

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**S. B. No. 310**

**Senator Balderson**

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**A B I L L**

To amend sections 4928.20, 4928.64, 4928.65, and 1  
4928.66 and to enact sections 4928.641 and 2  
4928.661 of the Revised Code to make changes to 3  
the renewable energy, energy efficiency, and peak 4  
demand reduction requirements and to create a 5  
study committee. 6

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

**Section 1.** That sections 4928.20, 4928.64, 4928.65, and 7  
4928.66 be amended and sections 4928.641 and 4928.661 of the 8  
Revised Code be enacted to read as follows: 9

**Sec. 4928.20.** (A) The legislative authority of a municipal 10  
corporation may adopt an ordinance, or the board of township 11  
trustees of a township or the board of county commissioners of a 12  
county may adopt a resolution, under which, on or after the 13  
starting date of competitive retail electric service, it may 14  
aggregate in accordance with this section the retail electrical 15  
loads located, respectively, within the municipal corporation, 16  
township, or unincorporated area of the county and, for that 17  
purpose, may enter into service agreements to facilitate for those 18  
loads the sale and purchase of electricity. The legislative 19  
authority or board also may exercise such authority jointly with 20

any other such legislative authority or board. For customers that 21  
are not mercantile customers, an ordinance or resolution under 22  
this division shall specify whether the aggregation will occur 23  
only with the prior, affirmative consent of each person owning, 24  
occupying, controlling, or using an electric load center proposed 25  
to be aggregated or will occur automatically for all such persons 26  
pursuant to the opt-out requirements of division (D) of this 27  
section. The aggregation of mercantile customers shall occur only 28  
with the prior, affirmative consent of each such person owning, 29  
occupying, controlling, or using an electric load center proposed 30  
to be aggregated. Nothing in this division, however, authorizes 31  
the aggregation of the retail electric loads of an electric load 32  
center, as defined in section 4933.81 of the Revised Code, that is 33  
located in the certified territory of a nonprofit electric 34  
supplier under sections 4933.81 to 4933.90 of the Revised Code or 35  
an electric load center served by transmission or distribution 36  
facilities of a municipal electric utility. 37

(B) If an ordinance or resolution adopted under division (A) 38  
of this section specifies that aggregation of customers that are 39  
not mercantile customers will occur automatically as described in 40  
that division, the ordinance or resolution shall direct the board 41  
of elections to submit the question of the authority to aggregate 42  
to the electors of the respective municipal corporation, township, 43  
or unincorporated area of a county at a special election on the 44  
day of the next primary or general election in the municipal 45  
corporation, township, or county. The legislative authority or 46  
board shall certify a copy of the ordinance or resolution to the 47  
board of elections not less than ninety days before the day of the 48  
special election. No ordinance or resolution adopted under 49  
division (A) of this section that provides for an election under 50  
this division shall take effect unless approved by a majority of 51  
the electors voting upon the ordinance or resolution at the 52  
election held pursuant to this division. 53

(C) Upon the applicable requisite authority under divisions 54  
(A) and (B) of this section, the legislative authority or board 55  
shall develop a plan of operation and governance for the 56  
aggregation program so authorized. Before adopting a plan under 57  
this division, the legislative authority or board shall hold at 58  
least two public hearings on the plan. Before the first hearing, 59  
the legislative authority or board shall publish notice of the 60  
hearings once a week for two consecutive weeks in a newspaper of 61  
general circulation in the jurisdiction or as provided in section 62  
7.16 of the Revised Code. The notice shall summarize the plan and 63  
state the date, time, and location of each hearing. 64

(D) No legislative authority or board, pursuant to an 65  
ordinance or resolution under divisions (A) and (B) of this 66  
section that provides for automatic aggregation of customers that 67  
are not mercantile customers as described in division (A) of this 68  
section, shall aggregate the electrical load of any electric load 69  
center located within its jurisdiction unless it in advance 70  
clearly discloses to the person owning, occupying, controlling, or 71  
using the load center that the person will be enrolled 72  
automatically in the aggregation program and will remain so 73  
enrolled unless the person affirmatively elects by a stated 74  
procedure not to be so enrolled. The disclosure shall state 75  
prominently the rates, charges, and other terms and conditions of 76  
enrollment. The stated procedure shall allow any person enrolled 77  
in the aggregation program the opportunity to opt out of the 78  
program every three years, without paying a switching fee. Any 79  
such person that opts out before the commencement of the 80  
aggregation program pursuant to the stated procedure shall default 81  
to the standard service offer provided under section 4928.14 or 82  
division (D) of section 4928.35 of the Revised Code until the 83  
person chooses an alternative supplier. 84

(E)(1) With respect to a governmental aggregation for a 85

municipal corporation that is authorized pursuant to divisions (A) 86  
to (D) of this section, resolutions may be proposed by initiative 87  
or referendum petitions in accordance with sections 731.28 to 88  
731.41 of the Revised Code. 89

(2) With respect to a governmental aggregation for a township 90  
or the unincorporated area of a county, which aggregation is 91  
authorized pursuant to divisions (A) to (D) of this section, 92  
resolutions may be proposed by initiative or referendum petitions 93  
in accordance with sections 731.28 to 731.40 of the Revised Code, 94  
except that: 95

(a) The petitions shall be filed, respectively, with the 96  
township fiscal officer or the board of county commissioners, who 97  
shall perform those duties imposed under those sections upon the 98  
city auditor or village clerk. 99

(b) The petitions shall contain the signatures of not less 100  
than ten per cent of the total number of electors in, 101  
respectively, the township or the unincorporated area of the 102  
county who voted for the office of governor at the preceding 103  
general election for that office in that area. 104

(F) A governmental aggregator under division (A) of this 105  
section is not a public utility engaging in the wholesale purchase 106  
and resale of electricity, and provision of the aggregated service 107  
is not a wholesale utility transaction. A governmental aggregator 108  
shall be subject to supervision and regulation by the public 109  
utilities commission only to the extent of any competitive retail 110  
electric service it provides and commission authority under this 111  
chapter. 112

(G) This section does not apply in the case of a municipal 113  
corporation that supplies such aggregated service to electric load 114  
centers to which its municipal electric utility also supplies a 115  
noncompetitive retail electric service through transmission or 116

distribution facilities the utility singly or jointly owns or	117
operates.	118
(H) A governmental aggregator shall not include in its	119
aggregation the accounts of any of the following:	120
(1) A customer that has opted out of the aggregation;	121
(2) A customer in contract with a certified electric services	122
company;	123
(3) A customer that has a special contract with an electric	124
distribution utility;	125
(4) A customer that is not located within the governmental	126
aggregator's governmental boundaries;	127
(5) Subject to division (C) of section 4928.21 of the Revised	128
Code, a customer who appears on the "do not aggregate" list	129
maintained under that section.	130
(I) Customers that are part of a governmental aggregation	131
under this section shall be responsible only for such portion of a	132
surcharge under section 4928.144 of the Revised Code that is	133
proportionate to the benefits, as determined by the commission,	134
that electric load centers within the jurisdiction of the	135
governmental aggregation as a group receive. The proportionate	136
surcharge so established shall apply to each customer of the	137
governmental aggregation while the customer is part of that	138
aggregation. If a customer ceases being such a customer, the	139
otherwise applicable surcharge shall apply. Nothing in this	140
section shall result in less than full recovery by an electric	141
distribution utility of any surcharge authorized under section	142
4928.144 of the Revised Code. Nothing in this section shall result	143
in less than the full and timely imposition, charging, collection,	144
and adjustment by an electric distribution utility, its assignee,	145
or any collection agent, of the phase-in-recovery charges	146
authorized pursuant to a final financing order issued pursuant to	147

sections 4928.23 to 4928.2318 of the Revised Code. 148

(J) On behalf of the customers that are part of a 149  
governmental aggregation under this section and by filing written 150  
notice with the public utilities commission, the legislative 151  
authority that formed or is forming that governmental aggregation 152  
may elect not to receive standby service within the meaning of 153  
division (B)(2)(d) of section 4928.143 of the Revised Code from an 154  
electric distribution utility in whose certified territory the 155  
governmental aggregation is located and that operates under an 156  
approved electric security plan under that section. Upon the 157  
filing of that notice, the electric distribution utility shall not 158  
charge any such customer to whom competitive retail electric 159  
generation service is provided by another supplier under the 160  
governmental aggregation for the standby service. Any such 161  
consumer that returns to the utility for competitive retail 162  
electric service shall pay the market price of power incurred by 163  
the utility to serve that consumer plus any amount attributable to 164  
the utility's cost of compliance with the ~~alternative~~ renewable 165  
energy resource provisions of section 4928.64 of the Revised Code 166  
to serve the consumer. Such market price shall include, but not be 167  
limited to, capacity and energy charges; all charges associated 168  
with the provision of that power supply through the regional 169  
transmission organization, including, but not limited to, 170  
transmission, ancillary services, congestion, and settlement and 171  
administrative charges; and all other costs incurred by the 172  
utility that are associated with the procurement, provision, and 173  
administration of that power supply, as such costs may be approved 174  
by the commission. The period of time during which the market 175  
price and ~~alternative~~ renewable energy resource amount shall be so 176  
assessed on the consumer shall be from the time the consumer so 177  
returns to the electric distribution utility until the expiration 178  
of the electric security plan. However, if that period of time is 179  
expected to be more than two years, the commission may reduce the 180

time period to a period of not less than two years. 181

(K) The commission shall adopt rules to encourage and promote 182  
large-scale governmental aggregation in this state. For that 183  
purpose, the commission shall conduct an immediate review of any 184  
rules it has adopted for the purpose of this section that are in 185  
effect on the effective date of the amendment of this section by 186  
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 187  
within the context of an electric security plan under section 188  
4928.143 of the Revised Code, the commission shall consider the 189  
effect on large-scale governmental aggregation of any 190  
nonbypassable generation charges, however collected, that would be 191  
established under that plan, except any nonbypassable generation 192  
charges that relate to any cost incurred by the electric 193  
distribution utility, the deferral of which has been authorized by 194  
the commission prior to the effective date of the amendment of 195  
this section by S.B. 221 of the 127th general assembly, July 31, 196  
2008. 197

**Sec. 4928.64.** (A)(1) As used in ~~sections 4928.64 and 4928.65~~ 198  
~~of the Revised Code~~ this section, "alternative qualifying 199  
renewable energy resource" means ~~an advanced energy resource or a~~ 200  
renewable energy resource, as defined in section 4928.01 of the 201  
Revised Code that has a placed-in-service date of January 1, 1998, 202  
or after; a renewable energy resource created on or after January 203  
1, 1998, by the modification or retrofit of any facility placed in 204  
service prior to January 1, 1998; or a mercantile customer-sited 205  
~~advanced energy resource or~~ renewable energy resource, whether new 206  
or existing, that the mercantile customer commits for integration 207  
into the electric distribution utility's demand-response, energy 208  
efficiency, or peak demand reduction programs as provided under 209  
division (A)(2)(c) of section 4928.66 of the Revised Code, 210  
including, but not limited to, any of the following: 211

(a) A resource that has the effect of improving the relationship between real and reactive power;	212 213
(b) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	214 215 216
(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	217 218 219
(d) Electric generation equipment owned or controlled by a mercantile customer that uses <del>an advanced energy resource or a</del> renewable energy resource;	220 221 222
<del>(e) Any advanced energy resource or renewable energy resource of the mercantile customer that can be utilized effectively as part of any advanced energy resource plan of an electric distribution utility and would otherwise qualify as an alternative energy resource if it were utilized directly by an electric distribution utility.</del>	223 224 225 226 227 228
(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such <del>an advanced energy resource or a</del> <u>qualifying</u> renewable energy resource.	229 230 231 232
(B)(1) By <del>2025</del> <u>2014</u> and thereafter, an electric distribution utility shall provide from <del>alternative</del> <u>qualifying renewable</u> energy resources, including, at its discretion, <del>alternative</del> <u>qualifying renewable</u> energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from <del>alternative</del> <u>qualifying renewable</u> energy resources, including, at its discretion, <del>alternative</del> <u>qualifying renewable</u> energy resources	233 234 235 236 237 238 239 240 241 242



obtained pursuant to an electricity supply contract. That portion 243  
shall equal ~~twenty five~~ two and one-half per cent of the total 244  
number of kilowatt hours of electricity sold by the subject 245  
utility or company to any and all retail electric consumers whose 246  
electric load centers are served by that utility and are located 247  
within the utility's certified territory or, in the case of an 248  
electric services company, are served by the company and are 249  
located within this state. However, nothing in this section 250  
precludes a utility or company from providing a greater 251  
percentage. The baseline for a utility's or company's compliance 252  
with the ~~alternative~~ renewable energy resource requirements of 253  
this section shall be the average of such total kilowatt hours it 254  
sold in the preceding three calendar years, except that the 255  
commission may reduce a utility's or company's baseline to adjust 256  
for new economic growth in the utility's certified territory or, 257  
in the case of an electric services company, in the company's 258  
service area in this state. 259

~~Of the alternative energy resources implemented by the~~ 260  
~~subject utility or company by 2025 and thereafter:~~ 261

~~(1) Half may be generated from advanced energy resources;~~ 262

(2) ~~At least half~~ The portion required under division (B)(1) 263  
of this section shall be generated from renewable energy 264  
resources, including one half include twelve-hundredths of one per 265  
cent from solar energy resources, ~~in accordance with the following~~ 266  
~~benchmarks:~~ 267

<del>By end of year</del>	<del>Renewable energy</del>	<del>Solar energy</del>	
	<del>resources</del>	<del>resources</del>	
2009	0.25%	0.004%	269
2010	0.50%	0.010%	270
2011	1%	0.030%	271
2012	1.5%	0.060%	272
2013	2%	0.090%	273

2014	2.5%	0.12%	274
2015	3.5%	0.15%	275
2016	4.5%	0.18%	276
2017	5.5%	0.22%	277
2018	6.5%	0.26%	278
2019	7.5%	0.3%	279
2020	8.5%	0.34%	280
2021	9.5%	0.38%	281
2022	10.5%	0.42%	282
2023	11.5%	0.46%	283
2024 and each calendar year thereafter	12.5%	0.5%.	284

(3) At least one-half of the qualifying renewable energy resources implemented by the utility or company shall be met through facilities located in this state; the remainder shall be met with resources that can be shown to be deliverable into this state.

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

(2) Subject to the cost cap provisions of division (C)(3) of this section, if the commission determines, after notice and opportunity for hearing, and based upon its findings in that review regarding avoidable undercompliance or noncompliance, but subject to division (C)(4) of this section, that the utility or

company has failed to comply with ~~any such benchmark~~ the 305  
requirements under divisions (B)(1) and (2) of this section, the 306  
commission shall impose a renewable energy compliance payment on 307  
the utility or company. 308

(a) The compliance payment pertaining to the solar energy 309  
resource ~~benchmarks~~ requirement under division (B)(2) of this 310  
section shall be ~~an amount~~ three hundred dollars per megawatt hour 311  
of undercompliance or noncompliance in the period under review, 312  
~~starting at four hundred fifty dollars for 2009, four hundred~~ 313  
~~dollars for 2010 and 2011, and similarly reduced every two years~~ 314  
~~thereafter through 2024 by fifty dollars, to a minimum of fifty~~ 315  
~~dollars.~~ 316

(b) The compliance payment pertaining to the renewable energy 317  
resource ~~benchmarks~~ requirement under division (B)~~(2)~~(1) of this 318  
section shall equal the number of additional renewable energy 319  
credits that the electric distribution utility or electric 320  
services company would have needed to comply with the ~~applicable~~ 321  
~~benchmark~~ requirement in the period under review times an amount 322  
that shall begin at forty-five dollars and shall be adjusted 323  
annually by the commission to reflect any change in the consumer 324  
price index as defined in section 101.27 of the Revised Code, but 325  
shall not be less than forty-five dollars. 326

(c) The compliance payment shall not be passed through by the 327  
electric distribution utility or electric services company to 328  
consumers. The compliance payment shall be remitted to the 329  
commission, for deposit to the credit of the advanced energy fund 330  
created under section 4928.61 of the Revised Code. Payment of the 331  
compliance payment shall be subject to such collection and 332  
enforcement procedures as apply to the collection of a forfeiture 333  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 334

(3) An electric distribution utility or an electric services 335  
company ~~need not comply with a benchmark under division (B)(1) or~~ 336

~~(2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more. The cost of compliance shall be calculated as though any exemption from taxes and assessments had not been granted under section 5727.75 of the Revised Code shall not continue to comply, or be subject to any obligation to continue to comply, in any year, with a requirement under division (B)(1) or (2) of this section, if continued compliance for that year would exceed a cost cap that equals the product of three per cent multiplied by the sales supply amount. The sales supply amount is the product of the sales baseline multiplied by the generation supply dollar amount. For purposes of division (C)(3) of this section:~~ 337  
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(a) "Sales baseline" means the sales baseline in megawatt hours for the applicable compliance year, which consists of an average of the utility's or company's annual retail sales of electricity sold in the state from the three preceding years. 351  
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(b) "Generation supply dollar amount" means the reasonably expected dollar amount per megawatt hour for the generation supply available to consumers pursuant to section 4928.141 of the Revised Code during the applicable compliance year, which consists of a weighted average of the cost of the standard service offer supply for delivery during that compliance year, net of distribution losses. With respect to an electric services company, generation supply dollar amount means the average weighted cost of generation supply of the relevant electric distribution utility. 355  
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(c) In making the calculation under division (C)(3) of this section, any exemption from taxes and assessments granted under section 5727.75 of the Revised Code shall be treated as if it had not been granted. 364  
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(4)(a) An electric distribution utility or electric services 368

company may request the commission to make a force majeure 369  
determination pursuant to this division regarding all or part of 370  
the utility's or company's compliance with any minimum ~~benchmark~~ 371  
requirement under division (B)(1) or (2) of this section during 372  
the period of review occurring pursuant to division (C)(2) of this 373  
section. The commission may require the electric distribution 374  
utility or electric services company to make solicitations for 375  
renewable energy resource credits as part of its default service 376  
before the utility's or company's request of force majeure under 377  
this division can be made. 378

(b) Within ninety days after the filing of a request by an 379  
electric distribution utility or electric services company under 380  
division (C)(4)(a) of this section, the commission shall determine 381  
if qualifying renewable energy resources are reasonably available 382  
in the marketplace in sufficient quantities for the utility or 383  
company to comply with the ~~subject~~ minimum ~~benchmark~~ requirement 384  
during the review period. In making this determination, the 385  
commission shall consider whether the electric distribution 386  
utility or electric services company has made a good faith effort 387  
to acquire sufficient qualifying renewable energy or, as 388  
applicable, solar energy resources to so comply, including, but 389  
not limited to, by banking or seeking renewable energy resource 390  
credits or by seeking the resources through long-term contracts. 391  
Additionally, the commission shall consider the availability of 392  
qualifying renewable energy or solar energy resources in this 393  
state and other jurisdictions in the PJM interconnection regional 394  
transmission organization or its successor and the ~~midwest~~ 395  
midcontinent independent system operator or its successor. 396

(c) If, pursuant to division (C)(4)(b) of this section, the 397  
commission determines that qualifying renewable energy or solar 398  
energy resources are not reasonably available to permit the 399  
electric distribution utility or electric services company to 400

comply, during the period of review, with the ~~subject~~ minimum 401  
~~benchmark requirements~~ prescribed under ~~division~~ divisions (B)(1) 402  
and (2) of this section, the commission shall modify that 403  
compliance obligation of the utility or company as it determines 404  
appropriate to accommodate the finding. Commission modification 405  
shall not automatically reduce the obligation for the electric 406  
distribution utility's or electric services company's compliance 407  
in subsequent years. If it modifies the electric distribution 408  
utility or electric services company obligation under division 409  
(C)(4)(c) of this section, the commission may require the utility 410  
or company, if sufficient renewable energy resource credits exist 411  
in the marketplace, to acquire additional renewable energy 412  
resource credits in subsequent years equivalent to the utility's 413  
or company's modified obligation under division (C)(4)(c) of this 414  
section. 415

(5) The commission shall establish a process to provide for 416  
at least an annual review of the ~~alternative~~ renewable energy 417  
resource market in this state and in the service territories of 418  
the regional transmission organizations that manage transmission 419  
systems located in this state. The commission shall use the 420  
results of this study to identify any needed changes to the amount 421  
of the renewable energy compliance payment specified under 422  
divisions (C)(2)(a) and (b) of this section. Specifically, the 423  
commission may increase the amount to ensure that payment of 424  
compliance payments is not used to achieve compliance with this 425  
section in lieu of actually acquiring or realizing energy derived 426  
from qualifying renewable energy resources. However, if the 427  
commission finds that the amount of the compliance payment should 428  
be otherwise changed, the commission shall present this finding to 429  
the general assembly for legislative enactment. 430

(D)~~(1)~~ The commission annually shall submit to the general 431  
assembly in accordance with section 101.68 of the Revised Code a 432

report describing all of the following: 433

~~(a)(1)~~ The compliance of electric distribution utilities and 434  
electric services companies with division (B) of this section; 435

~~(b)(2)~~ The average annual cost of renewable energy credits 436  
purchased by utilities and companies for the year covered in the 437  
report; 438

~~(c)(3)~~ Any strategy for utility and company compliance or for 439  
encouraging the use of ~~alternative~~ qualifying renewable energy 440  
resources in supplying this state's electricity needs in a manner 441  
that considers available technology, costs, job creation, and 442  
economic impacts. 443

The commission shall begin providing the information 444  
described in division (D)~~(1)~~~~(b)(2)~~ of this section in each report 445  
submitted after ~~the effective date of the amendment of this~~ 446  
~~section by S.B. 315 of the 129th general assembly~~ September 10, 447  
2012. The commission shall allow and consider public comments on 448  
the report prior to its submission to the general assembly. 449  
Nothing in the report shall be binding on any person, including 450  
any utility or company for the purpose of its compliance with any 451  
~~benchmark~~ requirement under division (B) of this section, or the 452  
enforcement of that provision under division (C) of this section. 453

~~(2) The governor, in consultation with the commission~~ 454  
~~chairperson, shall appoint an alternative energy advisory~~ 455  
~~committee. The committee shall examine available technology for~~ 456  
~~and related timetables, goals, and costs of the alternative energy~~ 457  
~~resource requirements under division (B) of this section and shall~~ 458  
~~submit to the commission a semiannual report of its~~ 459  
~~recommendations.~~ 460

(E) All costs incurred by an electric distribution utility in 461  
complying with the requirements of this section shall be 462  
bypassable by any consumer that has exercised choice of supplier 463

under section 4928.03 of the Revised Code. 464

Sec. 4928.641. If an electric distribution utility has 465  
executed a contract to procure renewable energy resources and 466  
there are ongoing costs associated with that contract that are 467  
being recovered from customers through a bypassable charge as of 468  
the effective date of ...B... of the 130th general assembly, that 469  
cost recovery shall continue until the costs associated with the 470  
contract are fully recovered. This division applies regardless of 471  
whether the utility has, in any year, met the cost cap under 472  
division (C)(3) of section 4928.64 of the Revised Code. 473

**Sec. 4928.65.** An electric distribution utility or electric 474  
services company may use renewable energy credits any time in the 475  
five calendar years following the date of their purchase or 476  
acquisition from any entity, including, but not limited to, a 477  
mercantile customer or an owner or operator of a hydroelectric 478  
generating facility that is located at a dam on a river, or on any 479  
water discharged to a river, that is within or bordering this 480  
state or within or bordering an adjoining state, for the purpose 481  
of complying with the renewable energy and solar energy resource 482  
requirements of ~~division~~ divisions (B)(1) and (2) of section 483  
4928.64 of the Revised Code. The public utilities commission shall 484  
adopt rules specifying that one unit of credit shall equal one 485  
megawatt hour of electricity derived from renewable energy 486  
resources, except that, for a generating facility of seventy-five 487  
megawatts or greater that is situated within this state and has 488  
committed by December 31, 2009, to modify or retrofit its 489  
generating unit or units to enable the facility to generate 490  
principally from biomass energy by June 30, 2013, each megawatt 491  
hour of electricity generated principally from that biomass energy 492  
shall equal, in units of credit, the product obtained by 493  
multiplying the actual percentage of biomass feedstock heat input 494



used to generate such megawatt hour by the quotient obtained by 495  
dividing the then existing unit dollar amount used to determine a 496  
renewable energy compliance payment as provided under division 497  
(C)(2)(b) of section 4928.64 of the Revised Code by the then 498  
existing market value of one renewable energy credit, but such 499  
megawatt hour shall not equal less than one unit of credit. The 500  
rules also shall provide for this state a system of registering 501  
renewable energy credits by specifying which of any generally 502  
available registries shall be used for that purpose and not by 503  
creating a registry. That selected system of registering renewable 504  
energy credits shall allow a hydroelectric generating facility to 505  
be eligible for obtaining renewable energy credits and shall allow 506  
customer-sited projects or actions the broadest opportunities to 507  
be eligible for obtaining renewable energy credits. 508

**Sec. 4928.66.** (A)(1)(a) Beginning in 2009, an electric 509  
distribution utility shall implement energy efficiency programs 510  
that achieve energy savings equivalent to at least three-tenths of 511  
one per cent of the total, annual average, and normalized 512  
kilowatt-hour sales of the electric distribution utility during 513  
the preceding three calendar years to customers in this state. An 514  
energy efficiency program may include a combined heat and power 515  
system placed into service or retrofitted on or after the 516  
effective date of the amendment of this section by S.B. 315 of the 517  
129th general assembly, September 10, 2012, or a waste energy 518  
recovery system placed into service or retrofitted on or after ~~the~~ 519  
~~same date~~ September 10, 2012, except that a waste energy recovery 520  
system described in division (A)(38)(b) of section 4928.01 of the 521  
Revised Code may be included only if it was placed into service 522  
between January 1, 2002, and December 31, 2004. For a waste energy 523  
recovery or combined heat and power system, the savings shall be 524  
as estimated by the public utilities commission. The savings 525  
requirement, using such a three-year average, shall increase to an 526

additional five-tenths of one per cent in 2010, seven-tenths of 527  
one per cent in 2011, eight-tenths of one per cent in 2012, 528  
nine-tenths of one per cent in 2013, and one per cent from in 2014 529  
~~to 2018, . In 2015 and two per cent each year thereafter, achieving~~ 530  
~~a cumulative, the annual energy savings in excess of twenty two~~ 531  
~~requirement shall be four and two-tenths of one per cent by the~~ 532  
~~end of 2025 of the baseline described in division (A)(2)(a) of~~ 533  
this section for energy savings. For purposes of a waste energy 534  
recovery or combined heat and power system, an electric 535  
distribution utility shall not apply more than the total annual 536  
percentage of the electric distribution utility's 537  
industrial-customer load, relative to the electric distribution 538  
utility's total load, to the annual energy savings requirement. 539

(b) Beginning in 2009, an electric distribution utility shall 540  
implement peak demand reduction programs designed to achieve a one 541  
per cent reduction in peak demand in 2009 and an additional 542  
seventy-five hundredths of one per cent reduction each year 543  
through 2018 2014. ~~In 2018, the standing committees in the house~~ 544  
~~of representatives and the senate primarily dealing with energy~~ 545  
~~issues shall make recommendations to the general assembly~~ 546  
~~regarding future peak demand reduction targets.~~ 547

(2) For the purposes of divisions (A)(1)(a) and (b) of this 548  
section: 549

(a) The baseline for energy savings under division (A)(1)(a) 550  
of this section shall be the average of the total kilowatt hours 551  
the electric distribution utility sold in the preceding three 552  
calendar years, and the baseline for a peak demand reduction under 553  
division (A)(1)(b) of this section shall be the average peak 554  
demand on the utility in the preceding three calendar years, 555  
except that the commission may reduce either baseline to adjust 556  
for new economic growth in the utility's certified territory. 557

(b) The commission may amend the benchmarks set forth in 558  
division (A)(1)(a) or (b) of this section if, after application by 559  
the electric distribution utility, the commission determines that 560  
the amendment is necessary because the utility cannot reasonably 561  
achieve the benchmarks due to regulatory, economic, or 562  
technological reasons beyond its reasonable control. 563

(c) Compliance with divisions (A)(1)(a) and (b) of this 564  
section shall be measured by including the effects of all 565  
demand-response programs for mercantile customers of the subject 566  
electric distribution utility, all waste energy recovery systems 567  
and all combined heat and power systems, and all such mercantile 568  
customer-sited energy efficiency, including waste energy recovery 569  
and combined heat and power, and peak demand reduction programs, 570  
adjusted upward by the appropriate loss factors. Any mechanism 571  
designed to recover the cost of energy efficiency, including waste 572  
energy recovery and combined heat and power, and peak demand 573  
reduction programs under divisions (A)(1)(a) and (b) of this 574  
section may exempt mercantile customers that commit their 575  
demand-response or other customer-sited capabilities, whether 576  
existing or new, for integration into the electric distribution 577  
utility's demand-response, energy efficiency, including waste 578  
energy recovery and combined heat and power, or peak demand 579  
reduction programs, if the commission determines that that 580  
exemption reasonably encourages such customers to commit those 581  
capabilities to those programs. If a mercantile customer makes 582  
such existing or new demand-response, energy efficiency, including 583  
waste energy recovery and combined heat and power, or peak demand 584  
reduction capability available to an electric distribution utility 585  
pursuant to division (A)(2)(c) of this section, the electric 586  
utility's baseline under division (A)(2)(a) of this section shall 587  
be adjusted to exclude the effects of all such demand-response, 588  
energy efficiency, including waste energy recovery and combined 589  
heat and power, or peak demand reduction programs that may have 590

existed during the period used to establish the baseline. The 591  
baseline also shall be normalized for changes in numbers of 592  
customers, sales, weather, peak demand, and other appropriate 593  
factors so that the compliance measurement is not unduly 594  
influenced by factors outside the control of the electric 595  
distribution utility. 596

(d) Programs implemented by a utility may include 597  
demand-response programs grid investment programs, provided that 598  
such programs are demonstrated to be cost-beneficial, 599  
customer-sited programs, including waste energy recovery and 600  
combined heat and power systems, and transmission and distribution 601  
infrastructure improvements that reduce line losses. Division 602  
(A)(2)(c) of this section shall be applied to include facilitating 603  
efforts by a mercantile customer or group of those customers to 604  
offer customer-sited demand-response, energy efficiency, including 605  
waste energy recovery and combined heat and power, or peak demand 606  
reduction capabilities to the electric distribution utility as 607  
part of a reasonable arrangement submitted to the commission 608  
pursuant to section 4905.31 of the Revised Code. 609

(e) No programs or improvements described in division 610  
(A)(2)(d) of this section shall conflict with any statewide 611  
building code adopted by the board of building standards. 612

(B) In accordance with rules it shall adopt, the public 613  
utilities commission shall produce and docket at the commission an 614  
annual report containing the results of its verification of the 615  
annual levels of energy efficiency and of peak demand reductions 616  
achieved by each electric distribution utility pursuant to 617  
division (A) of this section. A copy of the report shall be 618  
provided to the consumers' counsel. 619

(C) If the commission determines, after notice and 620  
opportunity for hearing and based upon its report under division 621  
(B) of this section, that an electric distribution utility has 622

failed to comply with an energy efficiency or peak demand 623  
reduction requirement of division (A) of this section, the 624  
commission shall assess a forfeiture on the utility as provided 625  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 626  
either in the amount, per day per undercompliance or 627  
noncompliance, relative to the period of the report, equal to that 628  
prescribed for noncompliances under section 4905.54 of the Revised 629  
Code, or in an amount equal to the then existing market value of 630  
one renewable energy credit per megawatt hour of undercompliance 631  
or noncompliance. Revenue from any forfeiture assessed under this 632  
division shall be deposited to the credit of the advanced energy 633  
fund created under section 4928.61 of the Revised Code. 634

(D) The commission may establish rules regarding the content 635  
of an application by an electric distribution utility for 636  
commission approval of a revenue decoupling mechanism under this 637  
division. Such an application shall not be considered an 638  
application to increase rates and may be included as part of a 639  
proposal to establish, continue, or expand energy efficiency or 640  
conservation programs. The commission by order may approve an 641  
application under this division if it determines both that the 642  
revenue decoupling mechanism provides for the recovery of revenue 643  
that otherwise may be forgone by the utility as a result of or in 644  
connection with the implementation by the electric distribution 645  
utility of any energy efficiency or energy conservation programs 646  
and reasonably aligns the interests of the utility and of its 647  
customers in favor of those programs. 648

(E) The commission additionally shall adopt rules that 649  
require an electric distribution utility to provide a customer 650  
upon request with two years' consumption data in an accessible 651  
form. 652

**Sec. 4928.661.** (A) Not later than January 1, 2015, the public 653

utilities commission shall adopt rules governing the disclosure of 654  
the costs to customers of the renewable energy resource and energy 655  
efficiency savings requirements of sections 4928.64 and 4928.66 of 656  
the Revised Code. The rules shall include both of the following 657  
requirements: 658

(1) That every electric distribution utility list, on all 659  
customer bills, the cost to each individual customer of the 660  
utility's compliance with both of the following for the applicable 661  
billing period: 662

(a) The renewable energy resource requirements under section 663  
4928.64 of the Revised Code; 664

(b) The energy efficiency savings requirements under section 665  
4928.66 of the Revised Code. 666

(2) That every electric services company list, on all 667  
customer bills, the cost to each individual customer of the 668  
company's compliance with the renewable energy resource 669  
requirements under section 4928.64 of the Revised Code for the 670  
applicable billing period. 671

(B) The costs required to be listed under division (A)(1) of 672  
this section shall be listed on each customer's monthly bill as 673  
two distinct line items. The cost required to be listed under 674  
division (A)(2) of this section shall be listed on each customer's 675  
monthly bill as a distinct line item. 676

**Section 2.** That existing sections 4928.20, 4928.64, 4928.65, 677  
and 4928.66 of the Revised Code are hereby repealed. 678

**Section 3.** (A) There is hereby created the Energy Mandates 679  
Study Committee to study Ohio's renewable energy, energy 680  
efficiency, and peak demand reduction mandates. The Committee 681  
shall consist of the following members: 682

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives, with not more than three members from the same political party; 683  
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- (2) Five members of the Senate appointed by the President of the Senate, with not more than three members from the same political party; 686  
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- (3) The Chairperson of the Public Utilities Commission; 689
- (4) The Ohio Consumers' Counsel; 690
- (5) Two representatives from different electric distribution utilities, as defined in section 4928.01 of the Revised Code, one of whom shall be appointed by the Speaker of the House of Representatives and one of whom shall be appointed by the President of the Senate; 691  
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- (6) One representative from an electric services company, as defined in section 4928.01 of the Revised Code, jointly appointed by the Speaker of the House of Representatives and the President of the Senate; 696  
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- (7) One representative from an advocacy group that focuses on issues related to environmental preservation or the promotion of clean energy, appointed by the Governor; 700  
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- (8) One representative from an advocacy group that focuses on business issues for manufacturers in this state, appointed by the President of the Senate; 703  
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- (9) One representative of industrial customers described in division (A)(19) of section 4928.01 of the Revised Code, appointed by the President of the Senate; 706  
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- (10) One representative of the small business community, appointed by the President of the Senate; 709  
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- (11) One representative of the large business community, appointed by the Speaker of the House of Representatives; 711  
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(12) One representative of residential consumers, as defined 713  
in section 4911.01 of the Revised Code, appointed by the Speaker 714  
of the House of Representatives. 715

(B) The Speaker of the House of Representatives and the 716  
President of the Senate shall each appoint one legislative member 717  
of the Committee to serve as a cochairperson of the Committee. Any 718  
vacancies that occur on the Committee shall be filled in the same 719  
manner as the original appointment. 720

(C) Not later than December 15, 2015, the Committee shall 721  
submit a report of its findings to the House of Representatives 722  
and the Senate in accordance with division (B) of section 101.68 723  
of the Revised Code. The Committee shall cease to exist on 724  
December 16, 2015. The report shall include, at a minimum, all of 725  
the following: 726

(1) A cost-benefit analysis of the renewable energy, energy 727  
efficiency, and peak demand reduction mandates, including the 728  
projected impact on electric customers if the mandates were to 729  
remain at the percentage levels required for 2014, and the 730  
projected impact on electric customers if the mandates were to 731  
return to the percentage levels required under sections 4928.64 732  
and 4928.66 of the Revised Code as those sections existed prior to 733  
the effective date of this section; 734

(2) A recommendation of the best, evidence-based standard for 735  
reviewing the mandates in the future, including an examination of 736  
readily available technology to attain such a standard; 737

(3) The potential effects of an opt-in system for the 738  
mandates, in contrast to an opt-out system for the mandates, and a 739  
recommendation as to whether an opt-in system should apply to all 740  
electric customers, whether an opt-out system should apply to only 741  
industrial customers, or whether a hybrid of these two systems is 742  
recommended. 743



**Section 4.** As used in Sections 5, 6, 7, 8, 9, and 10 of this act: 744  
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(A) "Customer" means any retail customer of an electric distribution utility to which either of the following applies: 746  
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(1) The retail customer receives service above the primary voltage level as determined by the utility's tariff classification. 748  
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(2) The retail customer is a commercial or industrial customer to which both of the following apply: 751  
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(a) The retail customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year. 753  
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(b) The retail customer has made a written request for registration as a self-assessing purchaser pursuant to section 5727.81 of the Revised Code. 757  
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(B) "Electric distribution utility" has the same meaning as in section 4928.01 of the Revised Code. 760  
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(C) "Portfolio plan" means the comprehensive energy efficiency and peak-demand reduction program portfolio plan required under rules adopted by the Public Utilities Commission and codified in Chapter 4901:1-39 of the Administrative Code or hereafter recodified or amended. 762  
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**Section 5.** (A) If an electric distribution utility has a portfolio plan that is in effect on the effective date of this section, the utility shall do either of the following, at its sole discretion: 767  
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(1) Continue to implement the portfolio plan with no amendments to the plan, for the duration that the Public Utilities 771  
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Commission originally approved, subject to divisions (D) and (E) 773  
of this section; 774

(2) Seek an amendment of the portfolio plan under division 775  
(B) of this section. 776

(B)(1) An electric distribution utility that seeks to amend 777  
its portfolio plan under division (A)(2) of this section shall 778  
file an application with the Commission to amend the plan not 779  
later than thirty days after the effective date of this section. 780  
The Commission shall review the application in accordance with its 781  
rules as if the application were for a new portfolio plan. The 782  
Commission shall review and approve, or modify and approve, the 783  
application not later than sixty days after the date that the 784  
application is filed. Any portfolio plan amended under this 785  
division shall expire on December 31, 2016. 786

(2) Section 4928.66 of the Revised Code, as amended by this 787  
act, shall apply to an electric distribution utility that seeks to 788  
amend its portfolio plan under division (B) of this section. 789

(C) If an electric distribution utility fails to file an 790  
application to amend its portfolio plan under division (B) of this 791  
section within the required thirty-day period, the electric 792  
distribution utility shall proceed in accordance with division 793  
(A)(1) of this section. 794

(D) If an electric distribution utility implements its 795  
portfolio plan under division (A)(1) of this section for the 796  
plan's original duration and if the plan expires before December 797  
31, 2016, the Commission shall automatically extend the plan 798  
through December 31, 2016, with no amendments to the plan. 799

(E)(1) The provisions of section 4928.66 of the Revised Code, 800  
as it existed prior to the effective date of this section, shall 801  
apply to an electric distribution utility that has a portfolio 802  
plan that is implemented under division (A)(1) of this section for 803

either of the following time periods: 804

(a) The plan's original duration; 805

(b) The plan's original duration and then, until December 31, 806  
2016, if the plan is extended under division (D) of this section. 807

(2) Beginning January 1, 2017, the provisions of section 808  
4928.66 of the Revised Code as amended by this act shall apply to 809  
the electric distribution utility. 810

**Section 6.** (A) The Public Utilities Commission shall neither 811  
review nor approve an application for a portfolio plan if the 812  
application is pending on the effective date of this section. 813

(B) Prior to January 1, 2017, the Commission shall not take 814  
any action with regard to any portfolio plan or application 815  
regarding a portfolio plan except those actions expressly 816  
authorized or required by Section 5 of this act. 817

**Section 7.** A customer of an electric distribution utility may 818  
opt out of the opportunity and ability to obtain direct benefits 819  
from the utility's portfolio plan that is amended under division 820  
(B) of Section 5 of this act. The opt out shall apply only to the 821  
amended plan. The opt out shall extend to all of the customer's 822  
accounts, irrespective of the size or service voltage level that 823  
are associated with the activities performed by the customer and 824  
that are located on or adjacent to the customer's premises. 825

**Section 8.** Any customer electing to opt out under Section 7 826  
of this act shall do so by providing a written notice of intent to 827  
opt out to the electric distribution utility from which it 828  
receives service and submitting a complete copy of the opt-out 829  
notice to the Secretary of the Public Utilities Commission. 830

The notice provided to the utility shall include all of the 831  
following: 832

- (A) A statement indicating that the customer has elected to opt out; 833  
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- (B) The effective date of the election to opt out; 835
- (C) The account number for each customer account to which the opt out may apply; 836  
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- (D) The physical location of the customer's load center; 838
- (E) The date upon which the customer established or plans to establish a process and implement cost-effective measures to improve its energy efficiency savings. 839  
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**Section 9.** Upon a customer's election to opt out under Section 7 of this act, no account properly identified under division (C) of Section 8 of this act shall be subject to any cost recovery mechanism under section 4928.66 of the Revised Code, as amended by this act, for the duration of the amended portfolio plan or eligible to participate in, or directly benefit from, programs arising from the amended portfolio plan. This section shall not be interpreted to exempt such an account from any other cost recovery mechanism, including any cost recovery mechanism associated with the renewable energy resource requirements governed by section 4928.64 of the Revised Code. 842  
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**Section 10.** (A) Upon a customer's election to opt out under Section 7 of this act, the customer shall prepare and submit a report to the staff of the Public Utilities Commission. The report shall, for the period that the opt out is in effect, summarize the energy efficiency measures implemented by the customer and identify the cumulative energy efficiency savings achieved. The report shall be filed not later than January 1, 2017. 853  
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(B) Upon submission of the report, the staff of the Commission may request the customer to provide additional information on the measures adopted by the customer and the amount 860  
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of energy efficiency savings achieved during the period covered by 863  
the report. 864

(C) All information contained in a report submitted under 865  
this section and any customer responses to requests for additional 866  
information shall be deemed to be confidential, proprietary, and a 867  
trade secret. No such information or response shall be publicly 868  
divulged without written authorization by the customer or used for 869  
any purpose other than to identify the measures adopted by the 870  
customer and the quantity of energy efficiency savings achieved by 871  
the customer. 872