



Ohio Legislative Service Commission

Bill Analysis

Kathleen A. Luikart and Maura McClelland

S.B. 310

130th General Assembly
(As Introduced)

Sen. Balderson

BILL SUMMARY

Renewable energy resource and advanced energy resource requirements

- Freezes the renewable and solar energy benchmarks (required of electric distribution utilities (EDUs) and electric services companies (ESCs)) at the 2014 level required under current law, and freezes the amount of solar energy compliance payments at the 2014-2015 level.
- Eliminates the requirement that EDUs and ESCs provide, by 2025, up to 12.5% of the current 25% alternative energy requirement from advanced energy.
- Modifies the calculation of the renewable energy resources cost cap to be 3% of the sales supply amount, which is the sales baseline multiplied by the generation supply dollar amount.
- Specifies that, even if the 3% cost cap is met in any year, recovery from customers of ongoing costs that are associated with EDUs' existing contracts to procure renewable energy resources will continue until the costs are fully recovered.
- Repeals the Alternative Energy Advisory Committee and its duty under current law to study the alternative energy resources requirements and to submit a semiannual report to the Public Utilities Commission of Ohio (PUCO).

Energy efficiency (EE) and peak demand reduction (PDR) requirements

- Increases the annual EE savings requirement (required of EDUs only) from 1% to 4.2% of the most recent three-year average of total kilowatt hours sold to Ohio retail electric customers, and continues the 4.2% annual requirement indefinitely.
- Terminates the current PDR requirement in 2014 (currently required of EDUs only).

Portfolio plans for EE and PDR compliance

- Requires that existing portfolio plans for compliance with the EE and PDR requirements be either continued through the end of 2016 or amended under a 60-day PUCO review process.
- Specifies that current law applies to EDUs that have continued plans, for the duration of those plans, and the law as amended by the bill applies to EDUs with amended plans.
- Prohibits the PUCO from reviewing or approving applications for portfolio plans if the applications are pending on the bill's effective date, and prohibits the PUCO from taking unauthorized actions regarding portfolio plans.

Customer opt-out and opt-out reporting

- Permits certain higher voltage and higher consumption retail customers, through written notice to the PUCO, to opt out of an EDU's amended portfolio plan, thereby exempting the customer from cost recovery mechanisms but also removing the customer's ability to participate in or benefit from the plan for its duration.
- Requires a retail customer that opts out of an EDU's portfolio plan, not later than January 1, 2017, to submit a report to the PUCO that, for the opt-out period, summarizes the EE measures implemented by the customer and identifies the cumulative EE savings achieved.
- Permits the PUCO staff to request additional information from the customer regarding the EE measures adopted and the amount of EE savings achieved by the customer during the period covered by the submitted report.
- Specifies that all information contained in customers' reports and any responses to requests for additional information from the PUCO staff are confidential, proprietary, and a trade secret.
- Prohibits the information in customers' reports or responses to be publicly divulged without the customers' written authorization or used for any purpose other than to identify customer adopted EE measures and the quantity of customer achieved EE savings.

Disclosure of costs to customers

- Requires disclosure of the costs to customers of the renewable energy resource and EE savings requirements, on each EDU and ESC customer's monthly bill, as applicable.



Energy Mandates Study Committee

- Creates the 21-member Energy Mandates Study Committee to study Ohio's renewable energy, EE, and PDR mandates.
- Requires the Committee to submit a report to the General Assembly by December 15, 2015, including a cost-benefit analysis of the mandates, a recommendation of a standard for future review of the mandates, and recommendations regarding opt-in and opt-out systems for the mandates.
- Abolishes the Committee effective December 16, 2015.

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CONTENT AND OPERATION

Renewable energy and advanced energy requirements

Renewable energy freeze and elimination of advanced requirement

The bill freezes the renewable energy (including solar) benchmarks at the 2014 level required under current law. It also eliminates the advanced energy requirement and updates terminology accordingly.¹

¹ R.C. 4928.64; conforming changes in R.C. 4928.20 and 4928.65.



Background on renewable and advanced energy requirements

Under current law, electric distribution utilities (EDUs) and electric services companies (ESCs) must provide, by 2025, 25% of their electricity supply required for their standard service offers from "alternative energy resources." The term "alternative" encompasses both advanced and renewable energy resources. Under current law, at least half of the 25% must be generated from certain renewable energy resources such as, for example, solar, wind, geothermal, and certain hydroelectric energy.² The remaining portion may be generated from advanced energy resources (clean coal and advanced nuclear are some examples³).⁴

Elimination of the advanced energy requirement

Current law provides yearly benchmarks for meeting the renewable portion of the alternative energy requirement, but does not provide benchmarks for advanced energy resources. Therefore, the advanced energy requirement has been interpreted as not being enforceable until 2025. The bill repeals the advanced energy requirement entirely. Consequently, the bill eliminates references to the "alternative energy resource requirements" and refers instead to the "renewable energy resource requirements." It also eliminates relevant references to advanced energy resources, including a provision that specifies that a *renewable* energy resource includes, for purposes of the alternative energy requirements, any advanced energy resource or renewable energy resource of a mercantile customer that can be utilized effectively as part of any advanced energy resource plan of an EDU and would otherwise qualify as an alternative energy resource if it were utilized by an EDU.⁵

Renewable energy freeze

The bill freezes the renewable energy benchmarks at the 2014 level, which requires 2.5% of the electricity supply from renewable energy resources, including 0.12% from solar energy resources. The bill requires that these percentages be achieved for 2014 "and thereafter."

² R.C. 4928.01(A)(37), not in the bill.

³ R.C. 4928.01(A)(34), not in the bill.

⁴ R.C. 4928.64.

⁵ R.C. 4928.64; conforming changes in R.C. 4928.20 and 4928.65.



The bill also freezes the amount of the solar energy compliance payments at the 2014 and 2015 level required under current law, which is \$300 per megawatt hour of undercompliance or noncompliance in the period under review.⁶

Under continuing law, an EDU is an electric utility that supplies at least retail electric distribution service, and an ESC is 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 Ohio. An ESC includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, and billing and collection agent.⁷

Renewable energy resources cost cap

The bill *prohibits* an EDU or ESC from continuing to comply with, or from being subject to any obligation to continue to comply with, in any year, the renewable energy resource requirements if continued compliance for that year would exceed the cost cap as defined by the bill. Currently, an EDU or ESC *need not* comply with the renewable energy resource benchmarks to the extent that the reasonably expected cost of compliance exceeds the 3% cost cap as stated in current law.

Cost cap under the bill

The cost cap under the bill is to be 3% of the "sales supply amount," which is the sales baseline multiplied by the generation supply dollar amount. Under the bill, the "sales baseline" consists of an average of the EDU's or ESC's annual retail sales of electricity sold in Ohio from the three preceding years and is calculated in megawatt hours (MWh) for the applicable compliance year.

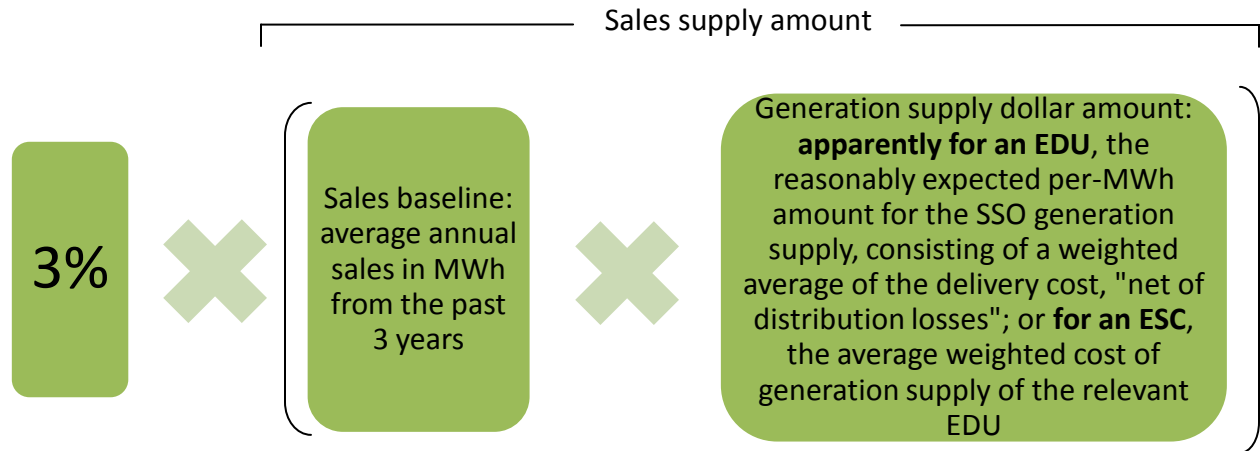
The "generation supply dollar amount" is the reasonably expected dollar amount per MWh for the generation supply available to consumers under the standard service offer (SSO) during the applicable compliance year. The bill further specifies that the reasonably expected dollar amount consists of a weighted average of the cost of the SSO supply for delivery during that compliance year, net of distribution losses.⁸

⁶ R.C. 4928.64; conforming changes in R.C. 4928.20 and 4928.65.

⁷ R.C. 4928.01(A)(6) and (9), not in the bill.

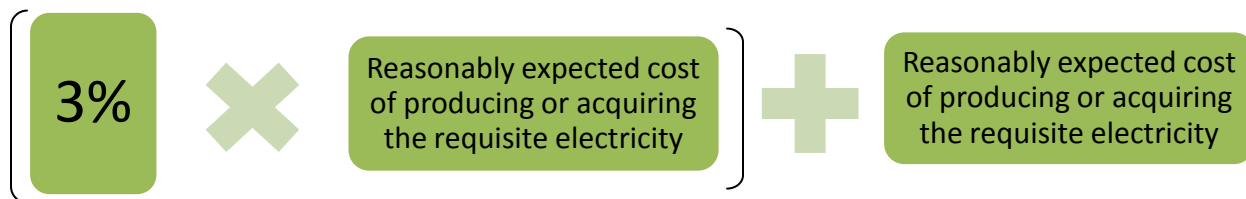
⁸ R.C. 4928.64(C)(3).

However, with respect to an ESC, the bill defines "generation supply dollar amount," to mean the average weighted cost of generation supply of the "relevant EDU."⁹



Current cost cap

The cost cap under current law is the point at which the reasonably expected cost of benchmark compliance exceeds, by 3%, the reasonably expected cost of otherwise producing or acquiring the requisite electricity.



Recovery of ongoing contract costs

The bill requires ongoing costs that are associated with contracts executed by an EDU to procure renewable energy resources that are being recovered from customers through a bypassable charge as of the bill's effective date to continue to be recovered until those costs are fully recovered regardless of whether the cost cap established by the bill is met in any year.¹⁰

⁹ R.C. 4928.64(C)(3)(b).

¹⁰ R.C. 4928.641.

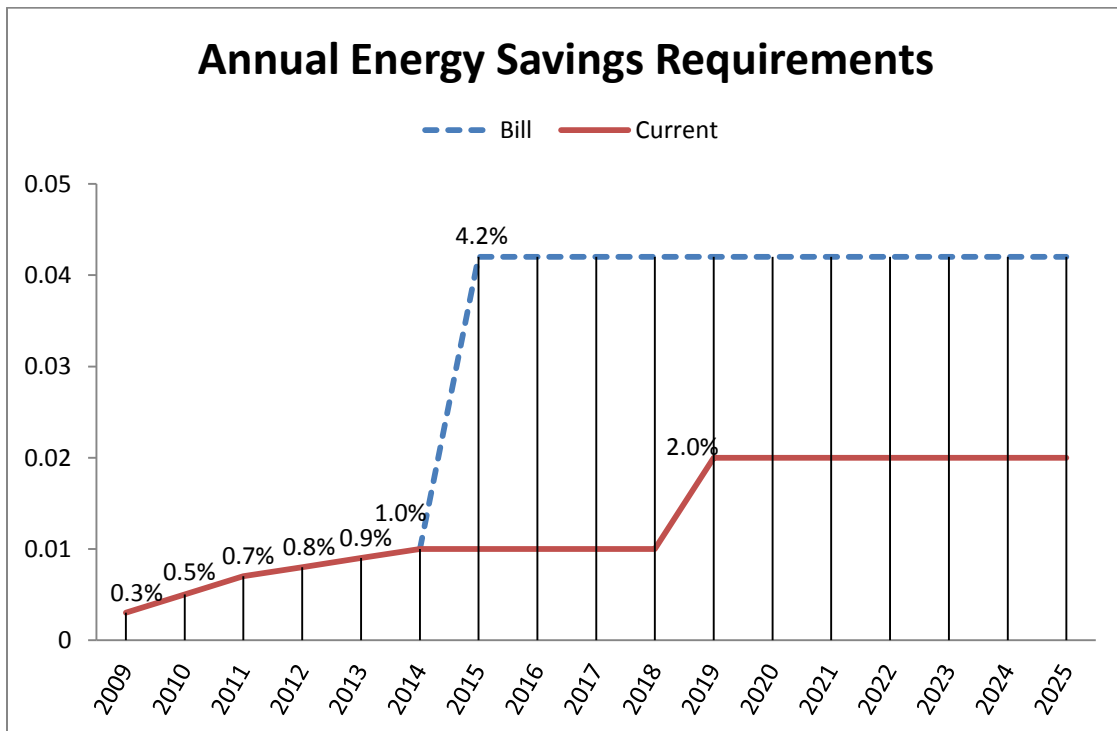
Alternative Energy Advisory Committee

The bill repeals the Alternative Energy Advisory Committee. Under current law, this Committee, appointed by the Governor in consultation with the PUCO Chairperson, has the duty to (1) examine available technology for and related timetables, goals, and costs of the alternative energy resource benchmarks as they presently exist, and (2) submit to the PUCO a semiannual report of its recommendations.¹¹

Energy efficiency (EE) and peak demand reduction (PDR) requirements

Annual energy savings requirement of 4.2%

The bill specifies that for 2015 and each year thereafter, the annual energy savings requirement, for EDUs, is 4.2% of the baseline prescribed for energy savings. Under continuing law, this baseline is the most recent three-year average of total and normalized kilowatt hours sold to customers. This 4.2% annual requirement, even though it remains at 4.2% after 2015, is an increase in the annual savings requirements under current law:



¹¹ R.C. 4928.64(D)(2).



Notably, the cumulative amount of energy savings that have been required since the enactment of this current law through 2014 is also 4.2%. This is the sum of all of the annual savings requirements from 2009 through 2014.¹²

2014 termination of peak demand reduction requirement

The bill terminates the PDR requirement in 2014. Under current law, EDUs must implement PDR programs designed to achieve a 1% reduction in peak demand and an additional 0.75% reduction each year through 2018. The bill changes "2018" to "2014." The bill also repeals a requirement that, in 2018, the energy committees in the House of Representatives and the Senate must make recommendations to the General Assembly regarding future PDR targets.¹³

Provisions for existing plans for energy savings compliance

Current PUCO rules require EDUs to have three-year plans for compliance with the EE and PDR requirements.¹⁴ The bill directs what is to happen with plans (referred to as "portfolio plans" in the bill) that are in effect on the bill's effective date.

Basically, the bill gives EDUs two options, either of which they may choose at their "sole discretion": (1) continue to implement the existing plan, with no amendments, through the end of 2016, or (2) seek an amendment of the plan with the PUCO. To amend an existing plan under the second option, the bill requires the EDU to file an application with the PUCO to amend the plan not later than 30 days after the bill's effective date. If the EDU misses this deadline, it must continue the existing plan as described in (1) above. The PUCO is required to review the application in accordance with the PUCO's rules as if the application were for a new portfolio plan. The PUCO must then review and approve, or modify and approve, the application not later than 60 days after the date that the application is filed. All amended plans must expire on December 31, 2016. The bill specifies that the new law (the law as amended by the bill) applies to an EDU that seeks to amend its plan.

For existing plans that are continued, if the plan as originally approved by the PUCO expires before December 31, 2016, the bill requires the PUCO to automatically extend the plan through December 31, 2016, with no amendments. The bill requires *current law* governing the EE and PDR requirements to apply to an EDU that continues its existing plan. The current law applies to that EDU for the plan's original duration, or,

¹² R.C. 4928.66(A)(1)(a) and (2)(a).

¹³ R.C. 4928.66(A)(1)(b).

¹⁴ O.A.C. Chapter 4901:1-39.



if the plan is extended by the PUCO, through the end of 2016. The bill specifies that beginning January 1, 2017, the new law (as amended by the bill) applies to the EDU.¹⁵

No review or approval of pending applications for portfolio plans

The bill prohibits the PUCO from reviewing or approving an application for a portfolio plan if the application is pending on the bill's effective date.¹⁶

Prohibition of unauthorized actions regarding portfolio plans

The bill prohibits the PUCO, prior to January 1, 2017, from taking any action with regard to any portfolio plan or application regarding a portfolio plan except those actions expressly authorized or required by the bill.¹⁷

Customer opt-out of portfolio plans

The bill permits certain customers to opt out of an EDU's portfolio plan if the plan has been amended as described above. For purposes of the opt-out provisions, a customer is any retail customer of an EDU that either receives service above the primary voltage level as determined by the EDU's tariff classification, or is a commercial or industrial customer that both (1) receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds 45 million kilowatt hours of electricity for the preceding calendar year, and (2) has made a written request for registration as a self-assessing purchaser pursuant to the kilowatt hour tax.¹⁸

Under the bill, this opt-out exempts properly identified customer accounts from any energy efficiency cost recovery mechanisms for the duration of an EDU's amended portfolio plan.¹⁹ It also removes the customer's opportunity and ability to obtain direct benefits from the amended portfolio plan, and limits the customer's eligibility to participate in or directly benefit from programs arising from the plan. The bill specifies that a customer's election to opt out must not be interpreted to exempt the customer's

¹⁵ Sections 4 and 5 of the bill.

¹⁶ Section 6 of the bill.

¹⁷ Section 6 of the bill.

¹⁸ Sections 4 and 7.

¹⁹ Section 9.



account from any other cost recovery mechanism, including any mechanism associated with the renewable energy resource requirement as amended by the bill.²⁰

The opt-out is to extend to all of the customer's accounts, irrespective of the size or service voltage level, associated with the activities performed by the customer and located on or adjacent to the customer's premises.²¹

The bill requires the customer to send a written notice of intent to opt out to the EDU from which it receives services, and to submit a complete copy to the PUCO Secretary. The notice must include (1) a statement that the customer is opting out, (2) the opt-out effective date, (3) the account number of each customer account to which the opt out may apply, (4) the physical location of the customer's load center, and (5) the date upon which the customer established or plans to establish a process and implement cost-effective measures to improve its energy efficiency savings.²²

Opt-out reporting

The bill provides that, upon a customer's election to opt out, the customer must submit a report to the PUCO staff that, for the period of the opt-out, (1) summarizes the EE measures the customer has implemented and (2) identifies the cumulative EE savings achieved. The bill requires the customer to file the report not later than January 1, 2017. Once a report is submitted, the PUCO staff may request that the customer provide additional information on the measures adopted and the amount of EE savings achieved during the period covered by the report.

The bill provides that all information contained in an opt-out report and any customer responses to PUCO staff requests for additional information are deemed confidential, proprietary, and a trade secret. The information and responses cannot be (1) publicly divulged without written customer authorization or (2) used for any purpose other than to identify the measures adopted and the quantity of EE savings achieved by the customer.²³

Disclosure of customer costs of the energy requirements

The bill requires the PUCO, by January 1, 2015, to adopt rules governing the disclosure of the costs to customers of the renewable energy resource and EE savings

²⁰ Sections 7 and 9.

²¹ Section 7.

²² Section 8.

²³ Section 10.

requirements. The bill requires the rules to include requirements that list, on all customer bills, the cost to each individual customer of compliance with the renewable energy resource requirements (applicable to both EDU and ESC bills) and the EE savings requirements (applicable only to EDU bills) for the applicable billing period. Each cost must be listed on each customer's monthly bill as a distinct line item.²⁴

Creation of the Energy Mandates Study Committee

The bill creates the Energy Mandates Study Committee to study Ohio's renewable energy, EE, and PDR mandates. The Committee consists of the following 21 members:

- Five members of the House of Representatives appointed by the Speaker of the House of Representatives, with not more than three members from the same political party;
- Five members of the Senate appointed by the President of the Senate, with not more than three members from the same political party;
- The Chairperson of the PUCO;
- The Ohio Consumers' Counsel;
- Two representatives from different EDUs, one appointed by the Speaker and one appointed by the President;
- One representative from an ESC, jointly appointed by the Speaker and the President;
- One representative from an advocacy group that focuses on issues related to environmental preservation or the promotion of clean energy, appointed by the Governor;
- One representative from an advocacy group that focuses on business issues for Ohio manufacturers, appointed by the President;
- One representative of industrial electric customers who (individually) consume more than 700,000 kilowatt hours per year or are part of a national account involving multiple facilities in one or more states, appointed by the President;

²⁴ R.C. 4928.661.

- One representative of the small business community, appointed by the President;
- One representative of the large business community, appointed by the Speaker;
- One representative of residential consumers, appointed by the Speaker.

Any vacancies that occur on the Committee must be filled in the same manner as the original appointment. The Speaker and the President must each appoint one legislative member of the Committee to serve as a co-chairperson of the Committee.

The Committee is required to submit a report of its findings to the House of Representatives and the Senate by December 15, 2015, and then cease to exist on December 16, 2015. The report must include, at a minimum, all of the following:

- A cost-benefit analysis of the renewable energy, EE, and PDR mandates, including the projected impact on electric customers if the mandates were to remain at the percentage levels required for 2014, and the projected impact on electric customers if the mandates were to return to the percentage levels required prior to the bill;
- A recommendation of the best, evidence-based standard for reviewing the mandates in the future, including an examination of readily available technology to attain such a standard;
- The potential effects of an opt-in system for the mandates, in contrast to an opt-out system for the mandates, and a recommendation as to whether an opt-in system should apply to all electric customers, whether an opt-out system should apply to only industrial customers, or whether a hybrid of these two systems is recommended.²⁵

HISTORY

ACTION	DATE
Introduced	03-28-14

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²⁵ Section 3 of the bill.

