

As Passed by the Senate

130th General Assembly

**Regular Session
2013-2014**

Am. Sub. S. B. No. 310

Senator Balderson

Cosponsors: Senators Coley, Eklund, Faber, Jones, Seitz

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A B I L L

To amend sections 3706.25, 4928.01, 4928.20, 4928.64, 1
4928.65, and 4928.66, to amend, for the purpose of 2
adopting a new section number as indicated in 3
parentheses, section 4928.65 (4928.645), and to 4
enact new section 4928.65 and sections 4928.641, 5
4928.642, 4928.662, 4928.6610, 4928.6611, 6
4928.6612, 4928.6613, 4928.6614, 4928.6615, and 7
4928.6616 of the Revised Code to make changes to 8
the renewable energy, energy efficiency, and peak 9
demand reduction requirements and to create a 10
study committee. 11

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

Section 1. That sections 3706.25, 4928.01, 4928.20, 4928.64, 12
4928.65, and 4928.66 be amended, section 4928.65 (4928.645) be 13
amended for the purpose of adopting a new section number as 14
indicated in parentheses, and new section 4928.65 and sections 15
4928.641, 4928.642, 4928.662, 4928.6610, 4928.6611, 4928.6612, 16
4928.6613, 4928.6614, 4928.6615, and 4928.6616 of the Revised Code 17
be enacted to read as follows: 18

Sec. 3706.25. As used in sections 3706.25 to 3706.30 of the 19

Revised Code: 20

(A) "Advanced energy project" means any technologies, 21
products, activities, or management practices or strategies that 22
facilitate the generation or use of electricity or energy and that 23
reduce or support the reduction of energy consumption or support 24
the production of clean, renewable energy for industrial, 25
distribution, commercial, institutional, governmental, research, 26
not-for-profit, or residential energy users including, but not 27
limited to, advanced energy resources and renewable energy 28
resources. "Advanced energy project" includes any project 29
described in division (A), (B), or (C) of section 4928.621 of the 30
Revised Code. 31

(B) "Advanced energy resource" means any of the following: 32

(1) Any method or any modification or replacement of any 33
property, process, device, structure, or equipment that increases 34
the generation output of an electric generating facility to the 35
extent such efficiency is achieved without additional carbon 36
dioxide emissions by that facility; 37

(2) Any distributed generation system consisting of customer 38
cogeneration technology, primarily to meet the energy needs of the 39
customer's facilities; 40

(3) Advanced nuclear energy technology consisting of 41
generation III technology as defined by the nuclear regulatory 42
commission; other, later technology; or significant improvements 43
to existing facilities; 44

(4) Any fuel cell used in the generation of electricity, 45
including, but not limited to, a proton exchange membrane fuel 46
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 47
solid oxide fuel cell; 48

(5) Advanced solid waste or construction and demolition 49

debris conversion technology, including, but not limited to, 50
advanced stoker technology, and advanced fluidized bed 51
gasification technology, that results in measurable greenhouse gas 52
emissions reductions as calculated pursuant to the United States 53
environmental protection agency's waste reduction model (WARM). 54

(C) "Air contaminant source" has the same meaning as in 55
section 3704.01 of the Revised Code. 56

(D) "Cogeneration technology" means technology that produces 57
electricity and useful thermal output simultaneously. 58

(E) "Renewable energy resource" means solar photovoltaic or 59
solar thermal energy, wind energy, ~~power~~ energy produced by a 60
hydroelectric facility, geothermal energy, fuel derived from solid 61
wastes, as defined in section 3734.01 of the Revised Code, through 62
fractionation, biological decomposition, or other process that 63
does not principally involve combustion, biomass energy, energy 64
produced by cogeneration technology that is placed into service on 65
or before December 31, 2015, and for which more than ninety per 66
cent of the total annual energy input is from combustion of a 67
waste or byproduct gas from an air contaminant source in this 68
state, which source has been in operation since on or before 69
January 1, 1985, provided that the cogeneration technology is a 70
part of a facility located in a county having a population of more 71
than three hundred sixty-five thousand but less than three hundred 72
seventy thousand according to the most recent federal decennial 73
census, biologically derived methane gas, heat captured from a 74
generator of electricity, boiler, or heat exchanger fueled by 75
biologically derived methane gas, or energy derived from 76
nontreated by-products of the pulping process or wood 77
manufacturing process, including bark, wood chips, sawdust, and 78
lignin in spent pulping liquors. "Renewable energy resource" 79
includes, but is not limited to, any fuel cell used in the 80
generation of electricity, including, but not limited to, a proton 81

exchange membrane fuel cell, phosphoric acid fuel cell, molten 82
carbonate fuel cell, or solid oxide fuel cell; wind turbine 83
located in the state's territorial waters of Lake Erie; methane 84
gas emitted from an abandoned coal mine; storage facility that 85
will promote the better utilization of a renewable energy resource 86
that primarily generates off peak; or distributed generation 87
system used by a customer to generate electricity from any such 88
energy. As used in this division, "hydroelectric facility" means a 89
hydroelectric generating facility that is located at a dam on a 90
river, or on any water discharged to a river, that is within or 91
bordering this state or within or bordering an adjoining state and 92
meets all of the following standards: 93

(1) The facility provides for river flows that are not 94
detrimental for fish, wildlife, and water quality, including 95
seasonal flow fluctuations as defined by the applicable licensing 96
agency for the facility. 97

(2) The facility demonstrates that it complies with the water 98
quality standards of this state, which compliance may consist of 99
certification under Section 401 of the "Clean Water Act of 1977," 100
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 101
not contributed to a finding by this state that the river has 102
impaired water quality under Section 303(d) of the "Clean Water 103
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 104

(3) The facility complies with mandatory prescriptions 105
regarding fish passage as required by the federal energy 106
regulatory commission license issued for the project, regarding 107
fish protection for riverine, anadromous, and catadromous fish. 108

(4) The facility complies with the recommendations of the 109
Ohio environmental protection agency and with the terms of its 110
federal energy regulatory commission license regarding watershed 111
protection, mitigation, or enhancement, to the extent of each 112
agency's respective jurisdiction over the facility. 113

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

(6) 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 plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

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

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

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

(1) "Ancillary service" means any function necessary to the provision of electric transmission or distribution service to a retail customer and includes, but is not limited to, scheduling, system control, and dispatch services; reactive supply from generation resources and voltage control service; reactive supply from transmission resources service; regulation service; frequency response service; energy imbalance service; operating reserve-spinning reserve service; operating reserve-supplemental reserve service; load following; back-up supply service; real-power loss replacement service; dynamic scheduling; system

black start capability; and network stability service. 145

(2) "Billing and collection agent" means a fully independent 146
agent, not affiliated with or otherwise controlled by an electric 147
utility, electric services company, electric cooperative, or 148
governmental aggregator subject to certification under section 149
4928.08 of the Revised Code, to the extent that the agent is under 150
contract with such utility, company, cooperative, or aggregator 151
solely to provide billing and collection for retail electric 152
service on behalf of the utility company, cooperative, or 153
aggregator. 154

(3) "Certified territory" means the certified territory 155
established for an electric supplier under sections 4933.81 to 156
4933.90 of the Revised Code. 157

(4) "Competitive retail electric service" means a component 158
of retail electric service that is competitive as provided under 159
division (B) of this section. 160

(5) "Electric cooperative" means a not-for-profit electric 161
light company that both is or has been financed in whole or in 162
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 163
7 U.S.C. 901, and owns or operates facilities in this state to 164
generate, transmit, or distribute electricity, or a not-for-profit 165
successor of such company. 166

(6) "Electric distribution utility" means an electric utility 167
that supplies at least retail electric distribution service. 168

(7) "Electric light company" has the same meaning as in 169
section 4905.03 of the Revised Code and includes an electric 170
services company, but excludes any self-generator to the extent 171
that it consumes electricity it so produces, sells that 172
electricity for resale, or obtains electricity from a generating 173
facility it hosts on its premises. 174

(8) "Electric load center" has the same meaning as in section 175

4933.81 of the Revised Code. 176

(9) "Electric services company" means an electric light 177
company that is engaged on a for-profit or not-for-profit basis in 178
the business of supplying or arranging for the supply of only a 179
competitive retail electric service in this state. "Electric 180
services company" includes a power marketer, power broker, 181
aggregator, or independent power producer but excludes an electric 182
cooperative, municipal electric utility, governmental aggregator, 183
or billing and collection agent. 184

(10) "Electric supplier" has the same meaning as in section 185
4933.81 of the Revised Code. 186

(11) "Electric utility" means an electric light company that 187
has a certified territory and is engaged on a for-profit basis 188
either in the business of supplying a noncompetitive retail 189
electric service in this state or in the businesses of supplying 190
both a noncompetitive and a competitive retail electric service in 191
this state. "Electric utility" excludes a municipal electric 192
utility or a billing and collection agent. 193

(12) "Firm electric service" means electric service other 194
than nonfirm electric service. 195

(13) "Governmental aggregator" means a legislative authority 196
of a municipal corporation, a board of township trustees, or a 197
board of county commissioners acting as an aggregator for the 198
provision of a competitive retail electric service under authority 199
conferred under section 4928.20 of the Revised Code. 200

(14) A person acts "knowingly," regardless of the person's 201
purpose, when the person is aware that the person's conduct will 202
probably cause a certain result or will probably be of a certain 203
nature. A person has knowledge of circumstances when the person is 204
aware that such circumstances probably exist. 205

(15) "Level of funding for low-income customer energy 206

efficiency programs provided through electric utility rates" means 207
the level of funds specifically included in an electric utility's 208
rates on October 5, 1999, pursuant to an order of the public 209
utilities commission issued under Chapter 4905. or 4909. of the 210
Revised Code and in effect on October 4, 1999, for the purpose of 211
improving the energy efficiency of housing for the utility's 212
low-income customers. The term excludes the level of any such 213
funds committed to a specific nonprofit organization or 214
organizations pursuant to a stipulation or contract. 215

(16) "Low-income customer assistance programs" means the 216
percentage of income payment plan program, the home energy 217
assistance program, the home weatherization assistance program, 218
and the targeted energy efficiency and weatherization program. 219

(17) "Market development period" for an electric utility 220
means the period of time beginning on the starting date of 221
competitive retail electric service and ending on the applicable 222
date for that utility as specified in section 4928.40 of the 223
Revised Code, irrespective of whether the utility applies to 224
receive transition revenues under this chapter. 225

(18) "Market power" means the ability to impose on customers 226
a sustained price for a product or service above the price that 227
would prevail in a competitive market. 228

(19) "Mercantile customer" means a commercial or industrial 229
customer if the electricity consumed is for nonresidential use and 230
the customer consumes more than seven hundred thousand kilowatt 231
hours per year or is part of a national account involving multiple 232
facilities in one or more states. 233

(20) "Municipal electric utility" means a municipal 234
corporation that owns or operates facilities to generate, 235
transmit, or distribute electricity. 236

(21) "Noncompetitive retail electric service" means a 237

component of retail electric service that is noncompetitive as 238
provided under division (B) of this section. 239

(22) "Nonfirm electric service" means electric service 240
provided pursuant to a schedule filed under section 4905.30 of the 241
Revised Code or pursuant to an arrangement under section 4905.31 242
of the Revised Code, which schedule or arrangement includes 243
conditions that may require the customer to curtail or interrupt 244
electric usage during nonemergency circumstances upon notification 245
by an electric utility. 246

(23) "Percentage of income payment plan arrears" means funds 247
eligible for collection through the percentage of income payment 248
plan rider, but uncollected as of July 1, 2000. 249

(24) "Person" has the same meaning as in section 1.59 of the 250
Revised Code. 251

(25) "Advanced energy project" means any technologies, 252
products, activities, or management practices or strategies that 253
facilitate the generation or use of electricity or energy and that 254
reduce or support the reduction of energy consumption or support 255
the production of clean, renewable energy for industrial, 256
distribution, commercial, institutional, governmental, research, 257
not-for-profit, or residential energy users, including, but not 258
limited to, advanced energy resources and renewable energy 259
resources. "Advanced energy project" also includes any project 260
described in division (A), (B), or (C) of section 4928.621 of the 261
Revised Code. 262

(26) "Regulatory assets" means the unamortized net regulatory 263
assets that are capitalized or deferred on the regulatory books of 264
the electric utility, pursuant to an order or practice of the 265
public utilities commission or pursuant to generally accepted 266
accounting principles as a result of a prior commission 267
rate-making decision, and that would otherwise have been charged 268

to expense as incurred or would not have been capitalized or 269
otherwise deferred for future regulatory consideration absent 270
commission action. "Regulatory assets" includes, but is not 271
limited to, all deferred demand-side management costs; all 272
deferred percentage of income payment plan arrears; 273
post-in-service capitalized charges and assets recognized in 274
connection with statement of financial accounting standards no. 275
109 (receivables from customers for income taxes); future nuclear 276
decommissioning costs and fuel disposal costs as those costs have 277
been determined by the commission in the electric utility's most 278
recent rate or accounting application proceeding addressing such 279
costs; the undepreciated costs of safety and radiation control 280
equipment on nuclear generating plants owned or leased by an 281
electric utility; and fuel costs currently deferred pursuant to 282
the terms of one or more settlement agreements approved by the 283
commission. 284

(27) "Retail electric service" means any service involved in 285
supplying or arranging for the supply of electricity to ultimate 286
consumers in this state, from the point of generation to the point 287
of consumption. For the purposes of this chapter, retail electric 288
service includes one or more of the following "service 289
components": generation service, aggregation service, power 290
marketing service, power brokerage service, transmission service, 291
distribution service, ancillary service, metering service, and 292
billing and collection service. 293

(28) "Starting date of competitive retail electric service" 294
means January 1, 2001. 295

(29) "Customer-generator" means a user of a net metering 296
system. 297

(30) "Net metering" means measuring the difference in an 298
applicable billing period between the electricity supplied by an 299
electric service provider and the electricity generated by a 300

customer-generator that is fed back to the electric service 301
provider. 302

(31) "Net metering system" means a facility for the 303
production of electrical energy that does all of the following: 304

(a) Uses as its fuel either solar, wind, biomass, landfill 305
gas, or hydropower, or uses a microturbine or a fuel cell; 306

(b) Is located on a customer-generator's premises; 307

(c) Operates in parallel with the electric utility's 308
transmission and distribution facilities; 309

(d) Is intended primarily to offset part or all of the 310
customer-generator's requirements for electricity. 311

(32) "Self-generator" means an entity in this state that owns 312
or hosts on its premises an electric generation facility that 313
produces electricity primarily for the owner's consumption and 314
that may provide any such excess electricity to another entity, 315
whether the facility is installed or operated by the owner or by 316
an agent under a contract. 317

(33) "Rate plan" means the standard service offer in effect 318
on the effective date of the amendment of this section by S.B. 221 319
of the 127th general assembly, July 31, 2008. 320

(34) "Advanced energy resource" means any of the following: 321

(a) Any method or any modification or replacement of any 322
property, process, device, structure, or equipment that increases 323
the generation output of an electric generating facility to the 324
extent such efficiency is achieved without additional carbon 325
dioxide emissions by that facility; 326

(b) Any distributed generation system consisting of customer 327
cogeneration technology; 328

(c) Clean coal technology that includes a carbon-based 329
product that is chemically altered before combustion to 330

demonstrate a reduction, as expressed as ash, in emissions of 331
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 332
sulfur trioxide in accordance with the American society of testing 333
and materials standard D1757A or a reduction of metal oxide 334
emissions in accordance with standard D5142 of that society, or 335
clean coal technology that includes the design capability to 336
control or prevent the emission of carbon dioxide, which design 337
capability the commission shall adopt by rule and shall be based 338
on economically feasible best available technology or, in the 339
absence of a determined best available technology, shall be of the 340
highest level of economically feasible design capability for which 341
there exists generally accepted scientific opinion; 342

(d) Advanced nuclear energy technology consisting of 343
generation III technology as defined by the nuclear regulatory 344
commission; other, later technology; or significant improvements 345
to existing facilities; 346

(e) Any fuel cell used in the generation of electricity, 347
including, but not limited to, a proton exchange membrane fuel 348
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 349
solid oxide fuel cell; 350

(f) Advanced solid waste or construction and demolition 351
debris conversion technology, including, but not limited to, 352
advanced stoker technology, and advanced fluidized bed 353
gasification technology, that results in measurable greenhouse gas 354
emissions reductions as calculated pursuant to the United States 355
environmental protection agency's waste reduction model (WARM); 356

(g) Demand-side management and any energy efficiency 357
improvement; 358

(h) Any new, retrofitted, refueled, or repowered generating 359
facility located in Ohio, including a simple or combined-cycle 360
natural gas generating facility or a generating facility that uses 361

biomass, coal, modular nuclear, or any other fuel as its input;	362
(i) Any uprated capacity of an existing electric generating facility if the uprated capacity results from the deployment of advanced technology.	363 364 365
"Advanced energy resource" does not include a waste energy recovery system that is, or has been, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.	366 367 368 369
(35) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code.	370 371
(36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.	372 373
(37)(a) "Renewable energy resource" means any of the following:	374 375
(i) Solar photovoltaic or solar thermal energy;	376
(ii) Wind energy;	377
(iii) Power <u>Energy</u> produced by a hydroelectric facility;	378
(iv) Geothermal energy;	379
(v) 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;	380 381 382 383
(vi) Biomass energy;	384
(vii) 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	385 386 387 388 389 390

technology is a part of a facility located in a county having a 391
population of more than three hundred sixty-five thousand but less 392
than three hundred seventy thousand according to the most recent 393
federal decennial census; 394

(viii) Biologically derived methane gas; 395

(ix) Heat captured from a generator of electricity, boiler, 396
or heat exchanger fueled by biologically derived methane gas; 397

(x) Energy derived from nontreated by-products of the pulping 398
process or wood manufacturing process, including bark, wood chips, 399
sawdust, and lignin in spent pulping liquors. 400

"Renewable energy resource" includes, but is not limited to, 401
any fuel cell used in the generation of electricity, including, 402
but not limited to, a proton exchange membrane fuel cell, 403
phosphoric acid fuel cell, molten carbonate fuel cell, or solid 404
oxide fuel cell; wind turbine located in the state's territorial 405
waters of Lake Erie; methane gas emitted from an abandoned coal 406
mine; waste energy recovery system placed into service or 407
retrofitted on or after the effective date of the amendment of 408
this section by S.B. 315 of the 129th general assembly, September 409
10, 2012, except that a waste energy recovery system described in 410
division (A)(38)(b) of this section may be included only if it was 411
placed into service between January 1, 2002, and December 31, 412
2004; storage facility that will promote the better utilization of 413
a renewable energy resource; or distributed generation system used 414
by a customer to generate electricity from any such energy. 415

"Renewable energy resource" does not include a waste energy 416
recovery system that is, or was, on or after January 1, 2012, 417
included in an energy efficiency program of an electric 418
distribution utility pursuant to requirements under section 419
4928.66 of the Revised Code. 420

(b) As used in division (A)(37) of this section, 421

"hydroelectric facility" means a hydroelectric generating facility 422
that is located at a dam on a river, or on any water discharged to 423
a river, that is within or bordering this state or within or 424
bordering an adjoining state and meets all of the following 425
standards: 426

(i) The facility provides for river flows that are not 427
detrimental for fish, wildlife, and water quality, including 428
seasonal flow fluctuations as defined by the applicable licensing 429
agency for the facility. 430

(ii) The facility demonstrates that it complies with the 431
water quality standards of this state, which compliance may 432
consist of certification under Section 401 of the "Clean Water Act 433
of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates 434
that it has not contributed to a finding by this state that the 435
river has impaired water quality under Section 303(d) of the 436
"Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 437

(iii) The facility complies with mandatory prescriptions 438
regarding fish passage as required by the federal energy 439
regulatory commission license issued for the project, regarding 440
fish protection for riverine, anadromous, and catadromous fish. 441

(iv) The facility complies with the recommendations of the 442
Ohio environmental protection agency and with the terms of its 443
federal energy regulatory commission license regarding watershed 444
protection, mitigation, or enhancement, to the extent of each 445
agency's respective jurisdiction over the facility. 446

(v) The facility complies with provisions of the "Endangered 447
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 448
amended. 449

(vi) The facility does not harm cultural resources of the 450
area. This can be shown through compliance with the terms of its 451
federal energy regulatory commission license or, if the facility 452

is not regulated by that commission, through development of a plan 453
approved by the Ohio historic preservation office, to the extent 454
it has jurisdiction over the facility. 455

(vii) The facility complies with the terms of its federal 456
energy regulatory commission license or exemption that are related 457
to recreational access, accommodation, and facilities or, if the 458
facility is not regulated by that commission, the facility 459
complies with similar requirements as are recommended by resource 460
agencies, to the extent they have jurisdiction over the facility; 461
and the facility provides access to water to the public without 462
fee or charge. 463

(viii) The facility is not recommended for removal by any 464
federal agency or agency of any state, to the extent the 465
particular agency has jurisdiction over the facility. 466

(38) "Waste energy recovery system" means either of the 467
following: 468

(a) A facility that generates electricity through the 469
conversion of energy from either of the following: 470

(i) Exhaust heat from engines or manufacturing, industrial, 471
commercial, or institutional sites, except for exhaust heat from a 472
facility whose primary purpose is the generation of electricity; 473

(ii) Reduction of pressure in gas pipelines before gas is 474
distributed through the pipeline, provided that the conversion of 475
energy to electricity is achieved without using additional fossil 476
fuels. 477

(b) A facility at a state institution of higher education as 478
defined in section 3345.011 of the Revised Code that recovers 479
waste heat from electricity-producing engines or combustion 480
turbines and that simultaneously uses the recovered heat to 481
produce steam, provided that the facility was placed into service 482
between January 1, 2002, and December 31, 2004. 483

(39) "Smart grid" means capital improvements to an electric 484
distribution utility's distribution infrastructure that improve 485
reliability, efficiency, resiliency, or reduce energy demand or 486
use, including, but not limited to, advanced metering and 487
automation of system functions. 488

(40) "Combined heat and power system" means the coproduction 489
of electricity and useful thermal energy from the same fuel source 490
designed to achieve thermal-efficiency levels of at least sixty 491
per cent, with at least twenty per cent of the system's total 492
useful energy in the form of thermal energy. 493

(B) For the purposes of this chapter, a retail electric 494
service component shall be deemed a competitive retail electric 495
service if the service component is competitive pursuant to a 496
declaration by a provision of the Revised Code or pursuant to an 497
order of the public utilities commission authorized under division 498
(A) of section 4928.04 of the Revised Code. Otherwise, the service 499
component shall be deemed a noncompetitive retail electric 500
service. 501

Sec. 4928.20. (A) The legislative authority of a municipal 502
corporation may adopt an ordinance, or the board of township 503
trustees of a township or the board of county commissioners of a 504
county may adopt a resolution, under which, on or after the 505
starting date of competitive retail electric service, it may 506
aggregate in accordance with this section the retail electrical 507
loads located, respectively, within the municipal corporation, 508
township, or unincorporated area of the county and, for that 509
purpose, may enter into service agreements to facilitate for those 510
loads the sale and purchase of electricity. The legislative 511
authority or board also may exercise such authority jointly with 512
any other such legislative authority or board. For customers that 513
are not mercantile customers, an ordinance or resolution under 514

this division shall specify whether the aggregation will occur 515
only with the prior, affirmative consent of each person owning, 516
occupying, controlling, or using an electric load center proposed 517
to be aggregated or will occur automatically for all such persons 518
pursuant to the opt-out requirements of division (D) of this 519
section. The aggregation of mercantile customers shall occur only 520
with the prior, affirmative consent of each such person owning, 521
occupying, controlling, or using an electric load center proposed 522
to be aggregated. Nothing in this division, however, authorizes 523
the aggregation of the retail electric loads of an electric load 524
center, as defined in section 4933.81 of the Revised Code, that is 525
located in the certified territory of a nonprofit electric 526
supplier under sections 4933.81 to 4933.90 of the Revised Code or 527
an electric load center served by transmission or distribution 528
facilities of a municipal electric utility. 529

(B) If an ordinance or resolution adopted under division (A) 530
of this section specifies that aggregation of customers that are 531
not mercantile customers will occur automatically as described in 532
that division, the ordinance or resolution shall direct the board 533
of elections to submit the question of the authority to aggregate 534
to the electors of the respective municipal corporation, township, 535
or unincorporated area of a county at a special election on the 536
day of the next primary or general election in the municipal 537
corporation, township, or county. The legislative authority or 538
board shall certify a copy of the ordinance or resolution to the 539
board of elections not less than ninety days before the day of the 540
special election. No ordinance or resolution adopted under 541
division (A) of this section that provides for an election under 542
this division shall take effect unless approved by a majority of 543
the electors voting upon the ordinance or resolution at the 544
election held pursuant to this division. 545

(C) Upon the applicable requisite authority under divisions 546

(A) and (B) of this section, the legislative authority or board 547
shall develop a plan of operation and governance for the 548
aggregation program so authorized. Before adopting a plan under 549
this division, the legislative authority or board shall hold at 550
least two public hearings on the plan. Before the first hearing, 551
the legislative authority or board shall publish notice of the 552
hearings once a week for two consecutive weeks in a newspaper of 553
general circulation in the jurisdiction or as provided in section 554
7.16 of the Revised Code. The notice shall summarize the plan and 555
state the date, time, and location of each hearing. 556

(D) No legislative authority or board, pursuant to an 557
ordinance or resolution under divisions (A) and (B) of this 558
section that provides for automatic aggregation of customers that 559
are not mercantile customers as described in division (A) of this 560
section, shall aggregate the electrical load of any electric load 561
center located within its jurisdiction unless it in advance 562
clearly discloses to the person owning, occupying, controlling, or 563
using the load center that the person will be enrolled 564
automatically in the aggregation program and will remain so 565
enrolled unless the person affirmatively elects by a stated 566
procedure not to be so enrolled. The disclosure shall state 567
prominently the rates, charges, and other terms and conditions of 568
enrollment. The stated procedure shall allow any person enrolled 569
in the aggregation program the opportunity to opt out of the 570
program every three years, without paying a switching fee. Any 571
such person that opts out before the commencement of the 572
aggregation program pursuant to the stated procedure shall default 573
to the standard service offer provided under section 4928.14 or 574
division (D) of section 4928.35 of the Revised Code until the 575
person chooses an alternative supplier. 576

(E)(1) With respect to a governmental aggregation for a 577
municipal corporation that is authorized pursuant to divisions (A) 578

to (D) of this section, resolutions may be proposed by initiative 579
or referendum petitions in accordance with sections 731.28 to 580
731.41 of the Revised Code. 581

(2) With respect to a governmental aggregation for a township 582
or the unincorporated area of a county, which aggregation is 583
authorized pursuant to divisions (A) to (D) of this section, 584
resolutions may be proposed by initiative or referendum petitions 585
in accordance with sections 731.28 to 731.40 of the Revised Code, 586
except that: 587

(a) The petitions shall be filed, respectively, with the 588
township fiscal officer or the board of county commissioners, who 589
shall perform those duties imposed under those sections upon the 590
city auditor or village clerk. 591

(b) The petitions shall contain the signatures of not less 592
than ten per cent of the total number of electors in, 593
respectively, the township or the unincorporated area of the 594
county who voted for the office of governor at the preceding 595
general election for that office in that area. 596

(F) A governmental aggregator under division (A) of this 597
section is not a public utility engaging in the wholesale purchase 598
and resale of electricity, and provision of the aggregated service 599
is not a wholesale utility transaction. A governmental aggregator 600
shall be subject to supervision and regulation by the public 601
utilities commission only to the extent of any competitive retail 602
electric service it provides and commission authority under this 603
chapter. 604

(G) This section does not apply in the case of a municipal 605
corporation that supplies such aggregated service to electric load 606
centers to which its municipal electric utility also supplies a 607
noncompetitive retail electric service through transmission or 608
distribution facilities the utility singly or jointly owns or 609

operates. 610

(H) A governmental aggregator shall not include in its 611
aggregation the accounts of any of the following: 612

(1) A customer that has opted out of the aggregation; 613

(2) A customer in contract with a certified electric services 614
company; 615

(3) A customer that has a special contract with an electric 616
distribution utility; 617

(4) A customer that is not located within the governmental 618
aggregator's governmental boundaries; 619

(5) Subject to division (C) of section 4928.21 of the Revised 620
Code, a customer who appears on the "do not aggregate" list 621
maintained under that section. 622

(I) Customers that are part of a governmental aggregation 623
under this section shall be responsible only for such portion of a 624
surcharge under section 4928.144 of the Revised Code that is 625
proportionate to the benefits, as determined by the commission, 626
that electric load centers within the jurisdiction of the 627
governmental aggregation as a group receive. The proportionate 628
surcharge so established shall apply to each customer of the 629
governmental aggregation while the customer is part of that 630
aggregation. If a customer ceases being such a customer, the 631
otherwise applicable surcharge shall apply. Nothing in this 632
section shall result in less than full recovery by an electric 633
distribution utility of any surcharge authorized under section 634
4928.144 of the Revised Code. Nothing in this section shall result 635
in less than the full and timely imposition, charging, collection, 636
and adjustment by an electric distribution utility, its assignee, 637
or any collection agent, of the phase-in-recovery charges 638
authorized pursuant to a final financing order issued pursuant to 639
sections 4928.23 to 4928.2318 of the Revised Code. 640

(J) On behalf of the customers that are part of a 641
governmental aggregation under this section and by filing written 642
notice with the public utilities commission, the legislative 643
authority that formed or is forming that governmental aggregation 644
may elect not to receive standby service within the meaning of 645
division (B)(2)(d) of section 4928.143 of the Revised Code from an 646
electric distribution utility in whose certified territory the 647
governmental aggregation is located and that operates under an 648
approved electric security plan under that section. Upon the 649
filing of that notice, the electric distribution utility shall not 650
charge any such customer to whom competitive retail electric 651
generation service is provided by another supplier under the 652
governmental aggregation for the standby service. Any such 653
consumer that returns to the utility for competitive retail 654
electric service shall pay the market price of power incurred by 655
the utility to serve that consumer plus any amount attributable to 656
the utility's cost of compliance with the ~~alternative~~ renewable 657
energy resource provisions of section 4928.64 of the Revised Code 658
to serve the consumer. Such market price shall include, but not be 659
limited to, capacity and energy charges; all charges associated 660
with the provision of that power supply through the regional 661
transmission organization, including, but not limited to, 662
transmission, ancillary services, congestion, and settlement and 663
administrative charges; and all other costs incurred by the 664
utility that are associated with the procurement, provision, and 665
administration of that power supply, as such costs may be approved 666
by the commission. The period of time during which the market 667
price and ~~alternative~~ renewable energy resource amount shall be so 668
assessed on the consumer shall be from the time the consumer so 669
returns to the electric distribution utility until the expiration 670
of the electric security plan. However, if that period of time is 671
expected to be more than two years, the commission may reduce the 672
time period to a period of not less than two years. 673

(K) The commission shall adopt rules to encourage and promote large-scale governmental aggregation in this state. For that purpose, the commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, that would be established under that plan, except any nonbypassable generation charges that relate to any cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.

Sec. 4928.64. (A)(1) As used in ~~sections 4928.64 and 4928.65~~ of the Revised Code this section, "alternative qualifying renewable energy resource" means ~~an advanced energy resource or a~~ renewable energy resource, as defined in section 4928.01 of the Revised Code that has a placed-in-service date of January 1, 1998, or after; a renewable energy resource created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or a mercantile customer-sited ~~advanced energy resource or~~ renewable energy resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A)(2)(c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:

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

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

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

(d) Electric generation equipment owned or controlled by a mercantile customer that uses ~~an advanced energy resource or a~~ renewable energy resource;

~~(e) Any advanced energy resource or renewable energy resource of the mercantile customer that can be utilized effectively as part of any advanced energy resource plan of an electric distribution utility and would otherwise qualify as an alternative energy resource if it were utilized directly by an electric distribution utility.~~

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

(B)(1) By ~~2025~~ 2027 and thereafter, an electric distribution utility shall provide from ~~alternative~~ qualifying renewable energy resources, including, at its discretion, ~~alternative~~ qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from ~~alternative~~ qualifying renewable energy resources, including, at its discretion, ~~alternative~~ qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion shall equal ~~twenty-five~~ twelve and one-half per cent of the total

number of kilowatt hours of electricity sold by the subject 737
 utility or company to any and all retail electric consumers whose 738
 electric load centers are served by that utility and are located 739
 within the utility's certified territory or, in the case of an 740
 electric services company, are served by the company and are 741
 located within this state. However, nothing in this section 742
 precludes a utility or company from providing a greater 743
 percentage. The baseline for a utility's or company's compliance 744
 with the ~~alternative~~ renewable energy resource requirements of 745
 this section shall be the average of such total kilowatt hours it 746
 sold in the preceding three calendar years, except that the 747
 commission may reduce a utility's or company's baseline to adjust 748
 for new economic growth in the utility's certified territory or, 749
 in the case of an electric services company, in the company's 750
 service area in this state. 751

~~Of the alternative energy resources implemented by the 752
 subject utility or company by 2025 and thereafter: 753~~

~~(1) Half may be generated from advanced energy resources; 754~~

(2) ~~At least half~~ The portion required under division (B)(1) 755
of this section shall be generated from renewable energy 756
 resources, including one-half per cent from solar energy 757
 resources, in accordance with the following benchmarks: 758

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	760
2010	0.50%	0.010%	761
2011	1%	0.030%	762
2012	1.5%	0.060%	763
2013	2%	0.090%	764
2014	2.5%	0.12%	765
2015	3.5 <u>2.5%</u>	0.15 <u>0.12%</u>	766
2016	4.5 <u>2.5%</u>	0.18 <u>0.12%</u>	767

2017	5.5 <u>3.5%</u>	0.22 <u>0.15%</u>	768
2018	6.5 <u>4.5%</u>	0.26 <u>0.18%</u>	769
2019	7.5 <u>5.5%</u>	0.3 <u>0.22%</u>	770
2020	8.5 <u>6.5%</u>	0.34 <u>0.26%</u>	771
2021	9.5 <u>7.5%</u>	0.38 <u>0.3%</u>	772
2022	10.5 <u>8.5%</u>	0.42 <u>0.34%</u>	773
2023	11.5 <u>9.5%</u>	0.46 <u>0.38%</u>	774
2024 and each calendar year thereafter	12.5 <u>10.5%</u>	0.5% <u>0.42%</u>	775
<u>2025</u>	<u>11.5%</u>	<u>0.46%</u>	776
<u>2026 and each calendar year thereafter</u>	<u>12.5%</u>	<u>0.5%.</u>	777

(3) ~~At least one half of the~~ The qualifying renewable energy resources implemented by the utility or company shall be met through either:

(a) Through facilities located in this state; ~~the remainder shall be met with or~~

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

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

(2) Subject to the cost cap provisions of division (C)(3) of this section, if the commission determines, after notice and opportunity for hearing, and based upon its findings in that review regarding avoidable undercompliance or noncompliance, but

subject to division (C)(4) of this section, that the utility or 798
company has failed to comply with any such benchmark, the 799
commission shall impose a renewable energy compliance payment on 800
the utility or company. 801

(a) The compliance payment pertaining to the solar energy 802
resource benchmarks under division (B)(2) of this section shall be 803
an amount per megawatt hour of undercompliance or noncompliance in 804
the period under review, ~~starting at four~~ as follows: 805

(i) Three hundred fifty dollars for 2009, four 2014, 2015, 806
and 2016; 807

(ii) Two hundred fifty dollars for 2010 2017 and 2011, and 808
similarly 2018; 809

(iii) Two hundred dollars for 2019 and 2020; 810

(iv) Similarly reduced every two years thereafter through 811
~~2024~~ 2026 by fifty dollars, to a minimum of fifty dollars. 812

(b) The compliance payment pertaining to the renewable energy 813
resource benchmarks under division (B)(2) of this section shall 814
equal the number of additional renewable energy credits that the 815
electric distribution utility or electric services company would 816
have needed to comply with the applicable benchmark in the period 817
under review times an amount that shall begin at forty-five 818
dollars and shall be adjusted annually by the commission to 819
reflect any change in the consumer price index as defined in 820
section 101.27 of the Revised Code, but shall not be less than 821
forty-five dollars. 822

(c) The compliance payment shall not be passed through by the 823
electric distribution utility or electric services company to 824
consumers. The compliance payment shall be remitted to the 825
commission, for deposit to the credit of the advanced energy fund 826
created under section 4928.61 of the Revised Code. Payment of the 827
compliance payment shall be subject to such collection and 828

enforcement procedures as apply to the collection of a forfeiture 829
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 830

(3) An electric distribution utility or an electric services 831
company need not comply with a benchmark under division (B)~~(1)~~⁽²⁾ or 832
(2) of this section to the extent that its reasonably expected 833
cost of that compliance exceeds its reasonably expected cost of 834
otherwise producing or acquiring the requisite electricity by 835
three per cent or more. The cost of compliance shall be calculated 836
as though any exemption from taxes and assessments had not been 837
granted under section 5727.75 of the Revised Code. 838

(4)(a) An electric distribution utility or electric services 839
company may request the commission to make a force majeure 840
determination pursuant to this division regarding all or part of 841
the utility's or company's compliance with any minimum benchmark 842
under division (B)(2) of this section during the period of review 843
occurring pursuant to division (C)(2) of this section. The 844
commission may require the electric distribution utility or 845
electric services company to make solicitations for renewable 846
energy resource credits as part of its default service before the 847
utility's or company's request of force majeure under this 848
division can be made. 849

(b) Within ninety days after the filing of a request by an 850
electric distribution utility or electric services company under 851
division (C)(4)(a) of this section, the commission shall determine 852
if qualifying renewable energy resources are reasonably available 853
in the marketplace in sufficient quantities for the utility or 854
company to comply with the subject minimum benchmark during the 855
review period. In making this determination, the commission shall 856
consider whether the electric distribution utility or electric 857
services company has made a good faith effort to acquire 858
sufficient qualifying renewable energy or, as applicable, solar 859
energy resources to so comply, including, but not limited to, by 860

banking or seeking renewable energy resource credits or by seeking 861
the resources through long-term contracts. Additionally, the 862
commission shall consider the availability of qualifying renewable 863
energy or solar energy resources in this state and other 864
jurisdictions in the PJM interconnection regional transmission 865
organization, L.L.C., or its successor and the ~~midwest~~ 866
midcontinent independent system operator or its successor. 867

(c) If, pursuant to division (C)(4)(b) of this section, the 868
commission determines that qualifying renewable energy or solar 869
energy resources are not reasonably available to permit the 870
electric distribution utility or electric services company to 871
comply, during the period of review, with the subject minimum 872
benchmark prescribed under division (B)(2) of this section, the 873
commission shall modify that compliance obligation of the utility 874
or company as it determines appropriate to accommodate the 875
finding. Commission modification shall not automatically reduce 876
the obligation for the electric distribution utility's or electric 877
services company's compliance in subsequent years. If it modifies 878
the electric distribution utility or electric services company 879
obligation under division (C)(4)(c) of this section, the 880
commission may require the utility or company, if sufficient 881
renewable energy resource credits exist in the marketplace, to 882
acquire additional renewable energy resource credits in subsequent 883
years equivalent to the utility's or company's modified obligation 884
under division (C)(4)(c) of this section. 885

(5) The commission shall establish a process to provide for 886
at least an annual review of the ~~alternative~~ renewable energy 887
resource market in this state and in the service territories of 888
the regional transmission organizations that manage transmission 889
systems located in this state. The commission shall use the 890
results of this study to identify any needed changes to the amount 891
of the renewable energy compliance payment specified under 892

divisions (C)(2)(a) and (b) of this section. Specifically, the 893
commission may increase the amount to ensure that payment of 894
compliance payments is not used to achieve compliance with this 895
section in lieu of actually acquiring or realizing energy derived 896
from qualifying renewable energy resources. However, if the 897
commission finds that the amount of the compliance payment should 898
be otherwise changed, the commission shall present this finding to 899
the general assembly for legislative enactment. 900

(D)~~(1)~~ The commission annually shall submit to the general 901
assembly in accordance with section 101.68 of the Revised Code a 902
report describing all of the following: 903

~~(a)~~(1) The compliance of electric distribution utilities and 904
electric services companies with division (B) of this section; 905

~~(b)~~(2) The average annual cost of renewable energy credits 906
purchased by utilities and companies for the year covered in the 907
report; 908

~~(c)~~(3) Any strategy for utility and company compliance or for 909
encouraging the use of ~~alternative~~ qualifying renewable energy 910
resources in supplying this state's electricity needs in a manner 911
that considers available technology, costs, job creation, and 912
economic impacts. 913

The commission shall begin providing the information 914
described in division (D)~~(1)~~~~(b)~~(2) of this section in each report 915
submitted after ~~the effective date of the amendment of this~~ 916
~~section by S.B. 315 of the 129th general assembly~~ September 10, 917
2012. The commission shall allow and consider public comments on 918
the report prior to its submission to the general assembly. 919
Nothing in the report shall be binding on any person, including 920
any utility or company for the purpose of its compliance with any 921
benchmark under division (B) of this section, or the enforcement 922
of that provision under division (C) of this section. 923

~~(2) The governor, in consultation with the commission chairperson, shall appoint an alternative energy advisory committee. The committee shall examine available technology for and related timetables, goals, and costs of the alternative energy resource requirements under division (B) of this section and shall submit to the commission a semiannual report of its recommendations.~~

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

Sec. 4928.641. (A) If an electric distribution utility has executed a contract before April 1, 2014, to procure renewable energy resources and there are ongoing costs associated with that contract that are being recovered from customers through a bypassable charge as of the effective date of S.B. 310 of the 130th general assembly, that cost recovery shall continue on a bypassable basis until the costs associated with that contract are fully recovered.

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

Sec. 4928.642. Every contract to procure renewable energy resources or renewable energy credits entered into by an electric distribution utility or an electric services company on or after the effective date of S.B. 310 of the 130th general assembly shall

contain a change-of-law provision. Such a provision shall provide 954
that the parties to the contract are released from their 955
obligations under the contract if there is a change in the 956
renewable energy resource requirements, governed by section 957
4928.64 of the Revised Code. 958

Sec. ~~4928.65~~ 4928.645. (A) An electric distribution utility 959
or electric services company may use, for the purpose of complying 960
with the requirements under divisions (B)(1) and (2) of section 961
4928.64 of the Revised Code, renewable energy credits any time in 962
the five calendar years following the date of their purchase or 963
acquisition from any entity, including, but not limited to, a the 964
following: 965

(1) A mercantile customer ~~or an~~ 966

(2) An owner or operator of a hydroelectric generating 967
facility that is located at a dam on a river, or on any water 968
discharged to a river, that is within or bordering this state or 969
within or bordering an adjoining state, ~~for the purpose of~~ 970
~~complying with the renewable energy and solar energy resource~~ 971
~~requirements of division (B)(2) of section 4928.64 of the Revised~~ 972
Code or that produces energy that is deliverable into the regional 973
transmission organization; 974

(3) A seller of compressed natural gas that has been produced 975
from biologically derived methane gas, provided that the seller 976
may only provide renewable energy credits for metered amounts of 977
gas. The 978

(B)(1) The public utilities commission shall adopt rules 979
specifying that one unit of credit shall equal one megawatt hour 980
of electricity derived from renewable energy resources, except 981
that, for a generating facility of seventy-five megawatts or 982
greater that is situated within this state and has committed by 983
December 31, 2009, to modify or retrofit its generating unit or 984

units to enable the facility to generate principally from biomass 985
energy by June 30, 2013, each megawatt hour of electricity 986
generated principally from that biomass energy shall equal, in 987
units of credit, the product obtained by multiplying the actual 988
percentage of biomass feedstock heat input used to generate such 989
megawatt hour by the quotient obtained by dividing the then 990
existing unit dollar amount used to determine a renewable energy 991
compliance payment as provided under division (C)(2)(b) of section 992
4928.64 of the Revised Code by the then existing market value of 993
one renewable energy credit, but such megawatt hour shall not 994
equal less than one unit of credit. Renewable energy resources do 995
not have to be converted to electricity in order to be eligible to 996
receive renewable energy credits. The rules shall specify that, 997
for purposes of converting the quantity of energy derived from 998
biologically derived methane gas to an electricity equivalent, one 999
megawatt hour equals 3,412,142 British thermal units. 1000

(2) The rules also shall provide for this state a system of 1001
registering renewable energy credits by specifying which of any 1002
generally available registries shall be used for that purpose and 1003
not by creating a registry. That selected system of registering 1004
renewable energy credits shall allow a hydroelectric generating 1005
facility to be eligible for obtaining renewable energy credits and 1006
shall allow customer-sited projects or actions the broadest 1007
opportunities to be eligible for obtaining renewable energy 1008
credits. 1009

Sec. 4928.65. (A) Not later than January 1, 2015, the public 1010
utilities commission shall adopt rules governing the disclosure of 1011
the costs to customers of the renewable energy resource, energy 1012
efficiency savings, and peak demand reduction requirements of 1013
sections 4928.64 and 4928.66 of the Revised Code. The rules shall 1014
include both of the following requirements: 1015

(1) That every electric distribution utility list, on all 1016
customer bills sent by the utility, including utility consolidated 1017
bills that include both electric distribution utility and electric 1018
services company charges, the individual customer cost of the 1019
utility's compliance with all of the following for the applicable 1020
billing period: 1021

(a) The renewable energy resource requirements under section 1022
4928.64 of the Revised Code, subject to division (B) of this 1023
section; 1024

(b) The energy efficiency savings requirements under section 1025
4928.66 of the Revised Code; 1026

(c) The peak demand reduction requirements under section 1027
4928.66 of the Revised Code. 1028

(2) That every electric services company list, on all 1029
customer bills sent by the company, the individual customer cost, 1030
subject to division (B) of this section, of the company's 1031
compliance with the renewable energy resource requirements under 1032
section 4928.64 of the Revised Code for the applicable billing 1033
period. 1034

(B)(1) For purposes of division (A)(1)(a) of this section, 1035
the cost of compliance with the renewable energy resource 1036
requirements shall be calculated by multiplying the individual 1037
customer's monthly usage by the combined weighted average of 1038
renewable-energy-credit costs, including 1039
solar-renewable-energy-credit costs, paid by all electric 1040
distribution utilities, as listed in the commission's most 1041
recently available alternative energy portfolio standard report. 1042

(2) For purposes of division (A)(2) of this section, the cost 1043
of compliance with the renewable energy resource requirements 1044
shall be calculated by multiplying the individual customer's 1045
monthly usage by the combined weighted average of 1046

renewable-energy-credit costs, including 1047
solar-renewable-energy-credit costs, paid by all electric services 1048
companies, as listed in the commission's most recently available 1049
alternative energy portfolio standard report. 1050

(C) The costs required to be listed under division (A)(1) of 1051
this section shall be listed on each customer's monthly bill as 1052
three distinct line items. The cost required to be listed under 1053
division (A)(2) of this section shall be listed on each customer's 1054
monthly bill as a distinct line item. 1055

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric 1056
distribution utility shall implement energy efficiency programs 1057
that achieve energy savings equivalent to at least three-tenths of 1058
one per cent of the total, annual average, and normalized 1059
kilowatt-hour sales of the electric distribution utility during 1060
the preceding three calendar years to customers in this state. An 1061
energy efficiency program may include a combined heat and power 1062
system placed into service or retrofitted on or after the 1063
effective date of the amendment of this section by S.B. 315 of the 1064
129th general assembly, September 10, 2012, or a waste energy 1065
recovery system placed into service or retrofitted on or after ~~the~~ 1066
~~same date~~ September 10, 2012, except that a waste energy recovery 1067
system described in division (A)(38)(b) of section 4928.01 of the 1068
Revised Code may be included only if it was placed into service 1069
between January 1, 2002, and December 31, 2004. For a waste energy 1070
recovery or combined heat and power system, the savings shall be 1071
as estimated by the public utilities commission. The savings 1072
requirement, using such a three-year average, shall increase to an 1073
additional five-tenths of one per cent in 2010, seven-tenths of 1074
one per cent in 2011, eight-tenths of one per cent in 2012, 1075
nine-tenths of one per cent in 2013, and one per cent from in 2014 1076
~~to~~. In 2015 and 2016, an electric distribution utility shall 1077
achieve energy savings equal to the result of subtracting the 1078

cumulative energy savings achieved since 2009 from the product of 1079
multiplying the baseline for energy savings, described in division 1080
(A)(2)(a) of this section, by four and two-tenths of one per cent. 1081
If the result is zero or less for the year for which the 1082
calculation is being made, the utility shall not be required to 1083
achieve additional energy savings for that year, but may achieve 1084
additional energy savings for that year. Thereafter, the annual 1085
savings requirements shall be, for years 2017, 2018, 2019, and 1086
2020, one per cent of the baseline, and two per cent each year 1087
thereafter, achieving a cumulative, ~~annual~~ energy savings in 1088
excess of twenty-two per cent by the end of ~~2025~~ 2027. For 1089
purposes of a waste energy recovery or combined heat and power 1090
system, an electric distribution utility shall not apply more than 1091
the total annual percentage of the electric distribution utility's 1092
industrial-customer load, relative to the electric distribution 1093
utility's total load, to the annual energy savings requirement. 1094

(b) Beginning in 2009, an electric distribution utility shall 1095
implement peak demand reduction programs designed to achieve a one 1096
per cent reduction in peak demand in 2009 and an additional 1097
seventy-five hundredths of one per cent reduction each year 1098
through ~~2018~~ 2014. In ~~2018~~ 2015 and 2016, ~~the standing committees~~ 1099
~~in the house of representatives and the senate primarily dealing~~ 1100
~~with energy issues shall make recommendations to the general~~ 1101
~~assembly regarding future~~ an electric distribution utility shall 1102
achieve a reduction in peak demand equal to the result of 1103
subtracting the cumulative peak demand reductions achieved since 1104
2009 from the product of multiplying the baseline for peak demand 1105
reduction, described in division (A)(2)(a) of this section, by 1106
four and seventy-five hundredths of one per cent. If the result is 1107
zero or less for the year for which the calculation is being made, 1108
the utility shall not be required to achieve an additional 1109
reduction in peak demand for that year, but may achieve an 1110

additional reduction in peak demand for that year. In 2017 and 1111
each year thereafter through 2020, the utility shall achieve an 1112
additional seventy-five hundredths of one per cent reduction in 1113
peak demand ~~reduction targets.~~ 1114

(2) For the purposes of divisions (A)(1)(a) and (b) of this 1115
section: 1116

(a) The baseline for energy savings under division (A)(1)(a) 1117
of this section shall be the average of the total kilowatt hours 1118
the electric distribution utility sold in the preceding three 1119
calendar years, ~~and the.~~ The baseline for a peak demand reduction 1120
under division (A)(1)(b) of this section shall be the average peak 1121
demand on the utility in the preceding three calendar years, 1122
except that the commission may reduce either baseline to adjust 1123
for new economic growth in the utility's certified territory. 1124
Neither baseline shall include the load and usage of any of the 1125
following customers: 1126

(i) Beginning January 1, 2017, a customer for which a 1127
reasonable arrangement has been approved under section 4905.31 of 1128
the Revised Code; 1129

(ii) A customer that has opted out of the utility's portfolio 1130
plan under section 4928.6611 of the Revised Code; 1131

(iii) A customer that has opted out of the utility's 1132
portfolio plan under Section 8 of S.B. 310 of the 130th general 1133
assembly. 1134

(b) The commission may amend the benchmarks set forth in 1135
division (A)(1)(a) or (b) of this section if, after application by 1136
the electric distribution utility, the commission determines that 1137
the amendment is necessary because the utility cannot reasonably 1138
achieve the benchmarks due to regulatory, economic, or 1139
technological reasons beyond its reasonable control. 1140

(c) Compliance with divisions (A)(1)(a) and (b) of this 1141

section shall be measured by including the effects of all 1142
demand-response programs for mercantile customers of the subject 1143
electric distribution utility, all waste energy recovery systems 1144
and all combined heat and power systems, and all such mercantile 1145
customer-sited energy efficiency, including waste energy recovery 1146
and combined heat and power, and peak demand reduction programs, 1147
adjusted upward by the appropriate loss factors. Any mechanism 1148
designed to recover the cost of energy efficiency, including waste 1149
energy recovery and combined heat and power, and peak demand 1150
reduction programs under divisions (A)(1)(a) and (b) of this 1151
section may exempt mercantile customers that commit their 1152
demand-response or other customer-sited capabilities, whether 1153
existing or new, for integration into the electric distribution 1154
utility's demand-response, energy efficiency, including waste 1155
energy recovery and combined heat and power, or peak demand 1156
reduction programs, if the commission determines that that 1157
exemption reasonably encourages such customers to commit those 1158
capabilities to those programs. If a mercantile customer makes 1159
such existing or new demand-response, energy efficiency, including 1160
waste energy recovery and combined heat and power, or peak demand 1161
reduction capability available to an electric distribution utility 1162
pursuant to division (A)(2)(c) of this section, the electric 1163
utility's baseline under division (A)(2)(a) of this section shall 1164
be adjusted to exclude the effects of all such demand-response, 1165
energy efficiency, including waste energy recovery and combined 1166
heat and power, or peak demand reduction programs that may have 1167
existed during the period used to establish the baseline. The 1168
baseline also shall be normalized for changes in numbers of 1169
customers, sales, weather, peak demand, and other appropriate 1170
factors so that the compliance measurement is not unduly 1171
influenced by factors outside the control of the electric 1172
distribution utility. 1173

(d)(i) Programs implemented by a utility may include 1174

demand response <u>the following:</u>	1175
(I) <u>Demand-response programs grid;</u>	1176
(II) <u>Smart grid</u> investment programs, provided that such programs are demonstrated to be cost-beneficial, customer sited ;	1177 1178
(III) <u>Customer-sited</u> programs, including waste energy recovery and combined heat and power systems, and transmission ;	1179 1180
(IV) <u>Transmission</u> and distribution infrastructure improvements that reduce line losses ;	1181 1182
(V) <u>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. No energy efficiency or peak demand reduction achieved under division (A)(2)(d)(i)(V) of this section shall qualify for shared savings.</u>	1183 1184 1185 1186 1187 1188 1189 1190 1191
(ii) 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.	1192 1193 1194 1195 1196 1197 1198
(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.	1199 1200 1201
(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	1202 1203 1204

annual levels of energy efficiency and of peak demand reductions 1205
achieved by each electric distribution utility pursuant to 1206
division (A) of this section. A copy of the report shall be 1207
provided to the consumers' counsel. 1208

(C) If the commission determines, after notice and 1209
opportunity for hearing and based upon its report under division 1210
(B) of this section, that an electric distribution utility has 1211
failed to comply with an energy efficiency or peak demand 1212
reduction requirement of division (A) of this section, the 1213
commission shall assess a forfeiture on the utility as provided 1214
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 1215
either in the amount, per day per undercompliance or 1216
noncompliance, relative to the period of the report, equal to that 1217
prescribed for noncompliances under section 4905.54 of the Revised 1218
Code, or in an amount equal to the then existing market value of 1219
one renewable energy credit per megawatt hour of undercompliance 1220
or noncompliance. Revenue from any forfeiture assessed under this 1221
division shall be deposited to the credit of the advanced energy 1222
fund created under section 4928.61 of the Revised Code. 1223

(D) The commission may establish rules regarding the content 1224
of an application by an electric distribution utility for 1225
commission approval of a revenue decoupling mechanism under this 1226
division. Such an application shall not be considered an 1227
application to increase rates and may be included as part of a 1228
proposal to establish, continue, or expand energy efficiency or 1229
conservation programs. The commission by order may approve an 1230
application under this division if it determines both that the 1231
revenue decoupling mechanism provides for the recovery of revenue 1232
that otherwise may be forgone by the utility as a result of or in 1233
connection with the implementation by the electric distribution 1234
utility of any energy efficiency or energy conservation programs 1235
and reasonably aligns the interests of the utility and of its 1236

customers in favor of those programs. 1237

(E) The commission additionally shall adopt rules that 1238
require an electric distribution utility to provide a customer 1239
upon request with two years' consumption data in an accessible 1240
form. 1241

Sec. 4928.662. For the purpose of measuring and determining 1242
compliance with the energy efficiency and peak demand reduction 1243
requirements under section 4928.66 of the Revised Code, the public 1244
utilities commission shall count and recognize compliance as 1245
follows: 1246

(A) Energy efficiency savings and peak demand reduction 1247
achieved through actions taken by customers or through electric 1248
distribution utility programs that comply with federal standards 1249
for either or both energy efficiency and peak demand reduction 1250
requirements, including resources associated with such savings or 1251
reduction that are recognized as capacity resources by the 1252
regional transmission organization operating in Ohio in compliance 1253
with section 4928.12 of the Revised Code, shall count toward 1254
compliance with the energy efficiency and peak demand reduction 1255
requirements. 1256

(B) Energy efficiency savings and peak demand reduction 1257
achieved on and after the effective date of S.B. 310 of the 130th 1258
general assembly shall be measured on the higher of an as found or 1259
deemed basis, except that, solely at the option of the electric 1260
distribution utility, such savings and reduction achieved since 1261
2006 may also be measured using this method. For new construction, 1262
the energy efficiency savings and peak demand reduction shall be 1263
counted based on 2008 federal standards, provided that when new 1264
construction replaces an existing facility, the difference in 1265
energy consumed, energy intensity, and peak demand between the new 1266
and replaced facility shall be counted toward meeting the energy 1267

efficiency and peak demand reduction requirements. 1268

(C) The commission shall count both the energy efficiency savings and peak demand reduction on an annualized basis. 1269
1270

(D) The commission shall count both the energy efficiency savings and peak demand reduction on a gross savings basis. 1271
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(E) The commission shall count energy efficiency savings and peak demand reductions associated with transmission and distribution infrastructure improvements that reduce line losses. 1273
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(F) The commission shall recognize and count all energy efficiency savings and peak demand reduction that are physically located within the certified territory of the electric distribution utility and are bid into the regional transmission organization operating in Ohio in compliance with section 4928.12 of the Revised Code capacity auctions as energy efficiency resources and demand response resources toward the peak demand reduction requirements. No energy efficiency or peak demand reduction achieved under division (F) of this section shall qualify for shared savings. 1276
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(G) Energy efficiency savings and peak demand reduction amounts approved by the commission shall continue to be counted toward achieving the energy efficiency and peak demand reduction requirements as long as the requirements remain in effect. 1286
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(H) Any energy efficiency savings or peak demand reduction amount achieved in excess of the requirements may, at the discretion of the electric distribution utility, be banked and applied toward achieving the energy efficiency or peak demand reduction requirements in future years. 1290
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Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 of the Revised Code: 1295
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(A) "Customer" means any retail customer of an electric 1297

<u>distribution utility to which either of the following applies:</u>	1298
<u>(1) The retail customer receives service above the primary</u>	1299
<u>voltage level as determined by the utility's tariff</u>	1300
<u>classification.</u>	1301
<u>(2) The retail customer is a commercial or industrial</u>	1302
<u>customer to which both of the following apply:</u>	1303
<u>(a) The retail customer receives electricity through a meter</u>	1304
<u>of an end user or through more than one meter at a single location</u>	1305
<u>in a quantity that exceeds forty-five million kilowatt hours of</u>	1306
<u>electricity for the preceding calendar year.</u>	1307
<u>(b) The retail customer has made a written request for</u>	1308
<u>registration as a self-assessing purchaser pursuant to section</u>	1309
<u>5727.81 of the Revised Code.</u>	1310
<u>(B) "Portfolio plan" means the comprehensive energy</u>	1311
<u>efficiency and peak-demand reduction program portfolio plan</u>	1312
<u>required under rules adopted by the public utilities commission</u>	1313
<u>and codified in Chapter 4901:1-39 of the Administrative Code or</u>	1314
<u>hereafter recodified or amended.</u>	1315
<u>Sec. 4928.6611. Beginning January 1, 2017, a customer of an</u>	1316
<u>electric distribution utility may opt out of the opportunity and</u>	1317
<u>ability to obtain direct benefits from the utility's portfolio</u>	1318
<u>plan. Such an opt out shall extend to all of the customer's</u>	1319
<u>accounts, irrespective of the size or service voltage level that</u>	1320
<u>are associated with the activities performed by the customer and</u>	1321
<u>that are located on or adjacent to the customer's premises.</u>	1322
<u>Sec. 4928.6612. Any customer electing to opt out under</u>	1323
<u>section 4928.6611 of the Revised Code shall do so by providing a</u>	1324
<u>verified written notice of intent to opt out to the electric</u>	1325
<u>distribution utility from which it receives service and submitting</u>	1326
<u>a complete copy of the opt-out notice to the secretary of the</u>	1327

public utilities commission. 1328

The notice provided to the utility shall include all of the 1329
following: 1330

(A) A statement indicating that the customer has elected to 1331
opt out; 1332

(B) The effective date of the election to opt out; 1333

(C) The account number for each customer account to which the 1334
opt out shall apply; 1335

(D) The physical location of the customer's load center; 1336

(E) The date upon which the customer established, or plans to 1337
establish a process and implement, cost-effective measures to 1338
improve its energy efficiency savings and peak demand reductions. 1339

Sec. 4928.6613. Upon a customer's election to opt out under 1340
section 4928.6611 of the Revised Code and commencing on the 1341
effective date of the election to opt out, no account properly 1342
identified in the customer's verified notice under division (C) of 1343
section 4928.6612 of the Revised Code shall be subject to any cost 1344
recovery mechanism under section 4928.66 of the Revised Code or 1345
eligible to participate in, or directly benefit from, programs 1346
arising from electric distribution utility portfolio plans 1347
approved by the public utilities commission. 1348

Sec. 4928.6614. (A) A customer subsequently may opt in to an 1349
electric distribution utility's portfolio plan after a previous 1350
election to opt out under section 4928.6611 of the Revised Code if 1351
both of the following apply: 1352

(1) The customer has previously opted out for a period of at 1353
least three consecutive calendar years. 1354

(2) The customer gives twelve months' advance notice of its 1355

intent to opt in to the public utilities commission and the 1356
electric distribution utility from which it receives service. 1357

(B) A customer that opts in under this section shall maintain 1358
its opt-in status for three consecutive calendar years before 1359
being eligible subsequently to exercise its right to opt out after 1360
giving the utility twelve months' advance notice. 1361

Sec. 4928.6615. Any customer electing to opt in under section 1362
4928.6614 of the Revised Code shall do so by providing a written 1363
notice of intent to opt in to the electric distribution utility 1364
from which it receives service and submitting a complete copy of 1365
the opt-in notice to the secretary of the public utilities 1366
commission. The notice shall include all of the following: 1367

(A) A statement indicating that the customer has elected to 1368
opt in; 1369

(B) The effective date of the election to opt in; 1370

(C) The account number for each customer account to which the 1371
opt in shall apply; 1372

(D) The physical location of the customer's load center. 1373

Sec. 4928.6616. (A) Upon a customer's election to opt out 1374
under section 4928.6611 of the Revised Code, the customer shall 1375
prepare and submit a report to the staff of the public utilities 1376
commission. The report shall, for the period that the opt out is 1377
in effect, summarize the energy efficiency and peak demand 1378
reduction measures implemented by the customer and identify the 1379
cumulative energy efficiency savings and peak demand reductions 1380
achieved. The report shall be verified by the customer and filed 1381
at least once every three years following the date of the 1382
customer's election to opt out. 1383

(B) Upon submission of a report, the staff of the commission 1384

may request the customer to provide additional information on the 1385
measures adopted by the customer and the amount of energy 1386
efficiency savings and peak demand reductions achieved during the 1387
period covered by the report. 1388

(C) All information contained in a report submitted under 1389
this section and any customer responses to requests for additional 1390
information shall be deemed to be confidential, proprietary, and a 1391
trade secret. No such information or response shall be publicly 1392
divulged without written authorization by the customer or used for 1393
any purpose other than to identify the measures adopted by the 1394
customer and the quantity of energy efficiency savings and peak 1395
demand reductions achieved by the customer. 1396

Section 2. That existing sections 3706.25, 4928.01, 4928.20, 1397
4928.64, 4928.65, and 4928.66 of the Revised Code are hereby 1398
repealed. 1399

Section 3. It is the intent of the General Assembly to ensure 1400
that customers in Ohio have access to affordable energy. It is the 1401
intent of the General Assembly to incorporate as many forms of 1402
inexpensive, reliable energy sources in the state of Ohio as 1403
possible. It is also the intent of the General Assembly to get a 1404
better understanding of how energy mandates impact jobs and the 1405
economy in Ohio and to minimize government mandates. Because the 1406
energy mandates in current law may be unrealistic and 1407
unattainable, it is the intent of the General Assembly to review 1408
all energy resources as part of its efforts to address energy 1409
pricing issues. 1410

Therefore, it is the intent of the General Assembly to enact 1411
legislation in the future, after taking into account the 1412
recommendations of the Energy Mandates Study Committee, that will 1413
reduce the mandates in sections 4928.64 and 4928.66 of the Revised 1414

Code and provide greater transparency to electric customers on the 1415
costs of future energy mandates, if there are to be any. 1416

Section 4. (A) There is hereby created the Energy Mandates 1417
Study Committee to study Ohio's renewable energy, energy 1418
efficiency, and peak demand reduction mandates. The Committee 1419
shall consist of the following members: 1420

(1) Six members of the House of Representatives appointed by 1421
the Speaker of the House of Representatives, with not more than 1422
four members from the same political party; 1423

(2) Six members of the Senate appointed by the President of 1424
the Senate, with not more than four members from the same 1425
political party; 1426

(3) The chairperson of the Public Utilities Commission, as an 1427
exofficio, nonvoting member. 1428

(B) The Speaker of the House of Representatives and the 1429
President of the Senate shall each appoint one member of the 1430
Committee to serve as a cochairperson of the Committee. Any 1431
vacancies that occur on the Committee shall be filled in the same 1432
manner as the original appointment. 1433

(C) Not later than September 30, 2015, the Committee shall 1434
submit a report of its findings to the House of Representatives 1435
and the Senate in accordance with division (B) of section 101.68 1436
of the Revised Code. The Committee shall cease to exist on October 1437
1, 2015. The report shall include, at a minimum, all of the 1438
following: 1439

(1) A cost-benefit analysis of the renewable energy, energy 1440
efficiency, and peak demand reduction mandates, including the 1441
projected costs on electric customers if the mandates were to 1442
remain at the percentage levels required under sections 4928.64 1443
and 4928.66 of the Revised Code, as amended by this act; 1444

(2) A recommendation of the best, evidence-based standard for reviewing the mandates in the future, including an examination of readily available technology to attain such a standard;

(3) The potential benefits of an opt-in system for the mandates, in contrast to an opt-out system for the mandates, and a recommendation as to whether an opt-in system should apply to all electric customers, whether an opt-out system should apply to only certain customers, or whether a hybrid of these two systems is recommended;

(4) A review of the risk of increased grid congestion due to the anticipated retirement of coal-fired generation capacity and other factors; the ability of distributed generation, including combined heat and power and waste energy recovery, to reduce electric grid congestion; and the potential benefit to all energy consumers resulting from reduced grid congestion;

(5) An analysis of whether there are alternatives for the development of advanced energy resources as that term is defined in section 4928.01 of the Revised Code.

Section 5. As used in Sections 6, 7, 8, 9, 10, and 11 of this act:

"Customer" and "portfolio plan" have the same meanings as in section 4928.6610 of the Revised Code.

"Electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code.

Section 6. (A) If an electric distribution utility has a portfolio plan that is in effect on the effective date of this section, the utility shall do either of the following, at its sole discretion:

(1) Continue to implement the portfolio plan with no

amendments to the plan, for the duration that the Public Utilities Commission originally approved, subject to divisions (D) and (E) of this section;

(2) Seek an amendment of the portfolio plan under division (B) of this section.

(B)(1) An electric distribution utility that seeks to amend its portfolio plan under division (A)(2) of this section shall file an application with the Commission to amend the plan not later than thirty days after the effective date of this section. The Commission shall review the application in accordance with its rules as if the application were for a new portfolio plan. The Commission shall review and approve, or modify and approve, the application not later than sixty days after the date that the application is filed. Any portfolio plan amended under this division shall take effect on January 1, 2015, and expire on December 31, 2016. If the Commission fails to review and approve, or modify and approve, the application on or before January 1, 2015, the plan shall be deemed approved as amended in the application and shall take effect on January 1, 2015, and expire on December 31, 2016.

(2) Section 4928.66 of the Revised Code, as amended by this act, shall apply to an electric distribution utility that applies to amend its portfolio plan under division (B) of this section.

(C) If an electric distribution utility fails to file an application to amend its portfolio plan under division (B) of this section within the required thirty-day period, the electric distribution utility shall proceed in accordance with division (A)(1) of this section.

(D) If an electric distribution utility implements its portfolio plan under division (A)(1) of this section for the plan's original duration and if the plan expires before December

31, 2016, the Commission shall automatically extend the plan 1505
through December 31, 2016, with no amendments to the plan. 1506

(E)(1) The provisions of section 4928.66 of the Revised Code, 1507
as it existed prior to the effective date of this section, shall 1508
apply to an electric distribution utility that has a portfolio 1509
plan that is implemented under division (A)(1) of this section for 1510
either of the following time periods: 1511

(a) The plan's original duration; 1512

(b) The plan's original duration and then, until December 31, 1513
2016, if the plan is extended under division (D) of this section. 1514

(2) Beginning January 1, 2017, the provisions of section 1515
4928.66 of the Revised Code as amended by this act shall apply to 1516
the electric distribution utility. 1517

Section 7. (A) The Public Utilities Commission shall neither 1518
review nor approve an application for a portfolio plan if the 1519
application is pending on the effective date of this section. 1520

(B) Prior to January 1, 2017, the Commission shall not take 1521
any action with regard to any portfolio plan or application 1522
regarding a portfolio plan, except those actions expressly 1523
authorized or required by Section 6 of this act and actions 1524
necessary to administer the implementation of existing portfolio 1525
plans. 1526

Section 8. Beginning January 1, 2015, a customer of an 1527
electric distribution utility may opt out of the opportunity and 1528
ability to obtain direct benefits from the utility's portfolio 1529
plan that is amended under division (B) of Section 6 of this act. 1530
The opt out shall apply only to the amended plan. The opt out 1531
shall extend to all of the customer's accounts, irrespective of 1532
the size or service voltage level that are associated with the 1533
activities performed by the customer and that are located on or 1534

adjacent to the customer's premises. 1535

Section 9. Any customer electing to opt out under Section 8 1536
of this act shall do so by providing a verified written notice of 1537
intent to opt out to the electric distribution utility from which 1538
it receives service and submitting a complete copy of the opt-out 1539
notice to the Secretary of the Public Utilities Commission. 1540

The notice provided to the utility shall include all of the 1541
following: 1542

(A) A statement indicating that the customer has elected to 1543
opt out; 1544

(B) The effective date of the election to opt out; 1545

(C) The account number for each customer account to which the 1546
opt out shall apply; 1547

(D) The physical location of the customer's load center; 1548

(E) The date upon which the customer established, or plans to 1549
establish a process and implement, cost-effective measures to 1550
improve its energy efficiency savings and peak demand reductions. 1551

Section 10. Upon a customer's election to opt out under 1552
Section 8 of this act and commencing on the effective date of the 1553
election to opt out, no account properly identified in the 1554
customer's verified notice under division (C) of Section 9 of this 1555
act shall be subject to any cost recovery mechanism under section 1556
4928.66 of the Revised Code, as amended by this act, for the 1557
duration of the amended portfolio plan or eligible to participate 1558
in, or directly benefit from, programs arising from the amended 1559
portfolio plan. 1560

Section 11. (A) Upon a customer's election to opt out under 1561
Section 8 of this act, the customer shall prepare and submit a 1562
report to the staff of the Public Utilities Commission. The report 1563

shall, for the period that the opt out is in effect, summarize the 1564
energy efficiency and peak demand reduction measures implemented 1565
by the customer and identify the cumulative energy efficiency 1566
savings and peak demand reductions achieved. The report shall be 1567
verified by the customer and filed not later than January 1, 2017. 1568

(B) Upon submission of the report, the staff of the 1569
Commission may request the customer to provide additional 1570
information on the measures adopted by the customer and the amount 1571
of energy efficiency savings and peak demand reductions achieved 1572
during the period covered by the report. 1573

(C) All information contained in a report submitted under 1574
this section and any customer responses to requests for additional 1575
information shall be deemed to be confidential, proprietary, and a 1576
trade secret. No such information or response shall be publicly 1577
divulged without written authorization by the customer or used for 1578
any purpose other than to identify the measures adopted by the 1579
customer and the quantity of energy efficiency savings and peak 1580
demand reductions achieved by the customer. 1581