



## Ohio Administrative Code Rule 4901:1-40-08 Compliance payments.

Effective: [March 26, 2020](#)

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(A) Any electric utility or electric services company that does not achieve an annual renewable energy resource benchmark, including a solar benchmark, shall remit a compliance payment based on the amount of noncompliance rounded up to the next megawatt hour (MWh), unless the commission has identified the existence of force majeure conditions or the commission has granted relief under the three per cent cost-cap provision.

(1) The required payment for noncompliance with any solar energy resource benchmark shall be calculated by quantifying the level of noncompliance, rounded to the next MWh, and multiplying this figure by the per MWh amount in the following table:

| Year            | Payment per MWh |
|-----------------|-----------------|
| 2017 and 2018   | \$250           |
| 2019 and 2020   | \$200           |
| 2021 and 2022   | \$150           |
| 2023 and 2024   | \$100           |
| 2025 and beyond | \$50            |

(2) The required payment for noncompliance with any renewable energy resource benchmark, excluding solar, shall be calculated by quantifying the level of noncompliance, rounded to the next MWh, and multiplying this figure by an amount determined by the commission.

(a) The per MWh payment for renewable energy resources for the year 2009 is forty-five dollars.

(b) Beginning in the year 2010, the per MWh payment for renewable energy resources will be adjusted annually to reflect the annual change to the consumer price index as defined in section 101.27 of the Revised Code. Such adjustment shall be performed by staff no later than June first of each calendar year. This annual adjustment shall be calculated using the following formula:

$$= ((\text{CPIYR2}/\text{CPIYR1}) * \text{current per MWh payment})$$



(c) In no event shall the compliance payment for renewable energy resources be less than forty-five dollars per MWh.

(3) At least annually, the staff shall conduct a review of the renewable energy resource market, including solar, both within this state and within the regional transmission systems active in the state. The results of this review shall be used to determine if changes to the solar- or renewable-energy compliance payments are warranted, as follows:

(a) The commission may increase compliance payments if needed to ensure that electric utilities and electric services companies are not using the payments in lieu of acquiring or producing energy or RECs from qualified renewable resources, including solar.

(b) Any recommendation to reduce the compliance payments shall be presented to the general assembly.

(B) Any compliance payment shall be submitted to the commission for deposit to the credit of the advanced energy fund. All compliance payments shall be delivered to the commission within thirty days of the imposition of any compliance payment requirement by the commission.

(C) Compliance payments 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.

(D) Any electric utility or electric services company found to be liable for a compliance payment is prohibited from passing compliance payments on to consumers. In the event that a compliance payment is required, an electric utility or electric services company shall file an attestation, signed by a company officer or designee, indicating that it will not seek to recover the specific compliance payment from consumers. Such attestation shall be filed within thirty days of the imposition of any compliance payment requirement.