

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

Am. Sub. H. B. No. 6

Representatives Callender, Wilkin

**Cosponsors: Representatives Cross, DeVitis, Ghanbari, Hillyer, Jones, Reineke,
Seitz, Stein, Vitale**

Senators Eklund, Gavarone, Terhar, Williams

A BILL

To amend sections 303.213, 519.213, 713.081, 1
4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 2
4928.645, 4928.66, 4928.6610, and 5727.75, to 3
enact sections 3706.40, 3706.41, 3706.43, 4
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 5
3706.55, 3706.59, 3706.61, 3706.63, 3706.65, 6
4928.148, 4928.47, 4928.471, 4928.642, 4928.75, 7
4928.80, and 5727.231, and to repeal section 8
4928.6616 of the Revised Code to facilitate and 9
continue the development, production, and use of 10
electricity from nuclear, coal, and renewable 11
energy resources in this state, to modify the 12
existing mandates for renewable energy and 13
energy efficiency savings, and to determine 14
amounts of federal funding received for home 15
weatherization services. 16

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

Section 1. That sections 303.213, 519.213, 713.081, 17

4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 4928.645, 18
4928.66, 4928.6610, and 5727.75 be amended and sections 3706.40, 19
3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 20
3706.55, 3706.59, 3706.61, 3706.63, 3706.65, 4928.148, 4928.47, 21
4928.471, 4928.642, 4928.75, 4928.80, and 5727.231 of the 22
Revised Code be enacted to read as follows: 23

Sec. 303.213. (A) As used in this section, "small wind 24
farm" means wind turbines and associated facilities ~~with a~~ 25
~~single interconnection to the electrical grid and designed for,~~ 26
~~or capable of, operation at an aggregate capacity of less than~~ 27
~~five megawatts~~ that are not subject to the jurisdiction of the 28
power siting board under sections 4906.20 and 4906.201 of the 29
Revised Code. 30

(B) Notwithstanding division (A) of section 303.211 of the 31
Revised Code, sections 303.01 to 303.25 of the Revised Code 32
confer power on a board of county commissioners or board of 33
zoning appeals to adopt zoning regulations governing the 34
location, erection, construction, reconstruction, change, 35
alteration, maintenance, removal, use, or enlargement of any 36
small wind farm, whether publicly or privately owned, or the use 37
of land for that purpose, which regulations may be more strict 38
than the regulations prescribed in rules adopted under division 39
(B) (2) of section 4906.20 of the Revised Code. 40

(C) The designation under this section of a small wind 41
farm as a public utility for purposes of sections 303.01 to 42
303.25 of the Revised Code shall not affect the classification 43
of a small wind farm for purposes of state or local taxation. 44

(D) Nothing in division (C) of this section shall be 45
construed as affecting the classification of a 46
telecommunications tower as defined in division (B) or (E) of 47

section 303.211 of the Revised Code or any other public utility 48
for purposes of state and local taxation. 49

Sec. 519.213. (A) As used in this section, "small wind 50
farm" means wind turbines and associated facilities ~~with a~~ 51
~~single interconnection to the electrical grid and designed for,~~ 52
~~or capable of, operation at an aggregate capacity of less than~~ 53
~~five megawatts that are not subject to the jurisdiction of the~~ 54
power siting board under sections 4906.20 and 4906.201 of the 55
Revised Code. 56

(B) Notwithstanding division (A) of section 519.211 of the 57
Revised Code, sections 519.02 to 519.25 of the Revised Code 58
confer power on a board of township trustees or board of zoning 59
appeals with respect to the location, erection, construction, 60
reconstruction, change, alteration, maintenance, removal, use, 61
or enlargement of any small wind farm, whether publicly or 62
privately owned, or the use of land for that purpose, which 63
regulations may be more strict than the regulations prescribed 64
in rules adopted under division (B) (2) of section 4906.20 of the 65
Revised Code. 66

(C) The designation under this section of a small wind 67
farm as a public utility for purposes of sections 519.02 to 68
519.25 of the Revised Code shall not affect the classification 69
of a small wind farm or any other public utility for purposes of 70
state or local taxation. 71

(D) Nothing in division (C) of this section shall be 72
construed as affecting the classification of a 73
telecommunications tower as defined in division (B) or (E) of 74
section 519.211 of the Revised Code or any other public utility 75
for purposes of state and local taxation. 76

Sec. 713.081. (A) As used in this section, "small wind farm" means wind turbines and associated facilities ~~with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts~~ that are not subject to the jurisdiction of the power siting board under sections 4906.20 and 4906.201 of the Revised Code.

(B) Sections 713.06 to 713.15 of the Revised Code confer power on the legislative authority of a municipal corporation with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm as a public utility, whether publicly or privately owned, or the use of land for that purpose, which regulations may be more strict than the regulations prescribed in rules adopted under division (B) (2) of section 4906.20 of the Revised Code.

(C) The designation under this section of a small wind farm as a public utility for purposes of sections 713.06 to 713.15 of the Revised Code shall not affect the classification of a small wind farm or any other public utility for purposes of state or local taxation.

Sec. 3706.40. As used in sections 3706.40 to 3706.65 of the Revised Code:

(A) "Qualifying nuclear resource" means an electric generating facility in this state fueled by nuclear power.

(B) "Qualifying renewable resource" means an electric generating facility in this state to which all of the following apply:

(1) The facility uses or will use solar energy as the

<u>primary energy source.</u>	106
<u>(2) The facility obtained a certificate for construction</u>	107
<u>of a major utility facility from the power siting board prior to</u>	108
<u>June 1, 2019.</u>	109
<u>(3) The facility is interconnected with the transmission</u>	110
<u>grid that is subject to the operational control of PJM</u>	111
<u>interconnection, L.L.C., or its successor organization.</u>	112
<u>(C) "Credit price adjustment" means a reduction to the</u>	113
<u>price for each nuclear resource credit equal to the market price</u>	114
<u>index minus the strike price.</u>	115
<u>(D) "Strike price" means forty-six dollars per megawatt</u>	116
<u>hour.</u>	117
<u>(E) "Market price index" means the sum, expressed in</u>	118
<u>dollars per megawatt hour, of both of the following for the</u>	119
<u>upcoming twelve-month period that begins the first day of June</u>	120
<u>and ends the thirty-first day of May:</u>	121
<u>(1) Projected energy prices, determined using futures</u>	122
<u>contracts for the PJM AEP-Dayton hub;</u>	123
<u>(2) Projected capacity prices, determined using PJM's</u>	124
<u>rest-of-RTO market clearing price.</u>	125
<u>(F) "Electric distribution utility" has the same meaning</u>	126
<u>as in section 4928.01 of the Revised Code.</u>	127
Sec. 3706.41. <u>(A) Not later than February 1, 2020, the</u>	128
<u>owner or operator of a qualifying nuclear resource or qualifying</u>	129
<u>renewable resource may apply to the Ohio air quality development</u>	130
<u>authority to receive payments for nuclear resource credits or</u>	131
<u>renewable energy credits, as applicable, under section 3706.55</u>	132
<u>of the Revised Code.</u>	133

<u>(B) An application submitted under division (A) of this</u>	134
<u>section for a qualifying nuclear resource shall include all of</u>	135
<u>the following information pertaining to the resource:</u>	136
<u>(1) Financial information;</u>	137
<u>(2) Certified cost and revenue projections through</u>	138
<u>December 31, 2026;</u>	139
<u>(3) Operation and maintenance expenses;</u>	140
<u>(4) Fuel expenses, including spent-fuel expenses;</u>	141
<u>(5) Nonfuel capital expenses;</u>	142
<u>(6) Fully allocated overhead costs;</u>	143
<u>(7) The cost of operational risks and market risks that</u>	144
<u>would be avoided by ceasing operation of the resource;</u>	145
<u>(8) Any other information, financial or otherwise, that</u>	146
<u>demonstrates that the resource is projected not to continue</u>	147
<u>being operational.</u>	148
<u>(C) As used in this section:</u>	149
<u>(1) "Operational risks" include the risk that operating</u>	150
<u>costs will be higher than anticipated because of new regulatory</u>	151
<u>mandates or equipment failures and the risk that per-megawatt-</u>	152
<u>hour costs will be higher than anticipated because of a lower</u>	153
<u>than expected capacity factor.</u>	154
<u>(2) "Market risks" include the risk of a forced outage and</u>	155
<u>the associated costs arising from contractual obligations, and</u>	156
<u>the risk that output from the resource may not be able to be</u>	157
<u>sold at projected levels.</u>	158
<u>Sec. 3706.43. After receiving an application under section</u>	159
<u>3706.41 of the Revised Code, the Ohio air quality development</u>	160

authority shall review and approve the application, not later 161
than March 31, 2020, if all of the following apply, as 162
applicable: 163

(A) The resource meets the definition of a qualifying 164
nuclear resource or qualifying renewable resource in section 165
3706.40 of the Revised Code. 166

(B) For a qualifying nuclear resource only, both of the 167
following apply: 168

(1) The application meets the requirements of section 169
3706.41 of the Revised Code. 170

(2) The resource's operator maintains both a principal 171
place of business in this state and a substantial presence in 172
this state with regard to its business operations, offices, and 173
transactions. 174

Sec. 3706.431. All financial and proprietary information, 175
including trade secrets, submitted to the Ohio air quality 176
development authority under sections 3706.41 and 3706.43 of the 177
Revised Code is confidential information and is not a public 178
record for the purpose of section 149.43 of the Revised Code. 179

Sec. 3706.45. (A) An owner or operator of a qualifying 180
nuclear resource or qualifying renewable resource whose 181
application was approved under section 3706.43 of the Revised 182
Code shall report to the Ohio air quality development authority, 183
not later than seven days after the close of each quarter, the 184
number of megawatt hours the resource produced, if any, in the 185
previous quarter. The first report shall be made not later than 186
April 7, 2020, and the last report shall be made not later than 187
January 7, 2027. The information reported shall be in accordance 188
with data from the generation attribute tracking designated by 189

the authority. 190

(B) The authority shall issue one nuclear resource credit 191
to a qualifying nuclear resource for each megawatt hour of 192
electricity that is both reported under division (A) of this 193
section and approved by the authority. The authority shall issue 194
one renewable energy credit to a qualifying renewable resource 195
for each megawatt hour of electricity that is both reported 196
under division (A) of this section and approved by the 197
authority. 198

(C) Except as provided in section 3706.61 of the Revised 199
Code, the price for a nuclear resource credit paid under section 200
3706.55 of the Revised Code shall be nine dollars. 201

(D) The price for a renewable energy credit paid under 202
section 3706.55 of the Revised Code shall be nine dollars. 203

Sec. 3706.46. (A) (1) Beginning for all bills rendered on 204
or after January 1, 2021, by an electric distribution utility in 205
this state, such electric distribution utility shall collect 206
from all of its retail electric customers in this state, each 207
month, a charge or charges which, in the aggregate, are 208
sufficient to produce the following revenue requirements: 209

(a) One hundred fifty million dollars annually for total 210
disbursements required under section 3706.55 of the Revised Code 211
from the nuclear generation fund; 212

(b) Twenty million dollars annually for total 213
disbursements required under section 3706.55 of the Revised Code 214
from the renewable generation fund. 215

(2) The public utilities commission shall determine the 216
method by which the revenue is allocated or assigned to each 217
electric distribution utility for billing and collection, 218

provided that the method of allocation shall be based on the 219
relative number of customers, relative quantity of kilowatt hour 220
sales, or a combination of the two. The level and structure of 221
the charge shall be authorized by the commission through a 222
process that the commission shall determine is not for an 223
increase in any rate, joint rate, toll, classification, charge, 224
or rental, notwithstanding anything to the contrary in Title 225
XLIX of the Revised Code. 226

(B) In authorizing the level and structure of any charge 227
or charges to be billed and collected by each electric 228
distribution utility, the commission shall ensure that the per- 229
customer monthly charge for residential customers does not 230
exceed eighty-five cents and that the per-customer monthly 231
charge for industrial customers eligible to become self- 232
assessing purchasers pursuant to division (C) of section 5727.81 233
of the Revised Code does not exceed two thousand four hundred 234
dollars. For nonresidential customers that are not self- 235
assessing purchasers, the level and design of the charge or 236
charges shall be established in a manner that avoids abrupt or 237
excessive total net electric bill impacts for typical customers. 238

(C) Each charge authorized by the commission under this 239
section shall be subject to adjustment so as to reconcile actual 240
revenue collected with the revenue needed to meet the revenue 241
requirements under division (A)(1) of this section. The 242
commission shall authorize each electric distribution utility to 243
adopt accounting practices to facilitate such reconciliation. 244
Notwithstanding any other provisions of the Revised Code, the 245
charge or charges authorized by the commission may continue 246
beyond December 31, 2027, only if it is necessary to reconcile 247
actual revenue collected under this section during the period 248
ending on December 31, 2027, with the actual revenue needed to 249

meet the revenue requirements under division (A) (1) of this 250
section for required disbursements under section 3706.55 of the 251
Revised Code that may be due and owing during the same period. 252
Such continuation shall be authorized only for such period of 253
time beyond December 31, 2027, as may be reasonably necessary to 254
complete the reconciliation. 255

Sec. 3706.49. (A) There is hereby created the nuclear 256
generation fund and the renewable generation fund. Each fund 257
shall be in the custody of the treasurer of state but shall not 258
be part of the state treasury. Each fund shall consist of the 259
charges collected under section 3706.46 of the Revised Code and 260
deposited in accordance with section 3706.53 of the Revised 261
Code. The interest generated by each fund shall be retained by 262
each respective fund and used for the purposes set forth in 263
sections 3706.40 to 3706.65 of the Revised Code. 264

(B) The treasurer of state shall distribute the moneys in 265
the funds in accordance with directions provided by the Ohio air 266
quality development authority. Before giving directions under 267
this division, the authority shall consult with the public 268
utilities commission. 269

Sec. 3706.53. Subject to section 3706.61 of the Revised 270
Code: 271

(A) Eighty-eight and twenty-five hundredths per cent of 272
the charges collected under section 3706.46 of the Revised Code 273
shall be deposited to the credit of the nuclear generation fund 274
created under section 3706.49 of the Revised Code. 275

(B) Eleven and seventy-five hundredths per cent of the 276
charges collected under section 3706.46 of the Revised Code 277
shall be deposited to the credit of the renewable generation 278

fund created under section 3706.49 of the Revised Code. 279

Sec. 3706.55. (A) For the period beginning with April of 280
2021 and ending with January of 2028, the Ohio air quality 281
development authority shall, in April of 2021 and every three 282
months thereafter through the end of the period, and not later 283
than the twenty-first day of the month, direct the treasurer of 284
state to remit money from the funds created under section 285
3706.49 of the Revised Code as follows: 286

(1) Subject to sections 3706.59 and 3706.61 of the Revised 287
Code, from the nuclear generation fund to the owner or operator 288
of a qualifying nuclear resource, in the amount equivalent to 289
the number of credits earned by the resource during the quarter 290
that ended twelve months prior to the last day of the previous 291
quarter multiplied by the credit price, and as directed by the 292
authority in accordance with section 3706.61 of the Revised 293
Code; 294

(2) Subject to section 3706.59 of the Revised Code, from 295
the renewable generation fund to the owners or operators of 296
qualifying renewable resources, in the amount equivalent to the 297
number of credits earned by the resources during the quarter 298
that ended twelve months prior to the last day of the previous 299
quarter multiplied by the credit price. 300

(B) Notwithstanding section 4905.32 of the Revised Code, 301
any amounts remaining in the nuclear generation fund and the 302
renewable generation fund as of December 31, 2027, minus the 303
remittances that are required to be made between that date and 304
January 21, 2028, shall be refunded to customers in a manner 305
that shall be determined by the authority in consultation with 306
the public utilities commission. 307

Sec. 3706.59. (A) If the money in the nuclear generation fund is insufficient in a particular quarter to make the payments in the amount required under division (A)(1) of section 3706.55 of the Revised Code, then the Ohio air quality development authority shall, not later than twenty-one days after the close of any quarter in which the owner or operator was not fully compensated, direct the treasurer of state to remit money from the nuclear generation fund to pay for the unpaid credits. 308
309
310
311
312
313
314
315
316

(B) If the money in the renewable generation fund is insufficient to make the payments in the amounts required under division (A)(2) of section 3706.55 of the Revised Code for all owners and operators of qualifying renewable resources, then the authority shall do both of the following: 317
318
319
320
321

(1) Not later than twenty-one days after the close of the quarter in which the charges collected were insufficient, direct the treasurer to prorate payments from the total amount available in the renewable generation fund, based on the number of each resource's credits earned during the quarter that ended twelve months prior to the last day of the previous quarter; 322
323
324
325
326
327

(2) Not later than twenty-one days after the close of any quarter in which the owners or operators received prorated payments under division (B)(1) of this section, direct the treasurer of state to remit money from the renewable generation fund to pay for the unpaid credits. Unpaid credits paid for under division (B)(2) of this section shall be paid before any other remittances are made under division (A)(2) of section 3706.55 of the Revised Code. 328
329
330
331
332
333
334
335

Sec. 3706.61. (A) In each year beginning in 2021 and ending in 2027, the public utilities commission shall, not later 336
337

than the first day of May of each of those years, conduct a 338
retrospective management and financial review of the owner or 339
operator of a qualifying nuclear resource and any such resource 340
that receives payments for nuclear resource credits under 341
section 3706.55 of the Revised Code. In doing so, the commission 342
may retain consultants and advisors to perform all or any 343
portion of the annual reviews, the cost of which shall be paid, 344
at the direction of the Ohio air quality development authority, 345
by the treasurer of state from the nuclear generation fund in 346
accordance with section 3706.55 of the Revised Code. 347

(B) Any owner or operator subject to a review under 348
division (A) of this section may, for purposes of the review, 349
provide the commission or the commission's consultants or 350
advisors with any information the owner or operator chooses. The 351
owner or operator shall promptly and fully respond to any 352
document, information, data, or other request that may be 353
directed to its attention by the commission or the commission's 354
consultants or advisors for the purpose of the review. Any 355
material failure to timely and fully respond shall result in 356
suspension of further receipt of payments for nuclear resource 357
credits under section 3706.55 of the Revised Code until the 358
failure is cured to the satisfaction of the commission. 359

(C) The commission shall submit a report summarizing the 360
findings of each annual review to the president and minority 361
leader of the senate, the speaker and minority leader of the 362
house of representatives, and the Ohio air quality development 363
authority, and shall make the report publicly available, 364
provided that the report shall not reveal any confidential or 365
proprietary information. The submission shall include a copy of 366
the owner's or operator's own certified annual audit that was 367
obtained during the review performed under this section. 368

(D) In consultation with the commission, the Ohio air quality development authority shall consider the findings of the review and may cease or reduce payments for nuclear resource credits under section 3706.55 of the Revised Code if the authority determines any of the following: 369
370
371
372
373

(1) That the federal energy regulatory commission or the nuclear regulatory commission has established a monetary benefit or other incentive payment to continue the resource's commercial operation; 374
375
376
377

(2) That either requirement under division (A) or (B) (2) of section 3706.43 of the Revised Code is no longer being met; 378
379

(3) That the resource's owner or operator applies, before May 1, 2027, to decommission the resource; 380
381

(4) That, for the purpose of ensuring that the funding for nuclear resource credits remains reasonable, the market price index exceeds the strike price on the first day of June in the year in which the report is submitted, in which case the authority shall apply the credit price adjustment for the twelve-month period that begins on that day and ends the thirty-first day of May, or, for 2027, for the seven-month period that begins on that day and ends the thirty-first day of December. 382
383
384
385
386
387
388
389

(E) (1) If the authority determines it necessary to make reductions under division (D) of this section, the commission shall do all of the following, as necessary: 390
391
392

(a) Reduce the revenue requirement under division (A) (1) (a) of section 3706.46 of the Revised Code; 393
394

(b) Except when the authority has applied the credit price adjustment under division (D) (4) of this section, reduce the price of a nuclear resource credit under section 3706.45 of the 395
396
397

<u>Revised Code, in accordance with a reduced revenue requirement;</u>	398
<u>(c) Reduce the charge or charges under section 3706.46 of</u>	399
<u>the Revised Code, to conform with a reduced revenue requirement;</u>	400
<u>(d) Adjust the percentages under section 3706.53 of the</u>	401
<u>Revised Code in accordance with a reduced revenue requirement.</u>	402
<u>(2) Any revisions made by the commission under division</u>	403
<u>(E)(1) of this section shall be made through a process that the</u>	404
<u>commission shall determine is not for an increase in any rate,</u>	405
<u>joint rate, toll, classification, charge, or rental,</u>	406
<u>notwithstanding anything to the contrary in Title XLIX of the</u>	407
<u>Revised Code.</u>	408
<u>(F) If the payments for nuclear resource credits are</u>	409
<u>suspended or ceased under this section, the commission shall</u>	410
<u>instruct the electric distribution utilities to accordingly</u>	411
<u>suspend or cease billing and collecting customer charges under</u>	412
<u>section 3706.46 of the Revised Code.</u>	413
<u>(G) Chapter 4903. of the Revised Code shall not apply to</u>	414
<u>this section.</u>	415
<u>Sec. 3706.63. Not later than January 1, 2020, the Ohio air</u>	416
<u>quality development authority shall adopt rules under Chapter</u>	417
<u>119. of the Revised Code that are necessary to implement</u>	418
<u>sections 3706.40 to 3706.65 of the Revised Code.</u>	419
<u>Sec. 3706.65. (A) For the purpose of carrying out the Ohio</u>	420
<u>air quality development authority's duties under sections</u>	421
<u>3706.40 to 3706.63 of the Revised Code, the authority may make</u>	422
<u>use of the staff and experts employed at the public utilities</u>	423
<u>commission in such manner as is provided by mutual arrangement</u>	424
<u>between the authority and the commission. Any information, data,</u>	425
<u>and equipment of the commission shall be placed at the disposal</u>	426

of the authority. 427

(B) If any information, data, or equipment is not a public 428
record for purposes of section 149.43 of the Revised Code 429
because either the authority or the commission possesses that 430
information, data, or equipment, then the operation of division 431
(A) of this section shall not be construed to render that 432
information, data, or equipment a public record, notwithstanding 433
any provision of the Revised Code to the contrary. 434

Sec. 4906.13. (A) As used in this section and sections 435
4906.20 and 4906.98 of the Revised Code, "economically 436
significant wind farm" means wind turbines and associated 437
facilities with a single interconnection to the electrical grid 438
and designed for, or capable of, operation at an aggregate 439
capacity of five or more megawatts but less than fifty 440
megawatts. The term excludes any such wind farm in operation on 441
June 24, 2008. The term also excludes one or more wind turbines 442
and associated facilities that are primarily dedicated to 443
providing electricity to a single customer at a single location 444
and that are designed for, or capable of, operation at an 445
aggregate capacity of less than twenty megawatts, as measured at 446
the customer's point of interconnection to the electrical grid. 447

(B) No public agency or political subdivision of this 448
state may require any approval, consent, permit, certificate, or 449
other condition for the construction or operation of a major 450
utility facility or economically significant wind farm 451
authorized by a certificate issued pursuant to Chapter 4906. of 452
the Revised Code. Nothing herein shall prevent the application 453
of state laws for the protection of employees engaged in the 454
construction of such facility or wind farm nor of municipal 455
regulations that do not pertain to the location or design of, or 456

pollution control and abatement standards for, a major utility 457
facility or economically significant wind farm for which a 458
certificate has been granted under this chapter. 459

Sec. 4928.01. (A) As used in this chapter: 460

(1) "Ancillary service" means any function necessary to 461
the provision of electric transmission or distribution service 462
to a retail customer and includes, but is not limited to, 463
scheduling, system control, and dispatch services; reactive 464
supply from generation resources and voltage control service; 465
reactive supply from transmission resources service; regulation 466
service; frequency response service; energy imbalance service; 467
operating reserve-spinning reserve service; operating reserve- 468
supplemental reserve service; load following; back-up supply 469
service; real-power loss replacement service; dynamic 470
scheduling; system black start capability; and network stability 471
service. 472

(2) "Billing and collection agent" means a fully 473
independent agent, not affiliated with or otherwise controlled 474
by an electric utility, electric services company, electric 475
cooperative, or governmental aggregator subject to certification 476
under section 4928.08 of the Revised Code, to the extent that 477
the agent is under contract with such utility, company, 478
cooperative, or aggregator solely to provide billing and 479
collection for retail electric service on behalf of the utility 480
company, cooperative, or aggregator. 481

(3) "Certified territory" means the certified territory 482
established for an electric supplier under sections 4933.81 to 483
4933.90 of the Revised Code. 484

(4) "Competitive retail electric service" means a 485

component of retail electric service that is competitive as 486
provided under division (B) of this section. 487

(5) "Electric cooperative" means a not-for-profit electric 488
light company that both is or has been financed in whole or in 489
part under the "Rural Electrification Act of 1936," 49 Stat. 490
1363, 7 U.S.C. 901, and owns or operates facilities in this 491
state to generate, transmit, or distribute electricity, or a 492
not-for-profit successor of such company. 493

(6) "Electric distribution utility" means an electric 494
utility that supplies at least retail electric distribution 495
service. 496

(7) "Electric light company" has the same meaning as in 497
section 4905.03 of the Revised Code and includes an electric 498
services company, but excludes any self-generator to the extent 499
that it consumes electricity it so produces, sells that 500
electricity for resale, or obtains electricity from a generating 501
facility it hosts on its premises. 502

(8) "Electric load center" has the same meaning as in 503
section 4933.81 of the Revised Code. 504

(9) "Electric services company" means an electric light 505
company that is engaged on a for-profit or not-for-profit basis 506
in the business of supplying or arranging for the supply of only 507
a competitive retail electric service in this state. "Electric 508
services company" includes a power marketer, power broker, 509
aggregator, or independent power producer but excludes an 510
electric cooperative, municipal electric utility, governmental 511
aggregator, or billing and collection agent. 512

(10) "Electric supplier" has the same meaning as in 513
section 4933.81 of the Revised Code. 514

(11) "Electric utility" means an electric light company 515
that has a certified territory and is engaged on a for-profit 516
basis either in the business of supplying a noncompetitive 517
retail electric service in this state or in the businesses of 518
supplying both a noncompetitive and a competitive retail 519
electric service in this state. "Electric utility" excludes a 520
municipal electric utility or a billing and collection agent. 521

(12) "Firm electric service" means electric service other 522
than nonfirm electric service. 523

(13) "Governmental aggregator" means a legislative 524
authority of a municipal corporation, a board of township 525
trustees, or a board of county commissioners acting as an 526
aggregator for the provision of a competitive retail electric 527
service under authority conferred under section 4928.20 of the 528
Revised Code. 529

(14) A person acts "knowingly," regardless of the person's 530
purpose, when the person is aware that the person's conduct will 531
probably cause a certain result or will probably be of a certain 532
nature. A person has knowledge of circumstances when the person 533
is aware that such circumstances probably exist. 534

(15) "Level of funding for low-income customer energy 535
efficiency programs provided through electric utility rates" 536
means the level of funds specifically included in an electric 537
utility's rates on October 5, 1999, pursuant to an order of the 538
public utilities commission issued under Chapter 4905. or 4909. 539
of the Revised Code and in effect on October 4, 1999, for the 540
purpose of improving the energy efficiency of housing for the 541
utility's low-income customers. The term excludes the level of 542
any such funds committed to a specific nonprofit organization or 543
organizations pursuant to a stipulation or contract. 544

(16) "Low-income customer assistance programs" means the 545
percentage of income payment plan program, the home energy 546
assistance program, the home weatherization assistance program, 547
and the targeted energy efficiency and weatherization program. 548

(17) "Market development period" for an electric utility 549
means the period of time beginning on the starting date of 550
competitive retail electric service and ending on the applicable 551
date for that utility as specified in section 4928.40 of the 552
Revised Code, irrespective of whether the utility applies to 553
receive transition revenues under this chapter. 554

(18) "Market power" means the ability to impose on 555
customers a sustained price for a product or service above the 556
price that would prevail in a competitive market. 557

(19) "Mercantile customer" means a commercial or 558
industrial customer if the electricity consumed is for 559
nonresidential use and the customer consumes more than seven 560
hundred thousand kilowatt hours per year or is part of a 561
national account involving multiple facilities in one or more 562
states. 563

(20) "Municipal electric utility" means a municipal 564
corporation that owns or operates facilities to generate, 565
transmit, or distribute electricity. 566

(21) "Noncompetitive retail electric service" means a 567
component of retail electric service that is noncompetitive as 568
provided under division (B) of this section. 569

(22) "Nonfirm electric service" means electric service 570
provided pursuant to a schedule filed under section 4905.30 of 571
the Revised Code or pursuant to an arrangement under section 572
4905.31 of the Revised Code, which schedule or arrangement 573

includes conditions that may require the customer to curtail or 574
interrupt electric usage during nonemergency circumstances upon 575
notification by an electric utility. 576

(23) "Percentage of income payment plan arrears" means 577
funds eligible for collection through the percentage of income 578
payment plan rider, but uncollected as of July 1, 2000. 579

(24) "Person" has the same meaning as in section 1.59 of 580
the Revised Code. 581

(25) "Advanced energy project" means any technologies, 582
products, activities, or management practices or strategies that 583
facilitate the generation or use of electricity or energy and 584
that reduce or support the reduction of energy consumption or 585
support the production of clean, renewable energy for 586
industrial, distribution, commercial, institutional, 587
governmental, research, not-for-profit, or residential energy 588
users, including, but not limited to, advanced energy resources 589
and renewable energy resources. "Advanced energy project" also 590
includes any project described in division (A), (B), or (C) of 591
section 4928.621 of the Revised Code. 592

(26) "Regulatory assets" means the unamortized net 593
regulatory assets that are capitalized or deferred on the 594
regulatory books of the electric utility, pursuant to an order 595
or practice of the public utilities commission or pursuant to 596
generally accepted accounting principles as a result of a prior 597
commission rate-making decision, and that would otherwise have 598
been charged to expense as incurred or would not have been 599
capitalized or otherwise deferred for future regulatory 600
consideration absent commission action. "Regulatory assets" 601
includes, but is not limited to, all deferred demand-side 602
management costs; all deferred percentage of income payment plan 603

arrears; post-in-service capitalized charges and assets 604
recognized in connection with statement of financial accounting 605
standards no. 109 (receivables from customers for income taxes); 606
future nuclear decommissioning costs and fuel disposal costs as 607
those costs have been determined by the commission in the 608
electric utility's most recent rate or accounting application 609
proceeding addressing such costs; the undepreciated costs of 610
safety and radiation control equipment on nuclear generating 611
plants owned or leased by an electric utility; and fuel costs 612
currently deferred pursuant to the terms of one or more 613
settlement agreements approved by the commission. 614

(27) "Retail electric service" means any service involved 615
in supplying or arranging for the supply of electricity to 616
ultimate consumers in this state, from the point of generation 617
to the point of consumption. For the purposes of this chapter, 618
retail electric service includes one or more of the following 619
"service components": generation service, aggregation service, 620
power marketing service, power brokerage service, transmission 621
service, distribution service, ancillary service, metering 622
service, and billing and collection service. 623

(28) "Starting date of competitive retail electric 624
service" means January 1, 2001. 625

(29) "Customer-generator" means a user of a net metering 626
system. 627

(30) "Net metering" means measuring the difference in an 628
applicable billing period between the electricity supplied by an 629
electric service provider and the electricity generated by a 630
customer-generator that is fed back to the electric service 631
provider. 632

(31) "Net metering system" means a facility for the 633
production of electrical energy that does all of the following: 634

(a) Uses as its fuel either solar, wind, biomass, landfill 635
gas, or hydropower, or uses a microturbine or a fuel cell; 636

(b) Is located on a customer-generator's premises; 637

(c) Operates in parallel with the electric utility's 638
transmission and distribution facilities; 639

(d) Is intended primarily to offset part or all of the 640
customer-generator's requirements for electricity. For an 641
industrial customer-generator with a net metering system that 642
has a capacity of less than twenty megawatts and uses wind as 643
energy, this means the net metering system was sized so as to 644
not exceed one hundred per cent of the customer-generator's 645
annual requirements for electric energy at the time of 646
interconnection. 647

(32) "Self-generator" means an entity in this state that 648
owns or hosts on its premises an electric generation facility 649
that produces electricity primarily for the owner's consumption 650
and that may provide any such excess electricity to another 651
entity, whether the facility is installed or operated by the 652
owner or by an agent under a contract. 653

(33) "Rate plan" means the standard service offer in 654
effect on the effective date of the amendment of this section by 655
S.B. 221 of the 127th general assembly, July 31, 2008. 656

(34) "Advanced energy resource" means any of the 657
following: 658

(a) Any method or any modification or replacement of any 659
property, process, device, structure, or equipment that 660

increases the generation output of an electric generating 661
facility to the extent such efficiency is achieved without 662
additional carbon dioxide emissions by that facility; 663

(b) Any distributed generation system consisting of 664
customer cogeneration technology; 665

(c) Clean coal technology that includes a carbon-based 666
product that is chemically altered before combustion to 667
demonstrate a reduction, as expressed as ash, in emissions of 668
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 669
sulfur trioxide in accordance with the American society of 670
testing and materials standard D1757A or a reduction of metal 671
oxide emissions in accordance with standard D5142 of that 672
society, or clean coal technology that includes the design 673
capability to control or prevent the emission of carbon dioxide, 674
which design capability the commission shall adopt by rule and 675
shall be based on economically feasible best available 676
technology or, in the absence of a determined best available 677
technology, shall be of the highest level of economically 678
feasible design capability for which there exists generally 679
accepted scientific opinion; 680

(d) Advanced nuclear energy technology consisting of 681
generation III technology as defined by the nuclear regulatory 682
commission; other, later technology; or significant improvements 683
to existing facilities; 684

(e) Any fuel cell used in the generation of electricity, 685
including, but not limited to, a proton exchange membrane fuel 686
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 687
solid oxide fuel cell; 688

(f) Advanced solid waste or construction and demolition 689

debris conversion technology, including, but not limited to, 690
advanced stoker technology, and advanced fluidized bed 691
gasification technology, that results in measurable greenhouse 692
gas emissions reductions as calculated pursuant to the United 693
States environmental protection agency's waste reduction model 694
(WARM); 695

(g) Demand-side management and any energy efficiency 696
improvement; 697

(h) Any new, retrofitted, refueled, or repowered 698
generating facility located in Ohio, including a simple or 699
combined-cycle natural gas generating facility or a generating 700
facility that uses biomass, coal, modular nuclear, or any other 701
fuel as its input; 702

(i) Any uprated capacity of an existing electric 703
generating facility if the uprated capacity results from the 704
deployment of advanced technology. 705

"Advanced energy resource" does not include a waste energy 706
recovery system that is, or has been, included in an energy 707
efficiency program of an electric distribution utility pursuant 708
to requirements under section 4928.66 of the Revised Code. 709

(35) "Air contaminant source" has the same meaning as in 710
section 3704.01 of the Revised Code. 711

(36) "Cogeneration technology" means technology that 712
produces electricity and useful thermal output simultaneously. 713

(37) (a) "Renewable energy resource" means any of the 714
following: 715

(i) Solar photovoltaic or solar thermal energy; 716

(ii) Wind energy; 717

(iii) Power produced by a hydroelectric facility;	718
(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;	719 720 721
(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;	722 723 724 725 726
(vi) Geothermal energy;	727
(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;	728 729 730 731
(viii) Biomass energy;	732
(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;	733 734 735 736 737 738 739 740 741 742
(x) Biologically derived methane gas;	743
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane	744 745

gas; 746

(xii) Energy derived from nontreated by-products of the 747
pulping process or wood manufacturing process, including bark, 748
wood chips, sawdust, and lignin in spent pulping liquors. 749

"Renewable energy resource" includes, but is not limited 750
to, any fuel cell used in the generation of electricity, 751
including, but not limited to, a proton exchange membrane fuel 752
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 753
solid oxide fuel cell; wind turbine located in the state's 754
territorial waters of Lake Erie; methane gas emitted from an 755
abandoned coal mine; waste energy recovery system placed into 756
service or retrofitted on or after the effective date of the 757
amendment of this section by S.B. 315 of the 129th general 758
assembly, September 10, 2012, except that a waste energy 759
recovery system described in division (A)(38)(b) of this section 760
may be included only if it was placed into service between 761
January 1, 2002, and December 31, 2004; storage facility that 762
will promote the better utilization of a renewable energy 763
resource; or distributed generation system used by a customer to 764
generate electricity from any such energy. 765

"Renewable energy resource" does not include a waste 766
energy recovery system that is, or was, on or after January 1, 767
2012, included in an energy efficiency program of an electric 768
distribution utility pursuant to requirements under section 769
4928.66 of the Revised Code. 770

(b) As used in division (A)(37) of this section, 771
"hydroelectric facility" means a hydroelectric generating 772
facility that is located at a dam on a river, or on any water 773
discharged to a river, that is within or bordering this state or 774
within or bordering an adjoining state and meets all of the 775

following standards:	776
(i) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.	777 778 779 780
(ii) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.	781 782 783 784 785 786 787 788
(iii) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromous fish.	789 790 791 792
(iv) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.	793 794 795 796 797
(v) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.	798 799 800
(vi) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a	801 802 803 804

plan approved by the Ohio historic preservation office, to the 805
extent it has jurisdiction over the facility. 806

(vii) The facility complies with the terms of its federal 807
energy regulatory commission license or exemption that are 808
related to recreational access, accommodation, and facilities 809
or, if the facility is not regulated by that commission, the 810
facility complies with similar requirements as are recommended 811
by resource agencies, to the extent they have jurisdiction over 812
the facility; and the facility provides access to water to the 813
public without fee or charge. 814

(viii) The facility is not recommended for removal by any 815
federal agency or agency of any state, to the extent the 816
particular agency has jurisdiction over the facility. 817

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 818
this section do not apply to a small hydroelectric facility 819
under division (A) (37) (a) (iv) of this section. 820

(38) "Waste energy recovery system" means either of the 821
following: 822

(a) A facility that generates electricity through the 823
conversion of energy from either of the following: 824

(i) Exhaust heat from engines or manufacturing, 825
industrial, commercial, or institutional sites, except for 826
exhaust heat from a facility whose primary purpose is the 827
generation of electricity; 828

(ii) Reduction of pressure in gas pipelines before gas is 829
distributed through the pipeline, provided that the conversion 830
of energy to electricity is achieved without using additional 831
fossil fuels. 832

(b) A facility at a state institution of higher education 833
as defined in section 3345.011 of the Revised Code that recovers 834
waste heat from electricity-producing engines or combustion 835
turbines and that simultaneously uses the recovered heat to 836
produce steam, provided that the facility was placed into 837
service between January 1, 2002, and December 31, 2004. 838

(39) "Smart grid" means capital improvements to an 839
electric distribution utility's distribution infrastructure that 840
improve reliability, efficiency, resiliency, or reduce energy 841
demand or use, including, but not limited to, advanced metering 842
and automation of system functions. 843

(40) "Combined heat and power system" means the 844
coproduction of electricity and useful thermal energy from the 845
same fuel source designed to achieve thermal-efficiency levels 846
of at least sixty per cent, with at least twenty per cent of the 847
system's total useful energy in the form of thermal energy. 848

(41) "Legacy generation resource" means all generating 849
facilities owned directly or indirectly by a corporation that 850
was formed prior to 1960 by investor-owned utilities for the 851
original purpose of providing power to the federal government 852
for use in the nation's defense or in furtherance of national 853
interests, including the Ohio valley electric corporation. 854

(42) "Prudently incurred costs related to a legacy 855
generation resource" means costs, including deferred costs, 856
allocated pursuant to a power agreement approved by the federal 857
energy regulatory commission that relates to a legacy generation 858
resource, less any revenues realized from offering the 859
contractual commitment for the power agreement into the 860
wholesale markets, provided that where the net revenues exceed 861
net costs, those excess revenues shall be credited to customers. 862

Such costs shall exclude any return on investment in common equity and, in the event of a premature retirement of a legacy generation resource, shall exclude any recovery of remaining debt. Such costs shall include any incremental costs resulting from the bankruptcy of a current or former sponsor under such power agreement or co-owner of the legacy generation resource if not otherwise recovered through a utility rate cost recovery mechanism. 863
864
865
866
867
868
869
870

(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service. 871
872
873
874
875
876
877
878

Sec. 4928.148. (A) On January 1, 2020, any mechanism authorized by the public utilities commission prior to the effective date of this section for retail recovery of prudently incurred costs related to a legacy generation resource shall be replaced by a nonbypassable rate mechanism established by the commission for recovery of those costs through December 31, 2030, from customers of all electric distribution utilities in this state. The nonbypassable rate mechanism shall be established through a process that the commission shall determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Title XLIX of the Revised Code. All of the following shall apply to the nonbypassable rate mechanism established under this section: 879
880
881
882
883
884
885
886
887
888
889
890
891
892

(1) The commission shall determine, in the years specified 893
in this division, the prudence and reasonableness of the actions 894
of electric distribution utilities with ownership interests in 895
the legacy generation resource, including their decisions 896
related to offering the contractual commitment into the 897
wholesale markets, and exclude from recovery those costs that 898
the commission determines imprudent and unreasonable. The 899
initial determination shall be made during 2021 regarding the 900
prudence and reasonableness of such actions during calendar year 901
2020. The commission shall again make the determination in 2024, 902
2027, and 2030 regarding the prudence and reasonableness of such 903
actions during the three calendar years that preceded the year 904
in which the determination is made. 905

(2) The commission shall determine the proper rate design 906
for recovering or remitting the prudently incurred costs related 907
to a legacy generation resource, provided, however, that the 908
monthly charge or credit for those costs, including any 909
deferrals or credits, shall not exceed one dollar and fifty 910
cents per customer per month for residential customers. For all 911
other customer classes, the commission shall establish 912
comparable monthly caps for each class at or below one thousand 913
five hundred dollars per customer. Insofar as the prudently 914
incurred costs related to a legacy generation resource exceed 915
these monthly limits, the electric distribution utility shall 916
defer the remaining prudently incurred costs as a regulatory 917
asset or liability that shall be recovered as determined by the 918
commission subject to the monthly caps set forth in this 919
division. 920

(3) The commission shall provide for discontinuation, 921
subject to final reconciliation, of the nonbypassable rate 922
mechanism on December 31, 2030, including recovery of any 923

deferrals that exist at that time. 924

(4) The commission shall determine the manner in which 925
charges collected under this section by a utility with no 926
ownership interest in a legacy generation resource shall be 927
remitted to the utilities with such ownership interests, in 928
direct proportion to each utility's sponsorship interest. 929

(B) An electric distribution utility, including all 930
electric distribution utilities in the same holding company, 931
shall bid all output from a legacy generation resource into the 932
wholesale market and shall not use the output in supplying its 933
standard service offer provided under section 4928.142 or 934
4928.143 of the Revised Code. 935

Sec. 4928.47. (A) An electric distribution utility may, on 936
a nondiscriminatory basis and subject to approval by the public 937
utilities commission, enter into an agreement having a term of 938
three years or more with a mercantile customer or group of 939
mercantile customers for the purpose of constructing a customer 940
sited renewable energy resource in this state that will provide 941
the mercantile customer or group with a material portion of the 942
customer's or group's electricity requirements. 943

(B) Any direct or indirect costs, including costs for 944
infrastructure development or generation, associated with the 945
in-state customer-sited renewable energy resource shall be paid 946
for solely by the utility and the mercantile customer or group 947
of mercantile customers. At no point shall the commission 948
authorize the utility to collect, nor shall the utility ever 949
collect, any of those costs from any customer other than the 950
mercantile customer or group of mercantile customers. 951

Sec. 4928.471. (A) Except as provided in division (E) of 952

this section, not earlier than thirty days after the effective 953
date of this section, an electric distribution utility may file 954
an application to implement a decoupling mechanism for the 2019 955
calendar year and each calendar year thereafter. For an electric 956
distribution utility that applies for a decoupling mechanism 957
under this section, the base distribution rates for residential 958
and commercial customers shall be decoupled to the base 959
distribution revenue and revenue resulting from implementation 960
of section 4928.66 of the Revised Code, excluding program costs 961
and shared savings, and recovered pursuant to an approved 962
electric security plan under section 4928.143 of the Revised 963
Code, as of the twelve-month period ending on December 31, 2018. 964
An application under this division shall not be considered an 965
application under section 4909.18 of the Revised Code. 966

(B) The commission shall issue an order approving an 967
application for a decoupling mechanism filed under division (A) 968
of this section not later than sixty days after the application 969
is filed. In determining that an application is not unjust and 970
unreasonable, the commission shall verify that the rate schedule 971
or schedules are designed to recover the electric distribution 972
utility's 2018 annual revenues as described in division (A) of 973
this section and that the decoupling rate design is aligned with 974
the rate design of the electric distribution utility's existing 975
base distribution rates. The decoupling mechanism shall recover 976
an amount equal to the base distribution revenue and revenue 977
resulting from implementation of section 4928.66 of the Revised 978
Code, excluding program costs and shared savings, and recovered 979
pursuant to an approved electric security plan under section 980
4928.143 of the Revised Code, as of the twelve-month period 981
ending on December 31, 2018. The decoupling mechanism shall be 982
adjusted annually thereafter to reconcile any over recovery or 983

under recovery from the prior year and to enable an electric 984
distribution utility to recover the same level of revenues 985
described in division (A) of this section in each year. 986

(C) The commission's approval of a decoupling mechanism 987
under this section shall not affect any other rates, riders, 988
charges, schedules, classifications, or services previously 989
approved by the commission. The decoupling mechanism shall 990
remain in effect until the next time that the electric 991
distribution utility applies for and the commission approves 992
base distribution rates for the utility under section 4909.18 of 993
the Revised Code. 994

(D) If the commission determines that approving a 995
decoupling mechanism will result in a double recovery by the 996
electric distribution utility, the commission shall not approve 997
the application unless the utility cures the double recovery. 998

(E) Divisions (A), (B), and (C) of this section shall not 999
apply to an electric distribution utility that has base 1000
distribution rates that became effective between December 31, 1001
2018, and the effective date of this section pursuant to an 1002
application for an increase in base distribution rates filed 1003
under section 4909.18 of the Revised Code. 1004

Sec. 4928.64. (A) (1) As used in this section, "qualifying 1005
renewable energy resource" means a renewable energy resource, as 1006
defined in section 4928.01 of the Revised Code that: 1007

(a) Has a placed-in-service date on or after January 1, 1008
1998; 1009

(b) Is any run-of-the-river hydroelectric facility that 1010
has an in-service date on or after January 1, 1980; 1011

(c) Is a small hydroelectric facility; 1012

(d) Is created on or after January 1, 1998, by the 1013
modification or retrofit of any facility placed in service prior 1014
to January 1, 1998; or 1015

(e) Is a mercantile customer-sited renewable energy 1016
resource, whether new or existing, that the mercantile customer 1017
commits for integration into the electric distribution utility's 1018
demand-response, energy efficiency, or peak demand reduction 1019
programs as provided under division (A) (2) (c) of section 4928.66 1020
of the Revised Code, including, but not limited to, any of the 1021
following: 1022

(i) A resource that has the effect of improving the 1023
relationship between real and reactive power; 1024

(ii) A resource that makes efficient use of waste heat or 1025
other thermal capabilities owned or controlled by a mercantile 1026
customer; 1027

(iii) Storage technology that allows a mercantile customer 1028
more flexibility to modify its demand or load and usage 1029
characteristics; 1030

(iv) Electric generation equipment owned or controlled by 1031
a mercantile customer that uses a renewable energy resource. 1032

(2) For the purpose of this section and as it considers 1033
appropriate, the public utilities commission may classify any 1034
new technology as such a qualifying renewable energy resource. 1035

(B) (1) ~~By 2027 and thereafter~~ the end of 2026, an electric 1036
distribution utility shall ~~provide~~ have provided from qualifying 1037
renewable energy resources, including, at its discretion, 1038
qualifying renewable energy resources obtained pursuant to an 1039
electricity supply contract, a portion of the electricity supply 1040
required for its standard service offer under section 4928.141 1041

of the Revised Code, and an electric services company shall 1042
~~provide~~ have provided a portion of its electricity supply for 1043
retail consumers in this state from qualifying renewable energy 1044
resources, including, at its discretion, qualifying renewable 1045
energy resources obtained pursuant to an electricity supply 1046
contract. That portion shall equal ~~twelve~~ eight and one-half per 1047
cent of the total number of kilowatt hours of electricity sold 1048
by the subject utility or company to any and all retail electric 1049
consumers whose electric load centers are served by that utility 1050
and are located within the utility's certified territory or, in 1051
the case of an electric services company, are served by the 1052
company and are located within this state. However, nothing in 1053
this section precludes a utility or company from providing a 1054
greater percentage. 1055

(2) ~~The Subject to section 4928.642 of the Revised Code,~~ 1056
the portion required under division (B) (1) of this section shall 1057
be generated from renewable energy resources, ~~including one-half~~ 1058
~~per cent from solar energy resources,~~ in accordance with the 1059
following benchmarks: 1060

By end of year	Renewable energy	Solar energy	
	resources	resources	
2009	0.25%	0.004%	1063
2010	0.50%	0.010%	1064
2011	1%	0.030%	1065
2012	1.5%	0.060%	1066
2013	2%	0.090%	1067
2014	2.5%	0.12%	1068
2015	2.5%	0.12%	1069
2016	2.5%	0.12%	1070
2017	3.5%	0.15%	1071

2018	4.5%	0.18%	1072
2019	5.5%	0.22%	1073
2020	6.5% <u>5.5%</u>	0.26% <u>0%</u>	1074
2021	7.5% <u>6%</u>	0.3% <u>0%</u>	1075
2022	8.5% <u>6.5%</u>	0.34% <u>0%</u>	1076
2023	9.5% <u>7%</u>	0.38% <u>0%</u>	1077
2024	10.5% <u>7.5%</u>	0.42% <u>0%</u>	1078
2025	11.5% <u>8%</u>	0.46% <u>0%</u>	1079
2026	and each calendar year thereafter 12.5% <u>8.5%—0.5%0%.</u>		1080
year thereafter			1081
(3) The qualifying renewable energy resources implemented			1082
by the utility or company shall be met either:			1083
(a) Through facilities located in this state; or			1084
(b) With resources that can be shown to be deliverable			1085
into this state.			1086
(C) (1) The commission annually shall review an electric			1087
distribution utility's or electric services company's compliance			1088
with the most recent applicable benchmark under division (B) (2)			1089
of this section and, in the course of that review, shall			1090
identify any undercompliance or noncompliance of the utility or			1091
company that it determines is weather-related, related to			1092
equipment or resource shortages for qualifying renewable energy			1093
resources as applicable, or is otherwise outside the utility's			1094
or company's control.			1095
(2) Subject to the cost cap provisions of division (C) (3)			1096
of this section, if the commission determines, after notice and			1097
opportunity for hearing, and based upon its findings in that			1098
review regarding avoidable undercompliance or noncompliance, but			1099
subject to division (C) (4) of this section, that the utility or			1100

company has failed to comply with any such benchmark, the 1101
commission shall impose a renewable energy compliance payment on 1102
the utility or company. 1103

(a) The compliance payment pertaining to the solar energy 1104
resource benchmarks under division (B) (2) of this section shall 1105
be an amount per megawatt hour of undercompliance or 1106
noncompliance in the period under review, as follows: 1107

(i) Three hundred dollars for 2014, 2015, and 2016; 1108

(ii) Two hundred fifty dollars for 2017 and 2018; 1109

(iii) Two hundred dollars for 2019 ~~and 2020;~~ 1110

~~(iv) Similarly reduced every two years thereafter through 1111
2026 by fifty dollars, to a minimum of fifty dollars. 1112~~

(b) The compliance payment pertaining to the renewable 1113
energy resource benchmarks under division (B) (2) of this section 1114
shall equal the number of additional renewable energy credits 1115
that the electric distribution utility or electric services 1116
company would have needed to comply with the applicable 1117
benchmark in the period under review times an amount that shall 1118
begin at forty-five dollars and shall be adjusted annually by 1119
the commission to reflect any change in the consumer price index 1120
as defined in section 101.27 of the Revised Code, but shall not 1121
be less than forty-five dollars. 1122

(c) The compliance payment shall not be passed through by 1123
the electric distribution utility or electric services company 1124
to consumers. The compliance payment shall be remitted to the 1125
commission, for deposit to the credit of the advanced energy 1126
fund created under section 4928.61 of the Revised Code. Payment 1127
of the compliance payment shall be subject to such collection 1128
and enforcement procedures as apply to the collection of a 1129

forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 1130
Revised Code. 1131

(3) An electric distribution utility or an electric 1132
services company need not comply with a benchmark under division 1133
(B) (2) of this section to the extent that its reasonably 1134
expected cost of that compliance exceeds its reasonably expected 1135
cost of otherwise producing or acquiring the requisite 1136
electricity by three per cent or more. The cost of compliance 1137
shall be calculated as though any exemption from taxes and 1138
assessments had not been granted under section 5727.75 of the 1139
Revised Code. 1140

(4) (a) An electric distribution utility or electric 1141
services company may request the commission to make a force 1142
majeure determination pursuant to this division regarding all or 1143
part of the utility's or company's compliance with any minimum 1144
benchmark under division (B) (2) of this section during the 1145
period of review occurring pursuant to division (C) (2) of this 1146
section. The commission may require the electric distribution 1147
utility or electric services company to make solicitations for 1148
renewable energy resource credits as part of its default service 1149
before the utility's or company's request of force majeure under 1150
this division can be made. 1151

(b) Within ninety days after the filing of a request by an 1152
electric distribution utility or electric services company under 1153
division (C) (4) (a) of this section, the commission shall 1154
determine if qualifying renewable energy resources are 1155
reasonably available in the marketplace in sufficient quantities 1156
for the utility or company to comply with the subject minimum 1157
benchmark during the review period. In making this 1158
determination, the commission shall consider whether the 1159

electric distribution utility or electric services company has 1160
made a good faith effort to acquire sufficient qualifying 1161
renewable energy or, as applicable, solar energy resources to so 1162
comply, including, but not limited to, by banking or seeking 1163
renewable energy resource credits or by seeking the resources 1164
through long-term contracts. Additionally, the commission shall 1165
consider the availability of qualifying renewable energy or 1166
solar energy resources in this state and other jurisdictions in 1167
the PJM interconnection regional transmission organization, 1168
L.L.C., or its successor and the midcontinent independent system 1169
operator or its successor. 1170

(c) If, pursuant to division (C) (4) (b) of this section, 1171
the commission determines that qualifying renewable energy or 1172
solar energy resources are not reasonably available to permit 1173
the electric distribution utility or electric services company 1174
to comply, during the period of review, with the subject minimum 1175
benchmark prescribed under division (B) (2) of this section, the 1176
commission shall modify that compliance obligation of the 1177
utility or company as it determines appropriate to accommodate 1178
the finding. Commission modification shall not automatically 1179
reduce the obligation for the electric distribution utility's or 1180
electric services company's compliance in subsequent years. If 1181
it modifies the electric distribution utility or electric 1182
services company obligation under division (C) (4) (c) of this 1183
section, the commission may require the utility or company, if 1184
sufficient renewable energy resource credits exist in the 1185
marketplace, to acquire additional renewable energy resource 1186
credits in subsequent years equivalent to the utility's or 1187
company's modified obligation under division (C) (4) (c) of this 1188
section. 1189

(5) The commission shall establish a process to provide 1190

for at least an annual review of the renewable energy resource 1191
market in this state and in the service territories of the 1192
regional transmission organizations that manage transmission 1193
systems located in this state. The commission shall use the 1194
results of this study to identify any needed changes to the 1195
amount of the renewable energy compliance payment specified 1196
under divisions (C) (2) (a) and (b) of this section. Specifically, 1197
the commission may increase the amount to ensure that payment of 1198
compliance payments is not used to achieve compliance with this 1199
section in lieu of actually acquiring or realizing energy 1200
derived from qualifying renewable energy resources. However, if 1201
the commission finds that the amount of the compliance payment 1202
should be otherwise changed, the commission shall present this 1203
finding to the general assembly for legislative enactment. 1204

(D) The commission annually shall submit to the general 1205
assembly in accordance with section 101.68 of the Revised Code a 1206
report describing all of the following: 1207

(1) The compliance of electric distribution utilities and 1208
electric services companies with division (B) of this section; 1209

(2) The average annual cost of renewable energy credits 1210
purchased by utilities and companies for the year covered in the 1211
report; 1212

(3) Any strategy for utility and company compliance or for 1213
encouraging the use of qualifying renewable energy resources in 1214
supplying this state's electricity needs in a manner that 1215
considers available technology, costs, job creation, and 1216
economic impacts. 1217

The commission shall begin providing the information 1218
described in division (D) (2) of this section in each report 1219

submitted after September 10, 2012. The commission shall allow 1220
and consider public comments on the report prior to its 1221
submission to the general assembly. Nothing in the report shall 1222
be binding on any person, including any utility or company for 1223
the purpose of its compliance with any benchmark under division 1224
(B) of this section, or the enforcement of that provision under 1225
division (C) of this section. 1226

(E) All costs incurred by an electric distribution utility 1227
in complying with the requirements of this section shall be 1228
bypassable by any consumer that has exercised choice of supplier 1229
under section 4928.03 of the Revised Code. 1230

Sec. 4928.641. (A) If an electric distribution utility has 1231
executed a contract before April 1, 2014, to procure renewable 1232
energy resources and there are ongoing costs associated with 1233
that contract that are being recovered from customers through a 1234
bypassable charge as of ~~the effective date of S.B. 310 of the~~ 1235
~~130th general assembly, September 12, 2014,~~ that cost recovery 1236
shall, regardless of the amendments to section 4928.64 of the 1237
Revised Code by H.B. 6 of the 133rd general assembly, continue 1238
on a bypassable basis ~~until the prudently incurred costs~~ 1239
~~associated with that contract are fully recovered through~~ 1240
December 31, 2032. 1241

(B) Division (A) of this section applies only to costs 1242
associated with the original term of a contract described in 1243
that division and entered into before April 1, 2014. This 1244
section does not permit recovery of costs associated with an 1245
extension of such a contract. This section does not permit 1246
recovery of costs associated with an amendment of such a 1247
contract if that amendment was made on or after April 1, 2014. 1248

Sec. 4928.642. Beginning with compliance year 2020, the 1249

public utilities commission shall, in accordance with this 1250
section, reduce the number of kilowatt hours required for 1251
compliance with section 4928.64 of the Revised Code for all 1252
electric distribution utilities and all electric services 1253
companies in this state. The commission shall determine each 1254
utility's and each company's reduction by taking the total 1255
amount of kilowatt hours produced, if any, by all qualifying 1256
renewable resources, as defined in section 3706.40 of the 1257
Revised Code, during the preceding compliance year, allocating 1258
that total among all electric distribution utilities and 1259
electric services companies in proportion to their baselines for 1260
the subject compliance year, and subtracting that allocated 1261
amount from the utility's or company's compliance amount as 1262
otherwise determined under section 4928.64 of the Revised Code. 1263

Sec. 4928.644. (A) The public utilities commission may 1264
reduce either baseline described in section 4928.643 of the 1265
Revised Code to adjust for new economic growth in the electric 1266
distribution utility's certified territory or in the electric 1267
services company's service area in this state. 1268

(B) To facilitate the competitiveness of mercantile 1269
customers located in this state that are registered as self- 1270
assessing purchasers under division (C) of section 5727.81 of 1271
the Revised Code, the commission shall reduce both baselines 1272
described in section 4928.643 of the Revised Code to exclude the 1273
load and usage of those self-assessing purchasers. Upon the 1274
effective date of this reduction, both of the following shall 1275
apply: 1276

(1) Any electric distribution utility or electric services 1277
company serving such a self-assessing purchaser shall be 1278
relieved of the amount of compliance with section 4928.64 of the 1279

<u>Revised Code that would be required but for the baseline</u>	1280
<u>reduction.</u>	1281
<u>(2) Such a self-assessing purchaser shall be exempt from</u>	1282
<u>any bypassable charge imposed under division (E) of section</u>	1283
<u>4928.64 of the Revised Code.</u>	1284
Sec. 4928.645. (A) An electric distribution utility or	1285
electric services company may use, for the purpose of complying	1286
with the requirements under divisions (B)(1) and (2) of section	1287
4928.64 of the Revised Code, renewable energy credits any time	1288
in the five calendar years following the date of their purchase	1289
or acquisition from any entity, including, but not limited to,	1290
the following:	1291
(1) A mercantile customer;	1292
(2) An owner or operator of a hydroelectric generating	1293
facility that is located at a dam on a river, or on any water	1294
discharged to a river, that is within or bordering this state or	1295
within or bordering an adjoining state, or that produces power	1296
that can be shown to be deliverable into this state;	1297
(3) A seller of compressed natural gas that has been	1298
produced from biologically derived methane gas, provided that	1299
the seller may only provide renewable energy credits for metered	1300
amounts of gas.	1301
(B)(1) The public utilities commission shall adopt rules	1302
specifying that one unit of credit shall equal one megawatt hour	1303
of electricity derived from renewable energy resources, except	1304
that, for a generating facility of seventy-five megawatts or	1305
greater that is situated within this state and has committed by	1306
December 31, 2009, to modify or retrofit its generating unit or	1307
units to enable the facility to generate principally from	1308

biomass energy by June 30, 2013, each megawatt hour of 1309
electricity generated principally from that biomass energy shall 1310
equal, in units of credit, the product obtained by multiplying 1311
the actual percentage of biomass feedstock heat input used to 1312
generate such megawatt hour by the quotient obtained by dividing 1313
the then existing unit dollar amount used to determine a 1314
renewable energy compliance payment as provided under division 1315
(C) (2) (b) of section 4928.64 of the Revised Code by the then 1316
existing market value of one renewable energy credit, but such 1317
megawatt hour shall not equal less than one unit of credit. 1318
Renewable energy resources do not have to be converted to 1319
electricity in order to be eligible to receive renewable energy 1320
credits. The rules shall specify that, for purposes of 1321
converting the quantity of energy derived from biologically 1322
derived methane gas to an electricity equivalent, one megawatt 1323
hour equals 3,412,142 British thermal units. 1324

(2) The rules also shall provide for this state a system 1325
of registering renewable energy credits by specifying which of 1326
any generally available registries shall be used for that 1327
purpose and not by creating a registry. That selected system of 1328
registering renewable energy credits shall allow a hydroelectric 1329
generating facility to be eligible for obtaining renewable 1330
energy credits and shall allow customer-sited projects or 1331
actions the broadest opportunities to be eligible for obtaining 1332
renewable energy credits. 1333

(C) Beginning January 1, 2020, a qualifying renewable 1334
resource as defined in section 3706.40 of the Revised Code is 1335
not eligible to obtain a renewable energy credit under this 1336
section for any megawatt hour for which the resource has been 1337
issued a renewable energy credit under section 3706.45 of the 1338
Revised Code. 1339

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 1340
distribution utility shall implement energy efficiency programs 1341
that achieve energy savings equivalent to at least three-tenths 1342
of one per cent of the total, annual average, and normalized 1343
kilowatt-hour sales of the electric distribution utility during 1344
the preceding three calendar years to customers in this state. 1345
An energy efficiency program may include a combined heat and 1346
power system placed into service or retrofitted on or after the 1347
effective date of the amendment of this section by S.B. 315 of 1348
the 129th general assembly, September 10, 2012, or a waste 1349
energy recovery system placed into service or retrofitted on or 1350
after September 10, 2012, except that a waste energy recovery 1351
system described in division (A) (38) (b) of section 4928.01 of 1352
the Revised Code may be included only if it was placed into 1353
service between January 1, 2002, and December 31, 2004. For a 1354
waste energy recovery or combined heat and power system, the 1355
savings shall be as estimated by the public utilities 1356
commission. The savings requirement, using such a three-year 1357
average, shall increase to an additional five-tenths of one per 1358
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1359
of one per cent in 2012, nine-tenths of one per cent in 2013, 1360
and one per cent in 2014. In 2015 and 2016, an electric 1361
distribution utility shall achieve energy savings equal to the 1362
result of subtracting the cumulative energy savings achieved 1363
since 2009 from the product of multiplying the baseline for 1364
energy savings, described in division (A) (2) (a) of this section, 1365
by four and two-tenths of one per cent. If the result is zero or 1366
less for the year for which the calculation is being made, the 1367
utility shall not be required to achieve additional energy 1368
savings for that year, but may achieve additional energy savings 1369
for that year. ~~Thereafter, the~~ The annual savings requirements 1370
shall be, for years 2017, 2018, 2019, and 2020, an additional 1371

~~one per cent of the baseline, and two per cent each year~~ 1372
~~thereafter, achieving cumulative energy savings in excess of~~ 1373
~~twenty-two per cent by the end of 2027.~~ For purposes of a waste 1374
energy recovery or combined heat and power system, an electric 1375
distribution utility shall not apply more than the total annual 1376
percentage of the electric distribution utility's industrial- 1377
customer load, relative to the electric distribution utility's 1378
total load, to the annual energy savings requirement. 1379

(b) Beginning in 2009, an electric distribution utility 1380
shall implement peak demand reduction programs designed to 1381
achieve a one per cent reduction in peak demand in 2009 and an 1382
additional seventy-five hundredths of one per cent reduction 1383
each year through 2014. In 2015 and 2016, an electric 1384
distribution utility shall achieve a reduction in peak demand 1385
equal to the result of subtracting the cumulative peak demand 1386
reductions achieved since 2009 from the product of multiplying 1387
the baseline for peak demand reduction, described in division 1388
(A) (2) (a) of this section, by four and seventy-five hundredths 1389
of one per cent. If the result is zero or less for the year for 1390
which the calculation is being made, the utility shall not be 1391
required to achieve an additional reduction in peak demand for 1392
that year, but may achieve an additional reduction in peak 1393
demand for that year. In 2017 and each year thereafter through 1394
2020, the utility shall achieve an additional seventy-five 1395
hundredths of one per cent reduction in peak demand. 1396

(2) For the purposes of divisions (A) (1) (a) and (b) of 1397
this section: 1398

(a) The baseline for energy savings under division (A) (1) 1399
(a) of this section shall be the average of the total kilowatt 1400
hours the electric distribution utility sold in the preceding 1401

three calendar years. The baseline for a peak demand reduction 1402
under division (A) (1) (b) of this section shall be the average 1403
peak demand on the utility in the preceding three calendar 1404
years, except that the commission may reduce either baseline to 1405
adjust for new economic growth in the utility's certified 1406
territory. Neither baseline shall include the load and usage of 1407
any of the following customers: 1408

(i) Beginning January 1, 2017, a customer for which a 1409
reasonable arrangement has been approved under section 4905.31 1410
of the Revised Code; 1411

(ii) A customer that has opted out of the utility's 1412
portfolio plan under section 4928.6611 of the Revised Code; 1413

(iii) A customer that has opted out of the utility's 1414
portfolio plan under Section 8 of S.B. 310 of the 130th general 1415
assembly. 1416

(b) The commission may amend the benchmarks set forth in 1417
division (A) (1) (a) or (b) of this section if, after application 1418
by the electric distribution utility, the commission determines 1419
that the amendment is necessary because the utility cannot 1420
reasonably achieve the benchmarks due to regulatory, economic, 1421
or technological reasons beyond its reasonable control. 1422

(c) Compliance with divisions (A) (1) (a) and (b) of this 1423
section shall be measured by including the effects of all 1424
demand-response programs for mercantile customers of the subject 1425
electric distribution utility, all waste energy recovery systems 1426
and all combined heat and power systems, and all such mercantile 1427
customer-sited energy efficiency, including waste energy 1428
recovery and combined heat and power, and peak demand reduction 1429
programs, adjusted upward by the appropriate loss factors. Any 1430

mechanism designed to recover the cost of energy efficiency, 1431
including waste energy recovery and combined heat and power, and 1432
peak demand reduction programs under divisions (A) (1) (a) and (b) 1433
of this section may exempt mercantile customers that commit 1434
their demand-response or other customer-sited capabilities, 1435
whether existing or new, for integration into the electric 1436
distribution utility's demand-response, energy efficiency, 1437
including waste energy recovery and combined heat and power, or 1438
peak demand reduction programs, if the commission determines 1439
that that exemption reasonably encourages such customers to 1440
commit those capabilities to those programs. If a mercantile 1441
customer makes such existing or new demand-response, energy 1442
efficiency, including waste energy recovery and combined heat 1443
and power, or peak demand reduction capability available to an 1444
electric distribution utility pursuant to division (A) (2) (c) of 1445
this section, the electric utility's baseline under division (A) 1446
(2) (a) of this section shall be adjusted to exclude the effects 1447
of all such demand-response, energy efficiency, including waste 1448
energy recovery and combined heat and power, or peak demand 1449
reduction programs that may have existed during the period used 1450
to establish the baseline. The baseline also shall be normalized 1451
for changes in numbers of customers, sales, weather, peak 1452
demand, and other appropriate factors so that the compliance 1453
measurement is not unduly influenced by factors outside the 1454
control of the electric distribution utility. 1455

(d) (i) Programs implemented by a utility may include the 1456
following: 1457

(I) Demand-response programs; 1458

(II) Smart grid investment programs, provided that such 1459
programs are demonstrated to be cost-beneficial; 1460

(III) Customer-sited programs, including waste energy recovery and combined heat and power systems;	1461 1462
(IV) Transmission and distribution infrastructure improvements that reduce line losses;	1463 1464
(V) Energy efficiency savings and peak demand reduction that are achieved, in whole or in part, as a result of funding provided from the universal service fund established by section 4928.51 of the Revised Code to benefit low-income customers through programs that include, but are not limited to, energy audits, the installation of energy efficiency insulation, appliances, and windows, and other weatherization measures.	1465 1466 1467 1468 1469 1470 1471
(ii) No energy efficiency or peak demand reduction achieved under divisions (A) (2) (d) (i) (IV) and (V) of this section shall qualify for shared savings.	1472 1473 1474
(iii) Division (A) (2) (c) of this section shall be applied to include facilitating efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code.	1475 1476 1477 1478 1479 1480 1481 1482
(e) No programs or improvements described in division (A) (2) (d) of this section shall conflict with any statewide building code adopted by the board of building standards.	1483 1484 1485
(B) In accordance with rules it shall adopt, the public utilities commission shall produce and docket at the commission an annual report containing the results of its verification of the annual levels of energy efficiency and of peak demand	1486 1487 1488 1489

reductions achieved by each electric distribution utility 1490
pursuant to division (A) of this section. A copy of the report 1491
shall be provided to the consumers' counsel. 1492

(C) If the commission determines, after notice and 1493
opportunity for hearing and based upon its report under division 1494
(B) of this section, that an electric distribution utility has 1495
failed to comply with an energy efficiency or peak demand 1496
reduction requirement of division (A) of this section, the 1497
commission shall assess a forfeiture on the utility as provided 1498
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1499
Code, either in the amount, per day per undercompliance or 1500
noncompliance, relative to the period of the report, equal to 1501
that prescribed for noncompliances under section 4905.54 of the 1502
Revised Code, or in an amount equal to the then existing market 1503
value of one renewable energy credit per megawatt hour of 1504
undercompliance or noncompliance. Revenue from any forfeiture 1505
assessed under this division shall be deposited to the credit of 1506
the advanced energy fund created under section 4928.61 of the 1507
Revised Code. 1508

(D) The commission may establish rules regarding the 1509
content of an application by an electric distribution utility 1510
for commission approval of a revenue decoupling mechanism under 1511
this division. Such an application shall not be considered an 1512
application to increase rates and may be included as part of a 1513
proposal to establish, continue, or expand energy efficiency or 1514
conservation programs. The commission by order may approve an 1515
application under this division if it determines both that the 1516
revenue decoupling mechanism provides for the recovery of 1517
revenue that otherwise may be forgone by the utility as a result 1518
of or in connection with the implementation by the electric 1519
distribution utility of any energy efficiency or energy 1520

conservation programs and reasonably aligns the interests of the 1521
utility and of its customers in favor of those programs. 1522

(E) The commission additionally shall adopt rules that 1523
require an electric distribution utility to provide a customer 1524
upon request with two years' consumption data in an accessible 1525
form. 1526

(F) (1) As used in divisions (F) (2), (3), and (4) of this 1527
section, "portfolio plan" has the same meaning as in division 1528
(C) (1) of section 4928.6610 of the Revised Code. 1529

(2) If an electric distribution utility has a portfolio 1530
plan in effect as of the effective date of the amendments to 1531
this section by H.B. 6 of the 133rd general assembly and that 1532
plan expires before December 31, 2020, the commission shall 1533
extend the plan through that date. All portfolio plans shall 1534
terminate on that date. 1535

(3) If a portfolio plan is extended beyond its commission 1536
approved term by division (F) (2) of this section, the existing 1537
plan's budget shall be increased for the extended term to 1538
include an amount equal to the annual average of the approved 1539
budget for all years of the portfolio plan in effect as of the 1540
effective date of the amendments to this section by H.B. 6 of 1541
the 133rd general assembly. 1542

(4) All other terms and conditions of a portfolio plan 1543
extended beyond its commission-approved term by division (F) (2) 1544
of this section shall remain the same unless changes are 1545
authorized by the commission. 1546

(G) (1) Not later than February 1, 2021, the commission 1547
shall determine the cumulative energy savings collectively 1548
achieved, since 2009, by all electric distribution utilities in 1549

this state as of December 31, 2020. In determining that 1550
cumulative total, the commission shall do both of the following: 1551

(a) Include energy savings that were estimated by the 1552
commission to be achieved as of December 31, 2020, and banked 1553
under division (G) of section 4928.662 of the Revised Code; 1554

(b) Use an energy savings baseline that is the average of 1555
the total kilowatt hours sold by all electric distribution 1556
utilities in this state in the calendar years 2018, 2019, and 1557
2020. The baseline shall exclude the load and usage described in 1558
division (A) (2) (a) (i), (ii), and (iii) of this section. That 1559
baseline may also be reduced for new economic growth in the 1560
utility's certified territory as provided in division (A) (2) (a) 1561
of this section and adjusted and normalized as provided in 1562
division (A) (2) (c) of this section. 1563

(2) (a) If the cumulative energy savings collectively 1564
achieved as determined by the commission under division (G) (1) 1565
of this section is at least seventeen and one-half per cent of 1566
the baseline described in division (G) (1) (b) of this section, 1567
then full compliance with division (A) (1) (a) of this section 1568
shall be deemed to have been achieved notwithstanding any 1569
provision of this section to the contrary. 1570

(b) If the cumulative energy savings collectively achieved 1571
as determined by the commission under division (G) (1) of this 1572
section is less than seventeen and one-half per cent of the 1573
baseline described in division (G) (1) (b) of this section, then 1574
both of the following shall apply: 1575

(i) The commission shall determine the manner in which 1576
further implementation of energy efficiency programs shall occur 1577
as may be reasonably necessary for collective achievement of 1578

cumulative energy savings equal to seventeen and one-half 1579
percent, and not more, of the baseline described in division (G) 1580
(1) (b) of this section. 1581

(ii) Full compliance with division (A) (1) (a) of this 1582
section shall be deemed to be achieved as of a date certain 1583
established by the commission notwithstanding any provision of 1584
this section to the contrary. 1585

(3) Upon the date that full compliance with division (A) 1586
(1) (a) of this section is deemed achieved under division (G) (2) 1587
(a) or (b) of this section, any electric distribution utility 1588
cost recovery mechanisms authorized by the commission for 1589
compliance with this section shall terminate except as may be 1590
necessary to reconcile the difference between revenue collected 1591
and the allowable cost of compliance associated with compliance 1592
efforts occurring prior to the date upon which full compliance 1593
with division (A) (1) (a) of this section is deemed achieved. No 1594
such cost recovery mechanism shall be authorized by the 1595
commission beyond the period of time required to complete this 1596
final reconciliation. 1597

Sec. 4928.6610. As used in sections 4928.6611 to ~~4928.6616~~ 1598
4928.6615 of the Revised Code: 1599

(A) "Customer" means ~~any~~ either of the following: 1600

(1) Effective January 1, 2020, a mercantile customer as 1601
defined in section 4928.01 of the Revised Code; 1602

(2) Any customer of an electric distribution utility to 1603
which either of the following applies: 1604

~~(1)~~ (a) The customer receives service above the primary 1605
voltage level as determined by the utility's tariff 1606
classification. 1607

~~(2)-(b)~~ The customer is a commercial or industrial customer to which both of the following apply:

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

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

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

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

(1) The comprehensive energy efficiency and peak-demand reduction program portfolio plan required under rules adopted by the public utilities commission and codified in Chapter 4901:1-39 of the Administrative Code or hereafter recodified or amended;

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

Sec. 4928.75. Beginning in fiscal year 2021 and each fiscal year thereafter, the director of development services shall, in each fiscal year, submit a completed waiver request in accordance with section 96.83 of Title 45 of the Code of Federal Regulations to the United States department of health and human services and any other applicable federal agencies for the state to expend twenty-five per cent of federal low-income home energy assistance programs funds from the home energy assistance block grants for weatherization services allowed by section 96.83(a) of Title 45 of the Code of Federal Regulations to the United

States department of health and human services. 1637

Sec. 4928.80. (A) Each electric distribution utility shall 1638
file with the public utilities commission a rate schedule 1639
applicable to county fairs and agricultural societies that 1640
includes either of the following: 1641

(1) A fixed monthly service fee; 1642

(2) An energy charge on a kilowatt-hour basis. 1643

(B) The minimum monthly charge shall not exceed the fixed 1644
monthly service fee and the customer shall not be subject to any 1645
demand-based riders. 1646

(C) The electric distribution utility shall be eligible to 1647
recover any revenue loss associated with customer migration to 1648
this new rate schedule. 1649

Sec. 5727.231. The taxable property of an electric company 1650
that is or is part of a qualifying nuclear resource receiving 1651
payments for nuclear resource credits under section 3706.55 of 1652
the Revised Code for any part of a tax year may not be assessed 1653
for that year under section 5727.23 of the Revised Code at less 1654
than the taxable value of such property as of the effective date 1655
of H.B. 6 of the 133rd general assembly. The electric company 1656
may not value such property at less than its taxable value as of 1657
that date in its annual report filed under section 5727.08 of 1658
the Revised Code or file a petition for reassessment seeking a 1659
reduction in taxable value below the taxable value of such 1660
property as of that date, and the tax commissioner may not grant 1661
such a reduction, under section 5727.47 of the Revised Code. 1662

Sec. 5727.75. (A) For purposes of this section: 1663

(1) "Qualified energy project" means an energy project 1664

certified by the director of development services pursuant to 1665
this section. 1666

(2) "Energy project" means a project to provide electric 1667
power through the construction, installation, and use of an 1668
energy facility. 1669

(3) "Alternative energy zone" means a county declared as 1670
such by the board of county commissioners under division (E) (1) 1671
(b) or (c) of this section. 1672

(4) "Full-time equivalent employee" means the total number 1673
of employee-hours for which compensation was paid to individuals 1674
employed at a qualified energy project for services performed at 1675
the project during the calendar year divided by two thousand 1676
eighty hours. 1677

(5) "Solar energy project" means an energy project 1678
composed of an energy facility using solar panels to generate 1679
electricity. 1680

(6) "Internet identifier of record" has the same meaning 1681
as in section 9.312 of the Revised Code. 1682

(B) (1) Tangible personal property of a qualified energy 1683
project using renewable energy resources is exempt from taxation 1684
for tax years 2011 through 2021 if all of the following 1685
conditions are satisfied: 1686

(a) On or before December 31, 2020, the owner or a lessee 1687
pursuant to a sale and leaseback transaction of the project 1688
submits an application to the power siting board for a 1689
certificate under section 4906.20 of the Revised Code, or if 1690
that section does not apply, submits an application for any 1691
approval, consent, permit, or certificate or satisfies any 1692
condition required by a public agency or political subdivision 1693

of this state for the construction or initial operation of an 1694
energy project. 1695

(b) Construction or installation of the energy facility 1696
begins on or after January 1, 2009, and before January 1, 2021. 1697
For the purposes of this division, construction begins on the 1698
earlier of the date of application for a certificate or other 1699
approval or permit described in division (B) (1) (a) of this 1700
section, or the date the contract for the construction or 1701
installation of the energy facility is entered into. 1702

(c) For a qualified energy project with a nameplate 1703
capacity of ~~five~~twenty megawatts or greater, a board of county 1704
commissioners of a county in which property of the project is 1705
located has adopted a resolution under division (E) (1) (b) or (c) 1706
of this section to approve the application submitted under 1707
division (E) of this section to exempt the property located in 1708
that county from taxation. A board's adoption of a resolution 1709
rejecting an application or its failure to adopt a resolution 1710
approving the application does not affect the tax-exempt status 1711
of the qualified energy project's property that is located in 1712
another county. 1713

(2) If tangible personal property of a qualified energy 1714
project using renewable energy resources was exempt from 1715
taxation under this section beginning in any of tax years 2011 1716
through 2021, and the certification under division (E) (2) of 1717
this section has not been revoked, the tangible personal 1718
property of the qualified energy project is exempt from taxation 1719
for tax year 2022 and all ensuing tax years if the property was 1720
placed into service before January 1, 2022, as certified in the 1721
construction progress report required under division (F) (2) of 1722
this section. Tangible personal property that has not been 1723

placed into service before that date is taxable property subject 1724
to taxation. An energy project for which certification has been 1725
revoked is ineligible for further exemption under this section. 1726
Revocation does not affect the tax-exempt status of the 1727
project's tangible personal property for the tax year in which 1728
revocation occurs or any prior tax year. 1729

(C) Tangible personal property of a qualified energy 1730
project using clean coal technology, advanced nuclear 1731
technology, or cogeneration technology is exempt from taxation 1732
for the first tax year that the property would be listed for 1733
taxation and all subsequent years if all of the following 1734
circumstances are met: 1735

(1) The property was placed into service before January 1, 1736
2021. Tangible personal property that has not been placed into 1737
service before that date is taxable property subject to 1738
taxation. 1739

(2) For such a qualified energy project with a nameplate 1740
capacity of ~~five~~twenty megawatts or greater, a board of county 1741
commissioners of a county in which property of the qualified 1742
energy project is located has adopted a resolution under 1743
division (E) (1) (b) or (c) of this section to approve the 1744
application submitted under division (E) of this section to 1745
exempt the property located in that county from taxation. A 1746
board's adoption of a resolution rejecting the application or 1747
its failure to adopt a resolution approving the application does 1748
not affect the tax-exempt status of the qualified energy 1749
project's property that is located in another county. 1750

(3) The certification for the qualified energy project 1751
issued under division (E) (2) of this section has not been 1752
revoked. An energy project for which certification has been 1753

revoked is ineligible for exemption under this section. 1754
Revocation does not affect the tax-exempt status of the 1755
project's tangible personal property for the tax year in which 1756
revocation occurs or any prior tax year. 1757

(D) Except as otherwise provided in this section, real 1758
property of a qualified energy project is exempt from taxation 1759
for any tax year for which the tangible personal property of the 1760
qualified energy project is exempted under this section. 1761

(E) (1) (a) A person may apply to the director of 1762
development services for certification of an energy project as a 1763
qualified energy project on or before the following dates: 1764

(i) December 31, 2020, for an energy project using 1765
renewable energy resources; 1766

(ii) December 31, 2017, for an energy project using clean 1767
coal technology, advanced nuclear technology, or cogeneration 1768
technology. 1769

(b) The director shall forward a copy of each application 1770
for certification of an energy project with a nameplate capacity 1771
of ~~five~~twenty megawatts or greater to the board of county 1772
commissioners of each county in which the project is located and 1773
to each taxing unit with territory located in each of the 1774
affected counties. Any board that receives from the director a 1775
copy of an application submitted under this division shall adopt 1776
a resolution approving or rejecting the application unless it 1777
has adopted a resolution under division (E) (1) (c) of this 1778
section. A resolution adopted under division (E) (1) (b) or (c) of 1779
this section may require an annual service payment to be made in 1780
addition to the service payment required under division (G) of 1781
this section. The sum of the service payment required in the 1782

resolution and the service payment required under division (G) 1783
of this section shall not exceed nine thousand dollars per 1784
megawatt of nameplate capacity located in the county. The 1785
resolution shall specify the time and manner in which the 1786
payments required by the resolution shall be paid to the county 1787
treasurer. The county treasurer shall deposit the payment to the 1788
credit of the county's general fund to be used for any purpose 1789
for which money credited to that fund may be used. 1790

The board shall send copies of the resolution to the owner 1791
of the facility and the director by certified mail or, if the 1792
board has record of an internet identifier of record associated 1793
with the owner or director, by ordinary mail and by that 1794
internet identifier of record. The board shall send such notice 1795
within thirty days after receipt of the application, or a longer 1796
period of time if authorized by the director. 1797

(c) A board of county commissioners may adopt a resolution 1798
declaring the county to be an alternative energy zone and 1799
declaring all applications submitted to the director of 1800
development services under this division after the adoption of 1801
the resolution, and prior to its repeal, to be approved by the 1802
board. 1803

All tangible personal property and real property of an 1804
energy project with a nameplate capacity of ~~five~~twenty 1805
megawatts or greater is taxable if it is located in a county in 1806
which the board of county commissioners adopted a resolution 1807
rejecting the application submitted under this division or 1808
failed to adopt a resolution approving the application under 1809
division (E) (1) (b) or (c) of this section. 1810

(2) The director shall certify an energy project if all of 1811
the following circumstances exist: 1812

- (a) The application was timely submitted. 1813
- (b) For an energy project with a nameplate capacity of 1814
~~five~~ twenty megawatts or greater, a board of county 1815
commissioners of at least one county in which the project is 1816
located has adopted a resolution approving the application under 1817
division (E) (1) (b) or (c) of this section. 1818
- (c) No portion of the project's facility was used to 1819
supply electricity before December 31, 2009. 1820
- (3) The director shall deny a certification application if 1821
the director determines the person has failed to comply with any 1822
requirement under this section. The director may revoke a 1823
certification if the director determines the person, or 1824
subsequent owner or lessee pursuant to a sale and leaseback 1825
transaction of the qualified energy project, has failed to 1826
comply with any requirement under this section. Upon 1827
certification or revocation, the director shall notify the 1828
person, owner, or lessee, the tax commissioner, and the county 1829
auditor of a county in which the project is located of the 1830
certification or revocation. Notice shall be provided in a 1831
manner convenient to the director. 1832
- (F) The owner or a lessee pursuant to a sale and leaseback 1833
transaction of a qualified energy project shall do each of the 1834
following: 1835
- (1) Comply with all applicable regulations; 1836
- (2) File with the director of development services a 1837
certified construction progress report before the first day of 1838
March of each year during the energy facility's construction or 1839
installation indicating the percentage of the project completed, 1840
and the project's nameplate capacity, as of the preceding 1841

thirty-first day of December. Unless otherwise instructed by the 1842
director of development services, the owner or lessee of an 1843
energy project shall file a report with the director on or 1844
before the first day of March each year after completion of the 1845
energy facility's construction or installation indicating the 1846
project's nameplate capacity as of the preceding thirty-first 1847
day of December. Not later than sixty days after June 17, 2010, 1848
the owner or lessee of an energy project, the construction of 1849
which was completed before June 17, 2010, shall file a 1850
certificate indicating the project's nameplate capacity. 1851

(3) File with the director of development services, in a 1852
manner prescribed by the director, a report of the total number 1853
of full-time equivalent employees, and the total number of full- 1854
time equivalent employees domiciled in Ohio, who are employed in 1855
the construction or installation of the energy facility; 1856

(4) For energy projects with a nameplate capacity of ~~five-~~ 1857
twenty megawatts or greater, repair all roads, bridges, and 1858
culverts affected by construction as reasonably required to 1859
restore them to their preconstruction condition, as determined 1860
by the county engineer in consultation with the local 1861
jurisdiction responsible for the roads, bridges, and culverts. 1862
In the event that the county engineer deems any road, bridge, or 1863
culvert to be inadequate to support the construction or 1864
decommissioning of the energy facility, the road, bridge, or 1865
culvert shall be rebuilt or reinforced to the specifications 1866
established by the county engineer prior to the construction or 1867
decommissioning of the facility. The owner or lessee of the 1868
facility shall post a bond in an amount established by the 1869
county engineer and to be held by the board of county 1870
commissioners to ensure funding for repairs of roads, bridges, 1871
and culverts affected during the construction. The bond shall be 1872

released by the board not later than one year after the date the 1873
repairs are completed. The energy facility owner or lessee 1874
pursuant to a sale and leaseback transaction shall post a bond, 1875
as may be required by the Ohio power siting board in the 1876
certificate authorizing commencement of construction issued 1877
pursuant to section 4906.10 of the Revised Code, to ensure 1878
funding for repairs to roads, bridges, and culverts resulting 1879
from decommissioning of the facility. The energy facility owner 1880
or lessee and the county engineer may enter into an agreement 1881
regarding specific transportation plans, reinforcements, 1882
modifications, use and repair of roads, financial security to be 1883
provided, and any other relevant issue. 1884

(5) Provide or facilitate training for fire and emergency 1885
responders for response to emergency situations related to the 1886
energy project and, for energy projects with a nameplate 1887
capacity of ~~five~~twenty megawatts or greater, at the person's 1888
expense, equip the fire and emergency responders with proper 1889
equipment as reasonably required to enable them to respond to 1890
such emergency situations; 1891

(6) Maintain a ratio of Ohio-domiciled full-time 1892
equivalent employees employed in the construction or 1893
installation of the energy project to total full-time equivalent 1894
employees employed in the construction or installation of the 1895
energy project of not less than eighty per cent in the case of a 1896
solar energy project, and not less than fifty per cent in the 1897
case of any other energy project. In the case of an energy 1898
project for which certification from the power siting board is 1899
required under section 4906.20 of the Revised Code, the number 1900
of full-time equivalent employees employed in the construction 1901
or installation of the energy project equals the number actually 1902
employed or the number projected to be employed in the 1903

certificate application, if such projection is required under 1904
regulations adopted pursuant to section 4906.03 of the Revised 1905
Code, whichever is greater. For all other energy projects, the 1906
number of full-time equivalent employees employed in the 1907
construction or installation of the energy project equals the 1908
number actually employed or the number projected to be employed 1909
by the director of development services, whichever is greater. 1910
To estimate the number of employees to be employed in the 1911
construction or installation of an energy project, the director 1912
shall use a generally accepted job-estimating model in use for 1913
renewable energy projects, including but not limited to the job 1914
and economic development impact model. The director may adjust 1915
an estimate produced by a model to account for variables not 1916
accounted for by the model. 1917

(7) For energy projects with a nameplate capacity in 1918
excess of ~~two~~twenty megawatts, establish a relationship with a 1919
member of the university system of Ohio as defined in section 1920
3345.011 of the Revised Code or with a person offering an 1921
apprenticeship program registered with the employment and 1922
training administration within the United States department of 1923
labor or with the apprenticeship council created by section 1924
4139.02 of the Revised Code, to educate and train individuals 1925
for careers in the wind or solar energy industry. The 1926
relationship may include endowments, cooperative programs, 1927
internships, apprenticeships, research and development projects, 1928
and curriculum development. 1929

(8) Offer to sell power or renewable energy credits from 1930
the energy project to electric distribution utilities or 1931
electric service companies subject to renewable energy resource 1932
requirements under section 4928.64 of the Revised Code that have 1933
issued requests for proposal for such power or renewable energy 1934

credits. If no electric distribution utility or electric service 1935
company issues a request for proposal on or before December 31, 1936
2010, or accepts an offer for power or renewable energy credits 1937
within forty-five days after the offer is submitted, power or 1938
renewable energy credits from the energy project may be sold to 1939
other persons. Division (F)(8) of this section does not apply 1940
if: 1941

(a) The owner or lessee is a rural electric company or a 1942
municipal power agency as defined in section 3734.058 of the 1943
Revised Code. 1944

(b) The owner or lessee is a person that, before 1945
completion of the energy project, contracted for the sale of 1946
power or renewable energy credits with a rural electric company 1947
or a municipal power agency. 1948

(c) The owner or lessee contracts for the sale of power or 1949
renewable energy credits from the energy project before June 17, 1950
2010. 1951

(9) Make annual service payments as required by division 1952
(G) of this section and as may be required in a resolution 1953
adopted by a board of county commissioners under division (E) of 1954
this section. 1955

(G) The owner or a lessee pursuant to a sale and leaseback 1956
transaction of a qualified energy project shall make annual 1957
service payments in lieu of taxes to the county treasurer on or 1958
before the final dates for payments of taxes on public utility 1959
personal property on the real and public utility personal 1960
property tax list for each tax year for which property of the 1961
energy project is exempt from taxation under this section. The 1962
county treasurer shall allocate the payment on the basis of the 1963

project's physical location. Upon receipt of a payment, or if 1964
timely payment has not been received, the county treasurer shall 1965
certify such receipt or non-receipt to the director of 1966
development services and tax commissioner in a form determined 1967
by the director and commissioner, respectively. Each payment 1968
shall be in the following amount: 1969

(1) In the case of a solar energy project, seven thousand 1970
dollars per megawatt of nameplate capacity located in the county 1971
as of December 31, 2010, for tax year 2011, as of December 31, 1972
2011, for tax year 2012, as of December 31, 2012, for tax year 1973
2013, as of December 31, 2013, for tax year 2014, as of December 1974
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1975
year 2016, and as of December 31, 2016, for tax year 2017 and 1976
each tax year thereafter; 1977

(2) In the case of any other energy project using 1978
renewable energy resources, the following: 1979

(a) If the project maintains during the construction or 1980
installation of the energy facility a ratio of Ohio-domiciled 1981
full-time equivalent employees to total full-time equivalent 1982
employees of not less than seventy-five per cent, six thousand 1983
dollars per megawatt of nameplate capacity located in the county 1984
as of the thirty-first day of December of the preceding tax 1985
year; 1986

(b) If the project maintains during the construction or 1987
installation of the energy facility a ratio of Ohio-domiciled 1988
full-time equivalent employees to total full-time equivalent 1989
employees of less than seventy-five per cent but not less than 1990
sixty per cent, seven thousand dollars per megawatt of nameplate 1991
capacity located in the county as of the thirty-first day of 1992
December of the preceding tax year; 1993

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of

December of the preceding tax year. 2024

(H) The director of development services in consultation 2025
with the tax commissioner shall adopt rules pursuant to Chapter 2026
119. of the Revised Code to implement and enforce this section. 2027

Section 2. That existing sections 303.213, 519.213, 2028
713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 2029
4928.645, 4928.66, 4928.6610, and 5727.75 of the Revised Code 2030
are hereby repealed. 2031

Section 3. That section 4928.6616 of the Revised Code is 2032
hereby repealed. 2033

Section 4. The amendment by this act of section 5727.75 of 2034
the Revised Code applies to both of the following: 2035

(A) Energy projects certified by the Director of 2036
Development Services on or after the effective date of this 2037
section; 2038

(B) Existing qualified energy projects that, on the 2039
effective date of this section, have a nameplate capacity of 2040
fewer than five megawatts. 2041

Section 5. HEAP WEATHERIZATION 2042

Pursuant to section 4928.75 of the Revised Code, twenty- 2043
five per cent of the federal funds deposited to the credit of 2044
the Home Energy Assistance Block Grant Fund (Fund 3K90) may be 2045
expended from appropriation item 195614, HEAP Weatherization, to 2046
provide home weatherization services in the state as determined 2047
by the Director of Development Services. 2048