# Ohio Legislative Service Commission

## Bill Analysis

Maura McClelland

## H.B. 554
131st General Assembly
(As Introduced)

**Rep.** Amstutz

## BILL SUMMARY

### Renewable energy

- Extends the current level of the renewable-energy requirement (2.5% of the electricity supplied by electric distribution utilities (EDUs) and electric services companies, including 0.12% from solar energy) through 2027.

- Terminates the renewable-energy requirement after 2027, rather than continuing the requirements indefinitely into the future.

### Energy efficiency

- Extends the current level of the energy-efficiency requirement (maintaining 4.2% savings achieved since 2009 by an EDU) through 2027.

- Clarifies that the energy-efficiency requirement terminates after 2027.

### Peak demand reduction

- Extends the current level of the peak-demand-reduction requirement (maintaining 4.75% peak demand reduction achieved since 2009 by an EDU) through 2020.

### Mercantile-customer opt out

- Effective January 1, 2019, adds mercantile customers to those customers that may opt out of, and later opt back into, an EDU's portfolio plan for the energy-efficiency and peak-demand-reduction requirements.

# CONTENT AND OPERATION

## Renewable energy

### Percentage requirements

The bill extends the current level of the renewable-energy requirement through 2027. This requirement is currently for electric distribution utilities (EDUs) and electric services companies (ESCs) (see "**Definitions under continuing law**") to provide 2.5% of their electricity supplies from qualifying renewable energy resources, including 0.12% from solar energy resources, by the end of 2016. Under current law, this requirement was the same as in years 2014 and 2015, but it is set to increase beginning in 2017. The bill also terminates the renewable-energy requirement after 2027. Under current law, the 12.5% requirement (including the 0.5% solar carve out) must be achieved in 2026 and then maintained in every calendar year thereafter, indefinitely.

The current benchmarks and the bill's requirements are explained below:[1]

| Year | Current law (overall renewable / solar carve out) | The bill (overall renewable / solar carve out) |
|---|---|---|
| 2016 | 2.5% / 0.12% | 2.5% / 0.12% |
| 2017 | 3.5% / 0.15% | 2.5% / 0.12% |
| 2018 | 4.5% / 0.18% | 2.5% / 0.12% |
| 2019 | 5.5% / 0.22% | 2.5% / 0.12% |
| 2020 | 6.5% / 0.26% | 2.5% / 0.12% |
| 2021 | 7.5% / 0.3% | 2.5% / 0.12% |
| 2022 | 8.5% / 0.34% | 2.5% / 0.12% |
| 2023 | 9.5% / 0.38% | 2.5% / 0.12% |
| 2024 | 10.5% / 0.42% | 2.5% / 0.12% |
| 2025 | 11.5% / 0.46% | 2.5% / 0.12% |
| 2026 | 12.5% / 0.5% | 2.5% / 0.12% |
| 2027 | 12.5% / 0.5% | 2.5% / 0.12% |
| 2028* | 12.5% / 0.5%* | No more requirements |
| *Current law requires that the 2026 levels be achieved in each calendar year after 2026, indefinitely. | | |

[1] R.C. 4928.64(B).

### Payments for compliance failures

The bill maintains the current amounts for payments assessed on EDUs and ESCs for under-compliance or noncompliance with the requirements outlined above. For the solar carve out, the payment amount is $300 per megawatt hour for 2016. The amount decreases every two years by $50, beginning with $250 for 2017 and 2018, to a minimum of $50.

Current law is somewhat unclear as to the payment amount for the overall renewable-energy requirement. It states that the amount equals the number of additional renewable energy credits that the EDU or ESC would have needed to comply with the applicable benchmark, multiplied by an amount that "shall begin at [$45]" and must be adjusted annually to reflect any change in the consumer price index, but must not be less than $45. The bill clarifies that this payment amount is for the *nonsolar* portion of the renewable-energy requirement, which is 2.38% under the bill. But the bill does not clarify when the amount "begin[s]" at $45.[2]

## Energy efficiency

The bill extends the current level of the energy-efficiency requirement through 2027. This requirement is currently for an EDU to demonstrate that it is maintaining energy efficiency savings at 4.2%. Specifically, current law requires the EDU to show, in years 2015 and 2016, that its energy savings achieved since 2009 are at least 4.2% of the EDU's average annual sales over the past three years. Under current law, this maintenance requirement lasts only until the end of 2016, and then the EDUs are required to achieve additional annual energy-savings requirements in the following percentages:

| Year | Requirement |
|---|---|
| 2017 | 1% |
| 2018 | 1% |
| 2019 | 1% |
| 2020 | 1% |
| 2021 | 2% |
| 2022 | 2% |
| 2023 | 2% |
| 2024 | 2% |

[2] R.C. 4928.64(C)(2)(a) and (b).

| Year | Requirement |
|---|---|
| 2025 | 2% |
| 2026 | 2% |
| 2027* | 2%* |

*Current law is somewhat unclear as to whether the energy-efficiency requirements continue past 2027. The bill, however, is clear that there is no energy-efficiency requirement after 2027.[3]

## Peak demand reduction

The bill extends the current level of the peak-demand-reduction requirement through 2020. This requirement is currently for an EDU to demonstrate that it is maintaining peak demand reductions at 4.75%. Specifically, current law requires the EDU to show, in years 2015 and 2016, that its peak demand reductions achieved since 2009 are at least 4.75% of the EDU's average annual peak demand over the past three years. Under current law, this maintenance requirement lasts only until the end of 2016, and then the EDUs are required to achieve an additional 0.75% reduction in peak demand in 2017, 2018, 2019, and 2020.[4]

## Mercantile-customer opt out

Effective January 1, 2019, the bill adds mercantile customers to those customers that may opt out of, and later opt back into, an EDU's portfolio plan.[5] Rules of the Public Utilities Commission require EDUs to have three-year plans for compliance with the energy-efficiency and peak-demand-reduction requirements.[6] The opt-out/opt-in law gives mercantile customers the ability to avoid being subject to cost recovery mechanisms imposed by an EDU for energy-efficiency and peak-demand-reduction costs. But it also affects their ability to participate in, or directly benefit from, programs under the portfolio plan. (See **COMMENT**.)

[3] R.C. 4928.66(A)(1)(a).

[4] R.C. 4928.66(A)(1)(b).

[5] R.C. 4928.6610(A)(1) and Section 3; R.C. 4928.6611 to 4928.6616, not in the bill.

[6] Ohio Administrative Code Chapter 4901:1-39.

## Definitions under continuing law

(1) **EDU** – an electric utility that supplies at least retail electric distribution service.[7]

(2) **Electric utility** – 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 Ohio or in the businesses of supplying both a noncompetitive and a competitive retail electric service in Ohio. "Electric utility" excludes a municipal electric utility or a billing and collection agent.[8]

(3) **Electric light company** – any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission service for electricity delivered to consumers in this state, but excluding a regional transmission organization approved by the federal energy regulatory commission. "Electric light company" 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.[9]

(4) **ESC** – 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 Ohio. "ESC" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, and billing and collection agent.[10]

(5) **Mercantile customer** – a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than 700,000 kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.[11]

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[7] R.C. 4928.01(A)(6), not in the bill.

[8] R.C. 4928.01(A)(11), not in the bill.

[9] R.C. 4905.03 and 4928.01(A)(7), not in the bill.

[10] R.C. 4928.01(A)(9), not in the bill.

[11] R.C. 4928.01(A)(19), not in the bill.

## COMMENT

The bill does not address how the mercantile-customer exemption from cost recovery for committing the customer's demand response and other capabilities to an EDU's energy-efficiency or peak-demand-reduction programs (current law – not changed by the bill)[12] would be affected by the bill's provision allowing mercantile customers to opt out of or back into an EDU's portfolio plan.[13] It is not clear whether they would conflict or if the new opt out would supersede the existing exemption.

## HISTORY

| ACTION | DATE |
|---|---|
| Introduced | 05-09-16 |

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[12] R.C. 4928.66(A)(2)(c).

[13] R.C. 4928.6610 and Section 3.