

I_133_1512-5

**133rd General Assembly
Regular Session
2019-2020**

Sub. H. B. No. 6

A BILL

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

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

Section 1. That sections 303.213, 519.213, 713.081, 15
4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 4928.645, 16
4928.66, 4928.6610, and 5727.75 be amended and sections 3706.40, 17
3706.41, 3706.43, 3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 18



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3706.55, 3706.59, 3706.61, 3706.63, 3706.65, 4928.148, 4928.47, 19
4928.642, 4928.80, and 5727.231 of the Revised Code be enacted 20
to read as follows: 21

Sec. 303.213. (A) As used in this section, "small wind 22
farm" means wind turbines and associated facilities ~~with a~~ 23
~~single interconnection to the electrical grid and designed for,~~ 24
~~or capable of, operation at an aggregate capacity of less than~~ 25
~~five megawatts that are not subject to the jurisdiction of the~~ 26
power siting board under sections 4906.20 and 4906.201 of the 27
Revised Code. 28

(B) Notwithstanding division (A) of section 303.211 of the 29
Revised Code, sections 303.01 to 303.25 of the Revised Code 30
confer power on a board of county commissioners or board of 31
zoning appeals to adopt zoning regulations governing the 32
location, erection, construction, reconstruction, change, 33
alteration, maintenance, removal, use, or enlargement of any 34
small wind farm, whether publicly or privately owned, or the use 35
of land for that purpose, which regulations may be more strict 36
than the regulations prescribed in rules adopted under division 37
(B) (2) of section 4906.20 of the Revised Code. 38

(C) The designation under this section of a small wind 39
farm as a public utility for purposes of sections 303.01 to 40
303.25 of the Revised Code shall not affect the classification 41
of a small wind farm for purposes of state or local taxation. 42

(D) Nothing in division (C) of this section shall be 43
construed as affecting the classification of a 44
telecommunications tower as defined in division (B) or (E) of 45
section 303.211 of the Revised Code or any other public utility 46
for purposes of state and local taxation. 47

Sec. 519.213. (A) As used in this section, "small wind 48
farm" means wind turbines and associated facilities ~~with a~~ 49
~~single interconnection to the electrical grid and designed for,~~ 50
~~or capable of, operation at an aggregate capacity of less than~~ 51
~~five megawatts~~ that are not subject to the jurisdiction of the 52
power siting board under sections 4906.20 and 4906.201 of the 53
Revised Code. 54

(B) Notwithstanding division (A) of section 519.211 of the 55
Revised Code, sections 519.02 to 519.25 of the Revised Code 56
confer power on a board of township trustees or board of zoning 57
appeals with respect to the location, erection, construction, 58
reconstruction, change, alteration, maintenance, removal, use, 59
or enlargement of any small wind farm, whether publicly or 60
privately owned, or the use of land for that purpose, which 61
regulations may be more strict than the regulations prescribed 62
in rules adopted under division (B) (2) of section 4906.20 of the 63
Revised Code. 64

(C) The designation under this section of a small wind 65
farm as a public utility for purposes of sections 519.02 to 66
519.25 of the Revised Code shall not affect the classification 67
of a small wind farm or any other public utility for purposes of 68
state or local taxation. 69

(D) Nothing in division (C) of this section shall be 70
construed as affecting the classification of a 71
telecommunications tower as defined in division (B) or (E) of 72
section 519.211 of the Revised Code or any other public utility 73
for purposes of state and local taxation. 74

Sec. 713.081. (A) As used in this section, "small wind 75
farm" means wind turbines and associated facilities ~~with a~~ 76
~~single interconnection to the electrical grid and designed for,~~ 77

~~or capable of, operation at an aggregate capacity of less than~~ 78
~~five megawatts that are not subject to the jurisdiction of the~~ 79
~~power siting board under sections 4906.20 and 4906.201 of the~~ 80
~~Revised Code.~~ 81

(B) Sections 713.06 to 713.15 of the Revised Code confer 82
power on the legislative authority of a municipal corporation 83
with respect to the location, erection, construction, 84
reconstruction, change, alteration, maintenance, removal, use, 85
or enlargement of any small wind farm as a public utility, 86
whether publicly or privately owned, or the use of land for that 87
purpose, which regulations may be more strict than the 88
regulations prescribed in rules adopted under division (B) (2) of 89
section 4906.20 of the Revised Code. 90

(C) The designation under this section of a small wind 91
farm as a public utility for purposes of sections 713.06 to 92
713.15 of the Revised Code shall not affect the classification 93
of a small wind farm or any other public utility for purposes of 94
state or local taxation. 95

Sec. 3706.40. As used in sections 3706.40 to 3706.65 of 96
the Revised Code: 97

(A) "Qualifying nuclear resource" means an electric 98
generating facility in this state fueled by nuclear power. 99

(B) "Qualifying renewable resource" means an electric 100
generating facility in this state to which all of the following 101
apply: 102

(1) The facility uses or will use solar energy as the 103
primary energy source. 104

(2) The facility obtained a certificate for construction 105
of a major utility facility from the power siting board prior to 106

June 1, 2019. 107

(3) The facility is interconnected with the transmission 108
grid that is subject to the operational control of PJM 109
interconnection, L.L.C., or its successor organization. 110

(C) "Credit price adjustment" means a reduction to the 111
price for each nuclear resource credit equal to the market price 112
index minus the strike price. 113

(D) "Strike price" means forty-six dollars per megawatt 114
hour. 115

(E) "Market price index" means the sum, expressed in 116
dollars per megawatt hour, of both of the following for the 117
upcoming twelve-month period that begins the first day of June 118
and ends the thirty-first day of May: 119

(1) Projected energy prices, determined using futures 120
contracts for the PJM AEP-Dayton hub; 121

(2) Projected capacity prices, determined using PJM's 122
rest-of-RTO market clearing price. 123

(F) "Electric distribution utility" has the same meaning 124
as in section 4928.01 of the Revised Code. 125

Sec. 3706.41. (A) Not later than February 1, 2020, the 126
owner or operator of a qualifying nuclear resource or qualifying 127
renewable resource may apply to the Ohio air quality development 128
authority to receive payments for nuclear resource credits or 129
renewable energy credits, as applicable, under section 3706.55 130
of the Revised Code. 131

(B) An application submitted under division (A) of this 132
section for a qualifying nuclear resource shall include all of 133
the following information pertaining to the resource: 134

<u>(1) Financial information;</u>	135
<u>(2) Certified cost and revenue projections through</u>	136
<u>December 31, 2026;</u>	137
<u>(3) Operation and maintenance expenses;</u>	138
<u>(4) Fuel expenses, including spent-fuel expenses;</u>	139
<u>(5) Nonfuel capital expenses;</u>	140
<u>(6) Fully allocated overhead costs;</u>	141
<u>(7) The cost of operational risks and market risks that</u>	142
<u>would be avoided by ceasing operation of the resource;</u>	143
<u>(8) Any other information, financial or otherwise, that</u>	144
<u>demonstrates that the resource is projected not to continue</u>	145
<u>being operational.</u>	146
<u>(C) As used in this section:</u>	147
<u>(1) "Operational risks" include the risk that operating</u>	148
<u>costs will be higher than anticipated because of new regulatory</u>	149
<u>mandates or equipment failures and the risk that per-megawatt-</u>	150
<u>hour costs will be higher than anticipated because of a lower</u>	151
<u>than expected capacity factor.</u>	152
<u>(2) "Market risks" include the risk of a forced outage and</u>	153
<u>the associated costs arising from contractual obligations, and</u>	154
<u>the risk that output from the resource may not be able to be</u>	155
<u>sold at projected levels.</u>	156
<u>Sec. 3706.43. After receiving an application under section</u>	157
<u>3706.41 of the Revised Code, the Ohio air quality development</u>	158
<u>authority shall review and approve the application, not later</u>	159
<u>than March 31, 2020, if all of the following apply, as</u>	160
<u>applicable:</u>	161

(A) The resource meets the definition of a qualifying 162
nuclear resource or qualifying renewable resource in section 163
3706.40 of the Revised Code. 164

(B) For a qualifying nuclear resource only, both of the 165
following apply: 166

(1) The application meets the requirements of section 167
3706.41 of the Revised Code. 168

(2) The resource's operator maintains both a principal 169
place of business in this state and a substantial presence in 170
this state with regard to its business operations, offices, and 171
transactions. 172

Sec. 3706.431. All financial and proprietary information, 173
including trade secrets, submitted to the Ohio air quality 174
development authority under sections 3706.41 and 3706.43 of the 175
Revised Code is confidential information and is not a public 176
record for the purpose of section 149.43 of the Revised Code. 177

Sec. 3706.45. (A) An owner or operator of a qualifying 178
nuclear resource or qualifying renewable resource whose 179
application was approved under section 3706.43 of the Revised 180
Code shall report to the Ohio air quality development authority, 181
not later than seven days after the close of each quarter, the 182
number of megawatt hours the resource produced, if any, in the 183
previous quarter. The first report shall be made not later than 184
April 7, 2020, and the last report shall be made not later than 185
January 7, 2027. The information reported shall be in accordance 186
with data from the generation attribute tracking system. 187

(B) The authority shall issue one nuclear resource credit 188
to a qualifying nuclear resource for each megawatt hour of 189
electricity that is both reported under division (A) of this 190

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

(C) Except as provided in section 3706.61 of the Revised 196
Code, the price for a nuclear resource credit paid under section 197
3706.55 of the Revised Code shall be nine dollars. 198

(D) The price for a renewable energy credit paid under 199
section 3706.55 of the Revised Code shall be nine dollars. 200

Sec. 3706.46. (A) (1) Beginning for all service rendered on 201
or after January 1, 2020, by an electric distribution utility in 202
this state, such electric distribution utility shall bill to and 203
collect from all retail electric customers in this state, each 204
month, a charge or charges which, in the aggregate, are 205
sufficient to produce the following revenue requirements: 206

(a) One hundred fifty million dollars annually for total 207
disbursements required under section 3706.55 of the Revised Code 208
from the nuclear generation fund; 209

(b) Twenty million dollars annually for total 210
disbursements required under section 3706.55 of the Revised Code 211
from the renewable generation fund. 212

(2) The public utilities commission shall determine the 213
method by which the revenue is allocated or assigned to each 214
electric distribution utility for billing and collection, 215
provided that the method of allocation shall be based on the 216
relative number of customers, relative quantity of kilowatt hour 217
sales, or a combination of the two. The level and structure of 218
the charge shall be authorized by the commission through a 219

process that the commission shall determine is not for an 220
increase in any rate, joint rate, toll, classification, charge, 221
or rental, notwithstanding anything to the contrary in Title 222
XLIX of the Revised Code. 223

(B) In authorizing the level and structure of any charge 224
or charges to be billed and collected by each electric 225
distribution utility, the commission shall ensure that the per- 226
customer monthly charge for residential customers does not 227
exceed eighty-five cents and that the per-customer monthly 228
charge for industrial customers eligible to become self- 229
assessing purchasers pursuant to division (C) of section 5727.81 230
of the Revised Code does not exceed two thousand four hundred 231
dollars. For nonresidential customers that are not self- 232
assessing purchasers, the level and design of the charge or 233
charges shall be established in a manner that avoids abrupt or 234
excessive total net electric bill impacts for typical customers. 235

(C) Each charge authorized by the commission under this 236
section shall be subject to adjustment so as to reconcile actual 237
revenue collected with the revenue needed to meet the revenue 238
requirements under division (A)(1) of this section. The 239
commission shall authorize each electric distribution utility to 240
adopt accounting practices to facilitate such reconciliation. 241
Notwithstanding any other provisions of the Revised Code, the 242
charge or charges authorized by the commission may continue 243
beyond December 31, 2026, only if it is necessary to reconcile 244
actual revenue collected under this section during the period 245
ending on December 31, 2026, with the actual revenue needed to 246
meet the revenue requirements under division (A)(1) of this 247
section for required disbursements under section 3706.55 of the 248
Revised Code that may be due and owing during the same period. 249
Such continuation shall be authorized only for such period of 250

time beyond December 31, 2026, as may be reasonably necessary to
complete the reconciliation.

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

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

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

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

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(B) Eleven and seventy-five hundredths of one per cent of
the charges collected under section 3706.46 of the Revised Code
shall be deposited to the credit of the renewable generation
fund created under section 3706.49 of the Revised Code.

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Sec. 3706.55. (A) For the period beginning with April of
2020 and ending with January of 2027, the Ohio air quality

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development authority shall, in April of 2020 and every three 280
months thereafter through the end of the period, and not later 281
than fourteen days after the receipt of the information reported 282
under section 3706.45 of the Revised Code, direct the treasurer 283
of state to remit money from the funds created under section 284
3706.49 of the Revised Code as follows: 285

(1) Subject to sections 3706.59 and 3706.61 of the Revised 286
Code, from the nuclear generation fund to the owner or operator 287
of a qualifying nuclear resource, in the amount equivalent to 288
the number of credits earned by the resource during the previous 289
quarter multiplied by the credit price, and as directed by the 290
authority in accordance with section 3706.61 of the Revised 291
Code; 292

(2) Subject to section 3706.59 of the Revised Code, from 293
the renewable generation fund to the owners or operators of 294
qualifying renewable resources, in the amount equivalent to the 295
number of credits earned by the resources during the previous 296
quarter multiplied by the credit price. 297

(B) Notwithstanding section 4905.32 of the Revised Code, 298
any amounts remaining in the nuclear generation fund and the 299
renewable generation fund as of December 31, 2026, minus the 300
remittances that are required to be made between that date and 301
January 21, 2027, shall be refunded to customers in a manner 302
that shall be determined by the authority in consultation with 303
the public utilities commission. 304

Sec. 3706.59. (A) If the money in the nuclear generation 305
fund is insufficient in a particular quarter to make the 306
payments in the amount required under division (A) (1) of section 307
3706.55 of the Revised Code, then the Ohio air quality 308
development authority shall, not later than twenty-one days 309

after the close of any quarter in which the owner or operator 310
was not fully compensated, direct the treasurer of state to 311
remit money from the nuclear generation fund to pay for the 312
unpaid credits. 313

(B) If the money in the renewable generation fund is 314
insufficient to make the payments in the amounts required under 315
division (A) (2) of section 3706.55 of the Revised Code for all 316
owners and operators of qualifying renewable resources, then the 317
authority shall do both of the following: 318

(1) Not later than twenty-one days after the close of the 319
quarter in which the charges collected were insufficient, direct 320
the treasurer to prorate payments from the total amount 321
available in the renewable generation fund, based on the number 322
of each resource's credits earned during the previous quarter; 323

(2) Not later than twenty-one days after the close of any 324
quarter in which the owners or operators received prorated 325
payments under division (B) (1) of this section, direct the 326
treasurer of state to remit money from the renewable generation 327
fund to pay for the unpaid credits. Unpaid credits paid for 328
under division (B) (2) of this section shall be paid before any 329
other remittances are made under division (A) (2) of section 330
3706.55 of the Revised Code. 331

Sec. 3706.61. (A) In each year beginning in 2022 and 332
ending in 2026, the public utilities commission shall, not later 333
than the first day of May of each of those years, conduct a 334
retrospective management and financial review of the owner or 335
operator of a qualifying nuclear resource and any such resource 336
that receives payments for nuclear resource credits under 337
section 3706.55 of the Revised Code. In doing so, the commission 338
may retain consultants and advisors to perform all or any 339

portion of the annual reviews, the cost of which shall be paid, 340
at the direction of the Ohio air quality development authority, 341
by the treasurer of state from the nuclear generation fund in 342
accordance with section 3706.55 of the Revised Code. 343

(B) Any owner or operator subject to a review under 344
division (A) of this section may, for purposes of the review, 345
provide the commission or the commission's consultants or 346
advisors with any information the owner or operator chooses. The 347
owner or operator shall promptly and fully respond to any 348
document, information, data, or other request that may be 349
directed to its attention by the commission or the commission's 350
consultants or advisors for the purpose of the review. Any 351
material failure to timely and fully respond shall result in 352
suspension of further receipt of payments for nuclear resource 353
credits under section 3706.55 of the Revised Code until the 354
failure is cured to the satisfaction of the commission. 355

(C) The commission shall submit a report summarizing the 356
findings of each annual review to the president and minority 357
leader of the senate, the speaker and minority leader of the 358
house of representatives, and the Ohio air quality development 359
authority, and shall make the report publicly available, 360
provided that the report shall not reveal any confidential or 361
proprietary information. The submission shall include a copy of 362
the owner's or operator's own certified annual audit that was 363
obtained during the review performed under this section. 364

(D) In consultation with the commission, the Ohio air 365
quality development authority shall consider the findings of the 366
review and may cease or reduce payments for nuclear resource 367
credits under section 3706.55 of the Revised Code if the 368
authority determines any of the following: 369

(1) That the federal energy regulatory commission or the 370
nuclear regulatory commission has established a monetary benefit 371
or other incentive payment to continue the resource's commercial 372
operation; 373

(2) That either requirement under division (A) or (B) (2) 374
of section 3706.43 of the Revised Code is no longer being met; 375

(3) That the resource's owner or operator applies, before 376
December 31, 2026, to decommission the resource; 377

(4) That, for the purpose of ensuring that the funding for 378
nuclear resource credits remains reasonable, the market price 379
index exceeds the strike price on the first day of June in the 380
year in which the report is submitted, in which case the 381
authority shall apply the credit price adjustment for the 382
twelve-month period that begins on that day and ends the thirty- 383
first day of May, or, for 2026, for the seven-month period that 384
begins on that day and ends the thirty-first day of December. 385

(E) (1) If the authority determines it necessary to make 386
reductions under division (D) of this section, the commission 387
shall do all of the following, as necessary: 388

(a) Reduce the revenue requirement under division (A) (1) 389
(a) of section 3706.46 of the Revised Code; 390

(b) Except when the authority has applied the credit price 391
adjustment under division (D) (4) of this section, reduce the 392
price of a nuclear resource credit under section 3706.45 of the 393
Revised Code, in accordance with a reduced revenue requirement; 394

(c) Reduce the charge or charges under section 3706.46 of 395
the Revised Code, to conform with a reduced revenue requirement; 396

(d) Adjust the percentages under section 3706.53 of the 397

Revised Code in accordance with a reduced revenue requirement. 398

(2) Any revisions made by the commission under division 399
(E)(1) of this section shall not be considered an application 400
under section 4909.18 of the Revised Code. 401

(F) If the payments for nuclear resource credits are 402
suspended or ceased under this section, the commission shall 403
instruct the electric distribution utilities to accordingly 404
suspend or cease billing and collecting customer charges under 405
section 3706.46 of the Revised Code. 406

(G) Chapter 4903. of the Revised Code shall not apply to 407
this section. 408

Sec. 3706.63. Not later than January 1, 2020, the Ohio air 409
quality development authority shall adopt rules under Chapter 410
119. of the Revised Code that are necessary to implement 411
sections 3706.40 to 3706.65 of the Revised Code. 412

Sec. 3706.65. (A) For the purpose of carrying out the Ohio 413
air quality development authority's duties under sections 414
3706.40 to 3706.63 of the Revised Code, the authority may make 415
use of the staff and experts employed at the public utilities 416
commission in such manner as is provided by mutual arrangement 417
between the authority and the commission. Any information, data, 418
and equipment of the commission shall be placed at the disposal 419
of the authority. 420

(B) If any information, data, or equipment is not a public 421
record for purposes of section 149.43 of the Revised Code 422
because either the authority or the commission possesses that 423
information, data, or equipment, then the operation of division 424
(A) of this section shall not be construed to render that 425
information, data, or equipment a public record, notwithstanding 426

any provision of the Revised Code to the contrary.

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

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(B) No public agency or political subdivision of this
state may require any approval, consent, permit, certificate, or
other condition for the construction or operation of a major
utility facility or economically significant wind farm
authorized by a certificate issued pursuant to Chapter 4906. of
the Revised Code. Nothing herein shall prevent the application
of state laws for the protection of employees engaged in the
construction of such facility or wind farm nor of municipal
regulations that do not pertain to the location or design of, or
pollution control and abatement standards for, a major utility
facility or economically significant wind farm for which a
certificate has been granted under this chapter.

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

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(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,

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scheduling, system control, and dispatch services; reactive 457
supply from generation resources and voltage control service; 458
reactive supply from transmission resources service; regulation 459
service; frequency response service; energy imbalance service; 460
operating reserve-spinning reserve service; operating reserve- 461
supplemental reserve service; load following; back-up supply 462
service; real-power loss replacement service; dynamic 463
scheduling; system black start capability; and network stability 464
service. 465

(2) "Billing and collection agent" means a fully 466
independent agent, not affiliated with or otherwise controlled 467
by an electric utility, electric services company, electric 468
cooperative, or governmental aggregator subject to certification 469
under section 4928.08 of the Revised Code, to the extent that 470
the agent is under contract with such utility, company, 471
cooperative, or aggregator solely to provide billing and 472
collection for retail electric service on behalf of the utility 473
company, cooperative, or aggregator. 474

(3) "Certified territory" means the certified territory 475
established for an electric supplier under sections 4933.81 to 476
4933.90 of the Revised Code. 477

(4) "Competitive retail electric service" means a 478
component of retail electric service that is competitive as 479
provided under division (B) of this section. 480

(5) "Electric cooperative" means a not-for-profit electric 481
light company that both is or has been financed in whole or in 482
part under the "Rural Electrification Act of 1936," 49 Stat. 483
1363, 7 U.S.C. 901, and owns or operates facilities in this 484
state to generate, transmit, or distribute electricity, or a 485
not-for-profit successor of such company. 486

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

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

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

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

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

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

(12) "Firm electric service" means electric service other

than nonfirm electric service. 516

(13) "Governmental aggregator" means a legislative 517
authority of a municipal corporation, a board of township 518
trustees, or a board of county commissioners acting as an 519
aggregator for the provision of a competitive retail electric 520
service under authority conferred under section 4928.20 of the 521
Revised Code. 522

(14) A person acts "knowingly," regardless of the person's 523
purpose, when the person is aware that the person's conduct will 524
probably cause a certain result or will probably be of a certain 525
nature. A person has knowledge of circumstances when the person 526
is aware that such circumstances probably exist. 527

(15) "Level of funding for low-income customer energy 528
efficiency programs provided through electric utility rates" 529
means the level of funds specifically included in an electric 530
utility's rates on October 5, 1999, pursuant to an order of the 531
public utilities commission issued under Chapter 4905. or 4909. 532
of the Revised Code and in effect on October 4, 1999, for the 533
purpose of improving the energy efficiency of housing for the 534
utility's low-income customers. The term excludes the level of 535
any such funds committed to a specific nonprofit organization or 536
organizations pursuant to a stipulation or contract. 537

(16) "Low-income customer assistance programs" means the 538
percentage of income payment plan program, the home energy 539
assistance program, the home weatherization assistance program, 540
and the targeted energy efficiency and weatherization program. 541

(17) "Market development period" for an electric utility 542
means the period of time beginning on the starting date of 543
competitive retail electric service and ending on the applicable 544

date for that utility as specified in section 4928.40 of the 545
Revised Code, irrespective of whether the utility applies to 546
receive transition revenues under this chapter. 547

(18) "Market power" means the ability to impose on 548
customers a sustained price for a product or service above the 549
price that would prevail in a competitive market. 550

(19) "Mercantile customer" means a commercial or 551
industrial customer if the electricity consumed is for 552
nonresidential use and the customer consumes more than seven 553
hundred thousand kilowatt hours per year or is part of a 554
national account involving multiple facilities in one or more 555
states. 556

(20) "Municipal electric utility" means a municipal 557
corporation that owns or operates facilities to generate, 558
transmit, or distribute electricity. 559

(21) "Noncompetitive retail electric service" means a 560
component of retail electric service that is noncompetitive as 561
provided under division (B) of this section. 562

(22) "Nonfirm electric service" means electric service 563
provided pursuant to a schedule filed under section 4905.30 of 564
the Revised Code or pursuant to an arrangement under section 565
4905.31 of the Revised Code, which schedule or arrangement 566
includes conditions that may require the customer to curtail or 567
interrupt electric usage during nonemergency circumstances upon 568
notification by an electric utility. 569

(23) "Percentage of income payment plan arrears" means 570
funds eligible for collection through the percentage of income 571
payment plan rider, but uncollected as of July 1, 2000. 572

(24) "Person" has the same meaning as in section 1.59 of 573

the Revised Code. 574

(25) "Advanced energy project" means any technologies, 575
products, activities, or management practices or strategies that 576
facilitate the generation or use of electricity or energy and 577
that reduce or support the reduction of energy consumption or 578
support the production of clean, renewable energy for 579
industrial, distribution, commercial, institutional, 580
governmental, research, not-for-profit, or residential energy 581
users, including, but not limited to, advanced energy resources 582
and renewable energy resources. "Advanced energy project" also 583
includes any project described in division (A), (B), or (C) of 584
section 4928.621 of the Revised Code. 585

(26) "Regulatory assets" means the unamortized net 586
regulatory assets that are capitalized or deferred on the 587
regulatory books of the electric utility, pursuant to an order 588
or practice of the public utilities commission or pursuant to 589
generally accepted accounting principles as a result of a prior 590
commission rate-making decision, and that would otherwise have 591
been charged to expense as incurred or would not have been 592
capitalized or otherwise deferred for future regulatory 593
consideration absent commission action. "Regulatory assets" 594
includes, but is not limited to, all deferred demand-side 595
management costs; all deferred percentage of income payment plan 596
arrears; post-in-service capitalized charges and assets 597
recognized in connection with statement of financial accounting 598
standards no. 109 (receivables from customers for income taxes); 599
future nuclear decommissioning costs and fuel disposal costs as 600
those costs have been determined by the commission in the 601
electric utility's most recent rate or accounting application 602
proceeding addressing such costs; the undepreciated costs of 603
safety and radiation control equipment on nuclear generating 604

plants owned or leased by an electric utility; and fuel costs 605
currently deferred pursuant to the terms of one or more 606
settlement agreements approved by the commission. 607

(27) "Retail electric service" means any service involved 608
in supplying or arranging for the supply of electricity to 609
ultimate consumers in this state, from the point of generation 610
to the point of consumption. For the purposes of this chapter, 611
retail electric service includes one or more of the following 612
"service components": generation service, aggregation service, 613
power marketing service, power brokerage service, transmission 614
service, distribution service, ancillary service, metering 615
service, and billing and collection service. 616

(28) "Starting date of competitive retail electric 617
service" means January 1, 2001. 618

(29) "Customer-generator" means a user of a net metering 619
system. 620

(30) "Net metering" means measuring the difference in an 621
applicable billing period between the electricity supplied by an 622
electric service provider and the electricity generated by a 623
customer-generator that is fed back to the electric service 624
provider. 625

(31) "Net metering system" means a facility for the 626
production of electrical energy that does all of the following: 627

(a) Uses as its fuel either solar, wind, biomass, landfill 628
gas, or hydropower, or uses a microturbine or a fuel cell; 629

(b) Is located on a customer-generator's premises; 630

(c) Operates in parallel with the electric utility's 631
transmission and distribution facilities; 632

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

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

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

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

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

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

(c) Clean coal technology that includes a carbon-based
product that is chemically altered before combustion to
demonstrate a reduction, as expressed as ash, in emissions of

nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 662
sulfur trioxide in accordance with the American society of 663
testing and materials standard D1757A or a reduction of metal 664
oxide emissions in accordance with standard D5142 of that 665
society, or clean coal technology that includes the design 666
capability to control or prevent the emission of carbon dioxide, 667
which design capability the commission shall adopt by rule and 668
shall be based on economically feasible best available 669
technology or, in the absence of a determined best available 670
technology, shall be of the highest level of economically 671
feasible design capability for which there exists generally 672
accepted scientific opinion; 673

(d) Advanced nuclear energy technology consisting of 674
generation III technology as defined by the nuclear regulatory 675
commission; other, later technology; or significant improvements 676
to existing facilities; 677

(e) Any fuel cell used in the generation of electricity, 678
including, but not limited to, a proton exchange membrane fuel 679
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 680
solid oxide fuel cell; 681

(f) Advanced solid waste or construction and demolition 682
debris conversion technology, including, but not limited to, 683
advanced stoker technology, and advanced fluidized bed 684
gasification technology, that results in measurable greenhouse 685
gas emissions reductions as calculated pursuant to the United 686
States environmental protection agency's waste reduction model 687
(WARM); 688

(g) Demand-side management and any energy efficiency 689
improvement; 690

(h) Any new, retrofitted, refueled, or repowered 691
generating facility located in Ohio, including a simple or 692
combined-cycle natural gas generating facility or a generating 693
facility that uses biomass, coal, modular nuclear, or any other 694
fuel as its input; 695

(i) Any uprated capacity of an existing electric 696
generating facility if the uprated capacity results from the 697
deployment of advanced technology. 698

"Advanced energy resource" does not include a waste energy 699
recovery system that is, or has been, included in an energy 700
efficiency program of an electric distribution utility pursuant 701
to requirements under section 4928.66 of the Revised Code. 702

(35) "Air contaminant source" has the same meaning as in 703
section 3704.01 of the Revised Code. 704

(36) "Cogeneration technology" means technology that 705
produces electricity and useful thermal output simultaneously. 706

(37) (a) "Renewable energy resource" means any of the 707
following: 708

(i) Solar photovoltaic or solar thermal energy; 709

(ii) Wind energy; 710

(iii) Power produced by a hydroelectric facility; 711

(iv) Power produced by a small hydroelectric facility, 712
which is a facility that operates, or is rated to operate, at an 713
aggregate capacity of less than six megawatts; 714

(v) Power produced by a run-of-the-river hydroelectric 715
facility placed in service on or after January 1, 1980, that is 716
located within this state, relies upon the Ohio river, and 717

operates, or is rated to operate, at an aggregate capacity of 718
forty or more megawatts; 719

(vi) Geothermal energy; 720

(vii) Fuel derived from solid wastes, as defined in 721
section 3734.01 of the Revised Code, through fractionation, 722
biological decomposition, or other process that does not 723
principally involve combustion; 724

(viii) Biomass energy; 725

(ix) Energy produced by cogeneration technology that is 726
placed into service on or before December 31, 2015, and for 727
which more than ninety per cent of the total annual energy input 728
is from combustion of a waste or byproduct gas from an air 729
contaminant source in this state, which source has been in 730
operation since on or before January 1, 1985, provided that the 731
cogeneration technology is a part of a facility located in a 732
county having a population of more than three hundred sixty-five 733
thousand but less than three hundred seventy thousand according 734
to the most recent federal decennial census; 735

(x) Biologically derived methane gas; 736

(xi) Heat captured from a generator of electricity, 737
boiler, or heat exchanger fueled by biologically derived methane 738
gas; 739

(xii) Energy derived from nontreated by-products of the 740
pulping process or wood manufacturing process, including bark, 741
wood chips, sawdust, and lignin in spent pulping liquors. 742

"Renewable energy resource" includes, but is not limited 743
to, any fuel cell used in the generation of electricity, 744
including, but not limited to, a proton exchange membrane fuel 745

cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 746
solid oxide fuel cell; wind turbine located in the state's 747
territorial waters of Lake Erie; methane gas emitted from an 748
abandoned coal mine; waste energy recovery system placed into 749
service or retrofitted on or after the effective date of the 750
amendment of this section by S.B. 315 of the 129th general 751
assembly, September 10, 2012, except that a waste energy 752
recovery system described in division (A) (38) (b) of this section 753
may be included only if it was placed into service between 754
January 1, 2002, and December 31, 2004; storage facility that 755
will promote the better utilization of a renewable energy 756
resource; or distributed generation system used by a customer to 757
generate electricity from any such energy. 758

"Renewable energy resource" does not include a waste 759
energy recovery system that is, or was, on or after January 1, 760
2012, included in an energy efficiency program of an electric 761
distribution utility pursuant to requirements under section 762
4928.66 of the Revised Code. 763

(b) As used in division (A) (37) of this section, 764
"hydroelectric facility" means a hydroelectric generating 765
facility that is located at a dam on a river, or on any water 766
discharged to a river, that is within or bordering this state or 767
within or bordering an adjoining state and meets all of the 768
following standards: 769

(i) The facility provides for river flows that are not 770
detrimental for fish, wildlife, and water quality, including 771
seasonal flow fluctuations as defined by the applicable 772
licensing agency for the facility. 773

(ii) The facility demonstrates that it complies with the 774
water quality standards of this state, which compliance may 775

consist of certification under Section 401 of the "Clean Water 776
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 777
demonstrates that it has not contributed to a finding by this 778
state that the river has impaired water quality under Section 779
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 780
U.S.C. 1313. 781

(iii) The facility complies with mandatory prescriptions 782
regarding fish passage as required by the federal energy 783
regulatory commission license issued for the project, regarding 784
fish protection for riverine, anadromous, and catadromous fish. 785

(iv) The facility complies with the recommendations of the 786
Ohio environmental protection agency and with the terms of its 787
federal energy regulatory commission license regarding watershed 788
protection, mitigation, or enhancement, to the extent of each 789
agency's respective jurisdiction over the facility. 790

(v) The facility complies with provisions of the 791
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 792
to 1544, as amended. 793

(vi) The facility does not harm cultural resources of the 794
area. This can be shown through compliance with the terms of its 795
federal energy regulatory commission license or, if the facility 796
is not regulated by that commission, through development of a 797
plan approved by the Ohio historic preservation office, to the 798
extent it has jurisdiction over the facility. 799

(vii) The facility complies with the terms of its federal 800
energy regulatory commission license or exemption that are 801
related to recreational access, accommodation, and facilities 802
or, if the facility is not regulated by that commission, the 803
facility complies with similar requirements as are recommended 804

by resource agencies, to the extent they have jurisdiction over 805
the facility; and the facility provides access to water to the 806
public without fee or charge. 807

(viii) The facility is not recommended for removal by any 808
federal agency or agency of any state, to the extent the 809
particular agency has jurisdiction over the facility. 810

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 811
this section do not apply to a small hydroelectric facility 812
under division (A) (37) (a) (iv) of this section. 813

(38) "Waste energy recovery system" means either of the 814
following: 815

(a) A facility that generates electricity through the 816
conversion of energy from either of the following: 817

(i) Exhaust heat from engines or manufacturing, 818
industrial, commercial, or institutional sites, except for 819
exhaust heat from a facility whose primary purpose is the 820
generation of electricity; 821

(ii) Reduction of pressure in gas pipelines before gas is 822
distributed through the pipeline, provided that the conversion 823
of energy to electricity is achieved without using additional 824
fossil fuels. 825

(b) A facility at a state institution of higher education 826
as defined in section 3345.011 of the Revised Code that recovers 827
waste heat from electricity-producing engines or combustion 828
turbines and that simultaneously uses the recovered heat to 829
produce steam, provided that the facility was placed into 830
service between January 1, 2002, and December 31, 2004. 831

(39) "Smart grid" means capital improvements to an 832

electric distribution utility's distribution infrastructure that 833
improve reliability, efficiency, resiliency, or reduce energy 834
demand or use, including, but not limited to, advanced metering 835
and automation of system functions. 836

(40) "Combined heat and power system" means the 837
coproduction of electricity and useful thermal energy from the 838
same fuel source designed to achieve thermal-efficiency levels 839
of at least sixty per cent, with at least twenty per cent of the 840
system's total useful energy in the form of thermal energy. 841

(41) "Legacy generation resource" means all generating 842
facilities owned directly or indirectly by a corporation that 843
was formed prior to 1960 by investor-owned utilities for the 844
original purpose of providing power to the federal government 845
for use in the nation's defense or in furtherance of national 846
interests, including the Ohio valley electric corporation. 847

(42) "Prudently incurred costs related to a legacy 848
generation resource" means costs, including deferred costs, 849
allocated pursuant to a power agreement approved by the federal 850
energy regulatory commission that relates to a legacy generation 851
resource, less any revenues realized from offering the 852
contractual commitment for the power agreement into the 853
wholesale markets, provided that where the net revenues exceed 854
net costs, those excess revenues shall be credited to customers. 855
Such costs shall exclude any return on investment in common 856
equity and, in the event of a premature retirement of a legacy 857
generation resource, shall exclude any recovery of remaining 858
debt. Such costs shall include any incremental costs resulting 859
from the bankruptcy of a current or former sponsor under such 860
power agreement or co-owner of the legacy generation resource if 861
not otherwise recovered through a utility rate cost recovery 862

mechanism.

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

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Sec. 4928.148. (A) On January 1, 2020, any mechanism
authorized by the public utilities commission prior to the
effective date of this section for retail recovery of prudently
incurred costs related to a legacy generation resource shall be
replaced by a nonbypassable rate mechanism established by the
commission for recovery of those costs through December 31,
2030, from customers of all electric distribution utilities in
this state. All of the following shall apply to the
nonbypassable rate mechanism established under this section:

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(1) The commission shall determine, every three years, the
prudence and reasonableness of the actions of electric
distribution utilities with ownership interests in the legacy
generation resource, including their decisions related to
offering the contractual commitment into the wholesale markets,
and exclude from recovery those costs that the commission
determines imprudent and unreasonable.

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(2) The commission shall determine the proper rate design
for recovering or remitting the prudently incurred costs related
to a legacy generation resource, provided, however, that the
monthly charge or credit for those costs, including any
deferrals or credits, shall not exceed one dollar and fifty

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cents per customer per month for residential customers. For all 893
other customer classes, the commission shall establish 894
comparable monthly caps for each class at or below one thousand 895
five hundred dollars per customer. Insofar as the prudently 896
incurred costs related to a legacy generation resource exceed 897
these monthly limits, the electric distribution utility shall 898
defer the remaining prudently incurred costs as a regulatory 899
asset or liability that shall be recovered as determined by the 900
commission subject to the monthly caps set forth in this 901
division. 902

(3) The commission shall provide for discontinuation, 903
subject to final reconciliation, of the nonbypassable rate 904
mechanism on December 31, 2030, including recovery of any 905
deferrals that exist at that time. 906

(4) The commission shall determine the manner in which 907
charges collected under this section by a utility with no 908
ownership interest in a legacy generation resource shall be 909
remitted to the utilities with such ownership interests. 910

(B) An electric distribution utility, including all 911
electric distribution utilities in the same holding company, 912
shall bid all output from a legacy generation resource into the 913
wholesale market and shall not use the output in supplying its 914
standard service offer provided under section 4928.142 or 915
4928.143 of the Revised Code. 916

Sec. 4928.47. (A) As used in this section, "designated 917
resource" means any of the following: 918

(1) A qualifying renewable resource as defined in section 919
3706.40 of the Revised Code; 920

(2) A customer-sited renewable energy resource; 921

(3) A renewable energy resource that is a self-generator.

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(B) (1) Through its general supervision, ratemaking, cost
assignment, allocation, rate schedule approval, and rulemaking
authority, as well as its authority under section 4905.31 of the
Revised Code, the public utilities commission may approve a
retail purchased power agreement entered into on a
nondiscriminatory basis having a term of three years or more
through which one or more mercantile customers commit to
purchase the output of a designated resource.

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(2) The commission's application and administration of
this section shall be the same for all designated resources
regardless of whether the resource receives payments for
renewable energy credits under section 3706.55 of the Revised
Code.

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

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

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

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(c) Is a small hydroelectric facility;

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

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(e) Is a mercantile customer-sited renewable energy
resource, whether new or existing, that the mercantile customer
commits for integration into the electric distribution utility's

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demand-response, energy efficiency, or peak demand reduction 950
programs as provided under division (A) (2) (c) of section 4928.66 951
of the Revised Code, including, but not limited to, any of the 952
following: 953

(i) A resource that has the effect of improving the 954
relationship between real and reactive power; 955

(ii) A resource that makes efficient use of waste heat or 956
other thermal capabilities owned or controlled by a mercantile 957
customer; 958

(iii) Storage technology that allows a mercantile customer 959
more flexibility to modify its demand or load and usage 960
characteristics; 961

(iv) Electric generation equipment owned or controlled by 962
a mercantile customer that uses a renewable energy resource. 963

(2) For the purpose of this section and as it considers 964
appropriate, the public utilities commission may classify any 965
new technology as such a qualifying renewable energy resource. 966

(B) (1) ~~By 2027 and thereafter~~ the end of 2026, an electric 967
distribution utility shall ~~provide~~ have provided from qualifying 968
renewable energy resources, including, at its discretion, 969
qualifying renewable energy resources obtained pursuant to an 970
electricity supply contract, a portion of the electricity supply 971
required for its standard service offer under section 4928.141 972
of the Revised Code, and an electric services company shall 973
~~provide~~ have provided a portion of its electricity supply for 974
retail consumers in this state from qualifying renewable energy 975
resources, including, at its discretion, qualifying renewable 976
energy resources obtained pursuant to an electricity supply 977
contract. That portion shall equal ~~twelve~~ eight and one-half per 978

cent of the total number of kilowatt hours of electricity sold 979
by the subject utility or company to any and all retail electric 980
consumers whose electric load centers are served by that utility 981
and are located within the utility's certified territory or, in 982
the case of an electric services company, are served by the 983
company and are located within this state. However, nothing in 984
this section precludes a utility or company from providing a 985
greater percentage. 986

(2) ~~The Subject to section 4928.642 of the Revised Code,~~ 987
~~the portion required under division (B) (1) of this section shall~~ 988
~~be generated from renewable energy resources, including one-half~~ 989
~~per cent from solar energy resources,~~ in accordance with the 990
following benchmarks: 991

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	994
2010	0.50%	0.010%	995
2011	1%	0.030%	996
2012	1.5%	0.060%	997
2013	2%	0.090%	998
2014	2.5%	0.12%	999
2015	2.5%	0.12%	1000
2016	2.5%	0.12%	1001
2017	3.5%	0.15%	1002
2018	4.5%	0.18%	1003
2019	5.5%	0.22%	1004
2020	6.5 <u>5.5</u> %	0.26 <u>0</u> %	1005
2021	7.5 <u>6</u> %	0.30 <u>0</u> %	1006
2022	8.5 <u>6.5</u> %	0.34 <u>0</u> %	1007
2023	9.5 <u>7</u> %	0.38 <u>0</u> %	1008

2024	10.5 <u>7.5</u> %	0.42 <u>0</u> %	1009
2025	11.5 <u>8</u> %	0.46 <u>0</u> %	1010
2026 and each calendar	12.5 <u>8.5</u> %	0.5 <u>0</u> %.	1011
year thereafter			1012

(3) The qualifying renewable energy resources implemented 1013
by the utility or company shall be met either: 1014

(a) Through facilities located in this state; or 1015

(b) With resources that can be shown to be deliverable 1016
into this state. 1017

(C) (1) The commission annually shall review an electric 1018
distribution utility's or electric services company's compliance 1019
with the most recent applicable benchmark under division (B) (2) 1020
of this section and, in the course of that review, shall 1021
identify any undercompliance or noncompliance of the utility or 1022
company that it determines is weather-related, related to 1023
equipment or resource shortages for qualifying renewable energy 1024
resources as applicable, or is otherwise outside the utility's 1025
or company's control. 1026

(2) Subject to the cost cap provisions of division (C) (3) 1027
of this section, if the commission determines, after notice and 1028
opportunity for hearing, and based upon its findings in that 1029
review regarding avoidable undercompliance or noncompliance, but 1030
subject to division (C) (4) of this section, that the utility or 1031
company has failed to comply with any such benchmark, the 1032
commission shall impose a renewable energy compliance payment on 1033
the utility or company. 1034

(a) The compliance payment pertaining to the solar energy 1035
resource benchmarks under division (B) (2) of this section shall 1036
be an amount per megawatt hour of undercompliance or 1037

noncompliance in the period under review, as follows: 1038

(i) Three hundred dollars for 2014, 2015, and 2016; 1039

(ii) Two hundred fifty dollars for 2017 and 2018; 1040

(iii) Two hundred dollars for 2019 ~~and 2020;~~ 1041

~~(iv) Similarly reduced every two years thereafter through~~ 1042
~~2026 by fifty dollars, to a minimum of fifty dollars.~~ 1043

(b) The compliance payment pertaining to the renewable 1044
energy resource benchmarks under division (B) (2) of this section 1045
shall equal the number of additional renewable energy credits 1046
that the electric distribution utility or electric services 1047
company would have needed to comply with the applicable 1048
benchmark in the period under review times an amount that shall 1049
begin at forty-five dollars and shall be adjusted annually by 1050
the commission to reflect any change in the consumer price index 1051
as defined in section 101.27 of the Revised Code, but shall not 1052
be less than forty-five dollars. 1053

(c) The compliance payment shall not be passed through by 1054
the electric distribution utility or electric services company 1055
to consumers. The compliance payment shall be remitted to the 1056
commission, for deposit to the credit of the advanced energy 1057
fund created under section 4928.61 of the Revised Code. Payment 1058
of the compliance payment shall be subject to such collection 1059
and enforcement procedures as apply to the collection of a 1060
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 1061
Revised Code. 1062

(3) An electric distribution utility or an electric 1063
services company need not comply with a benchmark under division 1064
(B) (2) of this section to the extent that its reasonably 1065
expected cost of that compliance exceeds its reasonably expected 1066

cost of otherwise producing or acquiring the requisite 1067
electricity by three per cent or more. The cost of compliance 1068
shall be calculated as though any exemption from taxes and 1069
assessments had not been granted under section 5727.75 of the 1070
Revised Code. 1071

(4) (a) An electric distribution utility or electric 1072
services company may request the commission to make a force 1073
majeure determination pursuant to this division regarding all or 1074
part of the utility's or company's compliance with any minimum 1075
benchmark under division (B) (2) of this section during the 1076
period of review occurring pursuant to division (C) (2) of this 1077
section. The commission may require the electric distribution 1078
utility or electric services company to make solicitations for 1079
renewable energy resource credits as part of its default service 1080
before the utility's or company's request of force majeure under 1081
this division can be made. 1082

(b) Within ninety days after the filing of a request by an 1083
electric distribution utility or electric services company under 1084
division (C) (4) (a) of this section, the commission shall 1085
determine if qualifying renewable energy resources are 1086
reasonably available in the marketplace in sufficient quantities 1087
for the utility or company to comply with the subject minimum 1088
benchmark during the review period. In making this 1089
determination, the commission shall consider whether the 1090
electric distribution utility or electric services company has 1091
made a good faith effort to acquire sufficient qualifying 1092
renewable energy or, as applicable, solar energy resources to so 1093
comply, including, but not limited to, by banking or seeking 1094
renewable energy resource credits or by seeking the resources 1095
through long-term contracts. Additionally, the commission shall 1096
consider the availability of qualifying renewable energy or 1097

solar energy resources in this state and other jurisdictions in 1098
the PJM interconnection regional transmission organization, 1099
L.L.C., or its successor and the midcontinent independent system 1100
operator or its successor. 1101

(c) If, pursuant to division (C)(4)(b) of this section, 1102
the commission determines that qualifying renewable energy or 1103
solar energy resources are not reasonably available to permit 1104
the electric distribution utility or electric services company 1105
to comply, during the period of review, with the subject minimum 1106
benchmark prescribed under division (B)(2) of this section, the 1107
commission shall modify that compliance obligation of the 1108
utility or company as it determines appropriate to accommodate 1109
the finding. Commission modification shall not automatically 1110
reduce the obligation for the electric distribution utility's or 1111
electric services company's compliance in subsequent years. If 1112
it modifies the electric distribution utility or electric 1113
services company obligation under division (C)(4)(c) of this 1114
section, the commission may require the utility or company, if 1115
sufficient renewable energy resource credits exist in the 1116
marketplace, to acquire additional renewable energy resource 1117
credits in subsequent years equivalent to the utility's or 1118
company's modified obligation under division (C)(4)(c) of this 1119
section. 1120

(5) The commission shall establish a process to provide 1121
for at least an annual review of the renewable energy resource 1122
market in this state and in the service territories of the 1123
regional transmission organizations that manage transmission 1124
systems located in this state. The commission shall use the 1125
results of this study to identify any needed changes to the 1126
amount of the renewable energy compliance payment specified 1127
under divisions (C)(2)(a) and (b) of this section. Specifically, 1128

the commission may increase the amount to ensure that payment of 1129
compliance payments is not used to achieve compliance with this 1130
section in lieu of actually acquiring or realizing energy 1131
derived from qualifying renewable energy resources. However, if 1132
the commission finds that the amount of the compliance payment 1133
should be otherwise changed, the commission shall present this 1134
finding to the general assembly for legislative enactment. 1135

(D) The commission annually shall submit to the general 1136
assembly in accordance with section 101.68 of the Revised Code a 1137
report describing all of the following: 1138

(1) The compliance of electric distribution utilities and 1139
electric services companies with division (B) of this section; 1140

(2) The average annual cost of renewable energy credits 1141
purchased by utilities and companies for the year covered in the 1142
report; 1143

(3) Any strategy for utility and company compliance or for 1144
encouraging the use of qualifying renewable energy resources in 1145
supplying this state's electricity needs in a manner that 1146
considers available technology, costs, job creation, and 1147
economic impacts. 1148

The commission shall begin providing the information 1149
described in division (D) (2) of this section in each report 1150
submitted after September 10, 2012. The commission shall allow 1151
and consider public comments on the report prior to its 1152
submission to the general assembly. Nothing in the report shall 1153
be binding on any person, including any utility or company for 1154
the purpose of its compliance with any benchmark under division 1155
(B) of this section, or the enforcement of that provision under 1156
division (C) of this section. 1157

(E) All costs incurred by an electric distribution utility 1158
in complying with the requirements of this section shall be 1159
bypassable by any consumer that has exercised choice of supplier 1160
under section 4928.03 of the Revised Code. 1161

Sec. 4928.641. (A) If an electric distribution utility has 1162
executed a contract before April 1, 2014, to procure renewable 1163
energy resources and there are ongoing costs associated with 1164
that contract that are being recovered from customers through a 1165
bypassable charge as of ~~the effective date of S.B. 310 of the~~ 1166
~~130th general assembly, September 12, 2014,~~ that cost recovery 1167
shall continue on a bypassable basis ~~until the prudently~~ 1168
~~incurred costs associated with that contract are fully recovered~~ 1169
~~through December 31, 2032.~~ 1170

(B) Division (A) of this section applies only to costs 1171
associated with the original term of a contract described in 1172
that division and entered into before April 1, 2014. This 1173
section does not permit recovery of costs associated with an 1174
extension of such a contract. This section does not permit 1175
recovery of costs associated with an amendment of such a 1176
contract if that amendment was made on or after April 1, 2014. 1177

Sec. 4928.642. Beginning with compliance year 2020, the 1178
public utilities commission shall, in accordance with this 1179
section, reduce the number of kilowatt hours required for 1180
compliance with section 4928.64 of the Revised Code for all 1181
electric distribution utilities and all electric services 1182
companies in this state. The commission shall determine each 1183
utility's and each company's reduction by taking the total 1184
amount of kilowatt hours produced, if any, by all qualifying 1185
renewable resources, as defined in section 3706.40 of the 1186
Revised Code, during the preceding compliance year, allocating 1187

that total among all electric distribution utilities and 1188
electric services companies in proportion to their baselines for 1189
the subject compliance year, and subtracting that allocated 1190
amount from the utility's or company's compliance amount as 1191
otherwise determined under section 4928.64 of the Revised Code. 1192

Sec. 4928.644. (A) The public utilities commission may 1193
reduce either baseline described in section 4928.643 of the 1194
Revised Code to adjust for new economic growth in the electric 1195
distribution utility's certified territory or in the electric 1196
services company's service area in this state. 1197

(B) To facilitate the competitiveness of mercantile 1198
customers located in this state that are registered as self- 1199
assessing purchasers under division (C) of section 5727.81 of 1200
the Revised Code, the commission shall reduce both baselines 1201
described in section 4928.643 of the Revised Code to exclude the 1202
load and usage of those self-assessing purchasers. Upon the 1203
effective date of this reduction, both of the following shall 1204
apply: 1205

(1) Any electric distribution utility or electric services 1206
company serving such a self-assessing purchaser shall be 1207
relieved of the amount of compliance with section 4928.64 of the 1208
Revised Code that would be required but for the baseline 1209
reduction. 1210

(2) Such a self-assessing purchaser shall be exempt from 1211
any bypassable charge imposed under division (E) of section 1212
4928.64 of the Revised Code. 1213

Sec. 4928.645. (A) An electric distribution utility or 1214
electric services company may use, for the purpose of complying 1215
with the requirements under divisions (B)(1) and (2) of section 1216

4928.64 of the Revised Code, renewable energy credits any time 1217
in the five calendar years following the date of their purchase 1218
or acquisition from any entity, including, but not limited to, 1219
the following: 1220

(1) A mercantile customer; 1221

(2) An owner or operator of a hydroelectric generating 1222
facility that is located at a dam on a river, or on any water 1223
discharged to a river, that is within or bordering this state or 1224
within or bordering an adjoining state, or that produces power 1225
that can be shown to be deliverable into this state; 1226

(3) A seller of compressed natural gas that has been 1227
produced from biologically derived methane gas, provided that 1228
the seller may only provide renewable energy credits for metered 1229
amounts of gas. 1230

(B) (1) The public utilities commission shall adopt rules 1231
specifying that one unit of credit shall equal one megawatt hour 1232
of electricity derived from renewable energy resources, except 1233
that, for a generating facility of seventy-five megawatts or 1234
greater that is situated within this state and has committed by 1235
December 31, 2009, to modify or retrofit its generating unit or 1236
units to enable the facility to generate principally from 1237
biomass energy by June 30, 2013, each megawatt hour of 1238
electricity generated principally from that biomass energy shall 1239
equal, in units of credit, the product obtained by multiplying 1240
the actual percentage of biomass feedstock heat input used to 1241
generate such megawatt hour by the quotient obtained by dividing 1242
the then existing unit dollar amount used to determine a 1243
renewable energy compliance payment as provided under division 1244

(C) (2) (b) of section 4928.64 of the Revised Code by the then 1245
existing market value of one renewable energy credit, but such 1246

megawatt hour shall not equal less than one unit of credit. 1247
Renewable energy resources do not have to be converted to 1248
electricity in order to be eligible to receive renewable energy 1249
credits. The rules shall specify that, for purposes of 1250
converting the quantity of energy derived from biologically 1251
derived methane gas to an electricity equivalent, one megawatt 1252
hour equals 3,412,142 British thermal units. 1253

(2) The rules also shall provide for this state a system 1254
of registering renewable energy credits by specifying which of 1255
any generally available registries shall be used for that 1256
purpose and not by creating a registry. That selected system of 1257
registering renewable energy credits shall allow a hydroelectric 1258
generating facility to be eligible for obtaining renewable 1259
energy credits and shall allow customer-sited projects or 1260
actions the broadest opportunities to be eligible for obtaining 1261
renewable energy credits. 1262

(C) Beginning January 1, 2020, a qualifying renewable 1263
resource as defined in section 3706.40 of the Revised Code is 1264
not eligible to obtain a renewable energy credit under this 1265
section for any megawatt hour for which the resource has been 1266
issued a renewable energy credit under section 3706.45 of the 1267
Revised Code. 1268

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 1269
distribution utility shall implement energy efficiency programs 1270
that achieve energy savings equivalent to at least three-tenths 1271
of one per cent of the total, annual average, and normalized 1272
kilowatt-hour sales of the electric distribution utility during 1273
the preceding three calendar years to customers in this state. 1274
An energy efficiency program may include a combined heat and 1275
power system placed into service or retrofitted on or after the 1276

effective date of the amendment of this section by S.B. 315 of 1277
the 129th general assembly, September 10, 2012, or a waste 1278
energy recovery system placed into service or retrofitted on or 1279
after September 10, 2012, except that a waste energy recovery 1280
system described in division (A) (38) (b) of section 4928.01 of 1281
the Revised Code may be included only if it was placed into 1282
service between January 1, 2002, and December 31, 2004. For a 1283
waste energy recovery or combined heat and power system, the 1284
savings shall be as estimated by the public utilities 1285
commission. The savings requirement, using such a three-year 1286
average, shall increase to an additional five-tenths of one per 1287
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1288
of one per cent in 2012, nine-tenths of one per cent in 2013, 1289
and one per cent in 2014. In 2015 and 2016, an electric 1290
distribution utility shall achieve energy savings equal to the 1291
result of subtracting the cumulative energy savings achieved 1292
since 2009 from the product of multiplying the baseline for 1293
energy savings, described in division (A) (2) (a) of this section, 1294
by four and two-tenths of one per cent. If the result is zero or 1295
less for the year for which the calculation is being made, the 1296
utility shall not be required to achieve additional energy 1297
savings for that year, but may achieve additional energy savings 1298
for that year. ~~Thereafter, the~~ The annual savings requirements 1299
shall be, for years 2017, 2018, 2019, and 2020, an additional 1300
~~one per cent of the baseline, and two per cent each year~~ 1301
~~thereafter, achieving cumulative energy savings in excess of~~ 1302
~~twenty-two per cent by the end of 2027.~~ For purposes of a waste 1303
energy recovery or combined heat and power system, an electric 1304
distribution utility shall not apply more than the total annual 1305
percentage of the electric distribution utility's industrial- 1306
customer load, relative to the electric distribution utility's 1307
total load, to the annual energy savings requirement. 1308

(b) Beginning in 2009, an electric distribution utility 1309
shall implement peak demand reduction programs designed to 1310
achieve a one per cent reduction in peak demand in 2009 and an 1311
additional seventy-five hundredths of one per cent reduction 1312
each year through 2014. In 2015 and 2016, an electric 1313
distribution utility shall achieve a reduction in peak demand 1314
equal to the result of subtracting the cumulative peak demand 1315
reductions achieved since 2009 from the product of multiplying 1316
the baseline for peak demand reduction, described in division 1317
(A) (2) (a) of this section, by four and seventy-five hundredths 1318
of one per cent. If the result is zero or less for the year for 1319
which the calculation is being made, the utility shall not be 1320
required to achieve an additional reduction in peak demand for 1321
that year, but may achieve an additional reduction in peak 1322
demand for that year. In 2017 and each year thereafter through 1323
2020, the utility shall achieve an additional seventy-five 1324
hundredths of one per cent reduction in peak demand. 1325

(2) For the purposes of divisions (A) (1) (a) and (b) of 1326
this section: 1327

(a) The baseline for energy savings under division (A) (1) 1328
(a) of this section shall be the average of the total kilowatt 1329
hours the electric distribution utility sold in the preceding 1330
three calendar years. The baseline for a peak demand reduction 1331
under division (A) (1) (b) of this section shall be the average 1332
peak demand on the utility in the preceding three calendar 1333
years, except that the commission may reduce either baseline to 1334
adjust for new economic growth in the utility's certified 1335
territory. Neither baseline shall include the load and usage of 1336
any of the following customers: 1337

(i) Beginning January 1, 2017, a customer for which a 1338

reasonable arrangement has been approved under section 4905.31 1339
of the Revised Code; 1340

(ii) A customer that has opted out of the utility's 1341
portfolio plan under section 4928.6611 of the Revised Code; 1342

(iii) A customer that has opted out of the utility's 1343
portfolio plan under Section 8 of S.B. 310 of the 130th general 1344
assembly. 1345

(b) The commission may amend the benchmarks set forth in 1346
division (A) (1) (a) or (b) of this section if, after application 1347
by the electric distribution utility, the commission determines 1348
that the amendment is necessary because the utility cannot 1349
reasonably achieve the benchmarks due to regulatory, economic, 1350
or technological reasons beyond its reasonable control. 1351

(c) Compliance with divisions (A) (1) (a) and (b) of this 1352
section shall be measured by including the effects of all 1353
demand-response programs for mercantile customers of the subject 1354
electric distribution utility, all waste energy recovery systems 1355
and all combined heat and power systems, and all such mercantile 1356
customer-sited energy efficiency, including waste energy 1357
recovery and combined heat and power, and peak demand reduction 1358
programs, adjusted upward by the appropriate loss factors. Any 1359
mechanism designed to recover the cost of energy efficiency, 1360
including waste energy recovery and combined heat and power, and 1361
peak demand reduction programs under divisions (A) (1) (a) and (b) 1362
of this section may exempt mercantile customers that commit 1363
their demand-response or other customer-sited capabilities, 1364
whether existing or new, for integration into the electric 1365
distribution utility's demand-response, energy efficiency, 1366
including waste energy recovery and combined heat and power, or 1367
peak demand reduction programs, if the commission determines 1368

that that exemption reasonably encourages such customers to 1369
commit those capabilities to those programs. If a mercantile 1370
customer makes such existing or new demand-response, energy 1371
efficiency, including waste energy recovery and combined heat 1372
and power, or peak demand reduction capability available to an 1373
electric distribution utility pursuant to division (A)(2)(c) of 1374
this section, the electric utility's baseline under division (A) 1375
(2)(a) of this section shall be adjusted to exclude the effects 1376
of all such demand-response, energy efficiency, including waste 1377
energy recovery and combined heat and power, or peak demand 1378
reduction programs that may have existed during the period used 1379
to establish the baseline. The baseline also shall be normalized 1380
for changes in numbers of customers, sales, weather, peak 1381
demand, and other appropriate factors so that the compliance 1382
measurement is not unduly influenced by factors outside the 1383
control of the electric distribution utility. 1384

(d)(i) Programs implemented by a utility may include the 1385
following: 1386

(I) Demand-response programs; 1387

(II) Smart grid investment programs, provided that such 1388
programs are demonstrated to be cost-beneficial; 1389

(III) Customer-sited programs, including waste energy 1390
recovery and combined heat and power systems; 1391

(IV) Transmission and distribution infrastructure 1392
improvements that reduce line losses; 1393

(V) Energy efficiency savings and peak demand reduction 1394
that are achieved, in whole or in part, as a result of funding 1395
provided from the universal service fund established by section 1396
4928.51 of the Revised Code to benefit low-income customers 1397

through programs that include, but are not limited to, energy 1398
audits, the installation of energy efficiency insulation, 1399
appliances, and windows, and other weatherization measures. 1400

(ii) No energy efficiency or peak demand reduction 1401
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 1402
section shall qualify for shared savings. 1403

(iii) Division (A) (2) (c) of this section shall be applied 1404
to include facilitating efforts by a mercantile customer or 1405
group of those customers to offer customer-sited demand- 1406
response, energy efficiency, including waste energy recovery and 1407
combined heat and power, or peak demand reduction capabilities 1408
to the electric distribution utility as part of a reasonable 1409
arrangement submitted to the commission pursuant to section 1410
4905.31 of the Revised Code. 1411

(e) No programs or improvements described in division (A) 1412
(2) (d) of this section shall conflict with any statewide 1413
building code adopted by the board of building standards. 1414

(B) In accordance with rules it shall adopt, the public 1415
utilities commission shall produce and docket at the commission 1416
an annual report containing the results of its verification of 1417
the annual levels of energy efficiency and of peak demand 1418
reductions achieved by each electric distribution utility 1419
pursuant to division (A) of this section. A copy of the report 1420
shall be provided to the consumers' counsel. 1421

(C) If the commission determines, after notice and 1422
opportunity for hearing and based upon its report under division 1423
(B) of this section, that an electric distribution utility has 1424
failed to comply with an energy efficiency or peak demand 1425
reduction requirement of division (A) of this section, the 1426

commission shall assess a forfeiture on the utility as provided 1427
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1428
Code, either in the amount, per day per undercompliance or 1429
noncompliance, relative to the period of the report, equal to 1430
that prescribed for noncompliances under section 4905.54 of the 1431
Revised Code, or in an amount equal to the then existing market 1432
value of one renewable energy credit per megawatt hour of 1433
undercompliance or noncompliance. Revenue from any forfeiture 1434
assessed under this division shall be deposited to the credit of 1435
the advanced energy fund created under section 4928.61 of the 1436
Revised Code. 1437

(D) The commission may establish rules regarding the 1438
content of an application by an electric distribution utility 1439
for commission approval of a revenue decoupling mechanism under 1440
this division. Such an application shall not be considered an 1441
application to increase rates and may be included as part of a 1442
proposal to establish, continue, or expand energy efficiency or 1443
conservation programs. The commission by order may approve an 1444
application under this division if it determines both that the 1445
revenue decoupling mechanism provides for the recovery of 1446
revenue that otherwise may be forgone by the utility as a result 1447
of or in connection with the implementation by the electric 1448
distribution utility of any energy efficiency or energy 1449
conservation programs and reasonably aligns the interests of the 1450
utility and of its customers in favor of those programs. 1451

(E) The commission additionally shall adopt rules that 1452
require an electric distribution utility to provide a customer 1453
upon request with two years' consumption data in an accessible 1454
form. 1455

(F) (1) As used in division (F) (2) of this section, 1456

"portfolio plan" has the same meaning as in division (C)(1) of
section 4928.6610 of the Revised Code.

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

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

(a) Include energy savings that were achieved as of
December 31, 2020, and banked under division (G) of section
4928.662 of the Revised Code;

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

(2)(a) If the cumulative energy savings collectively
achieved as determined by the commission under division (G)(1)
of this section is at least seventeen and one-half per cent of
the baseline described in division (G)(1)(b) of this section,

then full compliance with division (A)(1)(a) of this section 1486
shall be deemed to have been achieved notwithstanding any 1487
provision of this section to the contrary. 1488

(b) If the cumulative energy savings collectively achieved 1489
as determined by the commission under division (G)(1) of this 1490
section is less than seventeen and one-half per cent of the 1491
baseline described in division (G)(1)(b) of this section, then 1492
both of the following shall apply: 1493

(i) The commission shall determine the manner in which 1494
further implementation of energy efficiency programs shall occur 1495
as may be reasonably necessary for collective achievement of 1496
cumulative energy savings equal to seventeen and one-half 1497
percent, and not more, of the baseline described in division (G) 1498
(1)(b) of this section. 1499

(ii) Full compliance with division (A)(1)(a) of this 1500
section shall be deemed to be achieved as of a date certain 1501
established by the commission notwithstanding any provision of 1502
this section to the contrary. 1503

(3) Upon the date that full compliance with division (A) 1504
(1)(a) of this section is deemed achieved under division (G)(2) 1505
(a) or (b) of this section, any electric distribution utility 1506
cost recovery mechanisms authorized by the commission for 1507
compliance with this section shall terminate except as may be 1508
necessary to reconcile the difference between revenue collected 1509
and the allowable cost of compliance associated with compliance 1510
efforts occurring prior to the date upon which full compliance 1511
with division (A)(1)(a) of this section is deemed achieved. No 1512
such cost recovery mechanism shall be authorized by the 1513
commission beyond the period of time required to complete this 1514
final reconciliation. 1515

Sec. 4928.6610. As used in sections 4928.6611 to ~~4928.6616~~ 1516
4928.6615 of the Revised Code: 1517

(A) "Customer" means any customer of an electric 1518
distribution utility to which either of the following applies: 1519

(1) The customer receives service above the primary 1520
voltage level as determined by the utility's tariff 1521
classification. 1522

(2) The customer is a commercial or industrial customer to 1523
which both of the following apply: 1524

(a) The customer receives electricity through a meter of 1525
an end user or through more than one meter at a single location 1526
in a quantity that exceeds forty-five million kilowatt hours of 1527
electricity for the preceding calendar year. 1528

(b) The customer has made a written request for 1529
registration as a self-assessing purchaser pursuant to section 1530
5727.81 of the Revised Code. 1531

(B) "Energy intensity" means the amount of energy, from 1532
electricity, used or consumed per unit of production. 1533

(C) "Portfolio plan" means either of the following: 1534

(1) The comprehensive energy efficiency and peak-demand 1535
reduction program portfolio plan required under rules adopted by 1536
the public utilities commission and codified in Chapter 4901:1- 1537
39 of the Administrative Code or hereafter recodified or 1538
amended; 1539

(2) Any plan implemented pursuant to division (G) of 1540
section 4928.66 of the Revised Code. 1541

Sec. 4928.80. (A) Each electric distribution utility shall 1542

file with the public utilities commission a tariff applicable to 1543
county fairs and agricultural societies that includes either of 1544
the following: 1545

(1) A fixed monthly service fee; 1546

(2) An energy charge on a kilowatt-hour basis. 1547

(B) The minimum monthly charge shall not exceed the fixed 1548
monthly service fee and the customer shall not be subject to any 1549
demand-based riders. 1550

(C) The electric distribution utility shall be eligible to 1551
recover any revenue loss associated with customer migration to 1552
this new tariff. 1553

Sec. 5727.231. The taxable property of an electric company 1554
that is or is part of a qualifying nuclear resource receiving 1555
payments for nuclear resource credits under section 3706.55 of 1556
the Revised Code for any part of a tax year may not be assessed 1557
for that year under section 5727.23 of the Revised Code at less 1558
than the taxable value of such property as of the effective date 1559
of H.B. 6 of the 133rd general assembly. The electric company 1560
may not value such property at less than its taxable value as of 1561
that date in its annual report filed under section 5727.08 of 1562
the Revised Code or file a petition for reassessment seeking a 1563
reduction in taxable value below the taxable value of such 1564
property as of that date, and the tax commissioner may not grant 1565
such a reduction, under section 5727.47 of the Revised Code. 1566

Sec. 5727.75. (A) For purposes of this section: 1567

(1) "Qualified energy project" means an energy project 1568
certified by the director of development services pursuant to 1569
this section. 1570

(2) "Energy project" means a project to provide electric 1571
power through the construction, installation, and use of an 1572
energy facility. 1573

(3) "Alternative energy zone" means a county declared as 1574
such by the board of county commissioners under division (E) (1) 1575
(b) or (c) of this section. 1576

(4) "Full-time equivalent employee" means the total number 1577
of employee-hours for which compensation was paid to individuals 1578
employed at a qualified energy project for services performed at 1579
the project during the calendar year divided by two thousand 1580
eighty hours. 1581

(5) "Solar energy project" means an energy project 1582
composed of an energy facility using solar panels to generate 1583
electricity. 1584

(6) "Internet identifier of record" has the same meaning 1585
as in section 9.312 of the Revised Code. 1586

(B) (1) Tangible personal property of a qualified energy 1587
project using renewable energy resources is exempt from taxation 1588
for tax years 2011 through 2021 if all of the following 1589
conditions are satisfied: 1590

(a) On or before December 31, 2020, the owner or a lessee 1591
pursuant to a sale and leaseback transaction of the project 1592
submits an application to the power siting board for a 1593
certificate under section 4906.20 of the Revised Code, or if 1594
that section does not apply, submits an application for any 1595
approval, consent, permit, or certificate or satisfies any 1596
condition required by a public agency or political subdivision 1597
of this state for the construction or initial operation of an 1598
energy project. 1599

(b) Construction or installation of the energy facility 1600
begins on or after January 1, 2009, and before January 1, 2021. 1601
For the purposes of this division, construction begins on the 1602
earlier of the date of application for a certificate or other 1603
approval or permit described in division (B)(1)(a) of this 1604
section, or the date the contract for the construction or 1605
installation of the energy facility is entered into. 1606

(c) For a qualified energy project with a nameplate 1607
capacity of ~~five~~twenty megawatts or greater, a board of county 1608
commissioners of a county in which property of the project is 1609
located has adopted a resolution under division (E)(1)(b) or (c) 1610
of this section to approve the application submitted under 1611
division (E) of this section to exempt the property located in 1612
that county from taxation. A board's adoption of a resolution 1613
rejecting an application or its failure to adopt a resolution 1614
approving the application does not affect the tax-exempt status 1615
of the qualified energy project's property that is located in 1616
another county. 1617

(2) If tangible personal property of a qualified energy 1618
project using renewable energy resources was exempt from 1619
taxation under this section beginning in any of tax years 2011 1620
through 2021, and the certification under division (E)(2) of 1621
this section has not been revoked, the tangible personal 1622
property of the qualified energy project is exempt from taxation 1623
for tax year 2022 and all ensuing tax years if the property was 1624
placed into service before January 1, 2022, as certified in the 1625
construction progress report required under division (F)(2) of 1626
this section. Tangible personal property that has not been 1627
placed into service before that date is taxable property subject 1628
to taxation. An energy project for which certification has been 1629
revoked is ineligible for further exemption under this section. 1630

Revocation does not affect the tax-exempt status of the 1631
project's tangible personal property for the tax year in which 1632
revocation occurs or any prior tax year. 1633

(C) Tangible personal property of a qualified energy 1634
project using clean coal technology, advanced nuclear 1635
technology, or cogeneration technology is exempt from taxation 1636
for the first tax year that the property would be listed for 1637
taxation and all subsequent years if all of the following 1638
circumstances are met: 1639

(1) The property was placed into service before January 1, 1640
2021. Tangible personal property that has not been placed into 1641
service before that date is taxable property subject to 1642
taxation. 1643

(2) For such a qualified energy project with a nameplate 1644
capacity of ~~five~~twenty megawatts or greater, a board of county 1645
commissioners of a county in which property of the qualified 1646
energy project is located has adopted a resolution under 1647
division (E)(1)(b) or (c) of this section to approve the 1648
application submitted under division (E) of this section to 1649
exempt the property located in that county from taxation. A 1650
board's adoption of a resolution rejecting the application or 1651
its failure to adopt a resolution approving the application does 1652
not affect the tax-exempt status of the qualified energy 1653
project's property that is located in another county. 1654

(3) The certification for the qualified energy project 1655
issued under division (E)(2) of this section has not been 1656
revoked. An energy project for which certification has been 1657
revoked is ineligible for exemption under this section. 1658
Revocation does not affect the tax-exempt status of the 1659
project's tangible personal property for the tax year in which 1660

revocation occurs or any prior tax year. 1661

(D) Except as otherwise provided in this section, real 1662
property of a qualified energy project is exempt from taxation 1663
for any tax year for which the tangible personal property of the 1664
qualified energy project is exempted under this section. 1665

(E) (1) (a) A person may apply to the director of 1666
development services for certification of an energy project as a 1667
qualified energy project on or before the following dates: 1668

(i) December 31, 2020, for an energy project using 1669
renewable energy resources; 1670

(ii) December 31, 2017, for an energy project using clean 1671
coal technology, advanced nuclear technology, or cogeneration 1672
technology. 1673

(b) The director shall forward a copy of each application 1674
for certification of an energy project with a nameplate capacity 1675
of ~~five~~ twenty megawatts or greater to the board of county 1676
commissioners of each county in which the project is located and 1677
to each taxing unit with territory located in each of the 1678
affected counties. Any board that receives from the director a 1679
copy of an application submitted under this division shall adopt 1680
a resolution approving or rejecting the application unless it 1681
has adopted a resolution under division (E) (1) (c) of this 1682
section. A resolution adopted under division (E) (1) (b) or (c) of 1683
this section may require an annual service payment to be made in 1684
addition to the service payment required under division (G) of 1685
this section. The sum of the service payment required in the 1686
resolution and the service payment required under division (G) 1687
of this section shall not exceed nine thousand dollars per 1688
megawatt of nameplate capacity located in the county. The 1689

resolution shall specify the time and manner in which the 1690
payments required by the resolution shall be paid to the county 1691
treasurer. The county treasurer shall deposit the payment to the 1692
credit of the county's general fund to be used for any purpose 1693
for which money credited to that fund may be used. 1694

The board shall send copies of the resolution to the owner 1695
of the facility and the director by certified mail or, if the 1696
board has record of an internet identifier of record associated 1697
with the owner or director, by ordinary mail and by that 1698
internet identifier of record. The board shall send such notice 1699
within thirty days after receipt of the application, or a longer 1700
period of time if authorized by the director. 1701

(c) A board of county commissioners may adopt a resolution 1702
declaring the county to be an alternative energy zone and 1703
declaring all applications submitted to the director of 1704
development services under this division after the adoption of 1705
the resolution, and prior to its repeal, to be approved by the 1706
board. 1707

All tangible personal property and real property of an 1708
energy project with a nameplate capacity of ~~five~~twenty 1709
megawatts or greater is taxable if it is located in a county in 1710
which the board of county commissioners adopted a resolution 1711
rejecting the application submitted under this division or 1712
failed to adopt a resolution approving the application under 1713
division (E)(1)(b) or (c) of this section. 1714

(2) The director shall certify an energy project if all of 1715
the following circumstances exist: 1716

(a) The application was timely submitted. 1717

(b) For an energy project with a nameplate capacity of 1718

~~five~~ twenty megawatts or greater, a board of county 1719
commissioners of at least one county in which the project is 1720
located has adopted a resolution approving the application under 1721
division (E) (1) (b) or (c) of this section. 1722

(c) No portion of the project's facility was used to 1723
supply electricity before December 31, 2009. 1724

(3) The director shall deny a certification application if 1725
the director determines the person has failed to comply with any 1726
requirement under this section. The director may revoke a 1727
certification if the director determines the person, or 1728
subsequent owner or lessee pursuant to a sale and leaseback 1729
transaction of the qualified energy project, has failed to 1730
comply with any requirement under this section. Upon 1731
certification or revocation, the director shall notify the 1732
person, owner, or lessee, the tax commissioner, and the county 1733
auditor of a county in which the project is located of the 1734
certification or revocation. Notice shall be provided in a 1735
manner convenient to the director. 1736

(F) The owner or a lessee pursuant to a sale and leaseback 1737
transaction of a qualified energy project shall do each of the 1738
following: 1739

(1) Comply with all applicable regulations; 1740

(2) File with the director of development services a 1741
certified construction progress report before the first day of 1742
March of each year during the energy facility's construction or 1743
installation indicating the percentage of the project completed, 1744
and the project's nameplate capacity, as of the preceding 1745
thirty-first day of December. Unless otherwise instructed by the 1746
director of development services, the owner or lessee of an 1747

energy project shall file a report with the director on or 1748
before the first day of March each year after completion of the 1749
energy facility's construction or installation indicating the 1750
project's nameplate capacity as of the preceding thirty-first 1751
day of December. Not later than sixty days after June 17, 2010, 1752
the owner or lessee of an energy project, the construction of 1753
which was completed before June 17, 2010, shall file a 1754
certificate indicating the project's nameplate capacity. 1755

(3) File with the director of development services, in a 1756
manner prescribed by the director, a report of the total number 1757
of full-time equivalent employees, and the total number of full- 1758
time equivalent employees domiciled in Ohio, who are employed in 1759
the construction or installation of the energy facility; 1760

(4) For energy projects with a nameplate capacity of ~~five~~ 1761
twenty megawatts or greater, repair all roads, bridges, and 1762
culverts affected by construction as reasonably required to 1763
restore them to their preconstruction condition, as determined 1764
by the county engineer in consultation with the local 1765
jurisdiction responsible for the roads, bridges, and culverts. 1766
In the event that the county engineer deems any road, bridge, or 1767
culvert to be inadequate to support the construction or 1768
decommissioning of the energy facility, the road, bridge, or 1769
culvert shall be rebuilt or reinforced to the specifications 1770
established by the county engineer prior to the construction or 1771
decommissioning of the facility. The owner or lessee of the 1772
facility shall post a bond in an amount established by the 1773
county engineer and to be held by the board of county 1774
commissioners to ensure funding for repairs of roads, bridges, 1775
and culverts affected during the construction. The bond shall be 1776
released by the board not later than one year after the date the 1777
repairs are completed. The energy facility owner or lessee 1778

pursuant to a sale and leaseback transaction shall post a bond, 1779
as may be required by the Ohio power siting board in the 1780
certificate authorizing commencement of construction issued 1781
pursuant to section 4906.10 of the Revised Code, to ensure 1782
funding for repairs to roads, bridges, and culverts resulting 1783
from decommissioning of the facility. The energy facility owner 1784
or lessee and the county engineer may enter into an agreement 1785
regarding specific transportation plans, reinforcements, 1786
modifications, use and repair of roads, financial security to be 1787
provided, and any other relevant issue. 1788

(5) Provide or facilitate training for fire and emergency 1789
responders for response to emergency situations related to the 1790
energy project and, for energy projects with a nameplate 1791
capacity of ~~five~~twenty megawatts or greater, at the person's 1792
expense, equip the fire and emergency responders with proper 1793
equipment as reasonably required to enable them to respond to 1794
such emergency situations; 1795

(6) Maintain a ratio of Ohio-domiciled full-time 1796
equivalent employees employed in the construction or 1797
installation of the energy project to total full-time equivalent 1798
employees employed in the construction or installation of the 1799
energy project of not less than eighty per cent in the case of a 1800
solar energy project, and not less than fifty per cent in the 1801
case of any other energy project. In the case of an energy 1802
project for which certification from the power siting board is 1803
required under section 4906.20 of the Revised Code, the number 1804
of full-time equivalent employees employed in the construction 1805
or installation of the energy project equals the number actually 1806
employed or the number projected to be employed in the 1807
certificate application, if such projection is required under 1808
regulations adopted pursuant to section 4906.03 of the Revised 1809

Code, whichever is greater. For all other energy projects, the 1810
number of full-time equivalent employees employed in the 1811
construction or installation of the energy project equals the 1812
number actually employed or the number projected to be employed 1813
by the director of development services, whichever is greater. 1814
To estimate the number of employees to be employed in the 1815
construction or installation of an energy project, the director 1816
shall use a generally accepted job-estimating model in use for 1817
renewable energy projects, including but not limited to the job 1818
and economic development impact model. The director may adjust 1819
an estimate produced by a model to account for variables not 1820
accounted for by the model. 1821

(7) For energy projects with a nameplate capacity in 1822
excess of ~~two~~ twenty megawatts, establish a relationship with a 1823
member of the university system of Ohio as defined in section 1824
3345.011 of the Revised Code or with a person offering an 1825
apprenticeship program registered with the employment and 1826
training administration within the United States department of 1827
labor or with the apprenticeship council created by section 1828
4139.02 of the Revised Code, to educate and train individuals 1829
for careers in the wind or solar energy industry. The 1830
relationship may include endowments, cooperative programs, 1831
internships, apprenticeships, research and development projects, 1832
and curriculum development. 1833

(8) Offer to sell power or renewable energy credits from 1834
the energy project to electric distribution utilities or 1835
electric service companies subject to renewable energy resource 1836
requirements under section 4928.64 of the Revised Code that have 1837
issued requests for proposal for such power or renewable energy 1838
credits. If no electric distribution utility or electric service 1839
company issues a request for proposal on or before December 31, 1840

2010, or accepts an offer for power or renewable energy credits 1841
within forty-five days after the offer is submitted, power or 1842
renewable energy credits from the energy project may be sold to 1843
other persons. Division (F)(8) of this section does not apply 1844
if: 1845

(a) The owner or lessee is a rural electric company or a 1846
municipal power agency as defined in section 3734.058 of the 1847
Revised Code. 1848

(b) The owner or lessee is a person that, before 1849
completion of the energy project, contracted for the sale of 1850
power or renewable energy credits with a rural electric company 1851
or a municipal power agency. 1852

(c) The owner or lessee contracts for the sale of power or 1853
renewable energy credits from the energy project before June 17, 1854
2010. 1855

(9) Make annual service payments as required by division 1856
(G) of this section and as may be required in a resolution 1857
adopted by a board of county commissioners under division (E) of 1858
this section. 1859

(G) The owner or a lessee pursuant to a sale and leaseback 1860
transaction of a qualified energy project shall make annual 1861
service payments in lieu of taxes to the county treasurer on or 1862
before the final dates for payments of taxes on public utility 1863
personal property on the real and public utility personal 1864
property tax list for each tax year for which property of the 1865
energy project is exempt from taxation under this section. The 1866
county treasurer shall allocate the payment on the basis of the 1867
project's physical location. Upon receipt of a payment, or if 1868
timely payment has not been received, the county treasurer shall 1869

certify such receipt or non-receipt to the director of 1870
development services and tax commissioner in a form determined 1871
by the director and commissioner, respectively. Each payment 1872
shall be in the following amount: 1873

(1) In the case of a solar energy project, seven thousand 1874
dollars per megawatt of nameplate capacity located in the county 1875
as of December 31, 2010, for tax year 2011, as of December 31, 1876
2011, for tax year 2012, as of December 31, 2012, for tax year 1877
2013, as of December 31, 2013, for tax year 2014, as of December 1878
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1879
year 2016, and as of December 31, 2016, for tax year 2017 and 1880
each tax year thereafter; 1881

(2) In the case of any other energy project using 1882
renewable energy resources, the following: 1883

(a) If the project maintains during the construction or 1884
installation of the energy facility a ratio of Ohio-domiciled 1885
full-time equivalent employees to total full-time equivalent 1886
employees of not less than seventy-five per cent, six thousand 1887
dollars per megawatt of nameplate capacity located in the county 1888
as of the thirty-first day of December of the preceding tax 1889
year; 1890

(b) If the project maintains during the construction or 1891
installation of the energy facility a ratio of Ohio-domiciled 1892
full-time equivalent employees to total full-time equivalent 1893
employees of less than seventy-five per cent but not less than 1894
sixty per cent, seven thousand dollars per megawatt of nameplate 1895
capacity located in the county as of the thirty-first day of 1896
December of the preceding tax year; 1897

(c) If the project maintains during the construction or 1898

installation of the energy facility a ratio of Ohio-domiciled 1899
full-time equivalent employees to total full-time equivalent 1900
employees of less than sixty per cent but not less than fifty 1901
per cent, eight thousand dollars per megawatt of nameplate 1902
capacity located in the county as of the thirty-first day of 1903
December of the preceding tax year. 1904

(3) In the case of an energy project using clean coal 1905
technology, advanced nuclear technology, or cogeneration 1906
technology, the following: 1907

(a) If the project maintains during the construction or 1908
installation of the energy facility a ratio of Ohio-domiciled 1909
full-time equivalent employees to total full-time equivalent 1910
employees of not less than seventy-five per cent, six thousand 1911
dollars per megawatt of nameplate capacity located in the county 1912
as of the thirty-first day of December of the preceding tax 1913
year; 1914

(b) If the project maintains during the construction or 1915
installation of the energy facility a ratio of Ohio-domiciled 1916
full-time equivalent employees to total full-time equivalent 1917
employees of less than seventy-five per cent but not less than 1918
sixty per cent, seven thousand dollars per megawatt of nameplate 1919
capacity located in the county as of the thirty-first day of 1920
December of the preceding tax year; 1921

(c) If the project maintains during the construction or 1922
installation of the energy facility a ratio of Ohio-domiciled 1923
full-time equivalent employees to total full-time equivalent 1924
employees of less than sixty per cent but not less than fifty 1925
per cent, eight thousand dollars per megawatt of nameplate 1926
capacity located in the county as of the thirty-first day of 1927
December of the preceding tax year. 1928

(H) The director of development services in consultation 1929
with the tax commissioner shall adopt rules pursuant to Chapter 1930
119. of the Revised Code to implement and enforce this section. 1931

Section 2. That existing sections 303.213, 519.213, 1932
713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 1933
4928.645, 4928.66, 4928.6610, and 5727.75 of the Revised Code 1934
are hereby repealed. 1935

Section 3. That section 4928.6616 of the Revised Code is 1936
hereby repealed. 1937

Section 4. The amendment by this act of section 5727.75 of 1938
the Revised Code applies to both of the following: 1939

(A) Energy projects certified by the Director of 1940
Development Services on or after the effective date of this 1941
section; 1942

(B) Existing qualified energy projects that, on the 1943
effective date of this section, have a nameplate capacity of 1944
fewer than five megawatts. 1945