

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 472

Representative Strahorn

**Cosponsors: Representatives O'Brien, M., Ramos, Howse, Curtin, Antonio,
Driehaus, Patterson, Rogers, Phillips, Boyce, Smith, K., Fedor**

A BILL

To amend sections 4906.20, 4906.201, 4928.64, and 1
4928.66 of the Revised Code and to amend Section 2
5 of S.B. 310 of the 130th General Assembly and 3
to repeal Sections 6 and 7 of S.B. 310 of the 4
130th General Assembly to unfreeze the 5
requirements for renewable energy, energy 6
efficiency, and peak demand reduction, to permit 7
changes in and Public Utilities Commission 8
action on electric distribution utility 9
portfolio plans in 2016, to revise the setback 10
requirement for economically significant wind 11
farms, and to repeal the setback requirement for 12
wind farms of fifty megawatts or more. 13

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

Section 1. That sections 4906.20, 4906.201, 4928.64, and 14
4928.66 of the Revised Code be amended to read as follows: 15

Sec. 4906.20. (A) No person shall commence to construct an 16
economically significant wind farm in this state without first 17
having obtained a certificate from the power siting board. An 18

economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

(B) The board shall adopt rules governing the certificating of economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after June 24, 2008.

(1) The rules shall provide for an application process for certificating economically significant wind farms that is identical to the extent practicable to the process applicable to certificating major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the Revised Code and shall prescribe a reasonable schedule of application filing fees structured in the manner of the schedule of filing fees required for major utility facilities.

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear,

shadow flicker, decommissioning, and necessary cooperation for 49
site visits and enforcement investigations. 50

(a) The rules also shall prescribe a minimum setback for a 51
wind turbine of an economically significant wind farm. That 52
minimum shall be equal to a horizontal distance, from the 53
turbine's base to the property line of the wind farm property, 54
equal to one and one-tenth times the total height of the turbine 55
structure as measured from its base to the tip of its highest 56
blade and be at least one thousand one hundred twenty-five feet 57
in horizontal distance from the tip of the turbine's nearest 58
blade at ninety degrees to ~~property line~~ the exterior of the 59
nearest, habitable, residential structure, if any, located on 60
adjacent property at the time of the certification application. 61

(b) (i) For any existing certificates and amendments 62
thereto, and existing certification applications that have been 63
found by the chairperson to be in compliance with division (A) 64
of section 4906.06 of the Revised Code before the effective date 65
of the amendment of this section by H.B. 59 of the 130th general 66
assembly, September 29, 2013, the distance shall be seven 67
hundred fifty feet instead of one thousand one hundred twenty- 68
five feet. 69

(ii) Any amendment made to an existing certificate after 70
the effective date of the amendment of this section by H.B. 483 71
of the 130th general assembly and before the effective date of 72
the amendment of this section by ...B... of the 131st general 73
assembly shall be subject to the setback provision of this 74
section as amended by ~~that act~~ H.B. 483. The amendments to this 75
section by ~~that act~~ H.B. 483 shall not be construed to limit or 76
abridge any rights or remedies in equity or under the common 77
law. 78

(iii) Any amendment made to an existing certificate after 79
the effective date of the amendment of this section by ...B... 80
of the 131st general assembly shall be subject to the setback 81
provision of this section as amended by that act. The amendments 82
to this section by that act shall not be construed to limit or 83
abridge any rights or remedies in equity or under the common 84
law. 85

(c) The setback shall apply in all cases except those in 86
which all owners of property adjacent to the wind farm property 87
waive application of the setback to that property pursuant to a 88
procedure the board shall establish by rule and except in which, 89
in a particular case, the board determines that a setback 90
greater than the minimum is necessary. 91

Sec. 4906.201. (A) An electric generating plant that 92
consists of wind turbines and associated facilities with a 93
single interconnection to the electrical grid that is designed 94
for, or capable of, operation at an aggregate capacity of fifty 95
megawatts or more is subject to the minimum setback requirements 96
established in rules adopted by the power siting board under 97
division (B) (2) of section 4906.20 of the Revised Code. 98

(B) (1) For any existing certificates and amendments 99
thereto, and existing certification applications that have been 100
found by the chairperson to be in compliance with division (A) 101
of section 4906.06 of the Revised Code before the effective date 102
of the amendment of this section by H.B. 59 of the 130th general 103
assembly, September 29, 2013, the distance shall be seven 104
hundred fifty feet instead of one thousand one hundred twenty- 105
five feet. 106

(2) Any amendment made to an existing certificate after 107
the effective date of the amendment of this section by H.B. 483 108

of the 130th general assembly, September 15, 2014, and before 109
the effective date of the amendment of this section by ...B... 110
of the 131st general assembly shall be subject to the setback 111
provision of this section as amended by ~~that act~~ H.B. 483. The 112
amendments to this section by ~~that act~~ H.B. 483 shall not be 113
construed to limit or abridge any rights or remedies in equity 114
or under the common law. 115

(3) Any amendment made to an existing certificate after 116
the effective date of the amendment of this section by ...B... 117
of the 131st general assembly shall be subject to the setback 118
provision of this section as amended by that act. The amendments 119
to this section by that act shall not be construed to limit or 120
abridge any rights or remedies in equity or under the common 121
law. 122

Sec. 4928.64. (A) (1) As used in this section, "qualifying 123
renewable energy resource" means a renewable energy resource, as 124
defined in section 4928.01 of the Revised Code that has a 125
placed-in-service date on or after January 1, 1998, or with 126
respect to any run-of-the-river hydroelectric facility, an in- 127
service date on or after January 1, 1980; a renewable energy 128
resource created on or after January 1, 1998, by the 129
modification or retrofit of any facility placed in service prior 130
to January 1, 1998; or a mercantile customer-sited renewable 131
energy resource, whether new or existing, that the mercantile 132
customer commits for integration into the electric distribution 133
utility's demand-response, energy efficiency, or peak demand 134
reduction programs as provided under division (A) (2) (c) of 135
section 4928.66 of the Revised Code, including, but not limited 136
to, any of the following: 137

(a) A resource that has the effect of improving the 138

relationship between real and reactive power;	139
(b) A resource that makes efficient use of waste heat or	140
other thermal capabilities owned or controlled by a mercantile	141
customer;	142
(c) Storage technology that allows a mercantile customer	143
more flexibility to modify its demand or load and usage	144
characteristics;	145
(d) Electric generation equipment owned or controlled by a	146
mercantile customer that uses a renewable energy resource.	147
(2) For the purpose of this section and as it considers	148
appropriate, the public utilities commission may classify any	149
new technology as such a qualifying renewable energy resource.	150
(B) (1) By 2027 <u>2026</u> and thereafter, an electric	151
distribution utility shall provide from qualifying renewable	152
energy resources, including, at its discretion, qualifying	153
renewable energy resources obtained pursuant to an electricity	154
supply contract, a portion of the electricity supply required	155
for its standard service offer under section 4928.141 of the	156
Revised Code, and an electric services company shall provide a	157
portion of its electricity supply for retail consumers in this	158
state from qualifying renewable energy resources, including, at	159
its discretion, qualifying renewable energy resources obtained	160
pursuant to an electricity supply contract. That portion shall	161
equal twelve and one-half per cent of the total number of	162
kilowatt hours of electricity sold by the subject utility or	163
company to any and all retail electric consumers whose electric	164
load centers are served by that utility and are located within	165
the utility's certified territory or, in the case of an electric	166
services company, are served by the company and are located	167

within this state. However, nothing in this section precludes a utility or company from providing a greater percentage.

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

By end of year	Renewable energy resources	Solar energy resources
2009	0.25%	0.004%
2010	0.50%	0.010%
2011	1%	0.030%
2012	1.5%	0.060%
2013	2%	0.090%
2014	2.5%	0.12%
2015	2.5%	0.12%
2016	2.5 3.5%	0.12 0.15%
2017	3.5 4.5%	0.15 0.18%
2018	4.5 5.5%	0.18 0.22%
2019	5.5 6.5%	0.22 0.26%
2020	6.5 7.5%	0.26 0.3%
2021	7.5 8.5%	0.30 0.34%
2022	8.5 9.5%	0.34 0.38%
2023	9.5 10.5%	0.38 0.42%
2024	10.5 11.5%	0.42 0.46%
<u>2025 and each calendar</u>	<u>11.5</u> 12.5%	<u>0.46</u> 0.5%
2026 and each calendar	12.5%	0.5%
year thereafter		

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

(a) Through facilities located in this state; or	197
(b) With resources that can be shown to be deliverable into this state.	198 199
(C) (1) The commission annually shall review an electric distribution utility's or electric services company's compliance with the most recent applicable benchmark under division (B) (2) of this section and, in the course of that review, shall identify any undercompliance or noncompliance of the utility or company that it determines is weather-related, related to equipment or resource shortages for qualifying renewable energy resources as applicable, or is otherwise outside the utility's or company's control.	200 201 202 203 204 205 206 207 208
(2) Subject to the cost cap provisions of division (C) (3) of this section, if the commission determines, after notice and opportunity for hearing, and based upon its findings in that review regarding avoidable undercompliance or noncompliance, but subject to division (C) (4) of this section, that the utility or company has failed to comply with any such benchmark, the commission shall impose a renewable energy compliance payment on the utility or company.	209 210 211 212 213 214 215 216
(a) The compliance payment pertaining to the solar energy resource benchmarks under division (B) (2) of this section shall be an amount per megawatt hour of undercompliance or noncompliance in the period under review, as follows:	217 218 219 220
(i) Three hundred dollars for 2014, 2015, and 2016;	221
(ii) Two hundred fifty dollars for 2017 and 2018;	222
(iii) Two hundred dollars for 2019 and 2020;	223
(iv) Similarly reduced every two years thereafter through	224

~~2026-2025~~ by fifty dollars, to a minimum of fifty dollars. 225

(b) The compliance payment pertaining to the renewable 226
energy resource benchmarks under division (B) (2) of this section 227
shall equal the number of additional renewable energy credits 228
that the electric distribution utility or electric services 229
company would have needed to comply with the applicable 230
benchmark in the period under review times an amount that shall 231
begin at forty-five dollars and shall be adjusted annually by 232
the commission to reflect any change in the consumer price index 233
as defined in section 101.27 of the Revised Code, but shall not 234
be less than forty-five dollars. 235

(c) The compliance payment shall not be passed through by 236
the electric distribution utility or electric services company 237
to consumers. The compliance payment shall be remitted to the 238
commission, for deposit to the credit of the advanced energy 239
fund created under section 4928.61 of the Revised Code. Payment 240
of the compliance payment shall be subject to such collection 241
and enforcement procedures as apply to the collection of a 242
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 243
Revised Code. 244

(3) An electric distribution utility or an electric 245
services company need not comply with a benchmark under division 246
(B) (2) of this section to the extent that its reasonably 247
expected cost of that compliance exceeds its reasonably expected 248
cost of otherwise producing or acquiring the requisite 249
electricity by three per cent or more. The cost of compliance 250
shall be calculated as though any exemption from taxes and 251
assessments had not been granted under section 5727.75 of the 252
Revised Code. 253

(4) (a) An electric distribution utility or electric 254

services company may request the commission to make a force 255
majeure determination pursuant to this division regarding all or 256
part of the utility's or company's compliance with any minimum 257
benchmark under division (B) (2) of this section during the 258
period of review occurring pursuant to division (C) (2) of this 259
section. The commission may require the electric distribution 260
utility or electric services company to make solicitations for 261
renewable energy resource credits as part of its default service 262
before the utility's or company's request of force majeure under 263
this division can be made. 264

(b) Within ninety days after the filing of a request by an 265
electric distribution utility or electric services company under 266
division (C) (4) (a) of this section, the commission shall 267
determine if qualifying renewable energy resources are 268
reasonably available in the marketplace in sufficient quantities 269
for the utility or company to comply with the subject minimum 270
benchmark during the review period. In making this 271
determination, the commission shall consider whether the 272
electric distribution utility or electric services company has 273
made a good faith effort to acquire sufficient qualifying 274
renewable energy or, as applicable, solar energy resources to so 275
comply, including, but not limited to, by banking or seeking 276
renewable energy resource credits or by seeking the resources 277
through long-term contracts. Additionally, the commission shall 278
consider the availability of qualifying renewable energy or 279
solar energy resources in this state and other jurisdictions in 280
the PJM interconnection regional transmission organization, 281
L.L.C., or its successor and the midcontinent independent system 282
operator or its successor. 283

(c) If, pursuant to division (C) (4) (b) of this section, 284
the commission determines that qualifying renewable energy or 285

solar energy resources are not reasonably available to permit 286
the electric distribution utility or electric services company 287
to comply, during the period of review, with the subject minimum 288
benchmark prescribed under division (B) (2) of this section, the 289
commission shall modify that compliance obligation of the 290
utility or company as it determines appropriate to accommodate 291
the finding. Commission modification shall not automatically 292
reduce the obligation for the electric distribution utility's or 293
electric services company's compliance in subsequent years. If 294
it modifies the electric distribution utility or electric 295
services company obligation under division (C) (4) (c) of this 296
section, the commission may require the utility or company, if 297
sufficient renewable energy resource credits exist in the 298
marketplace, to acquire additional renewable energy resource 299
credits in subsequent years equivalent to the utility's or 300
company's modified obligation under division (C) (4) (c) of this 301
section. 302

(5) The commission shall establish a process to provide 303
for at least an annual review of the renewable energy resource 304
market in this state and in the service territories of the 305
regional transmission organizations that manage transmission 306
systems located in this state. The commission shall use the 307
results of this study to identify any needed changes to the 308
amount of the renewable energy compliance payment specified 309
under divisions (C) (2) (a) and (b) of this section. Specifically, 310
the commission may increase the amount to ensure that payment of 311
compliance payments is not used to achieve compliance with this 312
section in lieu of actually acquiring or realizing energy 313
derived from qualifying renewable energy resources. However, if 314
the commission finds that the amount of the compliance payment 315
should be otherwise changed, the commission shall present this 316

finding to the general assembly for legislative enactment.	317
(D) The commission annually shall submit to the general assembly in accordance with section 101.68 of the Revised Code a report describing all of the following:	318 319 320
(1) The compliance of electric distribution utilities and electric services companies with division (B) of this section;	321 322
(2) The average annual cost of renewable energy credits purchased by utilities and companies for the year covered in the report;	323 324 325
(3) Any strategy for utility and company compliance or for encouraging the use of qualifying renewable energy resources in supplying this state's electricity needs in a manner that considers available technology, costs, job creation, and economic impacts.	326 327 328 329 330
The commission shall begin providing the information described in division (D) (2) of this section in each report submitted after 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.	331 332 333 334 335 336 337 338 339
(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.	340 341 342 343
Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs	344 345

that achieve energy savings equivalent to at least three-tenths 346
of one per cent of the total, annual average, and normalized 347
kilowatt-hour sales of the electric distribution utility during 348
the preceding three calendar years to customers in this state. 349
An energy efficiency program may include a combined heat and 350
power system placed into service or retrofitted on or after the 351
effective date of the amendment of this section by S.B. 315 of 352
the 129th general assembly, September 10, 2012, or a waste 353
energy recovery system placed into service or retrofitted on or 354
after September 10, 2012, except that a waste energy recovery 355
system described in division (A) (38) (b) of section 4928.01 of 356
the Revised Code may be included only if it was placed into 357
service between January 1, 2002, and December 31, 2004. For a 358
waste energy recovery or combined heat and power system, the 359
savings shall be as estimated by the public utilities 360
commission. The savings requirement, using such a three-year 361
average, shall increase to an additional five-tenths of one per 362
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 363
of one per cent in 2012, nine-tenths of one per cent in 2013, 364
and one per cent in 2014. In 2015 ~~and 2016~~, an electric 365
distribution utility shall achieve energy savings equal to the 366
result of subtracting the cumulative energy savings achieved 367
since 2009 from the product of multiplying the baseline for 368
energy savings, described in division (A) (2) (a) of this section, 369
by four and two-tenths of one per cent. If the result is zero or 370
~~less for the year for which the calculation is being made~~, the 371
utility shall not be required to achieve additional energy 372
savings for ~~that year~~2015, but may achieve additional energy 373
savings for that year. Thereafter, the annual savings 374
requirements shall be, for years 2016, 2017, 2018, and 2019, ~~and~~ 375
~~2020~~, one per cent of the baseline, and two per cent each year 376
thereafter, achieving cumulative energy savings in excess of 377

twenty-two per cent by the end of ~~2027~~2026. For purposes of a 378
waste energy recovery or combined heat and power system, an 379
electric distribution utility shall not apply more than the 380
total annual percentage of the electric distribution utility's 381
industrial-customer load, relative to the electric distribution 382
utility's total load, to the annual energy savings requirement. 383

(b) Beginning in 2009, an electric distribution utility 384
shall implement peak demand reduction programs designed to 385
achieve a one per cent reduction in peak demand in 2009 and an 386
additional seventy-five hundredths of one per cent reduction 387
each year through 2014. In ~~2015 and 2016~~, an electric 388
distribution utility shall achieve a reduction in peak demand 389
equal to the result of subtracting the cumulative peak demand 390
reductions achieved since 2009 from the product of multiplying 391
the baseline for peak demand reduction, described in division 392
(A) (2) (a) of this section, by four and seventy-five hundredths 393
of one per cent. If the result is zero or less ~~for the year for~~ 394
~~which the calculation is being made~~, the utility shall not be 395
required to achieve an additional reduction in peak demand for 396
~~that year~~2015, but may achieve an additional reduction in peak 397
demand for that year. In ~~2017-2016~~ and each year thereafter 398
through ~~2020~~2019, the utility shall achieve an additional 399
seventy-five hundredths of one per cent reduction in peak 400
demand. 401

(2) For the purposes of divisions (A) (1) (a) and (b) of 402
this section: 403

(a) The baseline for energy savings under division (A) (1) 404
(a) of this section shall be the average of the total kilowatt 405
hours the electric distribution utility sold in the preceding 406
three calendar years. The baseline for a peak demand reduction 407

under division (A)(1)(b) of this section shall be the average 408
peak demand on the utility in the preceding three calendar 409
years, except that the commission may reduce either baseline to 410
adjust for new economic growth in the utility's certified 411
territory. Neither baseline shall include the load and usage of 412
any of the following customers: 413

(i) Beginning January 1, 2017, a customer for which a 414
reasonable arrangement has been approved under section 4905.31 415
of the Revised Code; 416

(ii) A customer that has opted out of the utility's 417
portfolio plan under section 4928.6611 of the Revised Code; 418

(iii) A customer that has opted out of the utility's 419
portfolio plan under Section 8 of S.B. 310 of the 130th general 420
assembly. 421

(b) The commission may amend the benchmarks set forth in 422
division (A)(1)(a) or (b) of this section if, after application 423
by the electric distribution utility, the commission determines 424
that the amendment is necessary because the utility cannot 425
reasonably achieve the benchmarks due to regulatory, economic, 426
or technological reasons beyond its reasonable control. 427

(c) Compliance with divisions (A)(1)(a) and (b) of this 428
section shall be measured by including the effects of all 429
demand-response programs for mercantile customers of the subject 430
electric distribution utility, all waste energy recovery systems 431
and all combined heat and power systems, and all such mercantile 432
customer-sited energy efficiency, including waste energy 433
recovery and combined heat and power, and peak demand reduction 434
programs, adjusted upward by the appropriate loss factors. Any 435
mechanism designed to recover the cost of energy efficiency, 436

including waste energy recovery and combined heat and power, and 437
peak demand reduction programs under divisions (A) (1) (a) and (b) 438
of this section may exempt mercantile customers that commit 439
their demand-response or other customer-sited capabilities, 440
whether existing or new, for integration into the electric 441
distribution utility's demand-response, energy efficiency, 442
including waste energy recovery and combined heat and power, or 443
peak demand reduction programs, if the commission determines 444
that that exemption reasonably encourages such customers to 445
commit those capabilities to those programs. If a mercantile 446
customer makes such existing or new demand-response, energy 447
efficiency, including waste energy recovery and combined heat 448
and power, or peak demand reduction capability available to an 449
electric distribution utility pursuant to division (A) (2) (c) of 450
this section, the electric utility's baseline under division (A) 451
(2) (a) of this section shall be adjusted to exclude the effects 452
of all such demand-response, energy efficiency, including waste 453
energy recovery and combined heat and power, or peak demand 454
reduction programs that may have existed during the period used 455
to establish the baseline. The baseline also shall be normalized 456
for changes in numbers of customers, sales, weather, peak 457
demand, and other appropriate factors so that the compliance 458
measurement is not unduly influenced by factors outside the 459
control of the electric distribution utility. 460

(d) (i) Programs implemented by a utility may include the 461
following: 462

(I) Demand-response programs; 463

(II) Smart grid investment programs, provided that such 464
programs are demonstrated to be cost-beneficial; 465

(III) Customer-sited programs, including waste energy 466

recovery and combined heat and power systems; 467

(IV) Transmission and distribution infrastructure 468
improvements that reduce line losses; 469

(V) Energy efficiency savings and peak demand reduction 470
that are achieved, in whole or in part, as a result of funding 471
provided from the universal service fund established by section 472
4928.51 of the Revised Code to benefit low-income customers 473
through programs that include, but are not limited to, energy 474
audits, the installation of energy efficiency insulation, 475
appliances, and windows, and other weatherization measures. 476

(ii) No energy efficiency or peak demand reduction 477
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 478
section shall qualify for shared savings. 479

(iii) Division (A) (2) (c) of this section shall be applied 480
to include facilitating efforts by a mercantile customer or 481
group of those customers to offer customer-sited demand- 482
response, energy efficiency, including waste energy recovery and 483
combined heat and power, or peak demand reduction capabilities 484
to the electric distribution utility as part of a reasonable 485
arrangement submitted to the commission pursuant to section 486
4905.31 of the Revised Code. 487

(e) No programs or improvements described in division (A) 488
(2) (d) of this section shall conflict with any statewide 489
building code adopted by the board of building standards. 490

(B) In accordance with rules it shall adopt, the public 491
utilities commission shall produce and docket at the commission 492
an annual report containing the results of its verification of 493
the annual levels of energy efficiency and of peak demand 494
reductions achieved by each electric distribution utility 495

pursuant to division (A) of this section. A copy of the report 496
shall be provided to the consumers' counsel. 497

(C) If the commission determines, after notice and 498
opportunity for hearing and based upon its report under division 499
(B) of this section, that an electric distribution utility has 500
failed to comply with an energy efficiency or peak demand 501
reduction requirement of division (A) of this section, the 502
commission shall assess a forfeiture on the utility as provided 503
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 504
Code, either in the amount, per day per undercompliance or 505
noncompliance, relative to the period of the report, equal to 506
that prescribed for noncompliances under section 4905.54 of the 507
Revised Code, or in an amount equal to the then existing market 508
value of one renewable energy credit per megawatt hour of 509
undercompliance or noncompliance. Revenue from any forfeiture 510
assessed under this division shall be deposited to the credit of 511
the advanced energy fund created under section 4928.61 of the 512
Revised Code. 513

(D) The commission may establish rules regarding the 514
content of an application by an electric distribution utility 515
for commission approval of a revenue decoupling mechanism under 516
this division. Such an application shall not be considered an 517
application to increase rates and may be included as part of a 518
proposal to establish, continue, or expand energy efficiency or 519
conservation programs. The commission by order may approve an 520
application under this division if it determines both that the 521
revenue decoupling mechanism provides for the recovery of 522
revenue that otherwise may be forgone by the utility as a result 523
of or in connection with the implementation by the electric 524
distribution utility of any energy efficiency or energy 525
conservation programs and reasonably aligns the interests of the 526

utility and of its customers in favor of those programs.	527
(E) The commission additionally shall adopt rules that	528
require an electric distribution utility to provide a customer	529
upon request with two years' consumption data in an accessible	530
form.	531
Section 2. That existing sections 4906.20, 4906.201,	532
4928.64, and 4928.66 of the Revised Code are hereby repealed.	533
Section 3. That Section 5 of S.B. 310 of the 130th General	534
Assembly be amended to read as follows:	535
Sec. 5. As used in Sections 6, 7, 8 , 9, 10, and 11 of this	536
act:	537
"Customer," "energy intensity," and "portfolio plan" have	538
the same meanings as in section 4928.6610 of the Revised Code.	539
"Electric distribution utility" has the same meaning as in	540
section 4928.01 of the Revised Code.	541
Section 4. That existing Section 5 of S.B. 310 of the	542
130th General Assembly and Sections 6 and 7 of S.B. 310 of the	543
130th General Assembly are hereby repealed.	544
Section 5. As used in Sections 6 and 7 of this act:	545
(A) "Portfolio plan" has the same meaning as in section	546
4928.6610 of the Revised Code.	547
(B) "Electric distribution utility" has the same meaning	548
as in section 4928.01 of the Revised Code.	549
Section 6. (A) If an electric distribution utility has a	550
portfolio plan that was continued or extended under division (A)	551
(1) or (D) of Section 6 of S.B. 310 of the 130th General	552
Assembly, the utility shall file a new plan with the Public	553

Utilities Commission. The plan shall be filed as soon as 554
possible after the effective date of this act to allow 555
sufficient time for the Commission to review the plan in 556
accordance with division (A) of Section 7 of this act and for 557
the plan to become effective on January 1, 2017. 558

(B) (1) If an electric distribution utility amended its 559
portfolio plan under divisions (A) (2) and (B) of Section 6 of 560
S.B. 310 of the 130th General Assembly, the utility shall do one 561
of the following: 562

(a) Continue the amended plan without changes until 563
December 31, 2016; 564

(b) Not later than thirty days after the effective date of 565
this section, file an application with the Commission to amend 566
the amended plan to reinstate previous, or establish new, energy 567
efficiency and peak demand reduction programs pursuant to 568
divisions (B) (2) and (3) of this section. 569

(2) If the utility elects to amend the plan under division 570
(B) (1) (b) of this section, the utility shall meet a portion of 571
the benchmarks for 2016 under the amended plan as described in 572
division (B) (3) of this section before the expiration of the 573
plan on December 31, 2016. 574

(3) For portfolio plans amended under division (B) (1) (b) 575
of this section, the benchmarks for calendar year 2016 576
established in section 4928.66 of the Revised Code, as amended 577
by this act, shall be prorated using a formula based on the 578
number of days remaining in the calendar year on the effective 579
date of this act. 580

(C) (1) An electric distribution utility described in 581
division (B) (1) of this section shall file a new portfolio plan 582

with the Public Utilities Commission as soon as possible after 583
the effective date of this act to allow sufficient time for the 584
Commission to review and approve, or modify and approve, the 585
plan in accordance with division (A) of Section 7 of this act 586
and for the plan to become effective on January 1, 2017. 587

(2) A plan filed under division (C) (1) of this section 588
shall provide for compliance with the benchmarks for calendar 589
year 2016 established in section 4928.66 of the Revised Code, as 590
amended by this act, to the extent those benchmarks have not 591
been met as provided under divisions (B) (2) and (3) of this 592
section. The plan shall require compliance with those benchmarks 593
by December 31, 2019. 594

(D) A portfolio plan continued or extended under division 595
(A) (1) or (D) of Section 6 of S.B. 310 of the 130th General 596
Assembly respectively, and a portfolio plan amended under 597
division (B) (1) of Section 6 of S.B. 310 of the 130th General 598
Assembly shall remain in effect until the Commission approves a 599
plan submitted under division (A), (B) (1) (b), or (C) of this 600
section to replace it. 601

(E) Beginning on the effective date of this act, the 602
provisions of section 4928.66 of the Revised Code as amended by 603
this act, shall apply to portfolio plans filed under divisions 604
(A) and (C) of this section and approved by the Commission. 605

Section 7. The Public Utilities Commission shall review 606
and approve, or modify and approve, portfolio plans filed by 607
electric distribution utilities pursuant to Section 6 of this 608
act. 609

(A) A portfolio plan filed under division (A) or (C) of 610
Section 6 of this act shall be reviewed and approved, or 611

modified and approved, in accordance with existing Commission 612
rules for portfolio plans. 613

(B) A portfolio plan filed under division (B) (1) (b) of 614
Section 6 of this act shall be reviewed and approved, or 615
modified and approved, within thirty days after the filing date 616
of the plan. If the Commission fails to approve, or modify and 617
approve, the plan within thirty days of the filing of the plan, 618
the plan shall be deemed approved as filed on the thirty-first 619
day after filing. 620