

**As Reported by the Senate Energy and Public Utilities Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 6**

**Representatives Callender, Wilkin**

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

**Senator Eklund**

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**A BILL**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

primary energy source. 106

(2) The facility obtained a certificate for construction 107  
of a major utility facility from the power siting board prior to 108  
June 1, 2019. 109

(3) The facility is interconnected with the transmission 110  
grid that is subject to the operational control of PJM 111  
interconnection, L.L.C., or its successor organization. 112

(C) "Credit price adjustment" means a reduction to the 113  
price for each nuclear resource credit equal to the market price 114  
index minus the strike price. 115

(D) "Strike price" means forty-six dollars per megawatt 116  
hour. 117

(E) "Market price index" means the sum, expressed in 118  
dollars per megawatt hour, of both of the following for the 119  
upcoming twelve-month period that begins the first day of June 120  
and ends the thirty-first day of May: 121

(1) Projected energy prices, determined using futures 122  
contracts for the PJM AEP-Dayton hub; 123

(2) Projected capacity prices, determined using PJM's 124  
rest-of-RTO market clearing price. 125

(F) "Electric distribution utility" has the same meaning 126  
as in section 4928.01 of the Revised Code. 127

**Sec. 3706.41.** (A) Not later than February 1, 2020, the 128  
owner or operator of a qualifying nuclear resource or qualifying 129  
renewable resource may apply to the Ohio air quality development 130  
authority to receive payments for nuclear resource credits or 131  
renewable energy credits, as applicable, under section 3706.55 132  
of the Revised Code. 133

(B) An application submitted under division (A) of this 134  
section for a qualifying nuclear resource shall include all of 135  
the following information pertaining to the resource: 136

(1) Financial information; 137

(2) Certified cost and revenue projections through 138  
December 31, 2026; 139

(3) Operation and maintenance expenses; 140

(4) Fuel expenses, including spent-fuel expenses; 141

(5) Nonfuel capital expenses; 142

(6) Fully allocated overhead costs; 143

(7) The cost of operational risks and market risks that 144  
would be avoided by ceasing operation of the resource; 145

(8) Any other information, financial or otherwise, that 146  
demonstrates that the resource is projected not to continue 147  
being operational. 148

(C) As used in this section: 149

(1) "Operational risks" include the risk that operating 150  
costs will be higher than anticipated because of new regulatory 151  
mandates or equipment failures and the risk that per-megawatt- 152  
hour costs will be higher than anticipated because of a lower 153  
than expected capacity factor. 154

(2) "Market risks" include the risk of a forced outage and 155  
the associated costs arising from contractual obligations, and 156  
the risk that output from the resource may not be able to be 157  
sold at projected levels. 158

**Sec. 3706.43.** After receiving an application under section 159  
3706.41 of the Revised Code, the Ohio air quality development 160

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

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

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

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

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

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

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

the authority. 190

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

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

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

**Sec. 3706.46.** (A) (1) Beginning for all bills rendered on 204  
or after January 1, 2020, by an electric distribution utility in 205  
this state, such electric distribution utility shall collect 206  
from all of its retail electric customers in this state, each 207  
month, a charge or charges which, in the aggregate, are 208  
sufficient to produce the following revenue requirements: 209

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

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

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

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

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

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

meet the revenue requirements under division (A) (1) of this 250  
section for required disbursements under section 3706.55 of the 251  
Revised Code that may be due and owing during the same period. 252  
Such continuation shall be authorized only for such period of 253  
time beyond December 31, 2026, as may be reasonably necessary to 254  
complete the reconciliation. 255

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

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

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

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

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

fund created under section 3706.49 of the Revised Code. 279

**Sec. 3706.55.** (A) For the period beginning with April of 280  
2020 and ending with January of 2027, the Ohio air quality 281  
development authority shall, in April of 2020 and every three 282  
months thereafter through the end of the period, and not later 283  
than fourteen days after the receipt of the information reported 284  
under section 3706.45 of the Revised Code, direct the treasurer 285  
of state to remit money from the funds created under section 286  
3706.49 of the Revised Code as follows: 287

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

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

(B) Notwithstanding section 4905.32 of the Revised Code, 300  
any amounts remaining in the nuclear generation fund and the 301  
renewable generation fund as of December 31, 2026, minus the 302  
remittances that are required to be made between that date and 303  
January 21, 2027, shall be refunded to customers in a manner 304  
that shall be determined by the authority in consultation with 305  
the public utilities commission. 306

**Sec. 3706.59.** (A) If the money in the nuclear generation 307

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

(B) If the money in the renewable generation fund is 316  
insufficient to make the payments in the amounts required under 317  
division (A) (2) of section 3706.55 of the Revised Code for all 318  
owners and operators of qualifying renewable resources, then the 319  
authority shall do both of the following: 320

(1) Not later than twenty-one days after the close of the 321  
quarter in which the charges collected were insufficient, direct 322  
the treasurer to prorate payments from the total amount 323  
available in the renewable generation fund, based on the number 324  
of each resource's credits earned during the previous quarter; 325

(2) Not later than twenty-one days after the close of any 326  
quarter in which the owners or operators received prorated 327  
payments under division (B) (1) of this section, direct the 328  
treasurer of state to remit money from the renewable generation 329  
fund to pay for the unpaid credits. Unpaid credits paid for 330  
under division (B) (2) of this section shall be paid before any 331  
other remittances are made under division (A) (2) of section 332  
3706.55 of the Revised Code. 333

**Sec. 3706.61.** (A) In each year beginning in 2021 and 334  
ending in 2026, the public utilities commission shall, not later 335  
than the first day of May of each of those years, conduct a 336  
retrospective management and financial review of the owner or 337

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

(B) Any owner or operator subject to a review under 346  
division (A) of this section may, for purposes of the review, 347  
provide the commission or the commission's consultants or 348  
advisors with any information the owner or operator chooses. The 349  
owner or operator shall promptly and fully respond to any 350  
document, information, data, or other request that may be 351  
directed to its attention by the commission or the commission's 352  
consultants or advisors for the purpose of the review. Any 353  
material failure to timely and fully respond shall result in 354  
suspension of further receipt of payments for nuclear resource 355  
credits under section 3706.55 of the Revised Code until the 356  
failure is cured to the satisfaction of the commission. 357

(C) The commission shall submit a report summarizing the 358  
findings of each annual review to the president and minority 359  
leader of the senate, the speaker and minority leader of the 360  
house of representatives, and the Ohio air quality development 361  
authority, and shall make the report publicly available, 362  
provided that the report shall not reveal any confidential or 363  
proprietary information. The submission shall include a copy of 364  
the owner's or operator's own certified annual audit that was 365  
obtained during the review performed under this section. 366

(D) In consultation with the commission, the Ohio air 367

quality development authority shall consider the findings of the 368  
review and may cease or reduce payments for nuclear resource 369  
credits under section 3706.55 of the Revised Code if the 370  
authority determines any of the following: 371

(1) That the federal energy regulatory commission or the 372  
nuclear regulatory commission has established a monetary benefit 373  
or other incentive payment to continue the resource's commercial 374  
operation; 375

(2) That either requirement under division (A) or (B) (2) 376  
of section 3706.43 of the Revised Code is no longer being met; 377

(3) That the resource's owner or operator applies, before 378  
May 1, 2026, to decommission the resource; 379

(4) That, for the purpose of ensuring that the funding for 380  
nuclear resource credits remains reasonable, the market price 381  
index exceeds the strike price on the first day of June in the 382  
year in which the report is submitted, in which case the 383  
authority shall apply the credit price adjustment for the 384  
twelve-month period that begins on that day and ends the thirty- 385  
first day of May, or, for 2026, for the seven-month period that 386  
begins on that day and ends the thirty-first day of December. 387

(E) (1) If the authority determines it necessary to make 388  
reductions under division (D) of this section, the commission 389  
shall do all of the following, as necessary: 390

(a) Reduce the revenue requirement under division (A) (1) 391  
(a) of section 3706.46 of the Revised Code; 392

(b) Except when the authority has applied the credit price 393  
adjustment under division (D) (4) of this section, reduce the 394  
price of a nuclear resource credit under section 3706.45 of the 395  
Revised Code, in accordance with a reduced revenue requirement; 396

(c) Reduce the charge or charges under section 3706.46 of 397  
the Revised Code, to conform with a reduced revenue requirement; 398

(d) Adjust the percentages under section 3706.53 of the 399  
Revised Code in accordance with a reduced revenue requirement. 400

(2) Any revisions made by the commission under division 401  
(E) (1) of this section shall be made through a process that the 402  
commission shall determine is not for an increase in any rate, 403  
joint rate, toll, classification, charge, or rental, 404  
notwithstanding anything to the contrary in Title XLIX of the 405  
Revised Code. 406

(F) If the payments for nuclear resource credits are 407  
suspended or ceased under this section, the commission shall 408  
instruct the electric distribution utilities to accordingly 409  
suspend or cease billing and collecting customer charges under 410  
section 3706.46 of the Revised Code. 411

(G) Chapter 4903. of the Revised Code shall not apply to 412  
this section. 413

**Sec. 3706.63.** Not later than January 1, 2020, the Ohio air 414  
quality development authority shall adopt rules under Chapter 415  
119. of the Revised Code that are necessary to implement 416  
sections 3706.40 to 3706.65 of the Revised Code. 417

**Sec. 3706.65.** (A) For the purpose of carrying out the Ohio 418  
air quality development authority's duties under sections 419  
3706.40 to 3706.63 of the Revised Code, the authority may make 420  
use of the staff and experts employed at the public utilities 421  
commission in such manner as is provided by mutual arrangement 422  
between the authority and the commission. Any information, data, 423  
and equipment of the commission shall be placed at the disposal 424  
of the authority. 425

(B) If any information, data, or equipment is not a public 426  
record for purposes of section 149.43 of the Revised Code 427  
because either the authority or the commission possesses that 428  
information, data, or equipment, then the operation of division 429  
(A) of this section shall not be construed to render that 430  
information, data, or equipment a public record, notwithstanding 431  
any provision of the Revised Code to the contrary. 432

**Sec. 4906.13.** (A) As used in this section and sections 433  
4906.20 and 4906.98 of the Revised Code, "economically 434  
significant wind farm" means wind turbines and associated 435  
facilities with a single interconnection to the electrical grid 436  
and designed for, or capable of, operation at an aggregate 437  
capacity of five or more megawatts but less than fifty 438  
megawatts. The term excludes any such wind farm in operation on 439  
June 24, 2008. The term also excludes one or more wind turbines 440  
and associated facilities that are primarily dedicated to 441  
providing electricity to a single customer at a single location 442  
and that are designed for, or capable of, operation at an 443  
aggregate capacity of less than twenty megawatts, as measured at 444  
the customer's point of interconnection to the electrical grid. 445

(B) No public agency or political subdivision of this 446  
state may require any approval, consent, permit, certificate, or 447  
other condition for the construction or operation of a major 448  
utility facility or economically significant wind farm 449  
authorized by a certificate issued pursuant to Chapter 4906. of 450  
the Revised Code. Nothing herein shall prevent the application 451  
of state laws for the protection of employees engaged in the 452  
construction of such facility or wind farm nor of municipal 453  
regulations that do not pertain to the location or design of, or 454  
pollution control and abatement standards for, a major utility 455  
facility or economically significant wind farm for which a 456

certificate has been granted under this chapter. 457

**Sec. 4928.01.** (A) As used in this chapter: 458

(1) "Ancillary service" means any function necessary to 459  
the provision of electric transmission or distribution service 460  
to a retail customer and includes, but is not limited to, 461  
scheduling, system control, and dispatch services; reactive 462  
supply from generation resources and voltage control service; 463  
reactive supply from transmission resources service; regulation 464  
service; frequency response service; energy imbalance service; 465  
operating reserve-spinning reserve service; operating reserve- 466  
supplemental reserve service; load following; back-up supply 467  
service; real-power loss replacement service; dynamic 468  
scheduling; system black start capability; and network stability 469  
service. 470

(2) "Billing and collection agent" means a fully 471  
independent agent, not affiliated with or otherwise controlled 472  
by an electric utility, electric services company, electric 473  
cooperative, or governmental aggregator subject to certification 474  
under section 4928.08 of the Revised Code, to the extent that 475  
the agent is under contract with such utility, company, 476  
cooperative, or aggregator solely to provide billing and 477  
collection for retail electric service on behalf of the utility 478  
company, cooperative, or aggregator. 479

(3) "Certified territory" means the certified territory 480  
established for an electric supplier under sections 4933.81 to 481  
4933.90 of the Revised Code. 482

(4) "Competitive retail electric service" means a 483  
component of retail electric service that is competitive as 484  
provided under division (B) of this section. 485

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

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

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

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

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

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

(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 515  
retail electric service in this state or in the businesses of 516  
supplying both a noncompetitive and a competitive retail 517  
electric service in this state. "Electric utility" excludes a 518  
municipal electric utility or a billing and collection agent. 519

(12) "Firm electric service" means electric service other 520  
than nonfirm electric service. 521

(13) "Governmental aggregator" means a legislative 522  
authority of a municipal corporation, a board of township 523  
trustees, or a board of county commissioners acting as an 524  
aggregator for the provision of a competitive retail electric 525  
service under authority conferred under section 4928.20 of the 526  
Revised Code. 527

(14) A person acts "knowingly," regardless of the person's 528  
purpose, when the person is aware that the person's conduct will 529  
probably cause a certain result or will probably be of a certain 530  
nature. A person has knowledge of circumstances when the person 531  
is aware that such circumstances probably exist. 532

(15) "Level of funding for low-income customer energy 533  
efficiency programs provided through electric utility rates" 534  
means the level of funds specifically included in an electric 535  
utility's rates on October 5, 1999, pursuant to an order of the 536  
public utilities commission issued under Chapter 4905. or 4909. 537  
of the Revised Code and in effect on October 4, 1999, for the 538  
purpose of improving the energy efficiency of housing for the 539  
utility's low-income customers. The term excludes the level of 540  
any such funds committed to a specific nonprofit organization or 541  
organizations pursuant to a stipulation or contract. 542

(16) "Low-income customer assistance programs" means the 543

percentage of income payment plan program, the home energy 544  
assistance program, the home weatherization assistance program, 545  
and the targeted energy efficiency and weatherization program. 546

(17) "Market development period" for an electric utility 547  
means the period of time beginning on the starting date of 548  
competitive retail electric service and ending on the applicable 549  
date for that utility as specified in section 4928.40 of the 550  
Revised Code, irrespective of whether the utility applies to 551  
receive transition revenues under this chapter. 552

(18) "Market power" means the ability to impose on 553  
customers a sustained price for a product or service above the 554  
price that would prevail in a competitive market. 555

(19) "Mercantile customer" means a commercial or 556  
industrial customer if the electricity consumed is for 557  
nonresidential use and the customer consumes more than seven 558  
hundred thousand kilowatt hours per year or is part of a 559  
national account involving multiple facilities in one or more 560  
states. 561

(20) "Municipal electric utility" means a municipal 562  
corporation that owns or operates facilities to generate, 563  
transmit, or distribute electricity. 564

(21) "Noncompetitive retail electric service" means a 565  
component of retail electric service that is noncompetitive as 566  
provided under division (B) of this section. 567

(22) "Nonfirm electric service" means electric service 568  
provided pursuant to a schedule filed under section 4905.30 of 569  
the Revised Code or pursuant to an arrangement under section 570  
4905.31 of the Revised Code, which schedule or arrangement 571  
includes conditions that may require the customer to curtail or 572

interrupt electric usage during nonemergency circumstances upon 573  
notification by an electric utility. 574

(23) "Percentage of income payment plan arrears" means 575  
funds eligible for collection through the percentage of income 576  
payment plan rider, but uncollected as of July 1, 2000. 577

(24) "Person" has the same meaning as in section 1.59 of 578  
the Revised Code. 579

(25) "Advanced energy project" means any technologies, 580  
products, activities, or management practices or strategies that 581  
facilitate the generation or use of electricity or energy and 582  
that reduce or support the reduction of energy consumption or 583  
support the production of clean, renewable energy for 584  
industrial, distribution, commercial, institutional, 585  
governmental, research, not-for-profit, or residential energy 586  
users, including, but not limited to, advanced energy resources 587  
and renewable energy resources. "Advanced energy project" also 588  
includes any project described in division (A), (B), or (C) of 589  
section 4928.621 of the Revised Code. 590

(26) "Regulatory assets" means the unamortized net 591  
regulatory assets that are capitalized or deferred on the 592  
regulatory books of the electric utility, pursuant to an order 593  
or practice of the public utilities commission or pursuant to 594  
generally accepted accounting principles as a result of a prior 595  
commission rate-making decision, and that would otherwise have 596  
been charged to expense as incurred or would not have been 597  
capitalized or otherwise deferred for future regulatory 598  
consideration absent commission action. "Regulatory assets" 599  
includes, but is not limited to, all deferred demand-side 600  
management costs; all deferred percentage of income payment plan 601  
arrears; post-in-service capitalized charges and assets 602

recognized in connection with statement of financial accounting 603  
standards no. 109 (receivables from customers for income taxes); 604  
future nuclear decommissioning costs and fuel disposal costs as 605  
those costs have been determined by the commission in the 606  
electric utility's most recent rate or accounting application 607  
proceeding addressing such costs; the undepreciated costs of 608  
safety and radiation control equipment on nuclear generating 609  
plants owned or leased by an electric utility; and fuel costs 610  
currently deferred pursuant to the terms of one or more 611  
settlement agreements approved by the commission. 612

(27) "Retail electric service" means any service involved 613  
in supplying or arranging for the supply of electricity to 614  
ultimate consumers in this state, from the point of generation 615  
to the point of consumption. For the purposes of this chapter, 616  
retail electric service includes one or more of the following 617  
"service components": generation service, aggregation service, 618  
power marketing service, power brokerage service, transmission 619  
service, distribution service, ancillary service, metering 620  
service, and billing and collection service. 621

(28) "Starting date of competitive retail electric 622  
service" means January 1, 2001. 623

(29) "Customer-generator" means a user of a net metering 624  
system. 625

(30) "Net metering" means measuring the difference in an 626  
applicable billing period between the electricity supplied by an 627  
electric service provider and the electricity generated by a 628  
customer-generator that is fed back to the electric service 629  
provider. 630

(31) "Net metering system" means a facility for the 631

production of electrical energy that does all of the following: 632

(a) Uses as its fuel either solar, wind, biomass, landfill 633  
gas, or hydropower, or uses a microturbine or a fuel cell; 634

(b) Is located on a customer-generator's premises; 635

(c) Operates in parallel with the electric utility's 636  
transmission and distribution facilities; 637

(d) Is intended primarily to offset part or all of the 638  
customer-generator's requirements for electricity. For an 639  
industrial customer-generator with a net metering system that 640  
has a capacity of less than twenty megawatts and uses wind as 641  
energy, this means the net metering system was sized so as to 642  
not exceed one hundred per cent of the customer-generator's 643  
annual requirements for electric energy at the time of 644  
interconnection. 645

(32) "Self-generator" means an entity in this state that 646  
owns or hosts on its premises an electric generation facility 647  
that produces electricity primarily for the owner's consumption 648  
and that may provide any such excess electricity to another 649  
entity, whether the facility is installed or operated by the 650  
owner or by an agent under a contract. 651

(33) "Rate plan" means the standard service offer in 652  
effect on the effective date of the amendment of this section by 653  
S.B. 221 of the 127th general assembly, July 31, 2008. 654

(34) "Advanced energy resource" means any of the 655  
following: 656

(a) Any method or any modification or replacement of any 657  
property, process, device, structure, or equipment that 658  
increases the generation output of an electric generating 659

facility to the extent such efficiency is achieved without 660  
additional carbon dioxide emissions by that facility; 661

(b) Any distributed generation system consisting of 662  
customer cogeneration technology; 663

(c) Clean coal technology that includes a carbon-based 664  
product that is chemically altered before combustion to 665  
demonstrate a reduction, as expressed as ash, in emissions of 666  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 667  
sulfur trioxide in accordance with the American society of 668  
testing and materials standard D1757A or a reduction of metal 669  
oxide emissions in accordance with standard D5142 of that 670  
society, or clean coal technology that includes the design 671  
capability to control or prevent the emission of carbon dioxide, 672  
which design capability the commission shall adopt by rule and 673  
shall be based on economically feasible best available 674  
technology or, in the absence of a determined best available 675  
technology, shall be of the highest level of economically 676  
feasible design capability for which there exists generally 677  
accepted scientific opinion; 678

(d) Advanced nuclear energy technology consisting of 679  
generation III technology as defined by the nuclear regulatory 680  
commission; other, later technology; or significant improvements 681  
to existing facilities; 682

(e) Any fuel cell used in the generation of electricity, 683  
including, but not limited to, a proton exchange membrane fuel 684  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 685  
solid oxide fuel cell; 686

(f) Advanced solid waste or construction and demolition 687  
debris conversion technology, including, but not limited to, 688

advanced stoker technology, and advanced fluidized bed 689  
gasification technology, that results in measurable greenhouse 690  
gas emissions reductions as calculated pursuant to the United 691  
States environmental protection agency's waste reduction model 692  
(WARM); 693

(g) Demand-side management and any energy efficiency 694  
improvement; 695

(h) Any new, retrofitted, refueled, or repowered 696  
generating facility located in Ohio, including a simple or 697  
combined-cycle natural gas generating facility or a generating 698  
facility that uses biomass, coal, modular nuclear, or any other 699  
fuel as its input; 700

(i) Any uprated capacity of an existing electric 701  
generating facility if the uprated capacity results from the 702  
deployment of advanced technology. 703

"Advanced energy resource" does not include a waste energy 704  
recovery system that is, or has been, included in an energy 705  
efficiency program of an electric distribution utility pursuant 706  
to requirements under section 4928.66 of the Revised Code. 707

(35) "Air contaminant source" has the same meaning as in 708  
section 3704.01 of the Revised Code. 709

(36) "Cogeneration technology" means technology that 710  
produces electricity and useful thermal output simultaneously. 711

(37) (a) "Renewable energy resource" means any of the 712  
following: 713

(i) Solar photovoltaic or solar thermal energy; 714

(ii) Wind energy; 715

(iii) Power produced by a hydroelectric facility;	716
(iv) Power produced by a small hydroelectric facility,	717
which is a facility that operates, or is rated to operate, at an	718
aggregate capacity of less than six megawatts;	719
(v) Power produced by a run-of-the-river hydroelectric	720
facility placed in service on or after January 1, 1980, that is	721
located within this state, relies upon the Ohio river, and	722
operates, or is rated to operate, at an aggregate capacity of	723
forty or more megawatts;	724
(vi) Geothermal energy;	725
(vii) Fuel derived from solid wastes, as defined in	726
section 3734.01 of the Revised Code, through fractionation,	727
biological decomposition, or other process that does not	728
principally involve combustion;	729
(viii) Biomass energy;	730
(ix) Energy produced by cogeneration technology that is	731
placed into service on or before December 31, 2015, and for	732
which more than ninety per cent of the total annual energy input	733
is from combustion of a waste or byproduct gas from an air	734
contaminant source in this state, which source has been in	735
operation since on or before January 1, 1985, provided that the	736
cogeneration technology is a part of a facility located in a	737
county having a population of more than three hundred sixty-five	738
thousand but less than three hundred seventy thousand according	739
to the most recent federal decennial census;	740
(x) Biologically derived methane gas;	741
(xi) Heat captured from a generator of electricity,	742
boiler, or heat exchanger fueled by biologically derived methane	743

gas; 744

(xii) Energy derived from nontreated by-products of the 745  
pulping process or wood manufacturing process, including bark, 746  
wood chips, sawdust, and lignin in spent pulping liquors. 747

"Renewable energy resource" includes, but is not limited 748  
to, any fuel cell used in the generation of electricity, 749  
including, but not limited to, a proton exchange membrane fuel 750  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 751  
solid oxide fuel cell; wind turbine located in the state's 752  
territorial waters of Lake Erie; methane gas emitted from an 753  
abandoned coal mine; waste energy recovery system placed into 754  
service or retrofitted on or after the effective date of the 755  
amendment of this section by S.B. 315 of the 129th general 756  
assembly, September 10, 2012, except that a waste energy 757  
recovery system described in division (A)(38)(b) of this section 758  
may be included only if it was placed into service between 759  
January 1, 2002, and December 31, 2004; storage facility that 760  
will promote the better utilization of a renewable energy 761  
resource; or distributed generation system used by a customer to 762  
generate electricity from any such energy. 763

"Renewable energy resource" does not include a waste 764  
energy recovery system that is, or was, on or after January 1, 765  
2012, included in an energy efficiency program of an electric 766  
distribution utility pursuant to requirements under section 767  
4928.66 of the Revised Code. 768

(b) As used in division (A)(37) of this section, 769  
"hydroelectric facility" means a hydroelectric generating 770  
facility that is located at a dam on a river, or on any water 771  
discharged to a river, that is within or bordering this state or 772  
within or bordering an adjoining state and meets all of the 773

following standards: 774

(i) The facility provides for river flows that are not 775  
detrimental for fish, wildlife, and water quality, including 776  
seasonal flow fluctuations as defined by the applicable 777  
licensing agency for the facility. 778

(ii) The facility demonstrates that it complies with the 779  
water quality standards of this state, which compliance may 780  
consist of certification under Section 401 of the "Clean Water 781  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 782  
demonstrates that it has not contributed to a finding by this 783  
state that the river has impaired water quality under Section 784  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 785  
U.S.C. 1313. 786

(iii) The facility complies with mandatory prescriptions 787  
regarding fish passage as required by the federal energy 788  
regulatory commission license issued for the project, regarding 789  
fish protection for riverine, anadromous, and catadromous fish. 790

(iv) The facility complies with the recommendations of the 791  
Ohio environmental protection agency and with the terms of its 792  
federal energy regulatory commission license regarding watershed 793  
protection, mitigation, or enhancement, to the extent of each 794  
agency's respective jurisdiction over the facility. 795

(v) The facility complies with provisions of the 796  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 797  
to 1544, as amended. 798

(vi) The facility does not harm cultural resources of the 799  
area. This can be shown through compliance with the terms of its 800  
federal energy regulatory commission license or, if the facility 801  
is not regulated by that commission, through development of a 802

plan approved by the Ohio historic preservation office, to the 803  
extent it has jurisdiction over the facility. 804

(vii) The facility complies with the terms of its federal 805  
energy regulatory commission license or exemption that are 806  
related to recreational access, accommodation, and facilities 807  
or, if the facility is not regulated by that commission, the 808  
facility complies with similar requirements as are recommended 809  
by resource agencies, to the extent they have jurisdiction over 810  
the facility; and the facility provides access to water to the 811  
public without fee or charge. 812

(viii) The facility is not recommended for removal by any 813  
federal agency or agency of any state, to the extent the 814  
particular agency has jurisdiction over the facility. 815

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 816  
this section do not apply to a small hydroelectric facility 817  
under division (A) (37) (a) (iv) of this section. 818

(38) "Waste energy recovery system" means either of the 819  
following: 820

(a) A facility that generates electricity through the 821  
conversion of energy from either of the following: 822

(i) Exhaust heat from engines or manufacturing, 823  
industrial, commercial, or institutional sites, except for 824  
exhaust heat from a facility whose primary purpose is the 825  
generation of electricity; 826

(ii) Reduction of pressure in gas pipelines before gas is 827  
distributed through the pipeline, provided that the conversion 828  
of energy to electricity is achieved without using additional 829  
fossil fuels. 830

(b) A facility at a state institution of higher education 831  
as defined in section 3345.011 of the Revised Code that recovers 832  
waste heat from electricity-producing engines or combustion 833  
turbines and that simultaneously uses the recovered heat to 834  
produce steam, provided that the facility was placed into 835  
service between January 1, 2002, and December 31, 2004. 836

(39) "Smart grid" means capital improvements to an 837  
electric distribution utility's distribution infrastructure that 838  
improve reliability, efficiency, resiliency, or reduce energy 839  
demand or use, including, but not limited to, advanced metering 840  
and automation of system functions. 841

(40) "Combined heat and power system" means the 842  
coproduction of electricity and useful thermal energy from the 843  
same fuel source designed to achieve thermal-efficiency levels 844  
of at least sixty per cent, with at least twenty per cent of the 845  
system's total useful energy in the form of thermal energy. 846

(41) "Legacy generation resource" means all generating 847  
facilities owned directly or indirectly by a corporation that 848  
was formed prior to 1960 by investor-owned utilities for the 849  
original purpose of providing power to the federal government 850  
for use in the nation's defense or in furtherance of national 851  
interests, including the Ohio valley electric corporation. 852

(42) "Prudently incurred costs related to a legacy 853  
generation resource" means costs, including deferred costs, 854  
allocated pursuant to a power agreement approved by the federal 855  
energy regulatory commission that relates to a legacy generation 856  
resource, less any revenues realized from offering the 857  
contractual commitment for the power agreement into the 858  
wholesale markets, provided that where the net revenues exceed 859  
net costs, those excess revenues shall be credited to customers. 860

Such costs shall exclude any return on investment in common 861  
equity and, in the event of a premature retirement of a legacy 862  
generation resource, shall exclude any recovery of remaining 863  
debt. Such costs shall include any incremental costs resulting 864  
from the bankruptcy of a current or former sponsor under such 865  
power agreement or co-owner of the legacy generation resource if 866  
not otherwise recovered through a utility rate cost recovery 867  
mechanism. 868

(B) For the purposes of this chapter, a retail electric 869  
service component shall be deemed a competitive retail electric 870  
service if the service component is competitive pursuant to a 871  
declaration by a provision of the Revised Code or pursuant to an 872  
order of the public utilities commission authorized under 873  
division (A) of section 4928.04 of the Revised Code. Otherwise, 874  
the service component shall be deemed a noncompetitive retail 875  
electric service. 876

**Sec. 4928.148.** (A) On January 1, 2020, any mechanism 877  
authorized by the public utilities commission prior to the 878  
effective date of this section for retail recovery of prudently 879  
incurred costs related to a legacy generation resource shall be 880  
replaced by a nonbypassable rate mechanism established by the 881  
commission for recovery of those costs through December 31, 882  
2030, from customers of all electric distribution utilities in 883  
this state. The nonbypassable rate mechanism shall be 884  
established through a process that the commission shall 885  
determine is not for an increase in any rate, joint rate, toll, 886  
classification, charge, or rental, notwithstanding anything to 887  
the contrary in Title XLIX of the Revised Code. All of the 888  
following shall apply to the nonbypassable rate mechanism 889  
established under this section: 890

(1) The commission shall determine, in the years specified 891  
in this division, the prudence and reasonableness of the actions 892  
of electric distribution utilities with ownership interests in 893  
the legacy generation resource, including their decisions 894  
related to offering the contractual commitment into the 895  
wholesale markets, and exclude from recovery those costs that 896  
the commission determines imprudent and unreasonable. The 897  
initial determination shall be made during 2021 regarding the 898  
prudence and reasonableness of such actions during calendar year 899  
2020. The commission shall again make the determination in 2024, 900  
2027, and 2030 regarding the prudence and reasonableness of such 901  
actions during the three calendar years that preceded the year 902  
in which the determination is made. 903

(2) The commission shall determine the proper rate design 904  
for recovering or remitting the prudently incurred costs related 905  
to a legacy generation resource, provided, however, that the 906  
monthly charge or credit for those costs, including any 907  
deferrals or credits, shall not exceed one dollar and fifty 908  
cents per customer per month for residential customers. For all 909  
other customer classes, the commission shall establish 910  
comparable monthly caps for each class at or below one thousand 911  
five hundred dollars per customer. Insofar as the prudently 912  
incurred costs related to a legacy generation resource exceed 913  
these monthly limits, the electric distribution utility shall 914  
defer the remaining prudently incurred costs as a regulatory 915  
asset or liability that shall be recovered as determined by the 916  
commission subject to the monthly caps set forth in this 917  
division. 918

(3) The commission shall provide for discontinuation, 919  
subject to final reconciliation, of the nonbypassable rate 920  
mechanism on December 31, 2030, including recovery of any 921

deferrals that exist at that time. 922

(4) The commission shall determine the manner in which 923  
charges collected under this section by a utility with no 924  
ownership interest in a legacy generation resource shall be 925  
remitted to the utilities with such ownership interests, in 926  
direct proportion to each utility's sponsorship interest. 927

(B) An electric distribution utility, including all 928  
electric distribution utilities in the same holding company, 929  
shall bid all output from a legacy generation resource into the 930  
wholesale market and shall not use the output in supplying its 931  
standard service offer provided under section 4928.142 or 932  
4928.143 of the Revised Code. 933

Sec. 4928.47. (A) An electric distribution utility may, on 934  
a nondiscriminatory basis and subject to approval by the public 935  
utilities commission, enter into an agreement having a term of 936  
three years or more with a mercantile customer or group of 937  
mercantile customers for the purpose of constructing a customer 938  
sited renewable energy resource in this state that will provide 939  
the mercantile customer or group with a material portion of the 940  
customer's or group's electricity requirements. 941

(B) Any direct or indirect costs, including costs for 942  
infrastructure development or generation, associated with the 943  
in-state customer-sited renewable energy resource shall be paid 944  
for solely by the utility and the mercantile customer or group 945  
of mercantile customers. At no point shall the commission 946  
authorize the utility to collect, nor shall the utility ever 947  
collect, any of those costs from any customer other than the 948  
mercantile customer or group of mercantile customers. 949

Sec. 4928.471. (A) Except as provided in division (E) of 950

this section, not earlier than thirty days after the effective 951  
date of this section, an electric distribution utility may file 952  
an application to implement a decoupling mechanism for the 2019 953  
calendar year and each calendar year thereafter. For an electric 954  
distribution utility that applies for a decoupling mechanism 955  
under this section, the base distribution rates for residential 956  
and commercial customers shall be decoupled to the base 957  
distribution revenue and revenue resulting from implementation 958  
of section 4928.66 of the Revised Code, excluding program costs 959  
and shared savings, and recovered pursuant to an approved 960  
electric security plan under section 4928.143 of the Revised 961  
Code, as of the twelve-month period ending on December 31, 2018. 962  
An application under this division shall not be considered an 963  
application under section 4909.18 of the Revised Code. 964

(B) The commission shall issue an order approving an 965  
application for a decoupling mechanism filed under division (A) 966  
of this section not later than sixty days after the application 967  
is filed. In determining that an application is not unjust and 968  
unreasonable, the commission shall verify that the rate schedule 969  
or schedules are designed to recover the electric distribution 970  
utility's 2018 annual revenues as described in division (A) of 971  
this section and that the decoupling rate design is aligned with 972  
the rate design of the electric distribution utility's existing 973  
base distribution rates. The decoupling mechanism shall recover 974  
an amount equal to the base distribution revenue and revenue 975  
resulting from implementation of section 4928.66 of the Revised 976  
Code, excluding program costs and shared savings, and recovered 977  
pursuant to an approved electric security plan under section 978  
4928.143 of the Revised Code, as of the twelve-month period 979  
ending on December 31, 2018. The decoupling mechanism shall be 980  
adjusted annually thereafter to reconcile any over recovery or 981

under recovery from the prior year and to enable an electric 982  
distribution utility to recover the same level of revenues 983  
described in division (A) of this section in each year. 984

(C) The commission's approval of a decoupling mechanism 985  
under this section shall not affect any other rates, riders, 986  
charges, schedules, classifications, or services previously 987  
approved by the commission. The decoupling mechanism shall 988  
remain in effect until the next time that the electric 989  
distribution utility applies for and the commission approves 990  
base distribution rates for the utility under section 4909.18 of 991  
the Revised Code. 992

(D) If the commission determines that approving a 993  
decoupling mechanism will result in a double recovery by the 994  
electric distribution utility, the commission shall not approve 995  
the application unless the utility cures the double recovery. 996

(E) Divisions (A), (B), and (C) of this section shall not 997  
apply to an electric distribution utility that has base 998  
distribution rates that became effective between December 31, 999  
2018, and the effective date of this section pursuant to an 1000  
application for an increase in base distribution rates filed 1001  
under section 4909.18 of the Revised Code. 1002

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 1003  
renewable energy resource" means a renewable energy resource, as 1004  
defined in section 4928.01 of the Revised Code that: 1005

(a) Has a placed-in-service date on or after January 1, 1006  
1998; 1007

(b) Is any run-of-the-river hydroelectric facility that 1008  
has an in-service date on or after January 1, 1980; 1009

(c) Is a small hydroelectric facility; 1010

(d) Is created on or after January 1, 1998, by the 1011  
modification or retrofit of any facility placed in service prior 1012  
to January 1, 1998; or 1013

(e) Is a mercantile customer-sited renewable energy 1014  
resource, whether new or existing, that the mercantile customer 1015  
commits for integration into the electric distribution utility's 1016  
demand-response, energy efficiency, or peak demand reduction 1017  
programs as provided under division (A) (2) (c) of section 4928.66 1018  
of the Revised Code, including, but not limited to, any of the 1019  
following: 1020

(i) A resource that has the effect of improving the 1021  
relationship between real and reactive power; 1022

(ii) A resource that makes efficient use of waste heat or 1023  
other thermal capabilities owned or controlled by a mercantile 1024  
customer; 1025

(iii) Storage technology that allows a mercantile customer 1026  
more flexibility to modify its demand or load and usage 1027  
characteristics; 1028

(iv) Electric generation equipment owned or controlled by 1029  
a mercantile customer that uses a renewable energy resource. 1030

(2) For the purpose of this section and as it considers 1031  
appropriate, the public utilities commission may classify any 1032  
new technology as such a qualifying renewable energy resource. 1033

(B) (1) ~~By 2027 and thereafter~~ the end of 2026, an electric 1034  
distribution utility shall ~~provide~~ have provided from qualifying 1035  
renewable energy resources, including, at its discretion, 1036  
qualifying renewable energy resources obtained pursuant to an 1037  
electricity supply contract, a portion of the electricity supply 1038  
required for its standard service offer under section 4928.141 1039

of the Revised Code, and an electric services company shall 1040  
~~provide~~ have provided a portion of its electricity supply for 1041  
retail consumers in this state from qualifying renewable energy 1042  
resources, including, at its discretion, qualifying renewable 1043  
energy resources obtained pursuant to an electricity supply 1044  
contract. That portion shall equal ~~twelve~~ eight and one-half per 1045  
cent of the total number of kilowatt hours of electricity sold 1046  
by the subject utility or company to any and all retail electric 1047  
consumers whose electric load centers are served by that utility 1048  
and are located within the utility's certified territory or, in 1049  
the case of an electric services company, are served by the 1050  
company and are located within this state. However, nothing in 1051  
this section precludes a utility or company from providing a 1052  
greater percentage. 1053

(2) ~~The Subject to section 4928.642 of the Revised Code,~~ 1054  
~~the~~ portion required under division (B)(1) of this section shall 1055  
be generated from renewable energy resources, ~~including one-half~~ 1056  
~~per cent from solar energy resources,~~ in accordance with the 1057  
following benchmarks: 1058

	By end of year	Renewable energy	Solar energy	
		resources	resources	
2009	0.25%	0.004%		1061
2010	0.50%	0.010%		1062
2011	1%	0.030%		1063
2012	1.5%	0.060%		1064
2013	2%	0.090%		1065
2014	2.5%	0.12%		1066
2015	2.5%	0.12%		1067
2016	2.5%	0.12%		1068
2017	3.5%	0.15%		1069

2018	4.5%	0.18%	1070
2019	5.5%	0.22%	1071
2020	<del>6.5%</del> <u>5.5%</u>	<del>0.26%</del> <u>0%</u>	1072
2021	<del>7.5%</del> <u>6%</u>	<del>0.3%</del> <u>0%</u>	1073
2022	<del>8.5%</del> <u>6.5%</u>	<del>0.34%</del> <u>0%</u>	1074
2023	<del>9.5%</del> <u>7%</u>	<del>0.38%</del> <u>0%</u>	1075
2024	<del>10.5%</del> <u>7.5%</u>	<del>0.42%</del> <u>0%</u>	1076
2025	<del>11.5%</del> <u>8%</u>	<del>0.46%</del> <u>0%</u>	1077
2026	<del>and each calendar year thereafter 12.5%</del> <u>8.5%</u> <del>— 0.5%</del> <u>0%</u> .		1078
<del>year thereafter</del>			1079
(3) The qualifying renewable energy resources implemented			1080
by the utility or company shall be met either:			1081
(a) Through facilities located in this state; or			1082
(b) With resources that can be shown to be deliverable			1083
into this state.			1084
(C) (1) The commission annually shall review an electric			1085
distribution utility's or electric services company's compliance			1086
with the most recent applicable benchmark under division (B) (2)			1087
of this section and, in the course of that review, shall			1088
identify any undercompliance or noncompliance of the utility or			1089
company that it determines is weather-related, related to			1090
equipment or resource shortages for qualifying renewable energy			1091
resources as applicable, or is otherwise outside the utility's			1092
or company's control.			1093
(2) Subject to the cost cap provisions of division (C) (3)			1094
of this section, if the commission determines, after notice and			1095
opportunity for hearing, and based upon its findings in that			1096
review regarding avoidable undercompliance or noncompliance, but			1097
subject to division (C) (4) of this section, that the utility or			1098

company has failed to comply with any such benchmark, the 1099  
commission shall impose a renewable energy compliance payment on 1100  
the utility or company. 1101

(a) The compliance payment pertaining to the solar energy 1102  
resource benchmarks under division (B) (2) of this section shall 1103  
be an amount per megawatt hour of undercompliance or 1104  
noncompliance in the period under review, as follows: 1105

(i) Three hundred dollars for 2014, 2015, and 2016; 1106

(ii) Two hundred fifty dollars for 2017 and 2018; 1107

(iii) Two hundred dollars for 2019 ~~and 2020;~~ 1108

~~(iv) Similarly reduced every two years thereafter through~~ 1109  
~~2026 by fifty dollars, to a minimum of fifty dollars.~~ 1110

(b) The compliance payment pertaining to the renewable 1111  
energy resource benchmarks under division (B) (2) of this section 1112  
shall equal the number of additional renewable energy credits 1113  
that the electric distribution utility or electric services 1114  
company would have needed to comply with the applicable 1115  
benchmark in the period under review times an amount that shall 1116  
begin at forty-five dollars and shall be adjusted annually by 1117  
the commission to reflect any change in the consumer price index 1118  
as defined in section 101.27 of the Revised Code, but shall not 1119  
be less than forty-five dollars. 1120

(c) The compliance payment shall not be passed through by 1121  
the electric distribution utility or electric services company 1122  
to consumers. The compliance payment shall be remitted to the 1123  
commission, for deposit to the credit of the advanced energy 1124  
fund created under section 4928.61 of the Revised Code. Payment 1125  
of the compliance payment shall be subject to such collection 1126  
and enforcement procedures as apply to the collection of a 1127

forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 1128  
Revised Code. 1129

(3) An electric distribution utility or an electric 1130  
services company need not comply with a benchmark under division 1131  
(B) (2) of this section to the extent that its reasonably 1132  
expected cost of that compliance exceeds its reasonably expected 1133  
cost of otherwise producing or acquiring the requisite 1134  
electricity by three per cent or more. The cost of compliance 1135  
shall be calculated as though any exemption from taxes and 1136  
assessments had not been granted under section 5727.75 of the 1137  
Revised Code. 1138

(4) (a) An electric distribution utility or electric 1139  
services company may request the commission to make a force 1140  
majeure determination pursuant to this division regarding all or 1141  
part of the utility's or company's compliance with any minimum 1142  
benchmark under division (B) (2) of this section during the 1143  
period of review occurring pursuant to division (C) (2) of this 1144  
section. The commission may require the electric distribution 1145  
utility or electric services company to make solicitations for 1146  
renewable energy resource credits as part of its default service 1147  
before the utility's or company's request of force majeure under 1148  
this division can be made. 1149

(b) Within ninety days after the filing of a request by an 1150  
electric distribution utility or electric services company under 1151  
division (C) (4) (a) of this section, the commission shall 1152  
determine if qualifying renewable energy resources are 1153  
reasonably available in the marketplace in sufficient quantities 1154  
for the utility or company to comply with the subject minimum 1155  
benchmark during the review period. In making this 1156  
determination, the commission shall consider whether the 1157

electric distribution utility or electric services company has 1158  
made a good faith effort to acquire sufficient qualifying 1159  
renewable energy or, as applicable, solar energy resources to so 1160  
comply, including, but not limited to, by banking or seeking 1161  
renewable energy resource credits or by seeking the resources 1162  
through long-term contracts. Additionally, the commission shall 1163  
consider the availability of qualifying renewable energy or 1164  
solar energy resources in this state and other jurisdictions in 1165  
the PJM interconnection regional transmission organization, 1166  
L.L.C., or its successor and the midcontinent independent system 1167  
operator or its successor. 1168

(c) If, pursuant to division (C) (4) (b) of this section, 1169  
the commission determines that qualifying renewable energy or 1170  
solar energy resources are not reasonably available to permit 1171  
the electric distribution utility or electric services company 1172  
to comply, during the period of review, with the subject minimum 1173  
benchmark prescribed under division (B) (2) of this section, the 1174  
commission shall modify that compliance obligation of the 1175  
utility or company as it determines appropriate to accommodate 1176  
the finding. Commission modification shall not automatically 1177  
reduce the obligation for the electric distribution utility's or 1178  
electric services company's compliance in subsequent years. If 1179  
it modifies the electric distribution utility or electric 1180  
services company obligation under division (C) (4) (c) of this 1181  
section, the commission may require the utility or company, if 1182  
sufficient renewable energy resource credits exist in the 1183  
marketplace, to acquire additional renewable energy resource 1184  
credits in subsequent years equivalent to the utility's or 1185  
company's modified obligation under division (C) (4) (c) of this 1186  
section. 1187

(5) The commission shall establish a process to provide 1188

for at least an annual review of the renewable energy resource 1189  
market in this state and in the service territories of the 1190  
regional transmission organizations that manage transmission 1191  
systems located in this state. The commission shall use the 1192  
results of this study to identify any needed changes to the 1193  
amount of the renewable energy compliance payment specified 1194  
under divisions (C) (2) (a) and (b) of this section. Specifically, 1195  
the commission may increase the amount to ensure that payment of 1196  
compliance payments is not used to achieve compliance with this 1197  
section in lieu of actually acquiring or realizing energy 1198  
derived from qualifying renewable energy resources. However, if 1199  
the commission finds that the amount of the compliance payment 1200  
should be otherwise changed, the commission shall present this 1201  
finding to the general assembly for legislative enactment. 1202

(D) The commission annually shall submit to the general 1203  
assembly in accordance with section 101.68 of the Revised Code a 1204  
report describing all of the following: 1205

(1) The compliance of electric distribution utilities and 1206  
electric services companies with division (B) of this section; 1207

(2) The average annual cost of renewable energy credits 1208  
purchased by utilities and companies for the year covered in the 1209  
report; 1210

(3) Any strategy for utility and company compliance or for 1211  
encouraging the use of qualifying renewable energy resources in 1212  
supplying this state's electricity needs in a manner that 1213  
considers available technology, costs, job creation, and 1214  
economic impacts. 1215

The commission shall begin providing the information 1216  
described in division (D) (2) of this section in each report 1217

submitted after September 10, 2012. The commission shall allow 1218  
and consider public comments on the report prior to its 1219  
submission to the general assembly. Nothing in the report shall 1220  
be binding on any person, including any utility or company for 1221  
the purpose of its compliance with any benchmark under division 1222  
(B) of this section, or the enforcement of that provision under 1223  
division (C) of this section. 1224

(E) All costs incurred by an electric distribution utility 1225  
in complying with the requirements of this section shall be 1226  
bypassable by any consumer that has exercised choice of supplier 1227  
under section 4928.03 of the Revised Code. 1228

**Sec. 4928.641.** (A) If an electric distribution utility has 1229  
executed a contract before April 1, 2014, to procure renewable 1230  
energy resources and there are ongoing costs associated with 1231  
that contract that are being recovered from customers through a 1232  
bypassable charge as of ~~the effective date of S.B. 310 of the~~ 1233  
~~130th general assembly, September 12, 2014,~~ that cost recovery 1234  
shall, regardless of the amendments to section 4928.64 of the 1235  
Revised Code by H.B. 6 of the 133rd general assembly, continue 1236  
on a bypassable basis ~~until the prudently incurred costs~~ 1237  
~~associated with that contract are fully recovered through~~ 1238  
December 31, 2032. 1239

(B) Division (A) of this section applies only to costs 1240  
associated with the original term of a contract described in 1241  
that division and entered into before April 1, 2014. This 1242  
section does not permit recovery of costs associated with an 1243  
extension of such a contract. This section does not permit 1244  
recovery of costs associated with an amendment of such a 1245  
contract if that amendment was made on or after April 1, 2014. 1246

**Sec. 4928.642.** Beginning with compliance year 2020, the 1247

public utilities commission shall, in accordance with this 1248  
section, reduce the number of kilowatt hours required for 1249  
compliance with section 4928.64 of the Revised Code for all 1250  
electric distribution utilities and all electric services 1251  
companies in this state. The commission shall determine each 1252  
utility's and each company's reduction by taking the total 1253  
amount of kilowatt hours produced, if any, by all qualifying 1254  
renewable resources, as defined in section 3706.40 of the 1255  
Revised Code, during the preceding compliance year, allocating 1256  
that total among all electric distribution utilities and 1257  
electric services companies in proportion to their baselines for 1258  
the subject compliance year, and subtracting that allocated 1259  
amount from the utility's or company's compliance amount as 1260  
otherwise determined under section 4928.64 of the Revised Code. 1261

**Sec. 4928.644.** (A) The public utilities commission may 1262  
reduce either baseline described in section 4928.643 of the 1263  
Revised Code to adjust for new economic growth in the electric 1264  
distribution utility's certified territory or in the electric 1265  
services company's service area in this state. 1266

(B) To facilitate the competitiveness of mercantile 1267  
customers located in this state that are registered as self- 1268  
assessing purchasers under division (C) of section 5727.81 of 1269  
the Revised Code, the commission shall reduce both baselines 1270  
described in section 4928.643 of the Revised Code to exclude the 1271  
load and usage of those self-assessing purchasers. Upon the 1272  
effective date of this reduction, both of the following shall 1273  
apply: 1274

(1) Any electric distribution utility or electric services 1275  
company serving such a self-assessing purchaser shall be 1276  
relieved of the amount of compliance with section 4928.64 of the 1277

Revised Code that would be required but for the baseline 1278  
reduction. 1279

(2) Such a self-assessing purchaser shall be exempt from 1280  
any bypassable charge imposed under division (E) of section 1281  
4928.64 of the Revised Code. 1282

**Sec. 4928.645.** (A) An electric distribution utility or 1283  
electric services company may use, for the purpose of complying 1284  
with the requirements under divisions (B)(1) and (2) of section 1285  
4928.64 of the Revised Code, renewable energy credits any time 1286  
in the five calendar years following the date of their purchase 1287  
or acquisition from any entity, including, but not limited to, 1288  
the following: 1289

(1) A mercantile customer; 1290

(2) An owner or operator of a hydroelectric generating 1291  
facility that is located at a dam on a river, or on any water 1292  
discharged to a river, that is within or bordering this state or 1293  
within or bordering an adjoining state, or that produces power 1294  
that can be shown to be deliverable into this state; 1295

(3) A seller of compressed natural gas that has been 1296  
produced from biologically derived methane gas, provided that 1297  
the seller may only provide renewable energy credits for metered 1298  
amounts of gas. 1299

(B)(1) The public utilities commission shall adopt rules 1300  
specifying that one unit of credit shall equal one megawatt hour 1301  
of electricity derived from renewable energy resources, except 1302  
that, for a generating facility of seventy-five megawatts or 1303  
greater that is situated within this state and has committed by 1304  
December 31, 2009, to modify or retrofit its generating unit or 1305  
units to enable the facility to generate principally from 1306

biomass energy by June 30, 2013, each megawatt hour of 1307  
electricity generated principally from that biomass energy shall 1308  
equal, in units of credit, the product obtained by multiplying 1309  
the actual percentage of biomass feedstock heat input used to 1310  
generate such megawatt hour by the quotient obtained by dividing 1311  
the then existing unit dollar amount used to determine a 1312  
renewable energy compliance payment as provided under division 1313  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 1314  
existing market value of one renewable energy credit, but such 1315  
megawatt hour shall not equal less than one unit of credit. 1316  
Renewable energy resources do not have to be converted to 1317  
electricity in order to be eligible to receive renewable energy 1318  
credits. The rules shall specify that, for purposes of 1319  
converting the quantity of energy derived from biologically 1320  
derived methane gas to an electricity equivalent, one megawatt 1321  
hour equals 3,412,142 British thermal units. 1322

(2) The rules also shall provide for this state a system 1323  
of registering renewable energy credits by specifying which of 1324  
any generally available registries shall be used for that 1325  
purpose and not by creating a registry. That selected system of 1326  
registering renewable energy credits shall allow a hydroelectric 1327  
generating facility to be eligible for obtaining renewable 1328  
energy credits and shall allow customer-sited projects or 1329  
actions the broadest opportunities to be eligible for obtaining 1330  
renewable energy credits. 1331

(C) Beginning January 1, 2020, a qualifying renewable 1332  
resource as defined in section 3706.40 of the Revised Code is 1333  
not eligible to obtain a renewable energy credit under this 1334  
section for any megawatt hour for which the resource has been 1335  
issued a renewable energy credit under section 3706.45 of the 1336  
Revised Code. 1337

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 1338  
distribution utility shall implement energy efficiency programs 1339  
that achieve energy savings equivalent to at least three-tenths 1340  
of one per cent of the total, annual average, and normalized 1341  
kilowatt-hour sales of the electric distribution utility during 1342  
the preceding three calendar years to customers in this state. 1343  
An energy efficiency program may include a combined heat and 1344  
power system placed into service or retrofitted on or after the 1345  
effective date of the amendment of this section by S.B. 315 of 1346  
the 129th general assembly, September 10, 2012, or a waste 1347  
energy recovery system placed into service or retrofitted on or 1348  
after September 10, 2012, except that a waste energy recovery 1349  
system described in division (A) (38) (b) of section 4928.01 of 1350  
the Revised Code may be included only if it was placed into 1351  
service between January 1, 2002, and December 31, 2004. For a 1352  
waste energy recovery or combined heat and power system, the 1353  
savings shall be as estimated by the public utilities 1354  
commission. The savings requirement, using such a three-year 1355  
average, shall increase to an additional five-tenths of one per 1356  
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1357  
of one per cent in 2012, nine-tenths of one per cent in 2013, 1358  
and one per cent in 2014. In 2015 and 2016, an electric 1359  
distribution utility shall achieve energy savings equal to the 1360  
result of subtracting the cumulative energy savings achieved 1361  
since 2009 from the product of multiplying the baseline for 1362  
energy savings, described in division (A) (2) (a) of this section, 1363  
by four and two-tenths of one per cent. If the result is zero or 1364  
less for the year for which the calculation is being made, the 1365  
utility shall not be required to achieve additional energy 1366  
savings for that year, but may achieve additional energy savings 1367  
for that year. ~~Thereafter, the~~ The annual savings requirements 1368  
shall be, for years 2017, 2018, 2019, and 2020, an additional 1369

one per cent of the baseline, ~~and two per cent each year~~ 1370  
~~thereafter, achieving cumulative energy savings in excess of~~ 1371  
~~twenty-two per cent by the end of 2027.~~ For purposes of a waste 1372  
energy recovery or combined heat and power system, an electric 1373  
distribution utility shall not apply more than the total annual 1374  
percentage of the electric distribution utility's industrial- 1375  
customer load, relative to the electric distribution utility's 1376  
total load, to the annual energy savings requirement. 1377

(b) Beginning in 2009, an electric distribution utility 1378  
shall implement peak demand reduction programs designed to 1379  
achieve a one per cent reduction in peak demand in 2009 and an 1380  
additional seventy-five hundredths of one per cent reduction 1381  
each year through 2014. In 2015 and 2016, an electric 1382  
distribution utility shall achieve a reduction in peak demand 1383  
equal to the result of subtracting the cumulative peak demand 1384  
reductions achieved since 2009 from the product of multiplying 1385  
the baseline for peak demand reduction, described in division 1386  
(A) (2) (a) of this section, by four and seventy-five hundredths 1387  
of one per cent. If the result is zero or less for the year for 1388  
which the calculation is being made, the utility shall not be 1389  
required to achieve an additional reduction in peak demand for 1390  
that year, but may achieve an additional reduction in peak 1391  
demand for that year. In 2017 and each year thereafter through 1392  
2020, the utility shall achieve an additional seventy-five 1393  
hundredths of one per cent reduction in peak demand. 1394

(2) For the purposes of divisions (A) (1) (a) and (b) of 1395  
this section: 1396

(a) The baseline for energy savings under division (A) (1) 1397  
(a) of this section shall be the average of the total kilowatt 1398  
hours the electric distribution utility sold in the preceding 1399

three calendar years. The baseline for a peak demand reduction 1400  
under division (A)(1)(b) of this section shall be the average 1401  
peak demand on the utility in the preceding three calendar 1402  
years, except that the commission may reduce either baseline to 1403  
adjust for new economic growth in the utility's certified 1404  
territory. Neither baseline shall include the load and usage of 1405  
any of the following customers: 1406

(i) Beginning January 1, 2017, a customer for which a 1407  
reasonable arrangement has been approved under section 4905.31 1408  
of the Revised Code; 1409

(ii) A customer that has opted out of the utility's 1410  
portfolio plan under section 4928.6611 of the Revised Code; 1411

(iii) A customer that has opted out of the utility's 1412  
portfolio plan under Section 8 of S.B. 310 of the 130th general 1413  
assembly. 1414

(b) The commission may amend the benchmarks set forth in 1415  
division (A)(1)(a) or (b) of this section if, after application 1416  
by the electric distribution utility, the commission determines 1417  
that the amendment is necessary because the utility cannot 1418  
reasonably achieve the benchmarks due to regulatory, economic, 1419  
or technological reasons beyond its reasonable control. 1420

(c) Compliance with divisions (A)(1)(a) and (b) of this 1421  
section shall be measured by including the effects of all 1422  
demand-response programs for mercantile customers of the subject 1423  
electric distribution utility, all waste energy recovery systems 1424  
and all combined heat and power systems, and all such mercantile 1425  
customer-sited energy efficiency, including waste energy 1426  
recovery and combined heat and power, and peak demand reduction 1427  
programs, adjusted upward by the appropriate loss factors. Any 1428

mechanism designed to recover the cost of energy efficiency, 1429  
including waste energy recovery and combined heat and power, and 1430  
peak demand reduction programs under divisions (A) (1) (a) and (b) 1431  
of this section may exempt mercantile customers that commit 1432  
their demand-response or other customer-sited capabilities, 1433  
whether existing or new, for integration into the electric 1434  
distribution utility's demand-response, energy efficiency, 1435  
including waste energy recovery and combined heat and power, or 1436  
peak demand reduction programs, if the commission determines 1437  
that that exemption reasonably encourages such customers to 1438  
commit those capabilities to those programs. If a mercantile 1439  
customer makes such existing or new demand-response, energy 1440  
efficiency, including waste energy recovery and combined heat 1441  
and power, or peak demand reduction capability available to an 1442  
electric distribution utility pursuant to division (A) (2) (c) of 1443  
this section, the electric utility's baseline under division (A) 1444  
(2) (a) of this section shall be adjusted to exclude the effects 1445  
of all such demand-response, energy efficiency, including waste 1446  
energy recovery and combined heat and power, or peak demand 1447  
reduction programs that may have existed during the period used 1448  
to establish the baseline. The baseline also shall be normalized 1449  
for changes in numbers of customers, sales, weather, peak 1450  
demand, and other appropriate factors so that the compliance 1451  
measurement is not unduly influenced by factors outside the 1452  
control of the electric distribution utility. 1453

(d) (i) Programs implemented by a utility may include the 1454  
following: 1455

(I) Demand-response programs; 1456

(II) Smart grid investment programs, provided that such 1457  
programs are demonstrated to be cost-beneficial; 1458

(III) Customer-sited programs, including waste energy recovery and combined heat and power systems; 1459  
1460

(IV) Transmission and distribution infrastructure improvements that reduce line losses; 1461  
1462

(V) Energy efficiency savings and peak demand reduction that are achieved, in whole or in part, as a result of funding provided from the universal service fund established by section 4928.51 of the Revised Code to benefit low-income customers through programs that include, but are not limited to, energy audits, the installation of energy efficiency insulation, appliances, and windows, and other weatherization measures. 1463  
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(ii) No energy efficiency or peak demand reduction achieved under divisions (A) (2) (d) (i) (IV) and (V) of this section shall qualify for shared savings. 1470  
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(iii) Division (A) (2) (c) of this section shall be applied to include facilitating efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code. 1473  
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(e) No programs or improvements described in division (A) (2) (d) of this section shall conflict with any statewide building code adopted by the board of building standards. 1481  
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(B) In accordance with rules it shall adopt, the public utilities commission shall produce and docket at the commission an annual report containing the results of its verification of the annual levels of energy efficiency and of peak demand 1484  
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reductions achieved by each electric distribution utility 1488  
pursuant to division (A) of this section. A copy of the report 1489  
shall be provided to the consumers' counsel. 1490

(C) If the commission determines, after notice and 1491  
opportunity for hearing and based upon its report under division 1492  
(B) of this section, that an electric distribution utility has 1493  
failed to comply with an energy efficiency or peak demand 1494  
reduction requirement of division (A) of this section, the 1495  
commission shall assess a forfeiture on the utility as provided 1496  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1497  
Code, either in the amount, per day per undercompliance or 1498  
noncompliance, relative to the period of the report, equal to 1499  
that prescribed for noncompliances under section 4905.54 of the 1500  
Revised Code, or in an amount equal to the then existing market 1501  
value of one renewable energy credit per megawatt hour of 1502  
undercompliance or noncompliance. Revenue from any forfeiture 1503  
assessed under this division shall be deposited to the credit of 1504  
the advanced energy fund created under section 4928.61 of the 1505  
Revised Code. 1506

(D) The commission may establish rules regarding the 1507  
content of an application by an electric distribution utility 1508  
for commission approval of a revenue decoupling mechanism under 1509  
this division. Such an application shall not be considered an 1510  
application to increase rates and may be included as part of a 1511  
proposal to establish, continue, or expand energy efficiency or 1512  
conservation programs. The commission by order may approve an 1513  
application under this division if it determines both that the 1514  
revenue decoupling mechanism provides for the recovery of 1515  
revenue that otherwise may be forgone by the utility as a result 1516  
of or in connection with the implementation by the electric 1517  
distribution utility of any energy efficiency or energy 1518

conservation programs and reasonably aligns the interests of the 1519  
utility and of its customers in favor of those programs. 1520

(E) The commission additionally shall adopt rules that 1521  
require an electric distribution utility to provide a customer 1522  
upon request with two years' consumption data in an accessible 1523  
form. 1524

(F) (1) As used in divisions (F) (2), (3), and (4) of this 1525  
section, "portfolio plan" has the same meaning as in division 1526  
(C) (1) of section 4928.6610 of the Revised Code. 1527

(2) If an electric distribution utility has a portfolio 1528  
plan in effect as of the effective date of the amendments to 1529  
this section by H.B. 6 of the 133rd general assembly and that 1530  
plan expires before December 31, 2020, the commission shall 1531  
extend the plan through that date. All portfolio plans shall 1532  
terminate on that date. 1533

(3) If a portfolio plan is extended beyond its commission 1534  
approved term by division (F) (2) of this section, the existing 1535  
plan's budget shall be increased for the extended term to 1536  
include an amount equal to the annual average of the approved 1537  
budget for all years of the portfolio plan in effect as of the 1538  
effective date of the amendments to this section by H.B. 6 of 1539  
the 133rd general assembly. 1540

(4) All other terms and conditions of a portfolio plan 1541  
extended beyond its commission-approved term by division (F) (2) 1542  
of this section shall remain the same unless changes are 1543  
authorized by the commission. 1544

(G) (1) Not later than February 1, 2021, the commission 1545  
shall determine the cumulative energy savings collectively 1546  
achieved, since 2009, by all electric distribution utilities in 1547

this state as of December 31, 2020. In determining that 1548  
cumulative total, the commission shall do both of the following: 1549

(a) Include energy savings that were estimated by the 1550  
commission to be achieved as of December 31, 2020, and banked 1551  
under division (G) of section 4928.662 of the Revised Code; 1552

(b) Use an energy savings baseline that is the average of 1553  
the total kilowatt hours sold by all electric distribution 1554  
utilities in this state in the calendar years 2018, 2019, and 1555  
2020. The baseline shall exclude the load and usage described in 1556  
division (A) (2) (a) (i), (ii), and (iii) of this section. That 1557  
baseline may also be reduced for new economic growth in the 1558  
utility's certified territory as provided in division (A) (2) (a) 1559  
of this section and adjusted and normalized as provided in 1560  
division (A) (2) (c) of this section. 1561

(2) (a) If the cumulative energy savings collectively 1562  
achieved as determined by the commission under division (G) (1) 1563  
of this section is at least seventeen and one-half per cent of 1564  
the baseline described in division (G) (1) (b) of this section, 1565  
then full compliance with division (A) (1) (a) of this section 1566  
shall be deemed to have been achieved notwithstanding any 1567  
provision of this section to the contrary. 1568

(b) If the cumulative energy savings collectively achieved 1569  
as determined by the commission under division (G) (1) of this 1570  
section is less than seventeen and one-half per cent of the 1571  
baseline described in division (G) (1) (b) of this section, then 1572  
both of the following shall apply: 1573

(i) The commission shall determine the manner in which 1574  
further implementation of energy efficiency programs shall occur 1575  
as may be reasonably necessary for collective achievement of 1576

cumulative energy savings equal to seventeen and one-half 1577  
percent, and not more, of the baseline described in division (G) 1578  
(1) (b) of this section. 1579

(ii) Full compliance with division (A) (1) (a) of this 1580  
section shall be deemed to be achieved as of a date certain 1581  
established by the commission notwithstanding any provision of 1582  
this section to the contrary. 1583

(3) Upon the date that full compliance with division (A) 1584  
(1) (a) of this section is deemed achieved under division (G) (2) 1585  
(a) or (b) of this section, any electric distribution utility 1586  
cost recovery mechanisms authorized by the commission for 1587  
compliance with this section shall terminate except as may be 1588  
necessary to reconcile the difference between revenue collected 1589  
and the allowable cost of compliance associated with compliance 1590  
efforts occurring prior to the date upon which full compliance 1591  
with division (A) (1) (a) of this section is deemed achieved. No 1592  
such cost recovery mechanism shall be authorized by the 1593  
commission beyond the period of time required to complete this 1594  
final reconciliation. 1595

**Sec. 4928.6610.** As used in sections 4928.6611 to ~~4928.6616~~ 1596  
4928.6615 of the Revised Code: 1597

(A) "Customer" means ~~any~~ either of the following: 1598

(1) Effective January 1, 2020, a mercantile customer as 1599  
defined in section 4928.01 of the Revised Code; 1600

(2) Any customer of an electric distribution utility to 1601  
which either of the following applies: 1602

~~(1)~~ (a) The customer receives service above the primary 1603  
voltage level as determined by the utility's tariff 1604  
classification. 1605

~~(2)-(b)~~ The customer is a commercial or industrial 1606  
customer to which both of the following apply: 1607

~~(a)-(i)~~ The customer receives electricity through a meter 1608  
of an end user or through more than one meter at a single 1609  
location in a quantity that exceeds forty-five million kilowatt 1610  
hours of electricity for the preceding calendar year. 1611

~~(b)-(ii)~~ The customer has made a written request for 1612  
registration as a self-assessing purchaser pursuant to section 1613  
5727.81 of the Revised Code. 1614

(B) "Energy intensity" means the amount of energy, from 1615  
electricity, used or consumed per unit of production. 1616

(C) "Portfolio plan" means either of the following: 1617

(1) The comprehensive energy efficiency and peak-demand 1618  
reduction program portfolio plan required under rules adopted by 1619  
the public utilities commission and codified in Chapter 4901:1- 1620  
39 of the Administrative Code or hereafter recodified or 1621  
amended; 1622

(2) Any plan implemented pursuant to division (G) of 1623  
section 4928.66 of the Revised Code. 1624

Sec. 4928.75. Beginning in fiscal year 2021 and each 1625  
fiscal year thereafter, the director of development services 1626  
shall, in each fiscal year, submit a completed waiver request in 1627  
accordance with section 96.83 of Title 45 of the Code of Federal 1628  
Regulations to the United States department of health and human 1629  
services and any other applicable federal agencies for the state 1630  
to expend twenty-five per cent of federal low-income home energy 1631  
assistance programs funds from the home energy assistance block 1632  
grants for weatherization services allowed by section 96.83(a) 1633  
of Title 45 of the Code of Federal Regulations to the United 1634

States department of health and human services. 1635

**Sec. 4928.80.** (A) Each electric distribution utility shall 1636  
file with the public utilities commission a rate schedule 1637  
applicable to county fairs and agricultural societies that 1638  
includes either of the following: 1639

(1) A fixed monthly service fee; 1640

(2) An energy charge on a kilowatt-hour basis. 1641

(B) The minimum monthly charge shall not exceed the fixed 1642  
monthly service fee and the customer shall not be subject to any 1643  
demand-based riders. 1644

(C) The electric distribution utility shall be eligible to 1645  
recover any revenue loss associated with customer migration to 1646  
this new rate schedule. 1647

**Sec. 5727.231.** The taxable property of an electric company 1648  
that is or is part of a qualifying nuclear resource receiving 1649  
payments for nuclear resource credits under section 3706.55 of 1650  
the Revised Code for any part of a tax year may not be assessed 1651  
for that year under section 5727.23 of the Revised Code at less 1652  
than the taxable value of such property as of the effective date 1653  
of H.B. 6 of the 133rd general assembly. The electric company 1654  
may not value such property at less than its taxable value as of 1655  
that date in its annual report filed under section 5727.08 of 1656  
the Revised Code or file a petition for reassessment seeking a 1657  
reduction in taxable value below the taxable value of such 1658  
property as of that date, and the tax commissioner may not grant 1659  
such a reduction, under section 5727.47 of the Revised Code. 1660

**Sec. 5727.75.** (A) For purposes of this section: 1661

(1) "Qualified energy project" means an energy project 1662

certified by the director of development services pursuant to 1663  
this section. 1664

(2) "Energy project" means a project to provide electric 1665  
power through the construction, installation, and use of an 1666  
energy facility. 1667

(3) "Alternative energy zone" means a county declared as 1668  
such by the board of county commissioners under division (E)(1) 1669  
(b) or (c) of this section. 1670

(4) "Full-time equivalent employee" means the total number 1671  
of employee-hours for which compensation was paid to individuals 1672  
employed at a qualified energy project for services performed at 1673  
the project during the calendar year divided by two thousand 1674  
eighty hours. 1675

(5) "Solar energy project" means an energy project 1676  
composed of an energy facility using solar panels to generate 1677  
electricity. 1678

(6) "Internet identifier of record" has the same meaning 1679  
as in section 9.312 of the Revised Code. 1680

(B)(1) Tangible personal property of a qualified energy 1681  
project using renewable energy resources is exempt from taxation 1682  
for tax years 2011 through 2021 if all of the following 1683  
conditions are satisfied: 1684

(a) On or before December 31, 2020, the owner or a lessee 1685  
pursuant to a sale and leaseback transaction of the project 1686  
submits an application to the power siting board for a 1687  
certificate under section 4906.20 of the Revised Code, or if 1688  
that section does not apply, submits an application for any 1689  
approval, consent, permit, or certificate or satisfies any 1690  
condition required by a public agency or political subdivision 1691

of this state for the construction or initial operation of an 1692  
energy project. 1693

(b) Construction or installation of the energy facility 1694  
begins on or after January 1, 2009, and before January 1, 2021. 1695  
For the purposes of this division, construction begins on the 1696  
earlier of the date of application for a certificate or other 1697  
approval or permit described in division (B) (1) (a) of this 1698  
section, or the date the contract for the construction or 1699  
installation of the energy facility is entered into. 1700

(c) For a qualified energy project with a nameplate 1701  
capacity of ~~five~~twenty megawatts or greater, a board of county 1702  
commissioners of a county in which property of the project is 1703  
located has adopted a resolution under division (E) (1) (b) or (c) 1704  
of this section to approve the application submitted under 1705  
division (E) of this section to exempt the property located in 1706  
that county from taxation. A board's adoption of a resolution 1707  
rejecting an application or its failure to adopt a resolution 1708  
approving the application does not affect the tax-exempt status 1709  
of the qualified energy project's property that is located in 1710  
another county. 1711

(2) If tangible personal property of a qualified energy 1712  
project using renewable energy resources was exempt from 1713  
taxation under this section beginning in any of tax years 2011 1714  
through 2021, and the certification under division (E) (2) of 1715  
this section has not been revoked, the tangible personal 1716  
property of the qualified energy project is exempt from taxation 1717  
for tax year 2022 and all ensuing tax years if the property was 1718  
placed into service before January 1, 2022, as certified in the 1719  
construction progress report required under division (F) (2) of 1720  
this section. Tangible personal property that has not been 1721

placed into service before that date is taxable property subject 1722  
to taxation. An energy project for which certification has been 1723  
revoked is ineligible for further exemption under this section. 1724  
Revocation does not affect the tax-exempt status of the 1725  
project's tangible personal property for the tax year in which 1726  
revocation occurs or any prior tax year. 1727

(C) Tangible personal property of a qualified energy 1728  
project using clean coal technology, advanced nuclear 1729  
technology, or cogeneration technology is exempt from taxation 1730  
for the first tax year that the property would be listed for 1731  
taxation and all subsequent years if all of the following 1732  
circumstances are met: 1733

(1) The property was placed into service before January 1, 1734  
2021. Tangible personal property that has not been placed into 1735  
service before that date is taxable property subject to 1736  
taxation. 1737

(2) For such a qualified energy project with a nameplate 1738  
capacity of ~~five~~twenty megawatts or greater, a board of county 1739  
commissioners of a county in which property of the qualified 1740  
energy project is located has adopted a resolution under 1741  
division (E) (1) (b) or (c) of this section to approve the 1742  
application submitted under division (E) of this section to 1743  
exempt the property located in that county from taxation. A 1744  
board's adoption of a resolution rejecting the application or 1745  
its failure to adopt a resolution approving the application does 1746  
not affect the tax-exempt status of the qualified energy 1747  
project's property that is located in another county. 1748

(3) The certification for the qualified energy project 1749  
issued under division (E) (2) of this section has not been 1750  
revoked. An energy project for which certification has been 1751

revoked is ineligible for exemption under this section. 1752  
Revocation does not affect the tax-exempt status of the 1753  
project's tangible personal property for the tax year in which 1754  
revocation occurs or any prior tax year. 1755

(D) Except as otherwise provided in this section, real 1756  
property of a qualified energy project is exempt from taxation 1757  
for any tax year for which the tangible personal property of the 1758  
qualified energy project is exempted under this section. 1759

(E) (1) (a) A person may apply to the director of 1760  
development services for certification of an energy project as a 1761  
qualified energy project on or before the following dates: 1762

(i) December 31, 2020, for an energy project using 1763  
renewable energy resources; 1764

(ii) December 31, 2017, for an energy project using clean 1765  
coal technology, advanced nuclear technology, or cogeneration 1766  
technology. 1767

(b) The director shall forward a copy of each application 1768  
for certification of an energy project with a nameplate capacity 1769  
of ~~five~~twenty megawatts or greater to the board of county 1770  
commissioners of each county in which the project is located and 1771  
to each taxing unit with territory located in each of the 1772  
affected counties. Any board that receives from the director a 1773  
copy of an application submitted under this division shall adopt 1774  
a resolution approving or rejecting the application unless it 1775  
has adopted a resolution under division (E) (1) (c) of this 1776  
section. A resolution adopted under division (E) (1) (b) or (c) of 1777  
this section may require an annual service payment to be made in 1778  
addition to the service payment required under division (G) of 1779  
this section. The sum of the service payment required in the 1780

resolution and the service payment required under division (G) 1781  
of this section shall not exceed nine thousand dollars per 1782  
megawatt of nameplate capacity located in the county. The 1783  
resolution shall specify the time and manner in which the 1784  
payments required by the resolution shall be paid to the county 1785  
treasurer. The county treasurer shall deposit the payment to the 1786  
credit of the county's general fund to be used for any purpose 1787  
for which money credited to that fund may be used. 1788

The board shall send copies of the resolution to the owner 1789  
of the facility and the director by certified mail or, if the 1790  
board has record of an internet identifier of record associated 1791  
with the owner or director, by ordinary mail and by that 1792  
internet identifier of record. The board shall send such notice 1793  
within thirty days after receipt of the application, or a longer 1794  
period of time if authorized by the director. 1795

(c) A board of county commissioners may adopt a resolution 1796  
declaring the county to be an alternative energy zone and 1797  
declaring all applications submitted to the director of 1798  
development services under this division after the adoption of 1799  
the resolution, and prior to its repeal, to be approved by the 1800  
board. 1801

All tangible personal property and real property of an 1802  
energy project with a nameplate capacity of ~~five~~ twenty 1803  
megawatts or greater is taxable if it is located in a county in 1804  
which the board of county commissioners adopted a resolution 1805  
rejecting the application submitted under this division or 1806  
failed to adopt a resolution approving the application under 1807  
division (E) (1) (b) or (c) of this section. 1808

(2) The director shall certify an energy project if all of 1809  
the following circumstances exist: 1810

- (a) The application was timely submitted. 1811
- (b) For an energy project with a nameplate capacity of 1812  
~~five~~ twenty megawatts or greater, a board of county 1813  
commissioners of at least one county in which the project is 1814  
located has adopted a resolution approving the application under 1815  
division (E) (1) (b) or (c) of this section. 1816
- (c) No portion of the project's facility was used to 1817  
supply electricity before December 31, 2009. 1818
- (3) The director shall deny a certification application if 1819  
the director determines the person has failed to comply with any 1820  
requirement under this section. The director may revoke a 1821  
certification if the director determines the person, or 1822  
subsequent owner or lessee pursuant to a sale and leaseback 1823  
transaction of the qualified energy project, has failed to 1824  
comply with any requirement under this section. Upon 1825  
certification or revocation, the director shall notify the 1826  
person, owner, or lessee, the tax commissioner, and the county 1827  
auditor of a county in which the project is located of the 1828  
certification or revocation. Notice shall be provided in a 1829  
manner convenient to the director. 1830
- (F) The owner or a lessee pursuant to a sale and leaseback 1831  
transaction of a qualified energy project shall do each of the 1832  
following: 1833
- (1) Comply with all applicable regulations; 1834
- (2) File with the director of development services a 1835  
certified construction progress report before the first day of 1836  
March of each year during the energy facility's construction or 1837  
installation indicating the percentage of the project completed, 1838  
and the project's nameplate capacity, as of the preceding 1839

thirty-first day of December. Unless otherwise instructed by the 1840  
director of development services, the owner or lessee of an 1841  
energy project shall file a report with the director on or 1842  
before the first day of March each year after completion of the 1843  
energy facility's construction or installation indicating the 1844  
project's nameplate capacity as of the preceding thirty-first 1845  
day of December. Not later than sixty days after June 17, 2010, 1846  
the owner or lessee of an energy project, the construction of 1847  
which was completed before June 17, 2010, shall file a 1848  
certificate indicating the project's nameplate capacity. 1849

(3) File with the director of development services, in a 1850  
manner prescribed by the director, a report of the total number 1851  
of full-time equivalent employees, and the total number of full- 1852  
time equivalent employees domiciled in Ohio, who are employed in 1853  
the construction or installation of the energy facility; 1854

(4) For energy projects with a nameplate capacity of ~~five-~~ 1855  
twenty megawatts or greater, repair all roads, bridges, and 1856  
culverts affected by construction as reasonably required to 1857  
restore them to their preconstruction condition, as determined 1858  
by the county engineer in consultation with the local 1859  
jurisdiction responsible for the roads, bridges, and culverts. 1860  
In the event that the county engineer deems any road, bridge, or 1861  
culvert to be inadequate to support the construction or 1862  
decommissioning of the energy facility, the road, bridge, or 1863  
culvert shall be rebuilt or reinforced to the specifications 1864  
established by the county engineer prior to the construction or 1865  
decommissioning of the facility. The owner or lessee of the 1866  
facility shall post a bond in an amount established by the 1867  
county engineer and to be held by the board of county 1868  
commissioners to ensure funding for repairs of roads, bridges, 1869  
and culverts affected during the construction. The bond shall be 1870

released by the board not later than one year after the date the 1871  
repairs are completed. The energy facility owner or lessee 1872  
pursuant to a sale and leaseback transaction shall post a bond, 1873  
as may be required by the Ohio power siting board in the 1874  
certificate authorizing commencement of construction issued 1875  
pursuant to section 4906.10 of the Revised Code, to ensure 1876  
funding for repairs to roads, bridges, and culverts resulting 1877  
from decommissioning of the facility. The energy facility owner 1878  
or lessee and the county engineer may enter into an agreement 1879  
regarding specific transportation plans, reinforcements, 1880  
modifications, use and repair of roads, financial security to be 1881  
provided, and any other relevant issue. 1882

(5) Provide or facilitate training for fire and emergency 1883  
responders for response to emergency situations related to the 1884  
energy project and, for energy projects with a nameplate 1885  
capacity of ~~five~~-twenty megawatts or greater, at the person's 1886  
expense, equip the fire and emergency responders with proper 1887  
equipment as reasonably required to enable them to respond to 1888  
such emergency situations; 1889

(6) Maintain a ratio of Ohio-domiciled full-time 1890  
equivalent employees employed in the construction or 1891  
installation of the energy project to total full-time equivalent 1892  
employees employed in the construction or installation of the 1893  
energy project of not less than eighty per cent in the case of a 1894  
solar energy project, and not less than fifty per cent in the 1895  
case of any other energy project. In the case of an energy 1896  
project for which certification from the power siting board is 1897  
required under section 4906.20 of the Revised Code, the number 1898  
of full-time equivalent employees employed in the construction 1899  
or installation of the energy project equals the number actually 1900  
employed or the number projected to be employed in the 1901

certificate application, if such projection is required under 1902  
regulations adopted pursuant to section 4906.03 of the Revised 1903  
Code, whichever is greater. For all other energy projects, the 1904  
number of full-time equivalent employees employed in the 1905  
construction or installation of the energy project equals the 1906  
number actually employed or the number projected to be employed 1907  
by the director of development services, whichever is greater. 1908  
To estimate the number of employees to be employed in the 1909  
construction or installation of an energy project, the director 1910  
shall use a generally accepted job-estimating model in use for 1911  
renewable energy projects, including but not limited to the job 1912  
and economic development impact model. The director may adjust 1913  
an estimate produced by a model to account for variables not 1914  
accounted for by the model. 1915

(7) For energy projects with a nameplate capacity in 1916  
excess of ~~two~~ twenty megawatts, establish a relationship with a 1917  
member of the university system of Ohio as defined in section 1918  
3345.011 of the Revised Code or with a person offering an 1919  
apprenticeship program registered with the employment and 1920  
training administration within the United States department of 1921  
labor or with the apprenticeship council created by section 1922  
4139.02 of the Revised Code, to educate and train individuals 1923  
for careers in the wind or solar energy industry. The 1924  
relationship may include endowments, cooperative programs, 1925  
internships, apprenticeships, research and development projects, 1926  
and curriculum development. 1927

(8) Offer to sell power or renewable energy credits from 1928  
the energy project to electric distribution utilities or 1929  
electric service companies subject to renewable energy resource 1930  
requirements under section 4928.64 of the Revised Code that have 1931  
issued requests for proposal for such power or renewable energy 1932

credits. If no electric distribution utility or electric service 1933  
company issues a request for proposal on or before December 31, 1934  
2010, or accepts an offer for power or renewable energy credits 1935  
within forty-five days after the offer is submitted, power or 1936  
renewable energy credits from the energy project may be sold to 1937  
other persons. Division (F)(8) of this section does not apply 1938  
if: 1939

(a) The owner or lessee is a rural electric company or a 1940  
municipal power agency as defined in section 3734.058 of the 1941  
Revised Code. 1942

(b) The owner or lessee is a person that, before 1943  
completion of the energy project, contracted for the sale of 1944  
power or renewable energy credits with a rural electric company 1945  
or a municipal power agency. 1946

(c) The owner or lessee contracts for the sale of power or 1947  
renewable energy credits from the energy project before June 17, 1948  
2010. 1949

(9) Make annual service payments as required by division 1950  
(G) of this section and as may be required in a resolution 1951  
adopted by a board of county commissioners under division (E) of 1952  
this section. 1953

(G) The owner or a lessee pursuant to a sale and leaseback 1954  
transaction of a qualified energy project shall make annual 1955  
service payments in lieu of taxes to the county treasurer on or 1956  
before the final dates for payments of taxes on public utility 1957  
personal property on the real and public utility personal 1958  
property tax list for each tax year for which property of the 1959  
energy project is exempt from taxation under this section. The 1960  
county treasurer shall allocate the payment on the basis of the 1961

project's physical location. Upon receipt of a payment, or if 1962  
timely payment has not been received, the county treasurer shall 1963  
certify such receipt or non-receipt to the director of 1964  
development services and tax commissioner in a form determined 1965  
by the director and commissioner, respectively. Each payment 1966  
shall be in the following amount: 1967

(1) In the case of a solar energy project, seven thousand 1968  
dollars per megawatt of nameplate capacity located in the county 1969  
as of December 31, 2010, for tax year 2011, as of December 31, 1970  
2011, for tax year 2012, as of December 31, 2012, for tax year 1971  
2013, as of December 31, 2013, for tax year 2014, as of December 1972  
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1973  
year 2016, and as of December 31, 2016, for tax year 2017 and 1974  
each tax year thereafter; 1975

(2) In the case of any other energy project using 1976  
renewable energy resources, the following: 1977

(a) If the project maintains during the construction or 1978  
installation of the energy facility a ratio of Ohio-domiciled 1979  
full-time equivalent employees to total full-time equivalent 1980  
employees of not less than seventy-five per cent, six thousand 1981  
dollars per megawatt of nameplate capacity located in the county 1982  
as of the thirty-first day of December of the preceding tax 1983  
year; 1984

(b) If the project maintains during the construction or 1985  
installation of the energy facility a ratio of Ohio-domiciled 1986  
full-time equivalent employees to total full-time equivalent 1987  
employees of less than seventy-five per cent but not less than 1988  
sixty per cent, seven thousand dollars per megawatt of nameplate 1989  
capacity located in the county as of the thirty-first day of 1990  
December of the preceding tax year; 1991

(c) If the project maintains during the construction or 1992  
installation of the energy facility a ratio of Ohio-domiciled 1993  
full-time equivalent employees to total full-time equivalent 1994  
employees of less than sixty per cent but not less than fifty 1995  
per cent, eight thousand dollars per megawatt of nameplate 1996  
capacity located in the county as of the thirty-first day of 1997  
December of the preceding tax year. 1998

(3) In the case of an energy project using clean coal 1999  
technology, advanced nuclear technology, or cogeneration 2000  
technology, the following: 2001

(a) If the project maintains during the construction or 2002  
installation of the energy facility a ratio of Ohio-domiciled 2003  
full-time equivalent employees to total full-time equivalent 2004  
employees of not less than seventy-five per cent, six thousand 2005  
dollars per megawatt of nameplate capacity located in the county 2006  
as of the thirty-first day of December of the preceding tax 2007  
year; 2008

(b) If the project maintains during the construction or 2009  
installation of the energy facility a ratio of Ohio-domiciled 2010  
full-time equivalent employees to total full-time equivalent 2011  
employees of less than seventy-five per cent but not less than 2012  
sixty per cent, seven thousand dollars per megawatt of nameplate 2013  
capacity located in the county as of the thirty-first day of 2014  
December of the preceding tax year; 2015

(c) If the project maintains during the construction or 2016  
installation of the energy facility a ratio of Ohio-domiciled 2017  
full-time equivalent employees to total full-time equivalent 2018  
employees of less than sixty per cent but not less than fifty 2019  
per cent, eight thousand dollars per megawatt of nameplate 2020  
capacity located in the county as of the thirty-first day of 2021

December of the preceding tax year. 2022

(H) The director of development services in consultation 2023  
with the tax commissioner shall adopt rules pursuant to Chapter 2024  
119. of the Revised Code to implement and enforce this section. 2025

**Section 2.** That existing sections 303.213, 519.213, 2026  
713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 2027  
4928.645, 4928.66, 4928.6610, and 5727.75 of the Revised Code 2028  
are hereby repealed. 2029

**Section 3.** That section 4928.6616 of the Revised Code is 2030  
hereby repealed. 2031

**Section 4.** The amendment by this act of section 5727.75 of 2032  
the Revised Code applies to both of the following: 2033

(A) Energy projects certified by the Director of 2034  
Development Services on or after the effective date of this 2035  
section; 2036

(B) Existing qualified energy projects that, on the 2037  
effective date of this section, have a nameplate capacity of 2038  
fewer than five megawatts. 2039

**Section 5. HEAP WEATHERIZATION** 2040

Pursuant to section 4928.75 of the Revised Code, twenty- 2041  
five per cent of the federal funds deposited to the credit of 2042  
the Home Energy Assistance Block Grant Fund (Fund 3K90) may be 2043  
expended from appropriation item 195614, HEAP Weatherization, to 2044  
provide home weatherization services in the state as determined 2045  
by the Director of Development Services. 2046