

# AN ACT

To amend sections 303.213, 519.213, 713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 4928.645, 4928.66, 4928.6610, and 5727.75, to enact 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, and to repeal section 4928.6616 of the Revised Code to facilitate and continue the development, production, and use of electricity from nuclear, coal, and renewable energy resources in this state, to modify the existing mandates for renewable energy and energy efficiency savings, and to determine amounts of federal funding received for home weatherization services.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 303.213, 519.213, 713.081, 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 for purposes of state and local taxation.

Sec. 519.213. (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 519.211 of the Revised Code, sections 519.02 to 519.25 of the Revised Code confer power on a board of township trustees or board of zoning appeals with respect to 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 519.02 to 519.25 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.

(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 519.211 of the Revised Code or any other public utility for purposes of state and local taxation.

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.

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

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

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

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

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

thirty-first day of May:

- (1) Projected energy prices, determined using futures contracts for the PJM AEP-Dayton hub;
- (2) Projected capacity prices, determined using PJM's rest-of-RTO market clearing price.
- (F) "Electric distribution utility" has the same meaning as in section 4928.01 of the Revised

Code.

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

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

- (1) Financial information;
- (2) Certified cost and revenue projections through December 31, 2026;
- (3) Operation and maintenance expenses;
- (4) Fuel expenses, including spent-fuel expenses;
- (5) Nonfuel capital expenses;
- (6) Fully allocated overhead costs;
- (7) The cost of operational risks and market risks that would be avoided by ceasing operation

of the resource;

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

(C) As used in this section:

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

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

Sec. 3706.43. After receiving an application under section 3706.41 of the Revised Code, the Ohio air quality development authority shall review and approve the application, not later than March 31, 2020, if all of the following apply, as applicable:

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

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

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

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

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

Sec. 3706.45. (A) An owner or operator of a qualifying nuclear resource or qualifying

renewable resource whose application was approved under section 3706.43 of the Revised Code shall report to the Ohio air quality development authority, not later than seven days after the close of each quarter, the number of megawatt hours the resource produced, if any, in the previous quarter. The first report shall be made not later than April 7, 2020, and the last report shall be made not later than January 7, 2027. The information reported shall be in accordance with data from the generation attribute tracking designated by the authority.

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

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

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

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

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

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

(2) The public utilities commission shall determine the method by which the revenue is allocated or assigned to each electric distribution utility for billing and collection, provided that the method of allocation shall be based on the relative number of customers, relative quantity of kilowatt hour sales, or a combination of the two. The level and structure of the charge shall be authorized by the commission through a process that the commission shall determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Title XLIX of the Revised Code.

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

(C) Each charge authorized by the commission under this section shall be subject to adjustment so as to reconcile actual revenue collected with the revenue needed to meet the revenue requirements under division (A)(1) of this section. The commission shall authorize each electric distribution utility to adopt accounting practices to facilitate such reconciliation. Notwithstanding any

other provisions of the Revised Code, the charge or charges authorized by the commission may continue beyond December 31, 2027, only if it is necessary to reconcile actual revenue collected under this section during the period ending on December 31, 2027, with the actual revenue needed to meet the revenue requirements under division (A)(1) of this section for required disbursements under section 3706.55 of the Revised Code that may be due and owing during the same period. Such continuation shall be authorized only for such period of time beyond December 31, 2027, as may be reasonably necessary to complete the reconciliation.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3706.61. (A) In each year beginning in 2021 and ending in 2027, the public utilities commission shall, not later than the first day of May of each of those years, conduct a retrospective management and financial review of the owner or operator of a qualifying nuclear resource and any such resource that receives payments for nuclear resource credits under section 3706.55 of the Revised Code. In doing so, the commission may retain consultants and advisors to perform all or any portion of the annual reviews, the cost of which shall be paid, at the direction of the Ohio air quality development authority, by the treasurer of state from the nuclear generation fund in accordance with section 3706.55 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) If any information, data, or equipment is not a public record for purposes of section 149.43 of the Revised Code because either the authority or the commission possesses that information, data, or equipment, then the operation of division (A) of this section shall not be

construed to render that information, data, or equipment a public record, notwithstanding any provision of the Revised Code to the contrary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Mercantile customer" means a commercial or industrial customer if the electricity

consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

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

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

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

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

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

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

(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs currently deferred pursuant to the terms of one or more settlement agreements approved by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Solar photovoltaic or solar thermal energy;

(ii) Wind energy;

(iii) Power produced by a hydroelectric facility;

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

(v) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;

(vi) Geothermal energy;

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

(viii) Biomass energy;

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

(x) Biologically derived methane gas;

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

(xii) Energy derived from nontreated by-products of the pulping process or wood

manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

be deemed a noncompetitive retail electric service.

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

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

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

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

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

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

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

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

Sec. 4928.471. (A) Except as provided in division (E) of this section, not earlier than thirty days after the effective date of this section, an electric distribution utility may file an application to implement a decoupling mechanism for the 2019 calendar year and each calendar year thereafter. For an electric distribution utility that applies for a decoupling mechanism under this section, the base distribution rates for residential and commercial customers shall be decoupled to the base distribution revenue and revenue resulting from implementation of section 4928.66 of the Revised Code, excluding program costs and shared savings, and recovered pursuant to an approved electric security plan under section 4928.143 of the Revised Code, as of the twelve-month period ending on December 31, 2018. An application under this division shall not be considered an application under section 4909.18 of the Revised Code.

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

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

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

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

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



- (a) Has a placed-in-service date on or after January 1, 1998;
- (b) Is any run-of-the-river hydroelectric facility that has an in-service date on or after January 1, 1980;
- (c) Is a small hydroelectric facility;
- (d) Is created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or
- (e) Is a mercantile customer-sited renewable energy resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A)(2)(c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:
  - (i) A resource that has the effect of improving the relationship between real and reactive power;
  - (ii) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;
  - (iii) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;
  - (iv) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource.

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

(B)(1) ~~By 2027 and thereafter~~ the end of 2026, an electric distribution utility shall ~~provide~~ have provided from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall ~~provide~~ have provided a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion shall equal ~~twelve~~ eight and one-half per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state. However, nothing in this section precludes a utility or company from providing a greater percentage.

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

By end of year	Renewable energy resources	Solar energy resources
2009	0.25%	0.004%
2010	0.50%	0.010%
2011	1%	0.030%

2012	1.5%	0.060%
2013	2%	0.090%
2014	2.5%	0.12%
2015	2.5%	0.12%
2016	2.5%	0.12%
2017	3.5%	0.15%
2018	4.5%	0.18%
2019	5.5%	0.22%
2020	<del>6.5</del> 5.5%	<del>0.26</del> 0%
2021	<del>7.5</del> 6%	<del>0.30</del> 0%
2022	<del>8.5</del> 6.5%	<del>0.34</del> 0%
2023	<del>9.5</del> 7%	<del>0.38</del> 0%
2024	<del>10.5</del> 7.5%	<del>0.42</del> 0%
2025	<del>11.5</del> 8%	<del>0.46</del> 0%
2026 and each calendar	<del>12.5</del> 8.5%	<del>0.5</del> 0%.

——— year thereafter

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

- (a) Through facilities located in this state; or
- (b) With resources that can be shown to be deliverable into this state.

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

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

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

- (i) Three hundred dollars for 2014, 2015, and 2016;
- (ii) Two hundred fifty dollars for 2017 and 2018;

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

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

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

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

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

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

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

(c) If, pursuant to division (C)(4)(b) of this section, the commission determines that qualifying renewable energy or solar energy resources are not reasonably available to permit the

electric distribution utility or electric services company to comply, during the period of review, with the subject minimum benchmark prescribed under division (B)(2) of this section, the commission shall modify that compliance obligation of the utility or company as it determines appropriate to accommodate the finding. Commission modification shall not automatically reduce the obligation for the electric distribution utility's or electric services company's compliance in subsequent years. If it modifies the electric distribution utility or electric services company obligation under division (C)(4)(c) of this section, the commission may require the utility or company, if sufficient renewable energy resource credits exist in the marketplace, to acquire additional renewable energy resource credits in subsequent years equivalent to the utility's or company's modified obligation under division (C)(4)(c) of this section.

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

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

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

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

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

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

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

Sec. 4928.641. (A) If an electric distribution utility has executed a contract before April 1, 2014, to procure renewable energy resources and there are ongoing costs associated with that contract that are being recovered from customers through a bypassable charge as of ~~the effective date of S.B. 310 of the 130th general assembly, September 12, 2014,~~ that cost recovery shall, regardless of

~~the amendments to section 4928.64 of the Revised Code by H.B. 6 of the 133rd general assembly, continue on a bypassable basis until the prudently incurred costs associated with that contract are fully recovered through December 31, 2032.~~

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

Sec. 4928.642. Beginning with compliance year 2020, the public utilities commission shall, in accordance with this section, reduce the number of kilowatt hours required for compliance with section 4928.64 of the Revised Code for all electric distribution utilities and all electric services companies in this state. The commission shall determine each utility's and each company's reduction by taking the total amount of kilowatt hours produced, if any, by all qualifying renewable resources, as defined in section 3706.40 of the Revised Code, during the preceding compliance year, allocating that total among all electric distribution utilities and electric services companies in proportion to their baselines for the subject compliance year, and subtracting that allocated amount from the utility's or company's compliance amount as otherwise determined under section 4928.64 of the Revised Code.

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

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

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

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

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

(1) A mercantile customer;

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

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

(B)(1) The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or greater that is situated within this state and has committed by December 31, 2009, to modify or retrofit its generating unit or units to enable the facility to generate principally from biomass energy by June 30, 2013, each megawatt hour of electricity generated principally from that biomass energy shall equal, in units of credit, the product obtained by multiplying the actual percentage of biomass feedstock heat input used to generate such megawatt hour by the quotient obtained by dividing the then existing unit dollar amount used to determine a renewable energy compliance payment as provided under division (C)(2)(b) of section 4928.64 of the Revised Code by the then existing market value of one renewable energy credit, but such megawatt hour shall not equal less than one unit of credit. Renewable energy resources do not have to be converted to electricity in order to be eligible to receive renewable energy credits. The rules shall specify that, for purposes of converting the quantity of energy derived from biologically derived methane gas to an electricity equivalent, one megawatt hour equals 3,412,142 British thermal units.

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

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

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to at least three-tenths of one per cent of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state. An energy efficiency program may include a combined heat and power system placed into service or retrofitted on or after the effective date of the amendment of this section by S.B. 315 of the 129th general assembly, September 10, 2012, or a waste energy recovery system placed into service or retrofitted on or after September 10, 2012, except that a waste energy recovery system described in division (A)(38)(b) of section 4928.01 of the Revised Code may be included only if it was placed into service between January 1, 2002, and December 31, 2004. For a waste energy recovery or combined heat and power system, the savings shall be as estimated by the public utilities commission. The savings requirement, using such a three-year average, shall increase to an additional five-tenths of one per cent in 2010, seven-tenths of one per cent in 2011, eight-tenths of one per cent in 2012, nine-tenths of one per cent in 2013, and one per cent in 2014. In 2015 and 2016, an electric distribution utility shall achieve energy savings equal to the result of subtracting the cumulative energy savings achieved since 2009 from the product of multiplying the baseline for energy savings, described in division (A)(2)(a) of this section, by four and two-tenths of one per cent. If the result is zero or less for the year for which the calculation is

being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. ~~Thereafter, the~~ The annual savings requirements shall be, for years 2017, 2018, 2019, and 2020, an additional one per cent of the baseline, ~~and two per cent each year thereafter, achieving cumulative energy savings in excess of twenty-two per cent by the end of 2027.~~ For purposes of a waste energy recovery or combined heat and power system, an electric distribution utility shall not apply more than the total annual percentage of the electric distribution utility's industrial-customer load, relative to the electric distribution utility's total load, to the annual energy savings requirement.

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

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

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

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

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

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

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

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

waste energy recovery and combined heat and power, and peak demand reduction programs under divisions (A)(1)(a) and (b) of this section may exempt mercantile customers that commit their demand-response or other customer-sited capabilities, whether existing or new, for integration into the electric distribution utility's demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction programs, if the commission determines that that exemption reasonably encourages such customers to commit those capabilities to those programs. If a mercantile customer makes such existing or new demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capability available to an electric distribution utility pursuant to division (A)(2)(c) of this section, the electric utility's baseline under division (A)(2)(a) of this section shall be adjusted to exclude the effects of all such demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction programs that may have existed during the period used to establish the baseline. The baseline also shall be normalized for changes in numbers of customers, sales, weather, peak demand, and other appropriate factors so that the compliance measurement is not unduly influenced by factors outside the control of the electric distribution utility.

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

(I) Demand-response programs;

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

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

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

(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.

(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.

(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.

(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.

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

(C) If the commission determines, after notice and opportunity for hearing and based upon its



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

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

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

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

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

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

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

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

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

(b) Use an energy savings baseline that is the average of the total kilowatt hours sold by all electric distribution utilities in this state in the calendar years 2018, 2019, and 2020. The baseline shall exclude the load and usage described in division (A)(2)(a)(i), (ii), and (iii) of this section. That

baseline may also be reduced for new economic growth in the utility's certified territory as provided in division (A)(2)(a) of this section and adjusted and normalized as provided in division (A)(2)(c) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A fixed monthly service fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through 2021, and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year 2022 and all ensuing tax years if the property was placed into service before January 1, 2022, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

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

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

(2) For such a qualified energy project with a nameplate capacity of ~~five~~twenty megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that

county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

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

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

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

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

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of ~~five~~twenty megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

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

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

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

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

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of ~~five~~twenty megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

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

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

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

(1) Comply with all applicable regulations;

(2) File with the director of development services a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development services, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

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

(4) For energy projects with a nameplate capacity of ~~five~~twenty megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the

certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

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

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

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

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in

section 3734.058 of the Revised Code.

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

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

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

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development services and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

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

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

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

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

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

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

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



county as of the thirty-first day of December of the preceding tax year;

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

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

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

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

SECTION 3. That section 4928.6616 of the Revised Code is hereby repealed.

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

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

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

#### SECTION 5. HEAP WEATHERIZATION

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

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_