

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 10

Representative Leland

**Cosponsors: Representatives Crossman, Russo, Weinstein, Miller, A., Smith, K.,
Brown, Boyd, O'Brien, Brent, Lightbody, Boggs, Miller, J.**

A BILL

To amend sections 4928.01, 4928.143, 4928.64, 1
4928.641, 4928.645, 4928.66, and 4928.6610; to 2
enact sections 4928.81, 4928.82, 4928.821, 3
4928.822, 4928.823, 4928.824, 4928.825, 4
4928.826, 4928.827, 4928.828, 4928.829, 4928.83, 5
4928.84, 4928.86, 4928.87, 4928.90, 4928.91, and 6
4928.92; and to repeal sections 3706.40, 7
3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 8
3706.49, 3706.53, 3706.55, 3706.59, 3706.61, 9
3706.63, 3706.65, 4928.148, 4928.47, 4928.471, 10
4928.642, 4928.75, and 5727.231 of the Revised 11
Code and to repeal Section 5 of H.B. 6 of the 12
133rd General Assembly to make changes regarding 13
electric utility service law, to allow the 14
implementation of energy waste reduction 15
programs, and to repeal certain provisions of 16
H.B. 6 of the 133rd General Assembly. 17

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

Section 1. That sections 4928.01, 4928.143, 4928.64, 18

4928.641, 4928.645, 4928.66, and 4928.6610 be amended and 19
sections 4928.81, 4928.82, 4928.821, 4928.822, 4928.823, 20
4928.824, 4928.825, 4928.826, 4928.827, 4928.828, 4928.829, 21
4928.83, 4928.84, 4928.86, 4928.87, 4928.90, 4928.91, and 22
4928.92 of the Revised Code be enacted to read as follows: 23

Sec. 4928.01. (A) As used in this chapter: 24

(1) "Ancillary service" means any function necessary to 25
the provision of electric transmission or distribution service 26
to a retail customer and includes, but is not limited to, 27
scheduling, system control, and dispatch services; reactive 28
supply from generation resources and voltage control service; 29
reactive supply from transmission resources service; regulation 30
service; frequency response service; energy imbalance service; 31
operating reserve-spinning reserve service; operating reserve- 32
supplemental reserve service; load following; back-up supply 33
service; real-power loss replacement service; dynamic 34
scheduling; system black start capability; and network stability 35
service. 36

(2) "Billing and collection agent" means a fully 37
independent agent, not affiliated with or otherwise controlled 38
by an electric utility, electric services company, electric 39
cooperative, or governmental aggregator subject to certification 40
under section 4928.08 of the Revised Code, to the extent that 41
the agent is under contract with such utility, company, 42
cooperative, or aggregator solely to provide billing and 43
collection for retail electric service on behalf of the utility 44
company, cooperative, or aggregator. 45

(3) "Certified territory" means the certified territory 46
established for an electric supplier under sections 4933.81 to 47
4933.90 of the Revised Code. 48

(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.

(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.

(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.

(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.

(10) "Electric supplier" has the same meaning as in

section 4933.81 of the Revised Code. 78

(11) "Electric utility" means an electric light company 79
that has a certified territory and is engaged on a for-profit 80
basis either in the business of supplying a noncompetitive 81
retail electric service in this state or in the businesses of 82
supplying both a noncompetitive and a competitive retail 83
electric service in this state. "Electric utility" excludes a 84
municipal electric utility or a billing and collection agent. 85

(12) "Firm electric service" means electric service other 86
than nonfirm electric service. 87

(13) "Governmental aggregator" means a legislative 88
authority of a municipal corporation, a board of township 89
trustees, or a board of county commissioners acting as an 90
aggregator for the provision of a competitive retail electric 91
service under authority conferred under section 4928.20 of the 92
Revised Code. 93

(14) A person acts "knowingly," regardless of the person's 94
purpose, when the person is aware that the person's conduct will 95
probably cause a certain result or will probably be of a certain 96
nature. A person has knowledge of circumstances when the person 97
is aware that such circumstances probably exist. 98

(15) "Level of funding for low-income customer energy 99
efficiency programs provided through electric utility rates" 100
means the level of funds specifically included in an electric 101
utility's rates on October 5, 1999, pursuant to an order of the 102
public utilities commission issued under Chapter 4905. or 4909. 103
of the Revised Code and in effect on October 4, 1999, for the 104
purpose of improving the energy efficiency of housing for the 105
utility's low-income customers. The term excludes the level of 106

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| any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract. | 107 108 |
| (16) "Low-income customer assistance programs" means the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program, and the targeted energy efficiency and weatherization program. | 109 110 111 112 |
| (17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter. | 113 114 115 116 117 118 |
| (18) "Market power" means the ability to impose on customers a sustained price for a product or service above the price that would prevail in a competitive market. | 119 120 121 |
| (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. | 122 123 124 125 126 127 |
| (20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity. | 128 129 130 |
| (21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section. | 131 132 133 |
| (22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of | 134 135 |

the Revised Code or pursuant to an arrangement under section 136
4905.31 of the Revised Code, which schedule or arrangement 137
includes conditions that may require the customer to curtail or 138
interrupt electric usage during nonemergency circumstances upon 139
notification by an electric utility. 140

(23) "Percentage of income payment plan arrears" means 141
funds eligible for collection through the percentage of income 142
payment plan rider, but uncollected as of July 1, 2000. 143

(24) "Person" has the same meaning as in section 1.59 of 144
the Revised Code. 145

(25) "Advanced energy project" means any technologies, 146
products, activities, or management practices or strategies that 147
facilitate the generation or use of electricity or energy and 148
that reduce or support the reduction of energy consumption or 149
support the production of clean, renewable energy for 150
industrial, distribution, commercial, institutional, 151
governmental, research, not-for-profit, or residential energy 152
users, including, but not limited to, advanced energy resources 153
and renewable energy resources. "Advanced energy project" also 154
includes any project described in division (A), (B), or (C) of 155
section 4928.621 of the Revised Code. 156

(26) "Regulatory assets" means the unamortized net 157
regulatory assets that are capitalized or deferred on the 158
regulatory books of the electric utility, pursuant to an order 159
or practice of the public utilities commission or pursuant to 160
generally accepted accounting principles as a result of a prior 161
commission rate-making decision, and that would otherwise have 162
been charged to expense as incurred or would not have been 163
capitalized or otherwise deferred for future regulatory 164
consideration absent commission action. "Regulatory assets" 165

includes, but is not limited to, all deferred demand-side 166
management costs; all deferred percentage of income payment plan 167
arrears; post-in-service capitalized charges and assets 168
recognized in connection with statement of financial accounting 169
standards no. 109 (receivables from customers for income taxes); 170
future nuclear decommissioning costs and fuel disposal costs as 171
those costs have been determined by the commission in the 172
electric utility's most recent rate or accounting application 173
proceeding addressing such costs; the undepreciated costs of 174
safety and radiation control equipment on nuclear generating 175
plants owned or leased by an electric utility; and fuel costs 176
currently deferred pursuant to the terms of one or more 177
settlement agreements approved by the commission. 178

(27) "Retail electric service" means any service involved 179
in supplying or arranging for the supply of electricity to 180
ultimate consumers in this state, from the point of generation 181
to the point of consumption. For the purposes of this chapter, 182
retail electric service includes one or more of the following 183
"service components": generation service, aggregation service, 184
power marketing service, power brokerage service, transmission 185
service, distribution service, ancillary service, metering 186
service, and billing and collection service. 187

(28) "Starting date of competitive retail electric 188
service" means January 1, 2001. 189

(29) "Customer-generator" means a user of a net metering 190
system. 191

(30) "Net metering" means measuring the difference in an 192
applicable billing period between the electricity supplied by an 193
electric service provider and the electricity generated by a 194
customer-generator that is fed back to the electric service 195

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| provider. | 196 |
| (31) "Net metering system" means a facility for the | 197 |
| production of electrical energy that does all of the following: | 198 |
| (a) Uses as its fuel either solar, wind, biomass, landfill | 199 |
| gas, or hydropower, or uses a microturbine or a fuel cell; | 200 |
| (b) Is located on a customer-generator's premises; | 201 |
| (c) Operates in parallel with the electric utility's | 202 |
| transmission and distribution facilities; | 203 |
| (d) Is intended primarily to offset part or all of the | 204 |
| customer-generator's requirements for electricity. For an | 205 |
| industrial customer-generator with a net metering system that | 206 |
| has a capacity of less than twenty megawatts and uses wind as | 207 |
| energy, this means the net metering system was sized so as to | 208 |
| not exceed one hundred per cent of the customer-generator's | 209 |
| annual requirements for electric energy at the time of | 210 |
| interconnection. | 211 |
| (32) "Self-generator" means an entity in this state that | 212 |
| owns or hosts on its premises an electric generation facility | 213 |
| that produces electricity primarily for the owner's consumption | 214 |
| and that may provide any such excess electricity to another | 215 |
| entity, whether the facility is installed or operated by the | 216 |
| owner or by an agent under a contract. | 217 |
| (33) "Rate plan" means the standard service offer in | 218 |
| effect on the effective date of the amendment of this section by | 219 |
| S.B. 221 of the 127th general assembly, July 31, 2008. | 220 |
| (34) "Advanced energy resource" means any of the | 221 |
| following: | 222 |
| (a) Any method or any modification or replacement of any | 223 |

property, process, device, structure, or equipment that 224
increases the generation output of an electric generating 225
facility to the extent such efficiency is achieved without 226
additional carbon dioxide emissions by that facility; 227

(b) Any distributed generation system consisting of 228
customer cogeneration technology; 229

(c) Clean coal technology that includes a carbon-based 230
product that is chemically altered before combustion to 231
demonstrate a reduction, as expressed as ash, in emissions of 232
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 233
sulfur trioxide in accordance with the American society of 234
testing and materials standard D1757A or a reduction of metal 235
oxide emissions in accordance with standard D5142 of that 236
society, or clean coal technology that includes the design 237
capability to control or prevent the emission of carbon dioxide, 238
which design capability the commission shall adopt by rule and 239
shall be based on economically feasible best available 240
technology or, in the absence of a determined best available 241
technology, shall be of the highest level of economically 242
feasible design capability for which there exists generally 243
accepted scientific opinion; 244

(d) Advanced nuclear energy technology consisting of 245
generation III technology as defined by the nuclear regulatory 246
commission; other, later technology; or significant improvements 247
to existing facilities; 248

(e) Any fuel cell used in the generation of electricity, 249
including, but not limited to, a proton exchange membrane fuel 250
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 251
solid oxide fuel cell; 252

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| (f) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, | 253 |
| advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM); | 254 255 256 257 258 259 |
| (g) Demand-side management and any energy efficiency improvement; | 260 261 |
| (h) Any new, retrofitted, refueled, or repowered generating facility located in Ohio, including a simple or combined-cycle natural gas generating facility or a generating facility that uses biomass, coal, modular nuclear, or any other fuel as its input; | 262 263 264 265 266 |
| (i) Any uprated capacity of an existing electric generating facility if the uprated capacity results from the deployment of advanced technology. | 267 268 269 |
| "Advanced energy resource" does not include a waste energy recovery system that is, or has been, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code. | 270 271 272 273 |
| (35) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code. | 274 275 |
| (36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously. | 276 277 |
| (37) (a) "Renewable energy resource" means any of the following: | 278 279 |
| (i) Solar photovoltaic or solar thermal energy; | 280 |

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| (ii) Wind energy; | 281 |
| (iii) Power produced by a hydroelectric facility; | 282 |
| (iv) Power produced by a small hydroelectric facility, which is a facility that operates, or is rated to operate, at an aggregate capacity of less than six megawatts; | 283 284 285 |
| (v) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts; | 286 287 288 289 290 |
| (vi) Geothermal energy; | 291 |
| (vii) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion; | 292 293 294 295 |
| (viii) Biomass energy; | 296 |
| (ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census; | 297 298 299 300 301 302 303 304 305 306 |
| (x) Biologically derived methane gas; | 307 |
| (xi) Heat captured from a generator of electricity, | 308 |

boiler, or heat exchanger fueled by biologically derived methane gas; 309
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(xii) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors. 311
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"Renewable energy resource" includes, but is not limited to, 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; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; waste energy recovery system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, except that a waste energy recovery system described in division (A) (38) (b) of this section may be included only if it was placed into service between January 1, 2002, and December 31, 2004; storage facility that will promote the better utilization of a renewable energy resource; or distributed generation system used by a customer to generate electricity from any such energy. 314
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"Renewable energy resource" does not include a waste energy recovery system that is, or was, on or after January 1, 2012, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code. 330
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(b) As used in division (A) (37) of this section, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or 335
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within or bordering an adjoining state and meets all of the 339
following standards: 340

(i) The facility provides for river flows that are not 341
detrimental for fish, wildlife, and water quality, including 342
seasonal flow fluctuations as defined by the applicable 343
licensing agency for the facility. 344

(ii) The facility demonstrates that it complies with the 345
water quality standards of this state, which compliance may 346
consist of certification under Section 401 of the "Clean Water 347
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 348
demonstrates that it has not contributed to a finding by this 349
state that the river has impaired water quality under Section 350
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 351
U.S.C. 1313. 352

(iii) The facility complies with mandatory prescriptions 353
regarding fish passage as required by the federal energy 354
regulatory commission license issued for the project, regarding 355
fish protection for riverine, anadromous, and catadromous fish. 356

(iv) The facility complies with the recommendations of the 357
Ohio environmental protection agency and with the terms of its 358
federal energy regulatory commission license regarding watershed 359
protection, mitigation, or enhancement, to the extent of each 360
agency's respective jurisdiction over the facility. 361

(v) The facility complies with provisions of the 362
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 363
to 1544, as amended. 364

(vi) The facility does not harm cultural resources of the 365
area. This can be shown through compliance with the terms of its 366
federal energy regulatory commission license or, if the facility 367

is not regulated by that commission, through development of a 368
plan approved by the Ohio historic preservation office, to the 369
extent it has jurisdiction over the facility. 370

(vii) The facility complies with the terms of its federal 371
energy regulatory commission license or exemption that are 372
related to recreational access, accommodation, and facilities 373
or, if the facility is not regulated by that commission, the 374
facility complies with similar requirements as are recommended 375
by resource agencies, to the extent they have jurisdiction over 376
the facility; and the facility provides access to water to the 377
public without fee or charge. 378

(viii) The facility is not recommended for removal by any 379
federal agency or agency of any state, to the extent the 380
particular agency has jurisdiction over the facility. 381

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 382
this section do not apply to a small hydroelectric facility 383
under division (A) (37) (a) (iv) of this section. 384

(38) "Waste energy recovery system" means either of the 385
following: 386

(a) A facility that generates electricity through the 387
conversion of energy from either of the following: 388

(i) Exhaust heat from engines or manufacturing, 389
industrial, commercial, or institutional sites, except for 390
exhaust heat from a facility whose primary purpose is the 391
generation of electricity; 392

(ii) Reduction of pressure in gas pipelines before gas is 393
distributed through the pipeline, provided that the conversion 394
of energy to electricity is achieved without using additional 395
fossil fuels. 396

(b) A facility at a state institution of higher education 397
as defined in section 3345.011 of the Revised Code that recovers 398
waste heat from electricity-producing engines or combustion 399
turbines and that simultaneously uses the recovered heat to 400
produce steam, provided that the facility was placed into 401
service between January 1, 2002, and December 31, 2004. 402

(39) "Smart grid" means capital improvements to an 403
electric distribution utility's distribution infrastructure that 404
improve reliability, efficiency, resiliency, or reduce energy 405
demand or use, including, but not limited to, advanced metering 406
and automation of system functions. 407

(40) "Combined heat and power system" means the 408
coproduction of electricity and useful thermal energy from the 409
same fuel source designed to achieve thermal-efficiency levels 410
of at least sixty per cent, with at least twenty per cent of the 411
system's total useful energy in the form of thermal energy. 412

~~(41) "Legacy generation resource" means all generating 413
facilities owned directly or indirectly by a corporation that 414
was formed prior to 1960 by investor-owned utilities for the 415
original purpose of providing power to the federal government 416
for use in the nation's defense or in furtherance of national 417
interests, including the Ohio valley electric corporation. 418~~

~~(42) "Prudently incurred costs related to a legacy 419
generation resource" means costs, including deferred costs, 420
allocated pursuant to a power agreement approved by the federal 421
energy regulatory commission that relates to a legacy generation 422
resource, less any revenues realized from offering the 423
contractual commitment for the power agreement into the 424
wholesale markets, provided that where the net revenues exceed 425
net costs, those excess revenues shall be credited to customers. 426~~

~~Such costs shall exclude any return on investment in common- 427
equity and, in the event of a premature retirement of a legacy- 428
generation resource, shall exclude any recovery of remaining- 429
debt. Such costs shall include any incremental costs resulting- 430
from the bankruptcy of a current or former sponsor under such- 431
power agreement or co owner of the legacy generation resource if- 432
not otherwise recovered through a utility rate cost recovery- 433
mechanism. 434~~

(B) For the purposes of this chapter, a retail electric 435
service component shall be deemed a competitive retail electric 436
service if the service component is competitive pursuant to a 437
declaration by a provision of the Revised Code or pursuant to an 438
order of the public utilities commission authorized under 439
division (A) of section 4928.04 of the Revised Code. Otherwise, 440
the service component shall be deemed a noncompetitive retail 441
electric service. 442

Sec. 4928.143. (A) For the purpose of complying with 443
section 4928.141 of the Revised Code, an electric distribution 444
utility may file an application for public utilities commission 445
approval of an electric security plan as prescribed under 446
division (B) of this section. The utility may file that 447
application prior to the effective date of any rules the 448
commission may adopt for the purpose of this section, and, as 449
the commission determines necessary, the utility immediately 450
shall conform its filing to those rules upon their taking 451
effect. 452

(B) Notwithstanding any other provision of Title XLIX of 453
the Revised Code to the contrary except division (D) of this 454
section, divisions (I), (J), and (K) of section 4928.20, 455
division (E) of section 4928.64, and section 4928.69 of the 456

Revised Code: 457

(1) An electric security plan shall include provisions 458
relating to the supply and pricing of electric generation 459
service. In addition, if the proposed electric security plan has 460
a term longer than three years, it may include provisions in the 461
plan to permit the commission to test the plan pursuant to 462
division (E) of this section and any transitional conditions 463
that should be adopted by the commission if the commission 464
terminates the plan as authorized under that division. 465

(2) The plan may provide for or include, without 466
limitation, any of the following: 467

(a) Automatic recovery of any of the following costs of 468
the electric distribution utility, provided the cost is 469
prudently incurred: the cost of fuel used to generate the 470
electricity supplied under the offer; the cost of purchased 471
power supplied under the offer, including the cost of energy and 472
capacity, and including purchased power acquired from an 473
affiliate; the cost of emission allowances; and the cost of 474
federally mandated carbon or energy taxes; 475

(b) A reasonable allowance for construction work in 476
progress for any of the electric distribution utility's cost of 477
constructing an electric generating facility or for an 478
environmental expenditure for any electric generating facility 479
of the electric distribution utility, provided the cost is 480
incurred or the expenditure occurs on or after January 1, 2009. 481
Any such allowance shall be subject to the construction work in 482
progress allowance limitations of division (A) of section 483
4909.15 of the Revised Code, except that the commission may 484
authorize such an allowance upon the incurrence of the cost or 485
occurrence of the expenditure. No such allowance for generating 486

facility construction shall be authorized, however, unless the 487
commission first determines in the proceeding that there is need 488
for the facility based on resource planning projections 489
submitted by the electric distribution utility. Further, no such 490
allowance shall be authorized unless the facility's construction 491
was sourced through a competitive bid process, regarding which 492
process the commission may adopt rules. An allowance approved 493
under division (B) (2) (b) of this section shall be established as 494
a nonbypassable surcharge for the life of the facility. 495

(c) The establishment of a nonbypassable surcharge for the 496
life of an electric generating facility that is owned or 497
operated by the electric distribution utility, was sourced 498
through a competitive bid process subject to any such rules as 499
the commission adopts under division (B) (2) (b) of this section, 500
and is newly used and useful on or after January 1, 2009, which 501
surcharge shall cover all costs of the utility specified in the 502
application, excluding costs recovered through a surcharge under 503
division (B) (2) (b) of this section. However, no surcharge shall 504
be authorized unless the commission first determines in the 505
proceeding that there is need for the facility based on resource 506
planning projections submitted by the electric distribution 507
utility. Additionally, if a surcharge is authorized for a 508
facility pursuant to plan approval under division (C) of this 509
section and as a condition of the continuation of the surcharge, 510
the electric distribution utility shall dedicate to Ohio 511
consumers the capacity and energy and the rate associated with 512
the cost of that facility. Before the commission authorizes any 513
surcharge pursuant to this division, it may consider, as 514
applicable, the effects of any decommissioning, deratings, and 515
retirements. 516

(d) Terms, conditions, or charges relating to limitations 517

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| on customer shopping for retail electric generation service, | 518 |
| bypassability, standby, back-up, or supplemental power service, | 519 |
| default service, carrying costs, amortization periods, and | 520 |
| accounting or deferrals, including future recovery of such | 521 |
| deferrals, as would have the effect of stabilizing or providing | 522 |
| certainty regarding retail electric service; | 523 |
| (e) Automatic increases or decreases in any component of | 524 |
| the standard service offer price; | 525 |
| (f) Consistent with sections 4928.23 to 4928.2318 of the | 526 |
| Revised Code, both of the following: | 527 |
| (i) Provisions for the electric distribution utility to | 528 |
| securitize any phase-in, inclusive of carrying charges, of the | 529 |
| utility's standard service offer price, which phase-in is | 530 |
| authorized in accordance with section 4928.144 of the Revised | 531 |
| Code; | 532 |
| (ii) Provisions for the recovery of the utility's cost of | 533 |
| securitization. | 534 |
| (g) Provisions relating to transmission, ancillary, | 535 |
| congestion, or any related service required for the standard | 536 |
| service offer, including provisions for the recovery of any cost | 537 |
| of such service that the electric distribution utility incurs on | 538 |
| or after that date pursuant to the standard service offer; | 539 |
| (h) Provisions regarding the utility's distribution | 540 |
| service, including, without limitation and notwithstanding any | 541 |
| provision of Title XLIX of the Revised Code to the contrary, | 542 |
| provisions regarding single issue ratemaking, a revenue | 543 |
| decoupling mechanism or any other incentive ratemaking, and | 544 |
| provisions regarding distribution infrastructure and | 545 |
| modernization incentives for the electric distribution utility. | 546 |

The latter may include a long-term energy delivery 547
infrastructure modernization plan for that utility or any plan 548
providing for the utility's recovery of costs, including lost 549
revenue, shared savings, and avoided costs, and a just and 550
reasonable rate of return on such infrastructure modernization. 551
As part of its determination as to whether to allow in an 552
electric distribution utility's electric security plan inclusion 553
of any provision described in division (B) (2) (h) of this 554
section, the commission shall examine the reliability of the 555
electric distribution utility's distribution system and ensure 556
that customers' and the electric distribution utility's 557
expectations are aligned and that the electric distribution 558
utility is placing sufficient emphasis on and dedicating 559
sufficient resources to the reliability of its distribution 560
system. 561

(i) Provisions under which the electric distribution 562
utility may implement economic development, and job retention, 563
~~and energy efficiency programs, which provisions may allocate~~ 564
~~program costs across all classes of customers of the utility and~~ 565
~~those of electric distribution utilities in the same holding~~ 566
~~company system.~~ 567

(C) (1) The burden of proof in the proceeding shall be on 568
the electric distribution utility. The commission shall issue an 569
order under this division for an initial application under this 570
section not later than one hundred fifty days after the 571
application's filing date and, for any subsequent application by 572
the utility under this section, not later than two hundred 573
seventy-five days after the application's filing date. Subject 574
to division (D) of this section, the commission by order shall 575
approve or modify and approve an application filed under 576
division (A) of this section if it finds that the electric 577

security plan so approved, including its pricing and all other 578
terms and conditions, including any deferrals and any future 579
recovery of deferrals, is more favorable in the aggregate as 580
compared to the expected results that would otherwise apply 581
under section 4928.142 of the Revised Code. Additionally, if the 582
commission so approves an application that contains a surcharge 583
under division (B) (2) (b) or (c) of this section, the commission 584
shall ensure that the benefits derived for any purpose for which 585
the surcharge is established are reserved and made available to 586
those that bear the surcharge. Otherwise, the commission by 587
order shall disapprove the application. 588

(2) (a) If the commission modifies and approves an 589
application under division (C) (1) of this section, the electric 590
distribution utility may withdraw the application, thereby 591
terminating it, and may file a new standard service offer under 592
this section or a standard service offer under section 4928.142 593
of the Revised Code. 594

(b) If the utility terminates an application pursuant to 595
division (C) (2) (a) of this section or if the commission 596
disapproves an application under division (C) (1) of this 597
section, the commission shall issue such order as is necessary 598
to continue the provisions, terms, and conditions of the 599
utility's most recent standard service offer, along with any 600
expected increases or decreases in fuel costs from those 601
contained in that offer, until a subsequent offer is authorized 602
pursuant to this section or section 4928.142 of the Revised 603
Code, respectively. 604

(D) Regarding the rate plan requirement of division (A) of 605
section 4928.141 of the Revised Code, if an electric 606
distribution utility that has a rate plan that extends beyond 607

December 31, 2008, files an application under this section for 608
the purpose of its compliance with division (A) of section 609
4928.141 of the Revised Code, that rate plan and its terms and 610
conditions are hereby incorporated into its proposed electric 611
security plan and shall continue in effect until the date 612
scheduled under the rate plan for its expiration, and that 613
portion of the electric security plan shall not be subject to 614
commission approval or disapproval under division (C) of this 615
section, and the earnings test provided for in division (F) of 616
this section shall not apply until after the expiration of the 617
rate plan. However, that utility may include in its electric 618
security plan under this section, and the commission may 619
approve, modify and approve, or disapprove subject to division 620
(C) of this section, provisions for the incremental recovery or 621
the deferral of any costs that are not being recovered under the 622
rate plan and that the utility incurs during that continuation 623
period to comply with section 4928.141, division (B) of section 624
4928.64, or division (A) of section 4928.66 of the Revised Code. 625

(E) If an electric security plan approved under division 626
(C) of this section, except one withdrawn by the utility as 627
authorized under that division, has a term, exclusive of phase- 628
ins or deferrals, that exceeds three years from the effective 629
date of the plan, the commission shall test the plan in the 630
fourth year, and if applicable, every fourth year thereafter, to 631
determine whether the plan, including its then-existing pricing 632
and all other terms and conditions, including any deferrals and 633
any future recovery of deferrals, continues to be more favorable 634
in the aggregate and during the remaining term of the plan as 635
compared to the expected results that would otherwise apply 636
under section 4928.142 of the Revised Code. The commission shall 637
also determine the prospective effect of the electric security 638

plan to determine if that effect is substantially likely to 639
provide the electric distribution utility with a return on 640
common equity that is significantly in excess of the return on 641
common equity that is likely to be earned by publicly traded 642
companies, including utilities, that face comparable business 643
and financial risk, with such adjustments for capital structure 644
as may be appropriate. The burden of proof for demonstrating 645
that significantly excessive earnings will not occur shall be on 646
the electric distribution utility. For affiliated Ohio electric 647
distribution utilities that operate under a joint electric 648
security plan, their total earned return on common equity shall 649
be used for purposes of assessing significantly excessive 650
earnings. If the test results are in the negative or the 651
commission finds that continuation of the electric security plan 652
will result in a return on equity that is significantly in 653
excess of the return on common equity that is likely to be 654
earned by publicly traded companies, including utilities, that 655
will face comparable business and financial risk, with such 656
adjustments for capital structure as may be appropriate, during 657
the balance of the plan, the commission may terminate the 658
electric security plan, but not until it shall have provided 659
interested parties with notice and an opportunity to be heard. 660
The commission may impose such conditions on the plan's 661
termination as it considers reasonable and necessary to 662
accommodate the transition from an approved plan to the more 663
advantageous alternative. In the event of an electric security 664
plan's termination pursuant to this division, the commission 665
shall permit the continued deferral and phase-in of any amounts 666
that occurred prior to that termination and the recovery of 667
those amounts as contemplated under that electric security plan. 668

(F) With regard to the provisions that are included in an 669

electric security plan under this section, the commission shall 670
consider, following the end of each annual period of the plan, 671
if any such adjustments resulted in excessive earnings as 672
measured by whether the earned return on common equity of the 673
electric distribution utility is significantly in excess of the 674
return on common equity that was earned during the same period 675
by publicly traded companies, including utilities, that face 676
comparable business and financial risk, with such adjustments 677
for capital structure as may be appropriate. In making its 678
determination of significantly excessive earnings under this 679
division, the commission shall, for affiliated Ohio electric 680
distribution utilities that operate under a joint electric 681
security plan, use the total of the utilities' earned return on 682
common equity. Consideration also shall be given to the capital 683
requirements of future committed investments in this state. The 684
burden of proof for demonstrating that significantly excessive 685
earnings did not occur shall be on the electric distribution 686
utility. If the commission finds that such adjustments, in the 687
aggregate, did result in significantly excessive earnings, it 688
shall require the electric distribution utility to return to 689
consumers the amount of the excess by prospective adjustments; 690
provided that, upon making such prospective adjustments, the 691
electric distribution utility shall have the right to terminate 692
the plan and immediately file an application pursuant to section 693
4928.142 of the Revised Code. Upon termination of a plan under 694
this division, rates shall be set on the same basis as specified 695
in division (C) (2) (b) of this section, and the commission shall 696
permit the continued deferral and phase-in of any amounts that 697
occurred prior to that termination and the recovery of those 698
amounts as contemplated under that electric security plan. In 699
making its determination of significantly excessive earnings 700
under this division, the commission shall not consider, directly 701

or indirectly, the revenue, expenses, or earnings of any 702
affiliate that is not an Ohio electric distribution utility or 703
parent company. 704

Sec. 4928.64. (A) (1) As used in this section, "qualifying 705
renewable energy resource" means a renewable energy resource, as 706
defined in section 4928.01 of the Revised Code that: 707

(a) Has a placed-in-service date on or after January 1, 708
1998; 709

(b) Is any run-of-the-river hydroelectric facility that 710
has an in-service date on or after January 1, 1980; 711

(c) Is a small hydroelectric facility; 712

(d) Is created on or after January 1, 1998, by the 713
modification or retrofit of any facility placed in service prior 714
to January 1, 1998; or 715

(e) Is a mercantile customer-sited renewable energy 716
resource, whether new or existing, that the mercantile customer 717
commits for integration into the electric distribution utility's 718
demand-response, energy efficiency, or peak demand reduction 719
programs as provided under division (A) (2) (c) of section 4928.66 720
of the Revised Code, including, but not limited to, any of the 721
following: 722

(i) A resource that has the effect of improving the 723
relationship between real and reactive power; 724

(ii) A resource that makes efficient use of waste heat or 725
other thermal capabilities owned or controlled by a mercantile 726
customer; 727

(iii) Storage technology that allows a mercantile customer 728
more flexibility to modify its demand or load and usage 729

characteristics; 730

(iv) Electric generation equipment owned or controlled by 731
a mercantile customer that uses a renewable energy resource. 732

(2) For the purpose of this section and as it considers 733
appropriate, the public utilities commission may classify any 734
new technology as such a qualifying renewable energy resource. 735

(B) (1) By the end of 2026, an electric distribution 736
utility shall have provided from qualifying renewable energy 737
resources, including, at its discretion, qualifying renewable 738
energy resources obtained pursuant to an electricity supply 739
contract, a portion of the electricity supply required for its 740
standard service offer under section 4928.141 of the Revised 741
Code, and an electric services company shall have provided a 742
portion of its electricity supply for retail consumers in this 743
state from qualifying renewable energy resources, including, at 744
its discretion, qualifying renewable energy resources obtained 745
pursuant to an electricity supply contract. That portion shall 746
equal eight and one-half per cent of the total number of 747
kilowatt hours of electricity sold by the subject utility or 748
company to any and all retail electric consumers whose electric 749
load centers are served by that utility and are located within 750
the utility's certified territory or, in the case of an electric 751
services company, are served by the company and are located 752
within this state. However, nothing in this section precludes a 753
utility or company from providing a greater percentage. 754

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 755
The portion required under division (B) (1) of this section shall 756
be generated from renewable energy resources in accordance with 757
the following benchmarks: 758

| | 1 | 2 | 3 |
|---|----------------|----------------------------|------------------------|
| A | By end of year | Renewable energy resources | Solar energy resources |
| B | 2009 | 0.25% | 0.004% |
| C | 2010 | 0.50% | 0.010% |
| D | 2011 | 1% | 0.030% |
| E | 2012 | 1.5% | 0.060% |
| F | 2013 | 2% | 0.090% |
| G | 2014 | 2.5% | 0.12% |
| H | 2015 | 2.5% | 0.12% |
| I | 2016 | 2.5% | 0.12% |
| J | 2017 | 3.5% | 0.15% |
| K | 2018 | 4.5% | 0.18% |
| L | 2019 | 5.5% | 0.22% |
| M | 2020 | 5.5% | 0% |
| N | 2021 | 6% | 0% |
| O | 2022 | 6.5% | 0% |
| P | 2023 | 7% | 0% |
| Q | 2024 | 7.5% | 0% |

| | | | |
|---|------|------|----|
| R | 2025 | 8% | 0% |
| S | 2026 | 8.5% | 0% |

(3) The qualifying renewable energy resources implemented 760
by the utility or company shall be met either: 761

(a) Through facilities located in this state; or 762

(b) With resources that can be shown to be deliverable 763
into this state. 764

(C) (1) The commission annually shall review an electric 765
distribution utility's or electric services company's compliance 766
with the most recent applicable benchmark under division (B) (2) 767
of this section and, in the course of that review, shall 768
identify any undercompliance or noncompliance of the utility or 769
company that it determines is weather-related, related to 770
equipment or resource shortages for qualifying renewable energy 771
resources as applicable, or is otherwise outside the utility's 772
or company's control. 773

(2) Subject to the cost cap provisions of division (C) (3) 774
of this section, if the commission determines, after notice and 775
opportunity for hearing, and based upon its findings in that 776
review regarding avoidable undercompliance or noncompliance, but 777
subject to division (C) (4) of this section, that the utility or 778
company has failed to comply with any such benchmark, the 779
commission shall impose a renewable energy compliance payment on 780
the utility or company. 781

(a) The compliance payment pertaining to the solar energy 782
resource benchmarks under division (B) (2) of this section shall 783
be an amount per megawatt hour of undercompliance or 784
noncompliance in the period under review, as follows: 785

| | |
|--|--|
| (i) Three hundred dollars for 2014, 2015, and 2016; | 786 |
| (ii) Two hundred fifty dollars for 2017 and 2018; | 787 |
| (iii) Two hundred dollars for 2019. | 788 |
| (b) The compliance payment pertaining to the renewable energy resource benchmarks under division (B) (2) of this section shall equal the number of additional renewable energy credits that the electric distribution utility or electric services company would have needed to comply with the applicable benchmark in the period under review times an amount that shall begin at forty-five dollars and shall be adjusted annually by the commission to reflect any change in the consumer price index as defined in section 101.27 of the Revised Code, but shall not be less than forty-five dollars. | 789 790 791 792 793 794 795 796 797 798 |
| (c) The compliance payment shall not be passed through by the electric distribution utility or electric services company to consumers. The compliance payment shall be remitted to the commission, for deposit to the credit of the advanced energy fund created under section 4928.61 of the Revised Code. Payment of the compliance payment shall be subject to such collection and enforcement procedures as apply to the collection of a forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. | 799 800 801 802 803 804 805 806 807 |
| (3) An electric distribution utility or an electric services company need not comply with a benchmark under division (B) (2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more. The cost of compliance shall be calculated as though any exemption from taxes and | 808 809 810 811 812 813 814 |

assessments had not been granted under section 5727.75 of the Revised Code.

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

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

operator or its successor. 846

(c) If, pursuant to division (C)(4)(b) of this section, 847
the commission determines that qualifying renewable energy or 848
solar energy resources are not reasonably available to permit 849
the electric distribution utility or electric services company 850
to comply, during the period of review, with the subject minimum 851
benchmark prescribed under division (B)(2) of this section, the 852
commission shall modify that compliance obligation of the 853
utility or company as it determines appropriate to accommodate 854
the finding. Commission modification shall not automatically 855
reduce the obligation for the electric distribution utility's or 856
electric services company's compliance in subsequent years. If 857
it modifies the electric distribution utility or electric 858
services company obligation under division (C)(4)(c) of this 859
section, the commission may require the utility or company, if 860
sufficient renewable energy resource credits exist in the 861
marketplace, to acquire additional renewable energy resource 862
credits in subsequent years equivalent to the utility's or 863
company's modified obligation under division (C)(4)(c) of this 864
section. 865

(5) The commission shall establish a process to provide 866
for at least an annual review of the renewable energy resource 867
market in this state and in the service territories of the 868
regional transmission organizations that manage transmission 869
systems located in this state. The commission shall use the 870
results of this study to identify any needed changes to the 871
amount of the renewable energy compliance payment specified 872
under divisions (C)(2)(a) and (b) of this section. Specifically, 873
the commission may increase the amount to ensure that payment of 874
compliance payments is not used to achieve compliance with this 875
section in lieu of actually acquiring or realizing energy 876

derived from qualifying renewable energy resources. However, if 877
the commission finds that the amount of the compliance payment 878
should be otherwise changed, the commission shall present this 879
finding to the general assembly for legislative enactment. 880

(D) The commission annually shall submit to the general 881
assembly in accordance with section 101.68 of the Revised Code a 882
report describing all of the following: 883

(1) The compliance of electric distribution utilities and 884
electric services companies with division (B) of this section; 885

(2) The average annual cost of renewable energy credits 886
purchased by utilities and companies for the year covered in the 887
report; 888

(3) Any strategy for utility and company compliance or for 889
encouraging the use of qualifying renewable energy resources in 890
supplying this state's electricity needs in a manner that 891
considers available technology, costs, job creation, and 892
economic impacts. 893

The commission shall begin providing the information 894
described in division (D)(2) of this section in each report 895
submitted after September 10, 2012. The commission shall allow 896
and consider public comments on the report prior to its 897
submission to the general assembly. Nothing in the report shall 898
be binding on any person, including any utility or company for 899
the purpose of its compliance with any benchmark under division 900
(B) of this section, or the enforcement of that provision under 901
division (C) of this section. 902

(E) All costs incurred by an electric distribution utility 903
in complying with the requirements of this section shall be 904
bypassable by any consumer that has exercised choice of supplier 905

under section 4928.03 of the Revised Code. 906

Sec. 4928.641. (A) If an electric distribution utility has 907
executed a contract before April 1, 2014, to procure renewable 908
energy resources and there are ongoing costs associated with 909
that contract that are being recovered from customers through a 910
bypassable charge as of September 12, 2014, that cost recovery 911
shall, ~~regardless of the amendments to section 4928.64 of the~~ 912
~~Revised Code by H.B. 6 of the 133rd general assembly,~~ continue 913
on a bypassable basis ~~through December 31, 2032~~until the 914
prudently incurred costs associated with that contract are fully 915
recovered. 916

(B) Division (A) of this section applies only to costs 917
associated with the original term of a contract described in 918
that division and entered into before April 1, 2014. This 919
section does not permit recovery of costs associated with an 920
extension of such a contract. This section does not permit 921
recovery of costs associated with an amendment of such a 922
contract if that amendment was made on or after April 1, 2014. 923

Sec. 4928.645. (A) An electric distribution utility or 924
electric services company may use, for the purpose of complying 925
with the requirements under divisions (B)(1) and (2) of section 926
4928.64 of the Revised Code, renewable energy credits any time 927
in the five calendar years following the date of their purchase 928
or acquisition from any entity, including, but not limited to, 929
the following: 930

(1) A mercantile customer; 931

(2) An owner or operator of a hydroelectric generating 932
facility that is located at a dam on a river, or on any water 933
discharged to a river, that is within or bordering this state or 934

within or bordering an adjoining state, or that produces power 935
that can be shown to be deliverable into this state; 936

(3) A seller of compressed natural gas that has been 937
produced from biologically derived methane gas, provided that 938
the seller may only provide renewable energy credits for metered 939
amounts of gas. 940

(B) (1) The public utilities commission shall adopt rules 941
specifying that one unit of credit shall equal one megawatt hour 942
of electricity derived from renewable energy resources, except 943
that, for a generating facility of seventy-five megawatts or 944
greater that is situated within this state and has committed by 945
December 31, 2009, to modify or retrofit its generating unit or 946
units to enable the facility to generate principally from 947
biomass energy by June 30, 2013, each megawatt hour of 948
electricity generated principally from that biomass energy shall 949
equal, in units of credit, the product obtained by multiplying 950
the actual percentage of biomass feedstock heat input used to 951
generate such megawatt hour by the quotient obtained by dividing 952
the then existing unit dollar amount used to determine a 953
renewable energy compliance payment as provided under division 954
(C) (2) (b) of section 4928.64 of the Revised Code by the then 955
existing market value of one renewable energy credit, but such 956
megawatt hour shall not equal less than one unit of credit. 957
Renewable energy resources do not have to be converted to 958
electricity in order to be eligible to receive renewable energy 959
credits. The rules shall specify that, for purposes of 960
converting the quantity of energy derived from biologically 961
derived methane gas to an electricity equivalent, one megawatt 962
hour equals 3,412,142 British thermal units. 963

(2) The rules also shall provide for this state a system 964

of registering renewable energy credits by specifying which of 965
any generally available registries shall be used for that 966
purpose and not by creating a registry. That selected system of 967
registering renewable energy credits shall allow a hydroelectric 968
generating facility to be eligible for obtaining renewable 969
energy credits and shall allow customer-sited projects or 970
actions the broadest opportunities to be eligible for obtaining 971
renewable energy credits. 972

~~(C) Beginning January 1, 2020, a qualifying renewable 973
resource as defined in section 3706.40 of the Revised Code is 974
not eligible to obtain a renewable energy credit under this 975
section for any megawatt hour for which the resource has been 976
issued a renewable energy credit under section 3706.45 of the 977
Revised Code. 978~~

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 979
distribution utility shall implement energy efficiency programs 980
that achieve energy savings equivalent to at least three-tenths 981
of one per cent of the total, annual average, and normalized 982
kilowatt-hour sales of the electric distribution utility during 983
the preceding three calendar years to customers in this state. 984
An energy efficiency program may include a combined heat and 985
power system placed into service or retrofitted on or after the 986
effective date of the amendment of this section by S.B. 315 of 987
the 129th general assembly, September 10, 2012, or a waste 988
energy recovery system placed into service or retrofitted on or 989
after September 10, 2012, except that a waste energy recovery 990
system described in division (A) (38) (b) of section 4928.01 of 991
the Revised Code may be included only if it was placed into 992
service between January 1, 2002, and December 31, 2004. For a 993
waste energy recovery or combined heat and power system, the 994
savings shall be as estimated by the public utilities 995

commission. The savings requirement, using such a three-year 996
average, shall increase to an additional five-tenths of one per 997
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 998
of one per cent in 2012, nine-tenths of one per cent in 2013, 999
and one per cent in 2014. In 2015 and 2016, an electric 1000
distribution utility shall achieve energy savings equal to the 1001
result of subtracting the cumulative energy savings achieved 1002
since 2009 from the product of multiplying the baseline for 1003
energy savings, described in division (A) (2) (a) of this section, 1004
by four and two-tenths of one per cent. If the result is zero or 1005
less for the year for which the calculation is being made, the 1006
utility shall not be required to achieve additional energy 1007
savings for that year, but may achieve additional energy savings 1008
for that year. The annual savings requirements shall be, for 1009
years 2017, 2018, 2019, and 2020, an additional one per cent of 1010
the baseline. For purposes of a waste energy recovery or 1011
combined heat and power system, an electric distribution utility 1012
shall not apply more than the total annual percentage of the 1013
electric distribution utility's industrial-customer load, 1014
relative to the electric distribution utility's total load, to 1015
the annual energy savings requirement. 1016

(b) Beginning in 2009, an electric distribution utility 1017
shall implement peak demand reduction programs designed to 1018
achieve a one per cent reduction in peak demand in 2009 and an 1019
additional seventy-five hundredths of one per cent reduction 1020
each year through 2014. In 2015 and 2016, an electric 1021
distribution utility shall achieve a reduction in peak demand 1022
equal to the result of subtracting the cumulative peak demand 1023
reductions achieved since 2009 from the product of multiplying 1024
the baseline for peak demand reduction, described in division 1025
(A) (2) (a) of this section, by four and seventy-five hundredths 1026

of one per cent. If the result is zero or less for the year for 1027
which the calculation is being made, the utility shall not be 1028
required to achieve an additional reduction in peak demand for 1029
that year, but may achieve an additional reduction in peak 1030
demand for that year. In 2017 and each year thereafter through 1031
2020, the utility shall achieve an additional seventy-five 1032
hundredths of one per cent reduction in peak demand. 1033

(2) For the purposes of divisions (A) (1) (a) and (b) of 1034
this section: 1035

(a) The baseline for energy savings under division (A) (1) 1036
(a) of this section shall be the average of the total kilowatt 1037
hours the electric distribution utility sold in the preceding 1038
three calendar years. The baseline for a peak demand reduction 1039
under division (A) (1) (b) of this section shall be the average 1040
peak demand on the utility in the preceding three calendar 1041
years, except that the commission may reduce either baseline to 1042
adjust for new economic growth in the utility's certified 1043
territory. Neither baseline shall include the load and usage of 1044
any of the following customers: 1045

(i) Beginning January 1, 2017, a customer for which a 1046
reasonable arrangement has been approved under section 4905.31 1047
of the Revised Code; 1048

(ii) A customer that has opted out of the utility's 1049
portfolio plan under section 4928.6611 of the Revised Code; 1050

(iii) A customer that has opted out of the utility's 1051
portfolio plan under Section 8 of S.B. 310 of the 130th general 1052
assembly. 1053

(b) The commission may amend the benchmarks set forth in 1054
division (A) (1) (a) or (b) of this section if, after application 1055

by the electric distribution utility, the commission determines 1056
that the amendment is necessary because the utility cannot 1057
reasonably achieve the benchmarks due to regulatory, economic, 1058
or technological reasons beyond its reasonable control. 1059

(c) Compliance with divisions (A) (1) (a) and (b) of this 1060
section shall be measured by including the effects of all 1061
demand-response programs for mercantile customers of the subject 1062
electric distribution utility, all waste energy recovery systems 1063
and all combined heat and power systems, and all such mercantile 1064
customer-sited energy efficiency, including waste energy 1065
recovery and combined heat and power, and peak demand reduction 1066
programs, adjusted upward by the appropriate loss factors. Any 1067
mechanism designed to recover the cost of energy efficiency, 1068
including waste energy recovery and combined heat and power, and 1069
peak demand reduction programs under divisions (A) (1) (a) and (b) 1070
of this section may exempt mercantile customers that commit 1071
their demand-response or other customer-sited capabilities, 1072
whether existing or new, for integration into the electric 1073
distribution utility's demand-response, energy efficiency, 1074
including waste energy recovery and combined heat and power, or 1075
peak demand reduction programs, if the commission determines 1076
that that exemption reasonably encourages such customers to 1077
commit those capabilities to those programs. If a mercantile 1078
customer makes such existing or new demand-response, energy 1079
efficiency, including waste energy recovery and combined heat 1080
and power, or peak demand reduction capability available to an 1081
electric distribution utility pursuant to division (A) (2) (c) of 1082
this section, the electric utility's baseline under division (A) 1083
(2) (a) of this section shall be adjusted to exclude the effects 1084
of all such demand-response, energy efficiency, including waste 1085
energy recovery and combined heat and power, or peak demand 1086

reduction programs that may have existed during the period used 1087
to establish the baseline. The baseline also shall be normalized 1088
for changes in numbers of customers, sales, weather, peak 1089
demand, and other appropriate factors so that the compliance 1090
measurement is not unduly influenced by factors outside the 1091
control of the electric distribution utility. 1092

(d) (i) Programs implemented by a utility may include the 1093
following: 1094

(I) Demand-response programs; 1095

(II) Smart grid investment programs, provided that such 1096
programs are demonstrated to be cost-beneficial; 1097

(III) Customer-sited programs, including waste energy 1098
recovery and combined heat and power systems; 1099

(IV) Transmission and distribution infrastructure 1100
improvements that reduce line losses; 1101

(V) Energy efficiency savings and peak demand reduction 1102
that are achieved, in whole or in part, as a result of funding 1103
provided from the universal service fund established by section 1104
4928.51 of the Revised Code to benefit low-income customers 1105
through programs that include, but are not limited to, energy 1106
audits, the installation of energy efficiency insulation, 1107
appliances, and windows, and other weatherization measures. 1108

(ii) No energy efficiency or peak demand reduction 1109
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 1110
section shall qualify for shared savings. 1111

(iii) Division (A) (2) (c) of this section shall be applied 1112
to include facilitating efforts by a mercantile customer or 1113
group of those customers to offer customer-sited demand- 1114

response, energy efficiency, including waste energy recovery and 1115
combined heat and power, or peak demand reduction capabilities 1116
to the electric distribution utility as part of a reasonable 1117
arrangement submitted to the commission pursuant to section 1118
4905.31 of the Revised Code. 1119

(e) No programs or improvements described in division (A) 1120
(2) (d) of this section shall conflict with any statewide 1121
building code adopted by the board of building standards. 1122

(B) In accordance with rules it shall adopt, the public 1123
utilities commission shall produce and docket at the commission 1124
an annual report containing the results of its verification of 1125
the annual levels of energy efficiency and of peak demand 1126
reductions achieved by each electric distribution utility 1127
pursuant to division (A) of this section. A copy of the report 1128
shall be provided to the consumers' counsel. 1129

(C) If the commission determines, after notice and 1130
opportunity for hearing and based upon its report under division 1131
(B) of this section, that an electric distribution utility has 1132
failed to comply with an energy efficiency or peak demand 1133
reduction requirement of division (A) of this section, the 1134
commission shall assess a forfeiture on the utility as provided 1135
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1136
Code, either in the amount, per day per undercompliance or 1137
noncompliance, relative to the period of the report, equal to 1138
that prescribed for noncompliances under section 4905.54 of the 1139
Revised Code, or in an amount equal to the then existing market 1140
value of one renewable energy credit per megawatt hour of 1141
undercompliance or noncompliance. Revenue from any forfeiture 1142
assessed under this division shall be deposited to the credit of 1143
the advanced energy fund created under section 4928.61 of the 1144

Revised Code. 1145

~~(D) The commission may establish rules regarding the 1146
content of an application by an electric distribution utility 1147
for commission approval of a revenue decoupling mechanism under 1148
this division. Such an application shall not be considered an 1149
application to increase rates and may be included as part of a 1150
proposal to establish, continue, or expand energy efficiency or 1151
conservation programs. The commission by order may approve an 1152
application under this division if it determines both that the 1153
revenue decoupling mechanism provides for the recovery of 1154
revenue that otherwise may be forgone by the utility as a result 1155
of or in connection with the implementation by the electric 1156
distribution utility of any energy efficiency or energy 1157
conservation programs and reasonably aligns the interests of the 1158
utility and of its customers in favor of those programs. 1159~~

~~(E) The commission additionally shall adopt rules that 1160
require an electric distribution utility to provide a customer 1161
upon request with two years' consumption data in an accessible 1162
form. 1163~~

~~(F) (1) (E) (1) As used in divisions (F) (2) (E) (2), (3), and 1164
(4) of this section, "portfolio plan" has the same meaning as in 1165
division (C) (1) of section 4928.6610 of the Revised Code. 1166~~

(2) If an electric distribution utility has a portfolio 1167
plan in effect as of October 22, 2019, the effective date of the 1168
amendments to this section by H.B. 6 of the 133rd general 1169
assembly and that plan expires before December 31, 2020, the 1170
commission shall extend the plan through that date. All 1171
portfolio plans shall terminate on that date. 1172

(3) If a portfolio plan is extended beyond its commission 1173

approved term by division ~~(F) (2)~~ (E) (2) of this section, the 1174
existing plan's budget shall be increased for the extended term 1175
to include an amount equal to the annual average of the approved 1176
budget for all years of the portfolio plan in effect as of 1177
October 22, 2019, the effective date of the amendments to this 1178
section by H.B. 6 of the 133rd general assembly. 1179

(4) All other terms and conditions of a portfolio plan 1180
extended beyond its commission-approved term by division ~~(F) (2)~~ 1181
(E) (2) of this section shall remain the same unless changes are 1182
authorized by the commission. 1183

~~(G) (1)~~ (F) (1) Not later than February 1, 2021, the 1184
commission shall determine the cumulative energy savings 1185
collectively achieved, since 2009, by all electric distribution 1186
utilities in this state as of December 31, 2020. In determining 1187
that cumulative total, the commission shall do both of the 1188
following: 1189

(a) Include energy savings that were estimated by the 1190
commission to be achieved as of December 31, 2020, and banked 1191
under division (G) of section 4928.662 of the Revised Code; 1192

(b) Use an energy savings baseline that is the average of 1193
the total kilowatt hours sold by all electric distribution 1194
utilities in this state in the calendar years 2018, 2019, and 1195
2020. The baseline shall exclude the load and usage described in 1196
division (A) (2) (a) (i), (ii), and (iii) of this section. That 1197
baseline may also be reduced for new economic growth in the 1198
utility's certified territory as provided in division (A) (2) (a) 1199
of this section and adjusted and normalized as provided in 1200
division (A) (2) (c) of this section. 1201

(2) (a) If the cumulative energy savings collectively 1202

achieved as determined by the commission under division ~~(G)(1)~~ 1203
(F)(1) of this section is at least seventeen and one-half per 1204
cent of the baseline described in division ~~(G)(1)(b)~~ (F)(1)(b) 1205
of this section, then full compliance with division (A)(1)(a) of 1206
this section shall be deemed to have been achieved 1207
notwithstanding any provision of this section to the contrary. 1208

(b) If the cumulative energy savings collectively achieved 1209
as determined by the commission under division ~~(G)(1)~~ (F)(1) of 1210
this section is less than seventeen and one-half per cent of the 1211
baseline described in division ~~(G)(1)(b)~~ (F)(1)(b) of this 1212
section, then both of the following shall apply: 1213

(i) The commission shall determine the manner in which 1214
further implementation of energy efficiency programs shall occur 1215
as may be reasonably necessary for collective achievement of 1216
cumulative energy savings equal to seventeen and one-half 1217
~~percent~~ per cent, and not more, of the baseline described in 1218
division ~~(G)(1)(b)~~ (F)(1)(b) of this section. 1219

(ii) Full compliance with division (A)(1)(a) of this 1220
section shall be deemed to be achieved as of a date certain 1221
established by the commission notwithstanding any provision of 1222
this section to the contrary. 1223

(3) Upon the date that full compliance with division (A) 1224
(1)(a) of this section is deemed achieved under division ~~(G)(2)~~ 1225
~~(a)~~ (F)(2)(a) or (b) of this section, any electric distribution 1226
utility cost recovery mechanisms authorized by the commission 1227
for compliance with this section shall terminate except as may 1228
be necessary to reconcile the difference between revenue 1229
collected and the allowable cost of compliance associated with 1230
compliance efforts occurring prior to the date upon which full 1231
compliance with division (A)(1)(a) of this section is deemed 1232

achieved. No such cost recovery mechanism shall be authorized by 1233
the commission beyond the period of time required to complete 1234
this final reconciliation. 1235

Sec. 4928.6610. As used in sections 4928.6611 to 4928.6615 1236
of the Revised Code: 1237

(A) "Customer" means either of the following: 1238

(1) Effective January 1, 2020, a mercantile customer as 1239
defined in section 4928.01 of the Revised Code; 1240

(2) Any customer of an electric distribution utility to 1241
which either of the following applies: 1242

(a) The customer receives service above the primary 1243
voltage level as determined by the utility's tariff 1244
classification. 1245

(b) The customer is a commercial or industrial customer to 1246
which both of the following apply: 1247

(i) The customer receives electricity through a meter of 1248
an end user or through more than one meter at a single location 1249
in a quantity that exceeds forty-five million kilowatt hours of 1250
electricity for the preceding calendar year. 1251

(ii) The customer has made a written request for 1252
registration as a self-assessing purchaser pursuant to section 1253
5727.81 of the Revised Code. 1254

(B) "Energy intensity" means the amount of energy, from 1255
electricity, used or consumed per unit of production. 1256

(C) "Portfolio plan" means either of the following: 1257

(1) The comprehensive energy efficiency and peak-demand 1258
reduction program portfolio plan required under rules adopted by 1259

the public utilities commission and codified in Chapter 4901:1-1260
39 of the Administrative Code or hereafter recodified or 1261
amended; 1262

(2) Any plan implemented pursuant to division ~~(G)~~ (F) of 1263
section 4928.66 of the Revised Code. 1264

Sec. 4928.81. As used in sections 4928.82 to 4928.92 of 1265
the Revised Code: 1266

(A) "Customer" means residential customers and customers 1267
that consume less than seven hundred thousand kilowatt hours per 1268
year for nonresidential commercial purposes. 1269

(B) "Customer-sited energy waste reduction project" means 1270
any project determined by the public utilities commission 1271
pursuant to section 4928.90 of the Revised Code to achieve 1272
energy savings for a customer. 1273

(C) "Default energy waste reduction program provider" 1274
means an eligible provider chosen by the commission pursuant to 1275
section 4928.823 of the Revised Code to provide an energy waste 1276
reduction program exclusively to customers in each electric 1277
distribution utility's certified territory. 1278

(D) "Eligible provider" means a person or corporation that 1279
provides an energy waste reduction program including default 1280
energy waste reduction program providers. 1281

(E) "Energy savings" means a reduction in the annual 1282
kilowatt per hour load by a customer resulting from an energy 1283
efficiency or energy conservation action. 1284

(F) "Energy waste reduction program" means a program that 1285
meets the following criteria: 1286

(1) Facilitates customers to achieve a one per cent energy 1287

| | |
|---|------|
| <u>savings goal annually through the use of customer-sited energy</u> | 1288 |
| <u>waste reduction projects;</u> | 1289 |
| <u>(2) Provides education, information, benchmarking,</u> | 1290 |
| <u>engagement, energy audits, or other educational programming, and</u> | 1291 |
| <u>financing, rebates, or other financial incentives for customers</u> | 1292 |
| <u>to implement customer-sited energy waste reduction projects;</u> | 1293 |
| <u>(3) Meets all the criteria established by the public</u> | 1294 |
| <u>utilities commission pursuant to section 4928.90 of the Revised</u> | 1295 |
| <u>Code;</u> | 1296 |
| <u>(4) Is provided by an eligible provider included on the</u> | 1297 |
| <u>energy waste reduction program list under section 4928.821 of</u> | 1298 |
| <u>the Revised Code.</u> | 1299 |
| <u>An energy waste reduction program shall be considered a</u> | 1300 |
| <u>competitive retail electric service.</u> | 1301 |
| <u>(G) "Governmental aggregator" means a governmental</u> | 1302 |
| <u>aggregation for the provision of retail electric service as</u> | 1303 |
| <u>described in section 4928.20 of the Revised Code.</u> | 1304 |
| <u>(H) "Residential customer" means a retail electric service</u> | 1305 |
| <u>customer insofar as the customer's needs for electricity are</u> | 1306 |
| <u>limited to their residence.</u> | 1307 |
| <u>Sec. 4928.82.</u> (A) <u>All customers in this state shall be</u> | 1308 |
| <u>enrolled into an energy waste reduction program from an eligible</u> | 1309 |
| <u>provider. Customers may choose their provider from the energy</u> | 1310 |
| <u>waste reduction provider list described in section 4928.821 of</u> | 1311 |
| <u>the Revised Code.</u> | 1312 |
| <u>(B) Customers that do not choose an eligible provider's</u> | 1313 |
| <u>program under division (A) of this section shall be enrolled</u> | 1314 |
| <u>into the default energy waste reduction program that services</u> | 1315 |

that territory. 1316

(C) This section does not apply to customers that opt out 1317
pursuant to section 4928.83 of the Revised Code. 1318

Sec. 4928.821. The public utilities commission shall 1319
establish and maintain an energy waste reduction provider list, 1320
which shall be publicly available on the commission's web site 1321
and shall list all the eligible providers in the state. 1322

Sec. 4928.822. (A) A competitive retail electric supplier, 1323
governmental aggregator, or a regional council of governments 1324
established under Chapter 167. of the Revised Code may become an 1325
eligible provider by submitting the following to the public 1326
utilities commission: 1327

(1) A plan that would allow customers to achieve a one- 1328
half per cent energy savings goal by the end of the first year 1329
of an energy waste reduction program's implementation and a one 1330
per cent energy savings goal each year thereafter. 1331

(2) A plan or system that meets the measurement and 1332
verification standards developed by the commission pursuant to 1333
section 4928.90 of the Revised Code. 1334

(B) Upon approval by the commission for inclusion on the 1335
energy waste reduction provider list, a competitive retail 1336
electric supplier, governmental aggregator, or regional council 1337
of governments may enroll customers, except for customers that 1338
chose to opt out of the program pursuant to section 4928.83 of 1339
the Revised Code, into their energy waste reduction program on 1340
an annual basis, which shall be established by the commission. 1341

Sec. 4928.823. (A) Nine months after the effective date of 1342
this section, the public utilities commission shall take bids 1343
for the design and management of default energy waste reduction 1344

programs to serve each electric distribution utility's certified 1345
territory. Only one default energy waste reduction program 1346
provider shall be selected for each certified territory. 1347

(B) Bidders described in division (A) of this section 1348
shall submit the following to the commission: 1349

(1) The certified territory the provider will service; 1350

(2) A proposal for a program designed to facilitate 1351
customers to achieve a one per cent energy savings goal; 1352

(3) An estimation of the program costs; 1353

(4) Evidence that the program will be compliant with all 1354
the criteria and eligibility requirements established by the 1355
commission pursuant to section 4928.90 of the Revised Code; 1356

(5) Any other information the commission deems 1357
appropriate. 1358

(C) The commission shall negotiate the contract terms and 1359
length for the default energy waste reduction program providers. 1360
Each contract shall include a clause allowing for either the 1361
utility or provider to cancel the contract if sections 4928.81 1362
to 4928.92 of the Revised Code are amended or repealed. 1363

Sec. 4928.824. The public utilities commission shall 1364
create a collaborative review process to be used by stakeholders 1365
to review selected bidders described in section 4928.823 of the 1366
Revised Code, and to review annual achieved energy savings and 1367
program performance. 1368

Sec. 4928.825. Customers shall be assessed a monthly 1369
charge on their electric bill for enrollment in an energy waste 1370
reduction program. Electric distribution utilities shall collect 1371
these charges, in a manner prescribed by the public utilities 1372

commission pursuant to section 4928.90 of the Revised Code, and 1373
remit funds to the applicable eligible provider. 1374

Sec. 4928.826. Eligible providers shall be assessed a 1375
reasonable monthly fee by the public utilities commission to 1376
recover administrative costs associated with the oversight of 1377
the energy waste reduction programs. 1378

Sec. 4928.827. (A) An eligible provider shall submit an 1379
annual report to the public utilities commission containing the 1380
following information: 1381

(1) All costs associated with their energy waste reduction 1382
program; 1383

(2) The amount of the monthly charge that is collected 1384
from customers described in section 4928.825 of the Revised 1385
Code; 1386

(3) Energy savings resulting from their implementation of 1387
a program; 1388

(4) Percentage of the customer base participating in the 1389
program; 1390

(5) Any other information the commission deems 1391
appropriate. 1392

(B) An eligible provider shall also submit a measurement 1393
and verification report with the annual report described in 1394
division (A) of this section that includes the information 1395
requested by the commission pursuant to section 4928.90 of the 1396
Revised Code. 1397

Sec. 4928.828. Within a reasonable time after receiving 1398
the report required by section 4928.827 of the Revised Code, the 1399
public utilities commission shall remove any eligible provider 1400

from the energy waste reduction provider list if it fails to 1401
meet any of the rules and criteria established by the commission 1402
pursuant to section 4928.90 of the Revised Code. 1403

Sec. 4928.829. (A) Eligible providers shall not be subject 1404
to any cost-recovery mechanism established by an electric 1405
distribution utility to recover costs associated with 1406
transmission, or transmission-related services including 1407
ancillary or congestion services, imposed on, or charged to, the 1408
utility by the federal energy regulatory commission or a 1409
regional transmission organization, independent transmission 1410
operator, or similar organization approved by the federal energy 1411
regulatory commission. 1412

(B) Eligible providers shall pay for the transmission 1413
services described in division (A) of this section directly to a 1414
regional transmission organization, independent transmission 1415
operator, or similar organization approved by the federal energy 1416
regulatory commission. 1417

Sec. 4928.83. (A) Customers may opt out of an energy waste 1418
reduction program at any time prior to, or after, enrollment and 1419
avoid the monthly charge described in section 4928.825 of the 1420
Revised Code. 1421

(B) The public utilities commission shall develop a 1422
process for customers to opt out of an energy waste reduction 1423
program, which shall include the following: 1424

(1) A web page on the commission's web site allowing for 1425
customers to opt out online; 1426

(2) A phone number for customers to call to opt out or to 1427
ask questions; 1428

(3) A way to allow customers with multiple accounts to opt 1429

all of the accounts out of the program with a single 1430
application. 1431

Sec. 4928.84. Customers that have taken a financial 1432
incentive from an eligible provider's energy waste reduction 1433
program shall wait at least three years from the date of 1434
receiving the financial incentive before opting out of the 1435
program pursuant to section 4928.83 of the Revised Code. 1436

Sec. 4928.86. An electric distribution utility shall 1437
include a notice attached to a customer's monthly electric bill 1438
stating the customer's eligible provider and the information 1439
described in division (B) of section 4928.83 of the Revised 1440
Code. 1441

Sec. 4928.87. An electric distribution utility supplying 1442
retail electric service shall include in the price-to-compare 1443
notice on each customer's monthly bill the total cost for the 1444
customer of the following: 1445

(A) The price of the default energy waste reduction 1446
program provider's program. 1447

(B) All generation and transmission related costs. 1448

Sec. 4928.90. (A) The public utilities commission shall 1449
adopt rules necessary to administer and enforce sections 4928.82 1450
to 4928.87 of the Revised Code, which shall include the 1451
following: 1452

(1) Eligibility criteria for energy waste reduction 1453
programs, including a limit on costs for each program and a 1454
cost-to-benefit requirement; 1455

(2) Eligibility criteria for customer-sited energy waste 1456
reduction projects, including energy savings standards that are 1457

above comparable state or federal standards and rules to 1458
determine if a project differs from the ordinary course of 1459
business for the customer; 1460

(3) Criteria for evaluation, measurement, and verification 1461
for energy waste reduction projects and programs by the eligible 1462
providers; 1463

(B) The commission shall adopt the rules under this 1464
section not later than four months after the effective date of 1465
this section. 1466

Sec. 4928.91. A competitive retail electric supplier may 1467
offer an energy waste reduction program for mercantile customers 1468
it serves. The requirements for energy waste reduction programs 1469
and eligible providers stated in sections 4928.82 to 4928.87 of 1470
the Revised Code and the rules adopted under section 4928.90 of 1471
the Revised Code, shall not apply to programs created under this 1472
section. A competitive retail electric supplier offering an 1473
energy waste reduction program under this section does not have 1474
to qualify as an eligible provider. 1475

Sec. 4928.92. (A) Mercantile customers enrolled in an 1476
energy waste reduction program established under section 4928.91 1477
of the Revised Code shall not be subject to any cost-recovery 1478
mechanism established by an electric distribution utility to 1479
recover costs associated with transmission, or transmission- 1480
related services, including ancillary or congestion services, 1481
imposed on, or charged to, the utility by the federal energy 1482
regulatory commission or a regional transmission organization, 1483
independent transmission operator, or similar organization 1484
approved by the federal energy regulatory commission. 1485

(B) Mercantile customers described in division (A) of this 1486

section shall pay for transmission services described in that 1487
division directly to a regional transmission organization, 1488
independent transmission operator, or similar organization 1489
approved by the federal energy regulatory commission. 1490

(C) The public utilities commission shall adopt rules 1491
necessary to administer and enforce this section. 1492

Section 2. That existing sections 4928.01, 4928.143, 1493
4928.64, 4928.641, 4928.645, 4928.66, and 4928.6610 of the 1494
Revised Code are hereby repealed. 1495

Section 3. That sections 3706.40, 3706.41, 3706.43, 1496
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 3706.55, 3706.59, 1497
3706.61, 3706.63, 3706.65, 4928.148, 4928.47, 4928.471, 1498
4928.642, 4928.75, and 5727.231 of the Revised Code are hereby 1499
repealed. 1500

Section 4. That Section 5 of H.B. 6 of the 133rd General 1501
Assembly is hereby repealed. 1502

Section 5. (A) (1) Any mechanism for retail recovery of 1503
prudently incurred costs authorized and established pursuant to 1504
division (A) of section 4928.148 of the Revised Code as that 1505
section existed prior to the effective date of this section is 1506
hereby terminated. 1507

(2) Any mechanism for retail recovery of costs for all 1508
generating facilities owned directly or indirectly by a 1509
corporation that was formed prior to 1960 by investor-owned 1510
utilities for the original purpose of providing power to the 1511
federal government for use in the nation's defense or in 1512
furtherance of national interests, including the Ohio Valley 1513
Electric Corporation, that was authorized under section 4928.143 1514
of the Revised Code, or any other section of the Revised Code, 1515

and that was in effect on or before the effective date of H.B. 6 1516
of the 133rd General Assembly shall not be revived, reimposed, 1517
reestablished, or in any way reinstated as a result of this 1518
act, or Public Utilities Commission order, decision, or rule, 1519
and no amount, charge, mechanism, or rider related to such 1520
mechanism may be assessed or collected from customers. 1521

(B) On and after the effective date of this section, and 1522
notwithstanding any provision in Title XLIX of the Revised Code 1523
to the contrary, no decoupling mechanism established under 1524
section 4928.143 or 4928.66 of the Revised Code or section 1525
4928.471 of the Revised Code, as that section existed prior to 1526
the effective date of this section, shall remain in effect, and 1527
no amount, charge, mechanism, or rider related to decoupling may 1528
be assessed or collected from customers. 1529

Section 6. Upon the effective date of this section, and 1530
notwithstanding section 4905.32 of the Revised Code and any 1531
other provision in Title XLIX of the Revised Code to the 1532
contrary, the following shall be promptly refunded to customers: 1533

(A) The full amount of revenues collected from customers 1534
through an amount, charge, mechanism, or rider established under 1535
sections 4928.148 and 4928.471 of the Revised Code, as those 1536
sections existed prior to the effective date of this section. 1537
Refunds paid to customers shall be allocated to customer classes 1538
in the same proportion as originally collected. 1539

(B) All charges collected pursuant to section 3706.46 of 1540
the Revised Code, as that section existed prior to the effective 1541
date of this section, shall be refunded to customers in a manner 1542
that shall be determined by the Ohio Air Quality Development 1543
Authority. 1544