

**As Passed by the House**

**130th General Assembly  
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**Sub. S. B. No. 310**

**Senator Balderson**

**Cosponsors: Senators Coley, Eklund, Faber, Jones, Seitz  
Representatives Stautberg, Adams, J., Buchy, Hill, Huffman, Maag,  
Retherford, Roegner, Ruhl, Terhar, Wachtmann Speaker Batchelder**

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

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

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

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

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

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service.	174 175
(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company, but excludes any self-generator to the extent that it consumes electricity it so produces, sells that electricity for resale, or obtains electricity from a generating facility it hosts on its premises.	176 177 178 179 180 181
(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.	182 183
(9) "Electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.	184 185 186 187 188 189 190 191
(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.	192 193
(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis either in the business of supplying a noncompetitive retail electric service in this state or in the businesses of supplying both a noncompetitive and a competitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent.	194 195 196 197 198 199 200
(12) "Firm electric service" means electric service other than nonfirm electric service.	201 202
(13) "Governmental aggregator" means a legislative authority of a municipal corporation, a board of township trustees, or a	203 204

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

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

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

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

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

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

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

resources. "Advanced energy project" also includes any project 267  
described in division (A), (B), or (C) of section 4928.621 of the 268  
Revised Code. 269

(26) "Regulatory assets" means the unamortized net regulatory 270  
assets that are capitalized or deferred on the regulatory books of 271  
the electric utility, pursuant to an order or practice of the 272  
public utilities commission or pursuant to generally accepted 273  
accounting principles as a result of a prior commission 274  
rate-making decision, and that would otherwise have been charged 275  
to expense as incurred or would not have been capitalized or 276  
otherwise deferred for future regulatory consideration absent 277  
commission action. "Regulatory assets" includes, but is not 278  
limited to, all deferred demand-side management costs; all 279  
deferred percentage of income payment plan arrears; 280  
post-in-service capitalized charges and assets recognized in 281  
connection with statement of financial accounting standards no. 282  
109 (receivables from customers for income taxes); future nuclear 283  
decommissioning costs and fuel disposal costs as those costs have 284  
been determined by the commission in the electric utility's most 285  
recent rate or accounting application proceeding addressing such 286  
costs; the undepreciated costs of safety and radiation control 287  
equipment on nuclear generating plants owned or leased by an 288  
electric utility; and fuel costs currently deferred pursuant to 289  
the terms of one or more settlement agreements approved by the 290  
commission. 291

(27) "Retail electric service" means any service involved in 292  
supplying or arranging for the supply of electricity to ultimate 293  
consumers in this state, from the point of generation to the point 294  
of consumption. For the purposes of this chapter, retail electric 295  
service includes one or more of the following "service 296  
components": generation service, aggregation service, power 297  
marketing service, power brokerage service, transmission service, 298

distribution service, ancillary service, metering service, and 299  
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
<del>(v)</del> <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
<del>(vi)</del> <u>(vii) Biomass energy;</u>	396
<del>(vii)</del> <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
<del>(viii)</del> <u>(ix) Biologically derived methane gas;</u>	407
<del>(ix)</del> <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	<del>3.5</del> <u>2.5%</u>	<del>0.15</del> <u>0.12%</u>	845
2016	<del>4.5</del> <u>2.5%</u>	<del>0.18</del> <u>0.12%</u>	846
2017	<del>5.5</del> <u>3.5%</u>	<del>0.22</del> <u>0.15%</u>	847
2018	<del>6.5</del> <u>4.5%</u>	<del>0.26</del> <u>0.18%</u>	848
2019	<del>7.5</del> <u>5.5%</u>	<del>0.3</del> <u>0.22%</u>	849
2020	<del>8.5</del> <u>6.5%</u>	<del>0.34</del> <u>0.26%</u>	850
2021	<del>9.5</del> <u>7.5%</u>	<del>0.38</del> <u>0.3%</u>	851
2022	<del>10.5</del> <u>8.5%</u>	<del>0.42</del> <u>0.34%</u>	852
2023	<del>11.5</del> <u>9.5%</u>	<del>0.46</del> <u>0.38%</u>	853
<del>2024 and each calendar</del>	<del>12.5</del> <u>10.5%</u>	<del>0.5</del> <u>0.42%</u>	854
<del>year thereafter</del>			
<u>2025</u>	<u>11.5%</u>	<u>0.46%</u>	855
<u>2026 and each calendar</u>	<u>12.5%</u>	<u>0.5%.</u>	856
<u>year thereafter</u>			

(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 <u>2018</u> ;	888
<u>(iii) Two hundred dollars for 2019 and 2020;</u>	889
<u>(iv) Similarly</u> reduced every two years thereafter through	890
2024 <u>2026</u> 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) <del>(1)</del> <del>or</del>	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;

~~(c)(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;~~ 1074  
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1076

(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 1077  
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(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. 1081  
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(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 1103  
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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



the Revised Code; 1231

(ii) A customer that has opted out of the utility's portfolio plan under section 4928.6611 of the Revised Code; 1232  
1233

(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. 1234  
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1236

(b) The commission may amend the benchmarks set forth in 1237  
division (A)(1)(a) or (b) of this section if, after application by 1238  
the electric distribution utility, the commission determines that 1239  
the amendment is necessary because the utility cannot reasonably 1240  
achieve the benchmarks due to regulatory, economic, or 1241  
technological reasons beyond its reasonable control. 1242

(c) Compliance with divisions (A)(1)(a) and (b) of this 1243  
section shall be measured by including the effects of all 1244  
demand-response programs for mercantile customers of the subject 1245  
electric distribution utility, all waste energy recovery systems 1246  
and all combined heat and power systems, and all such mercantile 1247  
customer-sited energy efficiency, including waste energy recovery 1248  
and combined heat and power, and peak demand reduction programs, 1249  
adjusted upward by the appropriate loss factors. Any mechanism 1250  
designed to recover the cost of energy efficiency, including waste 1251  
energy recovery and combined heat and power, and peak demand 1252  
reduction programs under divisions (A)(1)(a) and (b) of this 1253  
section may exempt mercantile customers that commit their 1254  
demand-response or other customer-sited capabilities, whether 1255  
existing or new, for integration into the electric distribution 1256  
utility's demand-response, energy efficiency, including waste 1257  
energy recovery and combined heat and power, or peak demand 1258  
reduction programs, if the commission determines that that 1259  
exemption reasonably encourages such customers to commit those 1260  
capabilities to those programs. If a mercantile customer makes 1261  
such existing or new demand-response, energy efficiency, including 1262

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  
1452  
1453

(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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1463

(A) A statement indicating that the customer has elected to opt in; 1464  
1465

(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  
1471  
1472



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
<b>Section 10.</b> 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
<b>Section 11.</b> (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