandates impact jobs and the 1520
economy in Ohio and to minimize government mandates. Because the 1521
energy mandates in current law may be unrealistic and 1522
unattainable, it is the intent of the General Assembly to review 1523
all energy resources as part of its efforts to address energy 1524
pricing issues. 1525

Therefore, it is the intent of the General Assembly to enact 1526
legislation in the future, after taking into account the 1527
recommendations of the Energy Mandates Study Committee, that will 1528
reduce the mandates in sections 4928.64 and 4928.66 of the Revised 1529
Code and provide greater transparency to electric customers on the 1530
costs of future energy mandates, if there are to be any. 1531

Section 4. (A) There is hereby created the Energy Mandates 1532
Study Committee to study Ohio's renewable energy, energy 1533

efficiency, and peak demand reduction mandates. The Committee 1534
shall consist of the following members: 1535

(1) Six members of the House of Representatives appointed by 1536
the Speaker of the House of Representatives, with not more than 1537
four members from the same political party; 1538

(2) Six members of the Senate appointed by the President of 1539
the Senate, with not more than four members from the same 1540
political party; 1541

(3) The chairperson of the Public Utilities Commission, as an 1542
ex officio, nonvoting member. 1543

(B) The Speaker of the House of Representatives and the 1544
President of the Senate shall each appoint one member of the 1545
Committee to serve as a cochairperson of the Committee. Any 1546
vacancies that occur on the Committee shall be filled in the same 1547
manner as the original appointment. 1548

(C) Not later than September 30, 2015, the Committee shall 1549
submit a report of its findings to the House of Representatives 1550
and the Senate in accordance with division (B) of section 101.68 1551
of the Revised Code. The Committee shall cease to exist on October 1552
1, 2015. The report shall include, at a minimum, all of the 1553
following: 1554

(1) A cost-benefit analysis of the renewable energy, energy 1555
efficiency, and peak demand reduction mandates, including the 1556
projected costs on electric customers if the mandates were to 1557
remain at the percentage levels required under sections 4928.64 1558
and 4928.66 of the Revised Code, as amended by this act; 1559

(2) A recommendation of the best, evidence-based standard for 1560
reviewing the mandates in the future, including an examination of 1561
readily available technology to attain such a standard; 1562

(3) The potential benefits of an opt-in system for the 1563

mandates, in contrast to an opt-out system for the mandates, and a 1564
recommendation as to whether an opt-in system should apply to all 1565
electric customers, whether an opt-out system should apply to only 1566
certain customers, or whether a hybrid of these two systems is 1567
recommended; 1568

(4) A recommendation on whether costs incurred by an electric 1569
distribution utility or an electric services company pursuant to 1570
any contract, which may be entered into by the utility or company 1571
on or after the effective date of S.B. 310 of the 130th General 1572
Assembly for the purpose of procuring renewable energy resources 1573
or renewable energy credits and complying with the requirements of 1574
section 4928.64 of the Revised Code, may be passed through to any 1575
consumer, if such costs could have been avoided with the inclusion 1576
of a change of law provision in the contract; 1577

(5) A review of the risk of increased grid congestion due to 1578
the anticipated retirement of coal-fired generation capacity and 1579
other factors; the ability of distributed generation, including 1580
combined heat and power and waste energy recovery, to reduce 1581
electric grid congestion; and the potential benefit to all energy 1582
consumers resulting from reduced grid congestion; 1583

(6) An analysis of whether there are alternatives for the 1584
development of advanced energy resources as that term is defined 1585
in section 4928.01 of the Revised Code; 1586

(7) An assessment of the environmental impact of the 1587
renewable energy, energy efficiency, and peak demand reduction 1588
mandates on reductions of greenhouse gas and fossil fuel 1589
emissions; 1590

(8) A review of payments made by electric distribution 1591
utilities to third-party administrators to promote energy 1592
efficiency and peak demand reduction programs under the terms of 1593
the utilities' portfolio plans. The review shall include, but 1594

shall not be limited to, a complete analysis of all fixed and 1595
variable payments made to those administrators since the effective 1596
date of S.B. 221 of the 127th General Assembly, jobs created, 1597
retained, and impacted, whether those payments outweigh the 1598
benefits to ratepayers, and whether those payments should no 1599
longer be recovered from ratepayers. The review also shall include 1600
a recommendation regarding whether the administrators should 1601
submit periodic reports to the Commission documenting the payments 1602
received from utilities. 1603

Section 5. As used in Sections 6, 7, 8, 9, 10, and 11 of this 1604
act: 1605

"Customer," "energy intensity," and "portfolio plan" have the 1606
same meanings as in section 4928.6610 of the Revised Code. 1607

"Electric distribution utility" has the same meaning as in 1608
section 4928.01 of the Revised Code. 1609

Section 6. (A) If an electric distribution utility has a 1610
portfolio plan that is in effect on the effective date of this 1611
section, the utility shall do either of the following, at its sole 1612
discretion: 1613

(1) Continue to implement the portfolio plan with no 1614
amendments to the plan, for the duration that the Public Utilities 1615
Commission originally approved, subject to divisions (D) and (E) 1616
of this section; 1617

(2) Seek an amendment of the portfolio plan under division 1618
(B) of this section. 1619

(B)(1) An electric distribution utility that seeks to amend 1620
its portfolio plan under division (A)(2) of this section shall 1621
file an application with the Commission to amend the plan not 1622
later than thirty days after the effective date of this section. 1623
The Commission shall review the application in accordance with its 1624

rules as if the application were for a new portfolio plan. The 1625
Commission shall review and approve, or modify and approve, the 1626
application not later than sixty days after the date that the 1627
application is filed. Any portfolio plan amended under this 1628
division shall take effect on January 1, 2015, and expire on 1629
December 31, 2016. If the Commission fails to review and approve, 1630
or modify and approve, the application on or before January 1, 1631
2015, the plan shall be deemed approved as amended in the 1632
application and shall take effect on January 1, 2015, and expire 1633
on December 31, 2016. 1634

(2) Section 4928.66 of the Revised Code, as amended by this 1635
act, shall apply to an electric distribution utility that applies 1636
to amend its portfolio plan under division (B) of this section. 1637

(C) If an electric distribution utility fails to file an 1638
application to amend its portfolio plan under division (B) of this 1639
section within the required thirty-day period, the electric 1640
distribution utility shall proceed in accordance with division 1641
(A)(1) of this section. 1642

(D) If an electric distribution utility implements its 1643
portfolio plan under division (A)(1) of this section for the 1644
plan's original duration and if the plan expires before December 1645
31, 2016, the Commission shall automatically extend the plan 1646
through December 31, 2016, with no amendments to the plan. 1647

(E)(1) The provisions of section 4928.66 of the Revised Code, 1648
as it existed prior to the effective date of this section, shall 1649
apply to an electric distribution utility that has a portfolio 1650
plan that is implemented under division (A)(1) of this section for 1651
either of the following time periods: 1652

(a) The plan's original duration; 1653

(b) The plan's original duration and then, until December 31, 1654
2016, if the plan is extended under division (D) of this section. 1655

(2) Beginning January 1, 2017, the provisions of section 1656
4928.66 of the Revised Code as amended by this act shall apply to 1657
the electric distribution utility. 1658

Section 7. (A) The Public Utilities Commission shall neither 1659
review nor approve an application for a portfolio plan if the 1660
application is pending on the effective date of this section. 1661

(B) Prior to January 1, 2017, the Commission shall not take 1662
any action with regard to any portfolio plan or application 1663
regarding a portfolio plan, except those actions expressly 1664
authorized or required by Section 6 of this act and actions 1665
necessary to administer the implementation of existing portfolio 1666
plans. 1667

Section 8. Beginning January 1, 2015, a customer of an 1668
electric distribution utility may opt out of the opportunity and 1669
ability to obtain direct benefits from the utility's portfolio 1670
plan that is amended under division (B) of Section 6 of this act. 1671
The opt out shall apply only to the amended plan. The opt out 1672
shall extend to all of the customer's accounts, irrespective of 1673
the size or service voltage level that are associated with the 1674
activities performed by the customer and that are located on or 1675
adjacent to the customer's premises. 1676

Section 9. Any customer electing to opt out under Section 8 1677
of this act shall do so by providing a verified written notice of 1678
intent to opt out to the electric distribution utility from which 1679
it receives service and submitting a complete copy of the opt-out 1680
notice to the Secretary of the Public Utilities Commission. 1681

The notice provided to the utility shall include all of the 1682
following: 1683

(A) A statement indicating that the customer has elected to 1684

opt out;	1685
(B) The effective date of the election to opt out;	1686
(C) The account number for each customer account to which the opt out shall apply;	1687 1688
(D) The physical location of the customer's load center;	1689
(E) The date upon which the customer established, or plans to establish a process and implement, cost-effective measures to improve its energy efficiency savings and peak demand reductions.	1690 1691 1692
Section 10. Upon a customer's election to opt out under Section 8 of this act and commencing on the effective date of the election to opt out, no account properly identified in the customer's verified notice under division (C) of Section 9 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.	1693 1694 1695 1696 1697 1698 1699 1700 1701
Section 11. (A) Not later than sixty days after the effective date of a customer's election to opt out under Section 8 of this act, the customer shall prepare and submit an initial report to the staff of the Public Utilities Commission. The report shall summarize the projects, actions, policies, or practices that the customer may consider implementing, based on the customer's cost-effectiveness criteria, for the purpose of reducing energy intensity.	1702 1703 1704 1705 1706 1707 1708 1709
(B) Not later than November 1, 2016, the customer shall prepare and submit to the staff of the Commission an updated report. The updated report shall include a general description of any cumulative amount of energy-intensity reductions achieved by the customer during the period beginning on the effective date of	1710 1711 1712 1713 1714

the election to opt out and ending not later than sixty days prior 1715
to the date that the updated report is submitted. 1716

(C) Any report filed under this section shall be verified by 1717
the customer. 1718

(D) Upon submission of the updated report, the staff of the 1719
Commission may request the customer to provide additional 1720
information on the energy-intensity-reducing projects, actions, 1721
policies, or practices implemented by the customer and the amount 1722
of energy-intensity reductions achieved during the period covered 1723
by the updated report. 1724

(E) Any information contained in any report submitted under 1725
this section and any customer responses to requests for additional 1726
information shall be deemed to be confidential, proprietary, and a 1727
trade secret. No such information or response shall be publicly 1728
divulged without written authorization by the customer or used for 1729
any purpose other than to identify the amount of energy-intensity 1730
reductions achieved by the customer. 1731