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Bill Analysis

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SUMMARY

Changes affecting the standard service offer

- Requires an electric distribution utility's (EDU's) standard service offer (SSO) to be established only as a market-rate offer (MRO) by eliminating the electric security plan (ESP) option and making the MRO mandatory.
- Modifies the MRO process.
- Prohibits electric utilities (EUs) from providing any competitive retail electric service (CRES) in Ohio, other than through a reasonable arrangement or as otherwise provided in the CRES law, if that service was deemed competitive or otherwise legally classified as competitive prior to the bill's effective date.
- Amends the definition of EDU to state that EDUs cannot own or operate an electric generating facility.
- Eliminates the corporate separation requirements for EUs that are in the business of supplying both a noncompetitive and a competitive retail electric service in Ohio, since the bill prohibits EUs from providing a CRES designated as such prior to the bill's effective date.
- Modifies the corporate separation requirements that remain applicable to EUs regarding unfair competitive advantage and abuse of market power.
- Repeals the prohibition against an EDU selling or transferring any generating asset without approval of the Public Utilities Commission (PUCO).

- Requires PUCO to review each MRO application to ensure that the application and resulting MRO does not contain any rate, price, term, condition, or provision that would have an adverse effect on large-scale governmental aggregation in Ohio.
- Repeals provisions in sections amended by the bill that no longer serve a purpose or have no applicability.

Utility ratemaking law changes

EDU rate case requirement

- Requires each EDU to file a rate case application regarding distribution service not later than December 31, 2029, and at least every three years thereafter.

Rate case: property used and useful, valuation, and rates

- Makes various changes to the law governing rate increases with respect to utility property, regarding how it is reported to PUCO, valued, determined to be used and useful, and regarding its valuation effect on rate determinations.
- Permits electric light companies to propose a forecasted test period that proposes base rate changes for three consecutive 12-month periods, with each 12-month period subject to a true-up, as an alternative for determining utility revenue and expenses in a rate increase application.
- Requires an electric light company proposing a forecasted test period to provide financial information for the test period from the company's full books, and requires PUCO to protect against the disclosure of any trade secrets or proprietary information.

Allowance for construction work in progress (CWIP)

- Repeals all construction work in progress (CWIP) provisions of utility property valuation law that allow PUCO, in its discretion, to include in the valuation of utility property a reasonable allowance for CWIP for a construction project that is at least 75% complete.

Cost of public utility service during the test period

- Removes the requirement that the total of any interest on cash or credit refunds paid under the rate case deadline law be subtracted from the utility's cost of rendering public utility service during the test period for purposes of determining rates.

Deadlines for rate cases

- Requires PUCO to meet the following deadlines for rate case applications:
 - For an application filed after the bill's effective date, determine whether an application is complete not more than 45 days after the application is filed;
 - For an application for an increase, issue a written PUCO Staff report on an application within 180 days after the application is determined complete;
 - For an application for an increase filed after the bill's effective date, issue an order on an application within 360 days after the application is determined complete.

- Permits a public utility to request a temporary increase, or a party to the proceeding to request a temporary decrease, if PUCO has not issued an order on the utility's rate increase application after 275 days from when the application is determined complete, which is subject to reconciliation and refund.

Rate case discovery limitation

- Prohibits PUCO, in a rate case, from allowing new discovery beginning not later than 215 days after the rate case application is submitted.

Repeal of obsolete Ohio coal tax credit

- Repeals provisions regarding the obsolete law for the Ohio coal tax credit in the public utility excise tax law.

Economic development and transmission billing programs

- Permits PUCO to approve certain programs related to economic development and transmission billing in a rate case.

Priority investment areas

- Authorizes local governments to petition the Director of Development to designate a brownfield or former coal mine as a priority investment area (PIA), within which property tax and siting incentives are provided for certain gas and electric utility projects.
- Requires the Power Siting Board (PSB) to adopt rules providing for the accelerated review of certain gas and electric utility projects located in an approved PIA.

Priority investment area eligible projects

- Includes priority investment area eligible projects as projects eligible for a grant awarded under the Brownfield Remediation Program.
- Defines "priority investment area eligible projects" as certain activities necessary or conducive for generating, transporting, storing, or transmitting electricity at the site of a brownfield or former coal mine located in a PIA.

Electric and natural gas supplier certification

- Requires PUCO to establish rules to require electric services companies (ESCs) and Competitive retail natural gas suppliers (Competitive RNGS) to maintain financial assurances sufficient to protect customers, EDUs, and natural gas companies (NGCs) from default.
- Allows an EDU and NGC to set reasonable standards for its security and the security of its customers through financial requirements set in its tariffs.
- Repeals the requirement that a Competitive RNGS may be required to provide a performance bond sufficient to protect customers and NGCs from default.

Consumer protections

Notice of CRES and CRNGS supplier rate changes

- Requires a CRES supplier or competitive retail natural gas service (CRNGS) supplier that offers certain customers a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate to send two notices containing certain information regarding the conversion to affected customers.
- Requires the notices described immediately above to be sent by standard U.S. mail or electronically with a customer's verifiable consent as follows:
 - The first notice must be sent not earlier than 90 days, and not later than 60 days, prior to the expiration of the fixed rate.
 - The second notice must be sent not earlier than 45 days and not later than 15 days prior to the expiration of the fixed rate.
- Requires CRES suppliers and CRNGS suppliers to provide an annual notice, by standard U.S. mail or electronically with a customer's verifiable consent, to customers that have entered into a contract with the supplier that has converted to a variable rate informing the customers that they are subject to a variable rate and that fixed rate contracts are available.
- Requires PUCO, not later than 150 days after the bill's effective date, to implement the notice requirement provisions described in the proceeding sections that must include:
 - Requiring the use of clear and unambiguous language;
 - Designing the notices in a way to ensure they cannot be confused with marketing materials.

Customer account information

- Requires PUCO to adopt rules to ensure that EDUs and NGCs process a customers' change in CRES supplier or Competitive RNGS by using customer account information, which is a unique EDU or NGC number or other customer identification number used by the EDU or NGC to identify a customer and their account record.
- Allows a customer who consents to a change of supplier to not provide customer account information to the supplier if the customer provides a valid form of identification to establish the customer's identity accurately.

Power Siting Board

Electric transmission line major utility facility classification

- Reduces the design capacity threshold for an electric transmission line and associated facilities to be classified as a major utility facility subject to PSB oversight from 100 to 60 kilovolts.

PSB technical or legal staff

- Allows the PUCO Chairperson to hire technical or legal staff as full-time PSB employees, funded through application fees or PSB certificate application assessments.

Transmission line replacement

- Classifies the rebuilding or replacement of an existing transmission line that is one mile or more in length as construction of a major utility facility, which must obtain a PSB certificate.

Deadlines for nonaccelerated PSB certificate applications

- Requires the PSB Chairperson to determine whether an application of environmental compatibility and public need complies with all application requirements not more than 45 days after the application is filed.
- Reduces the time within which the PSB must hold a public hearing on a certificate application to not less than 45 days nor more than 60 days after receiving the application.
- Requires the PSB to issue a certificate of environmental compatibility and public need not later than 180 days after the application is determined complete.

PSB certificate applications

- Specifies that an applicant for a PSB certificate has the burden of proof.
- Adds that a PSB transmission line application must include a summary of studies made by or for the applicant of cost-effective advanced transmission technologies that maximize the value, expand the capacity, or improve the reliability of the facility.

PSB certificate decision finding requirements

- Requires PSB to make certain additional findings and determinations in order to grant a certificate for electric transmission lines.

Additional applicant information

- Requires an applicant to file the certificated facility's as-built drawings, its final rating or nameplate capacity, and final facility costs with estimate deviation explanation in the certificate proceeding within 60 days after the completion of the facility.

Wind major utility facility setback applicability

- Provides that the repowering of certain wind farms under PSB jurisdiction with existing certificates will have a setback distance of 750 feet.

Accelerated review if no further consent needed

- Requires PSB to adopt rules for the accelerated review of major utility facilities located on (1) property owned by the applicant, (2) an easement or right-of-way, or (3) a combination thereof, if no further consent for the construction is required by any person or entity besides the PSB.

Repeal of expired transmission report requirement

- Repeals the dated law requiring PSB to submit a report by December 1, 2021, to the General Assembly regarding whether the planning of the power transmission system and associated facilities and investment in Ohio are cost effective and in the interests of consumers.

Electric energy storage systems

- Prohibits an EDU from using any electric energy storage system to participate in the wholesale market if the EDU purchased or acquired that system for distribution service.

Energy storage definition

- Defines “energy storage” in the CRES law to be electrical generation and storage performed by a distributed energy system connected battery.

Transmission and distribution line extensions

- Requires PUCO to adopt rules regarding certain nonresidential customers requesting electric transmission line and distribution line extensions, as well as rules for electric utilities to allow such customers to self-build.
- Repeals the requirement for PUCO to adopt rules within six months of the provision’s effective date, which deadline is outdated.

Solar energy credit program repeal

- Repeals the law that allowed for certain solar energy resources to apply to the Ohio Air Quality Development Authority (OAQDA) to receive payments for solar energy credits.
- Prohibits, on the bill’s effective date, EDUs from collecting any charge authorized for the solar energy credit provisions the bill repeals and the remittance of any of the funds collected to any owner or operator of a qualifying solar resource.
- Requires OAQDA, notwithstanding the prohibition described above, to direct the State Treasurer to remit money from the Solar Generation Fund to owners or operators of qualifying solar resources that were operational prior to December 31, 2024, in the same manner as in current law that the bill repeals.
- Requires, notwithstanding current law to the contrary, any amounts remaining in the Solar Generation Fund as of December 31, 2027, minus remittances that are required to be made in January 2028, to be refunded to customers in a manner determined by OAQDA in consultation with PUCO.

EDU mercantile customer agreements repeal

- Repeals provisions of law that allow an EDU, under certain circumstances, to enter into agreements with mercantile customers to construct a customer-sited renewable energy resource to provide the customer or group of customers with a material portion of their

electricity requirements, with any costs being paid solely by the EDU and mercantile customers.

- Requires, despite the bill's repeal of the law, for such mercantile customer agreements that were executed and filed with PUCO prior to the bill's effective date to remain in effect and governed by law the bill repeals.

Legacy generation resource recovery repeal

- Repeals the provisions of law that allowed for an EDU to recover certain prudently incurred costs related to legacy generation resources, such as the Ohio Valley Electric Company (LGR/OVEC), through a charge on each customer's monthly electric utility bill.
 - Prohibits any EDU from collecting the LGR/OVEC charge from any customer beginning on the bill's effective date.
 - Prohibits an EDU from applying for, and PUCO from authorizing, another LGR/OVEC rider.
- Requires PUCO to continue any investigation of LGR/OVEC commenced under current law for purposes of determining the prudence and reasonableness of the actions of EDUs with ownership interests in LGR/OVEC.

Refunds for utility charges

- Requires all revenues collected from customers by a public utility as part of a rider or rates that are later found to be unreasonable, unlawful, imprudent, or otherwise improper by the Supreme Court be subject to refund from the date of the Court's decision until PUCO makes changes to the rider or rates to implement the decision.
- Directs PUCO within 30 days of the Court's decision to order the payment of refunds to customers and determine how to allocate any remaining funds that cannot be allocated.

Settlement of matters pending before PUCO

- Prohibits an EDU or its affiliate, except as authorized by PUCO in certain instances, to induce any party to enter into a settlement of a matter pending before PUCO by (1) making a cash payment to that party or (2) entering into any agreement or any financial or private arrangement with that party that is not made part of the public case record.

Net metering system

- Modifies the definition of "net metering system" in the CRES law by altering the criteria that the system must be intended to offset the customer-generator's electricity needs.

Self-generators

- Modifies the definition of "self-generator" in the CRES law to mean an entity that owns or hosts an electric generation facility on property the entity controls that produces electricity primarily for the owner's consumption and that meets other requirements, such as the facility connects directly to the owner's side of the meter.

Mercantile customer self-power systems

- Allows for the creation of mercantile customer self-power systems, which provide electric generation service to one or more mercantile customers.
- Requires PUCO to adopt rules to implement the mercantile customer self-power systems law that are applicable to EDUs.

Distribution system hosting capacity maps

- Requires every EDU, not later than May 31, 2026, to develop and publicly share distribution system hosting capacity maps containing certain information to be available on the EDU's website and updated at least once per quarter.
- Requires each EDU to publish annual reliability reports identified by circuit, which report must include certain metrics.
- Requires PUCO to hold at least two stakeholder meetings annually to receive input on map design, data accuracy, and usability, and establish uniform reporting standards to ensure consistency across all EDUs.
- Requires PUCO to review and publish a statewide reliability report annually, summarizing trends and recommending grid modernization measures.

Heat maps

- Requires each entity that owns or controls transmission facilities located in Ohio, and is not a regional transmission organization, to create a heat map that includes certain information related to additional power load the lines and substations can take and the amount of localized generation that can be hosted on each transmission line.
- Requires the entity that created the heat map, if the map is not critical electric infrastructure information, to publish the map on the entity's website.

Electric light company exemption

- Exempts a self-generator or mercantile customer self-power system from classification as an "electric light company" applicable to various provisions of law.

Certified Territories Act exemption

- Exempts certain services provided after the bill's effective date by a mercantile customer self-power system or to an electric load center acting as a self-generator from classification as "electric service" for purposes of an electric supplier's generally exclusive right to provide electric service within its certified territory.

Linear generators

- Adds a linear generator as a renewable energy resource in the CRES law.

Public utility tangible personal property (TPP) taxation

- Reduces the percentage of new and converted or repowered electric generation TPP and new energy conversion TPP subject to property tax, often called the “assessment percentage,” to 7%.
- Reduces the assessment percentage on new electric and distribution TPP to 25%.
- Reduces the assessment percentage on new pipe-line company property from 88% to 25%.
- Modifies the classification and taxation of TPP used to store energy for future use as electricity.
- Specifies that a TPP and real property tax exemption for certain renewable energy projects, including payments in lieu of taxes paid pursuant to that exemption arrangement, continues despite the bill’s changes.

Community energy facilities

- Amends state CRES policy to add provisions relating to community energy facilities, the establishment of the Community Energy Pilot Program and program evaluations and consumer protections for community energy subscribers.
- Defines “community energy facility” (CEF) as a single facility that generates electricity by means of a solar photovoltaic device or uses as its fuel either solar, wind, biomass, landfill gas, or hydroelectric power, or uses a microturbine, natural gas-fired generator, energy storage system, or a fuel cell and meets certain requirements.
- Allows a CEF to be placed on the same parcel or contiguous parcel of land as a CEF that is developed, owned, or operated by the same entity, affiliated entity, or entity under common control if certain conditions are met.

Community Energy Pilot Program

- Requires PUCO to establish a Community Energy Pilot Program “Pilot Program,” consisting of 1,500 MWs of CEFs to be implemented throughout the state.

CEFs statewide

- Requires PUCO to annually certify 250 MWs of CEFs, based on nameplate capacity, until 1,000 MWs from such facilities are certified, and allocate MWs proportionally based on the size of each EDU’s retail electric sales as published by the Energy Information Administration.
- Creates procedures on how to deal with uncertified MWs and applications for certification.

CEFs on distressed sites/commercial or public sector rooftops

- Requires PUCO to certify 500 MWs of CEFs to be reserved for CEFs constructed exclusively on distressed sites or one or more commercial or public sector rooftops.

- Requires PUCO to ensure the certification process is separate from certification under renewable energy benchmarks and renewable energy credits.
- Allows a CEF, after all 500 MWs for distressed sites or a commercial or public sector rooftop, are certified, to be certified out of the 1,000 MWs allocated statewide (described above).

Bill credits

- Defines “bill credit” as the monetary value approved or revised by PUCO for each kilowatt hour of electricity generated by a CEF.
- Requires an EDU with a CEF in its certified territory to allocate bill credits for all electricity generated by the facility that is attributable to a subscription.
- Allows a community energy organization (CEO) (which is a for-profit or nonprofit entity that operates one or more CEFs) to account for unsubscribed electricity on a monthly basis and accumulate bill credits for the unsubscribed electricity for a period of up to 12 months after it was generated, which must be allocated to future subscribers at the direction of the CEO.
- Requires a CEO, at least once annually, to furnish to the EDU, in whose certified territory the CEF is located, an allocation for distribution of bill credits to subscribers for unsubscribed electricity.
- Requires the CEO to forfeit, to the EDU, any bill credits for unsubscribed electricity that are not allocated.
- Provides that a CEF subscriber (any retail electric customer who meets certain requirements) is eligible for a bill credit from the subscriber’s EDU for the proportional output of a CEF attributable to the subscriber.
- Requires PUCO to establish the bill credit for each subscriber that is equal to the EDU’s retail rate (all costs of providing generation, transmission, and distribution services that may be charged by an EDU) on a per-customer class basis, minus certain distribution charges assessed by the EDU.
- Requires PUCO, when determining the bill credit for each EDU, to take into account: (1) costs and benefits provided by CEFs participating in the Pilot Program, (2) all proposed rules, fees, and charges, and (3) any other item PUCO determines is necessary.
- Requires PUCO, not later than 12 months after the report described below is submitted, to approve a tariff based on the revised bill credit rate.
- Requires any bill credit exceeding a subscriber’s monthly bill amount to carry forward until fully allocated to the subscriber’s bill or until the termination of the subscriber’s subscription.

Subscriptions

- Prohibits a subscriber from obtaining a subscription for electricity generated by a CEF representing more than 100% of the subscriber's average annual electricity usage.

Consumer transactions

- Specifies that a subscription is to be considered: (1) for residential subscribers, a consumer transaction subject to Ohio's Consumer Sales Practices law or (2) for nonresidential subscribers, goods subject to the Ohio's Commercial Code covering sales.

Renewable attributes

- Allows a regional governmental aggregator (a regional council of governments with members in at least 17 counties that is also a governmental aggregator under the CRES law) to purchase any amount of renewable attributes (credits, certificates benefits, and offsets attributable to a CEF or the electricity it generates from a governmental entity) from a CEF.

Customers exempted from charges under the Pilot Program

- Prohibits large industrial customers or mercantile customers from participating in, or being charged, directly or indirectly, for any costs related to, the Pilot Program.
- Prohibits residential and commercial customers who do not participate in the Pilot Program from being charged, directly or indirectly, for any costs related to the Pilot Program.

Interconnection of a CEF

- Requires an EDU to interconnect a CEF that is in that EDU's certified territory to its distribution system within a reasonable time after the facility is constructed and must ensure such interconnections are made efficiently, safely, and in compliance with any applicable federal and state regulations and standards.

Discrimination prohibited

- Prohibits an EDU from discriminating against CEFs or their subscribers, including adding extraordinary fees and charges not applied to similar facilities.

Net crediting

- Allows an EDU to establish a net crediting program under which the EDU must enter into a net crediting agreement with a CEO, the terms of which must specify certain provisions regarding customer billing and payments made by the EDU to the CEO and may also include a net crediting fee.
- Requires an EDU, under a net crediting agreement, to do various things related to customer billing and payments to a CEO.
- Requires an EDU that enters into a net crediting agreement with a CEO to prioritize payments from customer-subscribers for each billing period.

- Requires past due subscriber fees owed to a CEO to be paid prior to payments to the EDU for any arrearages on the customer's electric service bill.
- Prohibits an EDU from applying a customer's bill credit to a customer's outstanding balance for electric service for the billing period.
- Allows a nonresidential customer that subscribes to multiple CEFs to participate in the net crediting program only if each facility is included in a net credit agreement.
- Applies the minimum service requirements established under the CRES law to the bill's net crediting agreement provisions.
- Requires PUCO to adopt rules to implement net crediting programs authorized by the bill's provisions.

CEFs located on a brownfield

- Provides that a CEO that constructs a CEF on a distressed site that is a brownfield is eligible to receive a grant awarded by the Department of Development from the Brownfield Remediation Program for costs associated with construction and remediation.
- Requires the Department to promulgate rules for awarding grants to such CEFs.

Stakeholder working group

- Requires PUCO to convene and facilitate an ongoing stakeholder working group to assist PUCO staff with effectively and efficiently promulgating rules for the Pilot Program.
- Requires the working group to consist of: (1) EDUs, (2) consumer advocates, (3) community energy industry representatives, and (4) other interested parties.
- Requires PUCO, not later than 6 months after the bill's effective date, with assistance from the working group, to promulgate rules to implement the community energy program, which must include rules for the creation and establishment of CEFs and a variety of other rules.

Decommissioning of CEF

- Requires a CEO, not later than 18 months after a CEF has ceased generating electricity, to commence decommissioning, which must include certain activities, to be mutually agreed to in writing by the property owner or owners and the CEO.
- Provides that not more than 20% of the total combined mass of the CEF to enter a landfill.
- Requires CEOs to maintain sufficient financial assurances, in the form of a bond, through the life of a CEF's operation to provide for decommissioning.
- Requires the amount of the bond to be calculated by a third-party professional engineer obtained by the organization, and further requiring the bond amount to be recalculated every five years from the date of the initial assessment in the same manner as the initial bond.

- Requires the board of county commissioners where the CEF is located to be the obligee of the bond.

PUCO review and report

- Requires PUCO, 48 months after the rules for the Pilot Program have been promulgated, to conduct reviews of the Pilot Program and submit a report to the General Assembly containing: (1) the number and location of operating CEFs, (2) the amount of nameplate capacity certified, (3) the number of subscribers and other subscriber information, and (4) whether savings were achieved by the subscribers.
- Requires PUCO to promulgate rules to require CEOs and EDUs to provide PUCO with a report containing the relevant information described above.

Regulatory restriction reduction exemption

- Exempts rules required to be adopted under the CEF provisions in the bill from the regulatory restriction reduction limitation in existing law.

Electricity expressed in alternating current

- Specifies that all measures of electricity throughout the Revised Code described in watts, kilowatts, MW, or any derivative thereof means electricity expressed in alternating current, unless the context requires otherwise.

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DETAILED ANALYSIS

Summary

The bill makes various changes to Ohio law governing electric utilities. First, the bill amends the Competitive Retail Electric Service (CRES) law by repealing electric security plans (ESPs) under which electric distribution utilities (EDUs) could establish their standard service offer (SSO). Instead, the bill requires EDUs to use a market-rate offer (MRO) to establish the SSO. The bill also makes various changes to the utility ratemaking law, such as requiring each EDU to file a rate case application regarding distribution service not later than December 31, 2029, and permitting electric light companies to propose a forecasted test period to determine utility revenue and expenses in a rate case application. The bill authorizes local governments to petition the Director of Development to designate a brownfield or former coal mine as a priority investment area, within which property tax and siting incentives and eligibility for a grant under the Brownfield Remediation Program, are provided for certain gas and electric utility projects.

The bill also makes changes regarding electricity and natural gas supplier certification, establishes new consumer protections, imposes deadlines on the Power Siting Board (PSB) and requires an accelerated review of certain applications, and addresses electric storage systems. The bill also repeals the Solar Generation Program which allows the owners and operators of qualifying solar resources to receive payments from the Ohio Air Quality Development Authority (OAQDA) for solar energy credits, but allows for the remittance of payments to certain qualifying solar resources and requires money remaining in the fund to be refunded to customers. The bill repeals the legacy generating resource provisions passed in H.B. 6 of the 133rd General Assembly and the law that allows for EDUs to enter into agreements with mercantile customers or groups of those customers to construct customer-sited renewable energy resources to provide such customers with a material portion of their electricity requirements.

Additionally, the bill requires customers to be refunded for certain charges paid to a public utility that are later found to be improper by the Ohio Supreme Court. The bill modifies the definition of “self-generator,” allows for the creation of mercantile customer self-power systems, and exempts both from classification as an “electric light company” under the public utility law. The bill also requires EDU’s to develop capacity hosting maps, and entities that own or control transmission facilities to produce heat maps, both of which are to be made publicly available.

The bill further amends Ohio’s energy policy to allow for the creation of “community energy facilities,” directs the Public Utilities Commission (PUCO) to develop and implement a

Community Energy Pilot Program, and provides rules and procedures related to operating the program.

Finally, the bill modifies the law regarding local property taxes imposed on tangible personal property (TPP) of public utilities.

Changes affecting the standard service offer

Elimination of ESPs

The bill requires an EDU's SSO to be established only as a MRO by eliminating the ESP option and making the MRO mandatory.¹ An SSO is an offer of all the CRES that are necessary to maintain essential electric service that an EDU is required to provide to its customers (1) who did not shop for their own electric generation supplier or (2) whose supplier defaulted and the customer did not obtain a new supplier.² Under current law, an EDU may establish its SSO as an ESP or an MRO.

The bill requires that an ESP that was approved prior to the bill's effective date must continue to serve as an EDU's SSO until an MRO is approved to be effective. Additionally, each ESP approved before the bill's effective date must extend through the final SSO auction delivery period approved by PUCO under the ESP as of the bill's effective date, and must then terminate.³ The bill provides that if a competitive generation supplier fails to provide retail electric generation service to customers in the EDU's certified territory and the EDU's ESP is still in effect, the customer will default, after reasonable notice, to that ESP until the customer chooses an alternative supplier or until the EDU's MRO is authorized.⁴

Since the bill eliminates ESPs, the bill also repeals or amends all other provisions of the Revised Code addressing or affecting ESPs.⁵

Changes affecting the MRO

The bill generally retains the MRO process under current law providing for (1) the EDU to file an application with PUCO prior to initiating a competitive bidding process for the EDU's MRO, (2) the MRO to be competitively bid in accordance with certain requirements under continuing law, (3) PUCO to determine within 90 days of the application's filing date whether the EDU and its MRO meet all requirements, (4) the EDU to initiate its competitive bidding process if PUCO determines all requirements are met, and (5) PUCO to select the EDU's MRO from the least-cost bid winner or winners.⁶ The also bill makes (4) above mandatory instead of discretionary as

¹ R.C. 4928.141(A)(1) and 4928.142(A); R.C. 4928.143, repealed.

² R.C. 4928.14 and 4928.141.

³ R.C. 4928.141(A)(1) and (2).

⁴ R.C. 4928.14(C).

⁵ R.C. 4928.14, 4928.141, 4928.142, 4928.144, 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, and 4928.542; R.C. 4928.143, repealed.

⁶ R.C. 4928.142(A) to (C).

provided under current law (MRO competitive bidding *must be* initiated – instead of *may be* initiated – if PUCO determines all requirements are met).⁷

The bill, however, eliminates the following provisions from the MRO requirements under current law:

- The requirement that an EDU withdraw its application, as an alternative to timely remedying a deficiency, if PUCO finds that the MRO does not meet MRO requirements.
- The limitation that an EDU cannot initiate the competitive bidding process for at least 150 days after an application’s filing if (1) PUCO finds that the MRO does not meet MRO requirements, (2) the EDU remedies the MRO deficiency, (3) PUCO determines the remedied application meets the MRO requirements, and (4) the MRO was filed simultaneously with an ESP application.⁸
- The blended price requirements for EDUs that directly owned operating generating facilities that were used and useful as of July 31, 2008.⁹
- The restriction that an EDU may not ever file or be required to file an ESP application if its initial MRO application is approved.¹⁰

Prohibition against providing competitive service outside of an SSO

The bill prohibits EUs from providing any CRES in Ohio, other than through a reasonable arrangement or as provided under the CRES law, if that service was deemed competitive or otherwise legally classified as competitive prior to the bill’s effective date. The bill explicitly requires that EUs continue to supply SSOs to consumers in Ohio.¹¹ “Competitive retail electric service” is a component of retail electric service that is deemed competitive under Ohio statutory law or a PUCO order. All retail electric generation, aggregation, power marketing, and power brokerage services supplied to consumers within the certified territory of an EU are competitive.¹²

Definition of an EU and EDU

The bill changes the definition of EU to mean “an electric light company that has a certified territory and is engaged on a for-profit basis in the business of supplying at least a noncompetitive retail electric service in this state.” Current law, however, defines an EU as “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 business of supplying both a noncompetitive and a competitive retail electric service in this state.” An EU

⁷ R.C. 4928.142(B).

⁸ R.C. 4928.142(B)(3).

⁹ R.C. 4928.142(D) and (E).

¹⁰ R.C. 4928.142(F).

¹¹ R.C. 4928.041; R.C. 4905.31, not in the bill.

¹² R.C. 4928.01(A)(4) and (B); R.C. 4928.03, not in the bill.

is also defined under continuing law to exclude a municipal electric utility and a billing and collection agent. The bill's prohibition against providing CRES outside of an SSO extends to EDUs because, under continuing law, an EDU is an EU that supplies at least retail electric distribution service. The bill further adds to the EDU definition, however, that an EDU cannot own or operate an electric generating facility.¹³

Future designation of CRES

The effect of limiting the prohibition to services deemed or classified as competitive *prior* to the bill's effective date is that if a different service is deemed or classified as competitive in the future, an EU could provide that service outside of a reasonable arrangement or other prohibitions in law against providing CRES. PUCO has continuing authority to declare the following additional services as competitive: retail ancillary, metering, or billing and collection service.¹⁴

Changes to corporate separation requirements

Requirements not applicable to certain EUs

The bill eliminates the corporate separation requirements for certain EUs that are in the business in Ohio of supplying a noncompetitive and a competitive retail electric service. If an EU is in the business of supplying noncompetitive retail electric service and supplying a product or service other than retail electric service, the corporate separation requirements would still apply.

Under current law, an EU can be engaged in the business of supplying both a noncompetitive retail electric service and a competitive retail electric service, so long as a corporate separation plan meeting certain requirements of utility law are met. Because the bill prohibits an EU from providing a CRES other than through an SSO, eliminating the corporate separation requirement means that the EU generally cannot provide both a noncompetitive retail electric service and a competitive retail electric service even by following a corporate separation plan. However, as mentioned above (see "**Future designation of CRES**" above), the prohibition on EUs providing CRES applies only to retail electric service deemed competitive prior to the effective date of the bill.¹⁵

Unfair competitive advantages and the abuse of market power

The bill makes a change to the corporate separation requirements that would still apply to EUs supplying a noncompetitive retail electric service and a product or service other than retail electric service. The bill eliminates the requirement that the EU's corporate separation plan satisfy the public interest in "preventing unfair competitive advantage." Instead, the bill just retains the requirement that the plan satisfy the public interest in "preventing the abuse of market power." With respect to PUCO rules establishing limitations on affiliate practices solely for the purpose of maintaining a separation of the affiliate's business from the EU's business to

¹³ R.C. 4928.01(A)(6) and (11).

¹⁴ R.C. 4928.041(A); R.C. 4928.04(A), not in the bill.

¹⁵ R.C. 4928.01(A)(11), 4928.041, and 4928.17(A).

prevent unfair competitive advantage, the bill replaces “unfair competitive advantage” with “abuse of market power.” Under continuing law, “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.¹⁶

Sale or transfer of generation assets

In conjunction with the change to the definition of an EDU (discussed above) that states EDUs cannot own or operate electric generating, the bill repeals a provision from the corporate separation requirements that prohibits an EDU from selling or transferring any generating asset it wholly or partly owns without prior PUCO approval. Additionally, the prohibition against PUCO approving part of an EU’s transition plan if the transition plan would constitute an abandonment of service is no longer subject to the requirement that PUCO approve the selling or transferring of generation assets.¹⁷

Large-scale governmental aggregation

The bill amends Ohio law governing governmental aggregation to require PUCO to review each MRO application filed by an EDU to ensure that the application and resulting MRO does not contain any rate, price, term, condition, or provision that would have an adverse effect on large-scale governmental aggregation in Ohio. The bill also requires PUCO to adopt rules and issue orders in proceedings under the MRO and SSO requirements to encourage and promote large-scale governmental aggregation in Ohio. The requirement that PUCO consider the effect of large-scale governmental aggregation of certain nonbypassable generation charges in the context of an ESP when adopting large-scale governmental aggregation rules is repealed. Governmental aggregation refers to a municipal corporation, township, or county that aggregates retail electric loads in their jurisdiction in order to enter into an agreement for the sale or purchase of electricity for those loads.¹⁸

Governmental aggregation ESP standby service

The bill repeals a provision which permitted a legislative authority that formed or is forming governmental aggregation to elect not to receive standby service under an ESP, subject to certain requirements.¹⁹

Repeal of obsolete CRES provisions

The bill repeals, only in Revised Code sections amended by the bill, provisions referencing the starting date of competitive retail service, as they no longer serve a purpose. The bill also

¹⁶ R.C. 4928.01(A)(18) and 4928.17(A)(2) and (B).

¹⁷ R.C. 4928.17(E) and 4928.34(B).

¹⁸ R.C. 4928.01(A)(13) and 4928.20(J).

¹⁹ R.C. 4928.20(J), repealed.

repeals various other provisions of the utility law that no longer have applicability or that serve no purpose.²⁰

Utility ratemaking law changes

The bill makes various changes to Ohio public utility ratemaking law as described below.

EDU rate case requirement

The bill requires each EDU to file a rate case application regarding distribution service not later than December 31, 2029, and at least every three years thereafter.²¹

Rate case: property used and useful, valuation, and rates

Property report

The bill changes the requirements for an application for an increase in rates regarding the report of utility property used and useful by the public utility making the application. Under continuing law, the report is required to be filed with the application and will be used to determine rates under the application. The bill adds that the used and useful determination can also be made during the forecasted test period if an electric light company proposes a forecasted test period (see discussion below).²²

PUCO must prescribe the form and details of the valuation report of the utility property and continuing law provides what the report must contain.

Forecasted report

The bill provides that, with respect to an electric light company that chooses to file a forecasted test period, the report must include all the kinds and classes of property, with the value of each, owned, held, or projected to be owned or held during the test period, by the utility for the service and convenience of the public. The valuation in the report is to be determined during the forecasted test period.

The following facts must be included in the report in detail:

1. The original cost of each parcel of land owned, and projected to be owned, and in use during the test period, and also whether acquired by direct purchase, donation, eminent domain, or otherwise;
2. The actual acquisition cost, not including periodic rental fees, of rights-of-way, trailways, or other land rights projected to be held during the test period, by virtue of easements, leases, or other forms of grants of rights as to usage;
3. The original cost of all other kinds and classes of property projected to be used and useful during the test period, in rendering service to the public;

²⁰ R.C. 4928.05, 4928.141, 4928.17(A) and (E), and 4928.20(A).

²¹ R.C. 4909.181.

²² R.C. 4909.18(A).

4. The cost of property constituting all or part of a project projected to be leased to or used by the utility during the test period and not already included in (3) (above), excluding any interest directly or indirectly paid by the utility for the property, whether or not capitalized;
5. The cost to a utility, in PUCO's discretion and in a reasonable amount as it determines, of property constituting all or part of a project projected to be leased during the test period, under a lease purchase agreement or a leaseback and not included in (3) (above), excluding any interest directly or indirectly paid by the utility for the property, whether or not capitalized;
6. The proper and adequate reserve for depreciation PUCO determines reasonable;
7. Any sums of money or property the utility is projected to receive during the test period, as total or partial defrayal of the cost of its property;
8. The valuation of the property of the utility, which shall be the sum of the amounts under (1) to (5) (above), less the sum of the amounts contained in the report under (6) and (7) (above).

The report must separately show the property projected to be used and useful to, or held by the utility, during the test period, and such other items PUCO considers proper. PUCO may require an additional report showing the extent to which the property is projected to be used and useful during the test period. All reports must be filed with PUCO for the information of the Governor and the General Assembly.

Any financial information the company is required to submit in the report must be provided from the company's full books. PUCO must ensure appropriate protections against the disclosure of the company's trade secrets or proprietary information.

All other reports

With respect to all other public utilities, the report must include all the kinds and classes of property, with the value of each, owned, held, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be owned or held as of the date certain, by each public utility used and useful, or, with respect to a natural gas, water-works, or sewage disposal system company, projected to be used and useful as of the date certain, for the service and convenience of the public. Projected valuation and value is to be determined as of the date certain.²³

Forecasted test period

The bill permits electric light companies to propose a forecasted test period as an alternative in a rate increase application. Under current law, the test period that may be proposed to determine public utility revenues and expenses is any 12-month period beginning

²³ R.C. 4909.04, 4909.041, 4909.042, 4909.05, 4909.052, 4909.06, 4909.173, and 4909.174.

not more than six months prior to the application filing date and ending not more than nine months after that date.

The new “forecasted test period” requires the electric light company to propose annual base rates for three consecutive 12-month periods in a single forecasted test period application. During the first 12-month period, the company shall propose a reasonably forecasted rate base during a 13-month average, revenues, and expenses for the first 12 months that new base rates will be in effect. For the second and third 12-month periods, the base rate revenue requirement must be adjusted for the return of, and return on, incremental rate base additions approved by PUCO in the initial application. The bill does not specify when the forecasted test period is to commence.

Additionally, the bill requires, for each 12-month period, forecasted plant investment, forecasted revenue, and forecasted expenses versus actual investment, actual revenue, and actual expenses to be trued up via PUCO-approved cost recovery mechanism.

Each true-up process must include an adjustment to actual for the rate of return that the company is authorized to earn on the actual investments made. The company must also provide PUCO with actual financial information during the true-up process to ensure accuracy. PUCO is required, as part of the true-up process, to include only rate base components that have been found by the commission to be used and useful in rendering public utility service.

At the end of the last test period, the company must file for a rate case.

An electric light company proposing a forecasted test period is required to provide any financial information for the test period from the company’s full books. PUCO must ensure appropriate protections against the disclosure of the company’s trade secrets or proprietary information.²⁴

Test period and date certain for all utilities

The bill requires, instead of permits (as under current law), all other utilities to propose the current law test period (described above). The bill repeals the law requiring the test period proposed by the utility to be the test period, unless PUCO orders otherwise. All other utilities also must use a date certain that is not later than the application filing date, except that natural gas, water-works, and sewage disposal companies have a date certain that can be as late as the end of the test period. The bill further provides that all other utilities may propose adjustments to the revenues and expenses for any changes that are, during the test period or 12-month period following, reasonably expected to occur. The utility must identify and quantify individually, any proposed adjustments.²⁵

Property valuation and rates

Under continuing law, PUCO fixes and determines just and reasonable rates in part by using property valuation. With respect to an electric light company that chooses to file a

²⁴ R.C. 4909.15(C)(1)(a) and 4909.159.

²⁵ R.C. 4909.15(C)(1)(b) and (2) and (D).

forecasted test period, the bill requires that PUCO determine the valuation of the property projected to be used and useful during the forecasted test period in rendering the public utility service for which rates are to be fixed and determined. With respect to a natural gas, water-works, or sewage disposal system company, or an electric light company that chooses not to file a forecasted test period, PUCO shall determine the valuation as of the date certain of the property of the public utility that is used and useful or, with respect to a natural gas, water-works, or sewage disposal system company, is projected to be used and useful as of the date certain, in rendering the public utility service for which rates are to be fixed and determined.²⁶

Allowance for construction work in progress (CWIP)

The bill repeals all provisions related to construction work in progress (CWIP) provisions of the law that are related to utility property valuation. Currently, the law allows PUCO, in its discretion, to include in the valuation of utility property a reasonable allowance for CWIP for a construction project that is at least 75% complete and prohibits the allowance from exceeding 10% of the total valuation of the property, not including such allowance for CWIP. Current law includes other CWIP conditions such as, for example, no CWIP, as it relates to a particular construction project, may be reflected in rates for a period exceeding 48 consecutive months beginning on the date initial rates reflecting CWIP become effective, except for certain specified exceptions.²⁷

Cost of public utility service during the test period

As part of determining just and reasonable rates, fares, tolls, rentals, and charges, PUCO must determine the cost to the utility of rendering the public utility service for the test period. The bill removes the requirement that the total of any interest on cash or credit refunds paid under the rate case deadline law be subtracted from the utility's cost of rendering public utility service during the test period.²⁸

Deadlines for rate cases

Complete application, PUCO Staff report, and order on application

The following deadlines are established for PUCO regarding rate case applications:

- For an application filed after the bill's effective date, PUCO must determine whether an application is complete not more than 45 days after the application is filed, and if that deadline is not met, then the application is deemed complete by operation of law;
- For an application for an increase, a written report of the PUCO Staff investigation of an application must be made, filed with PUCO, and sent to various persons, including the applicant, within 180 days after the application is determined complete;

²⁶ R.C. 4909.07, 4909.08, 4909.15(A) and 4909.156.

²⁷ R.C. 4909.15(A).

²⁸ R.C. 4909.15(A)(4).

- For an application filed after the bill's effective date for an increase on any rate, rate mechanism, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice is determined complete, PUCO must issue an order on an application within 360 days, after the application is determined complete and if that deadline is not met, then the application is deemed approved by operation of law.

Temporary rate change

If, after the effective date of the bill, the PUCO does not issue an order after 275 days from when a rate case application is determined complete that requests an increase on any rate, rate mechanism, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice, then the utility may request a temporary increase and any party to the proceeding may request a temporary decrease that goes into, and remains in, effect until modified in accordance with PUCO's determination on the merits of the application. This temporary increase or decrease cannot exceed the midpoint of the rates recommended in the PUCO Staff report and is subject to reconciliation and refund.

Current law for deadlines

Current law (for applications for an increase on any rate, rate mechanism, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice filed prior to the bill's effective date) provides that if the PUCO does not issue an order after 275 days since a rate case application is filed, then an increase not to exceed the proposed increase goes into effect if the public utility files a bond or a letter of credit. The bond or letter of credit is filed with the PUCO and is payable to the state for the use and benefit of the customers affected by the proposed increase or change. The bond or letter of credit provides for customer refunds for amounts collected exceeding the rate in the PUCO's final order on the matter. But, if the PUCO has not entered a final order within 545 days after the application is filed, the utility has no obligation to issue refunds for amounts collected after the 545th day.

Additionally, current law requires PUCO Staff to make and file a written report on a rate increase application within a reasonable time after the application is filed.

Current law does not require PUCO to make a determination as to the completeness of a rate application.²⁹

Rate case discovery limitation

The bill prohibits PUCO, in a rate case, from allowing new discovery beginning not later than 215 days after the rate case application is submitted.³⁰

Repeal of obsolete Ohio coal tax credit

The bill repeals the provisions regarding the obsolete law that allowed an Ohio coal tax credit that had been applied against an electric company's tax liability first in the public utility

²⁹ R.C. 4909.19, 4909.193, and 4909.42; Section 6.

³⁰ R.C. 4903.27.

excise tax law and then, effective January 1, 2002, reestablished in the corporation franchise tax law. Under the corporation franchise tax, which is no longer imposed, an electric company was allowed a nonrefundable credit against the tax for Ohio coal used in any of its coal-fired electric generating units after April 30, 2001, but before January 1, 2010.³¹

Economic development and transmission billing programs

The bill permits PUCO, when considering a rate increase application, to approve the following:

- Nondiscriminatory programs available for all energy-intensive customers to implement economic development, job growth, job retention, or interruptible rates that enhance distribution and transmission grid reliability and promote economic development;
- Nondiscriminatory programs for all mercantile customers that align retail rate recovery with how transmission costs are incurred by or charged to the EDU or programs that allow customers to be billed directly for transmission service by a CRES provider.

A “mercantile customer” under continuing law is 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.³²

Priority investment areas

The bill authorizes a county, municipal corporation, or township to petition the Director of Development to designate a brownfield or former coal mine sites as a priority investment area (PIA), within which utility TPP dedicated to transporting or transmitting electricity or natural gas will be exempt from TPP taxation for five years. The designation also triggers accelerated review of electric generation or transmission projects and gas pipeline projects by the PSB.

Designation

A local government initiates the process for establishing a PIA by adopting legislation requesting the designation from the Director of Development. The legislation must identify the area of the proposed PIA, which must encompass either a brownfield, i.e., a vacant or underused area affected by industrial or commercial pollution, or a former coal mine within the subdivision’s territory. If the Director determines that the area meets certain qualifications that the Director prescribes by rules, including prioritizing the designation of areas negatively impacted by the decline of the coal industry, the Director will designate the area as a PIA.

The Director must render a decision within 90 days, but the PIA designation is automatically approved if the Director misses that deadline. The Director must inform the PUCO, PSB, and Tax Commissioner after a PIA designation has been approved.³³

³¹ R.C. 4909.15(A)(4)(b).

³² R.C. 4909.192 and 4928.01(A)(19).

³³ R.C. 122.161.

Tax exemption

The bill exempts from property tax TPP that is used to transport or transmit electricity or natural gas that is placed into service within an approved PIA. The exemption begins for the tax year after the TPP is placed into service and applies for five total years.³⁴

Accelerated PSB review

The bill requires the PSB to adopt rules providing for the accelerated review of a construction certificate application for construction of any of the following in an approved PIA:

- An electric generating plant and associated facilities;
- An electric transmission line and associated facilities;
- Gas pipeline infrastructure.

PSB must render a decision on an application for the above structures in a PIA not later than 45 days after receipt of the application. If PSB fails to render a decision within 45 days, the application must be considered approved by operation of law and a certificate must be issued to the applicant.

Further, the rules PSB adopts must also include rules that prioritize applications for construction on areas negatively impacted by the decline of the coal industry.

Current law allows for a PSB accelerated review for construction certificates for a major utility facility related to a coal research and development project, and certain transmission lines, generating facilities, and gas pipelines.³⁵

Priority investment area eligible projects

The bill explicitly includes priority investment area eligible projects (“PIA eligible projects”) as a type of project eligible for a grant awarded under the Brownfield Remediation Program. The bill further caps the amount of a grant a PIA eligible project may receive to \$10 million. Under the bill, a “PIA eligible project” means some or all of the following activities necessary or conducive for generating, transporting, storing, or transmitting electricity at the site of a brownfield or former coal mine located in a PIA:

- Environmental or cultural resource site assessments;
- The monitoring, remediation, cleanup, or containment of land to remove any condition or substance regulated by state or federal environmental laws or regulations, including hazardous substances, hazardous wastes, solid wastes, or petroleum;
- The demolition and removal of existing structures, grading, or other site work necessary to make a site or certain real property that includes a brownfield or former coal mine usable for economic development;

³⁴ R.C. 5727.76.

³⁵ R.C. 4906.01(D) and 4906.03(E) to (G).

- The development of a remediation and reuse plan;
- The development of operation of a site for energy generation or battery storage.

Under current law, the Brownfield Remediation Program awards grants for “remediation” of brownfield sites throughout Ohio and is administered by the Director of Development. Current law defines “remediation” as any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield, including the acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity.³⁶

Electric and natural gas supplier certification

The bill requires PUCO to establish rules to require electric services companies (ESCs) and competitive retail natural gas suppliers (Competitive RNGS) to maintain financial assurances sufficient to protect customers, EDUs, and natural gas companies (NGCs) from default. The rules must also specifically allow EDUs and NGCs to set reasonable standards for its security and the security of its customers through financial requirements set in its tariffs. With respect to Competitive RNGS, the new provisions for financial assurances replaces the current law provision allowing for a performance bond sufficient to protect NGCs and their customers.

Under current law, an ESC is defined as an electric light company engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a CRES in Ohio, and 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. A RNGS is defined as any person that is, on a for-profit or not-for-profit basis, in the business of supplying or arranging for the supply of a competitive retail natural gas service to Ohio consumers that are not mercantile customers, and includes a marketer, broker, or aggregator, but excludes, for example, an NGC and a municipal utility.

For purposes of these provisions only, the bill excludes a power broker and aggregator from the definition of ESC, and broker and aggregator from the definition of RNGS. The bill specifies further that a regulatory restriction contained in the financial assurances rules adopted as described above are not subject to the requirement for the reduction and limitation of regulatory restrictions under Ohio law.³⁷

Notice of CRES and CRNGS supplier rate changes

The bill requires CRES suppliers that offer residential customers or small commercial customers a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, to send two notices to each such customer that enters into such a contract. The bill also imposes this same requirement on competitive retail natural gas service (CRNGS – which is any retail natural gas service that may be competitively offered to Ohio

³⁶ R.C. 122.6511(A)(5) and (B)(1) and (3); Section 9.

³⁷ R.C. 4928.01(A)(9), 4928.08(B)(2) and (3) and (F), and 4929.20(A)(2) and (3) and (E); R.C. 121.95 to 121.953 and 4929.01(N), not in the bill.

consumers by Ohio law or PUCO rule, order, or exemption) suppliers that offer such contracts to residential or nonmercantile commercial customers. The bill requires these notices to contain all the following:

- The fixed rate that is expiring under the contract;
- The expiration date of the contract's fixed rate;
- PUCO's website, as a comparison tool, that lists rates offered by other CRES suppliers or CRNGS suppliers (whichever is applicable);
- For CRES suppliers only, a statement explaining that appearing on each customer's bill is a price-to-compare notice that lists the EDU's SSO for CRES suppliers;
- For the second notice, in addition to all the information required in the first notice, the CRES suppliers and CRNGS suppliers must identify the initial rate to be charged upon the contract's conversion to a variable rate.

The bill defines "small commercial customer" as a customer that receives electric service pursuant to a nonresidential tariff if the customer's demand for electricity does not exceed 25 kilowatts within the last 12 months, but excludes any customer that does one or both of the following:

- Manages multiple electric meters and, within the last 12 months, the electricity demand for at least one of the meters is 25 kilowatts or more;
- Has, at the customer's discretion, aggregated the demand for the customer-managed meters.³⁸

Timing and method for sending notices

The bill requires the notices be sent by standard U.S. mail, or electronically with a customer's verifiable consent, as follows:

- The first notice must be sent not earlier than 90 days, and not later than 60 days, prior to the expiration of the fixed rate;
- The second notice must be sent not earlier than 45 days, and not later than 15 days, prior to the expiration of the fixed rate.³⁹

Annual notice

The bill requires a CRES supplier and a CRNGS supplier to provide annual notice, by standard U.S. mail or electronically with a customer's verifiable consent, to each residential customer, small commercial customer, and nonmercantile commercial customer (whichever is applicable) that has entered into a contract with a supplier that has converted to a variable rate upon the contract's fixed rate expiring. The bill further requires this notice to inform the customer

³⁸ R.C. 4928.101(A) to (C) and 4929.221(A) and (B).

³⁹ R.C. 4928.101(D) and 4929.221(C).

that the customer is currently subject to a variable rate and that other fixed rate contracts are available.⁴⁰

PUCO rulemaking

The bill requires PUCO, not later than 150 days after the bill's effective date, to adopt rules to implement the notice provisions described in the above sections, which must at minimum include the following requirements:

- The notice uses clear and unambiguous language to enable the customer to make an informed decision;
- To design the notices in a way to ensure that they cannot be confused with marketing materials.

The bill specifies further that a regulatory restriction contained in the notice rules adopted as described above are not subject to the requirement for the reduction and limitation of regulatory restrictions under Ohio law.⁴¹

Customer account information

The bill requires PUCO to adopt rules to ensure an EDU and NGC processes a customer's change in CRES supplier or Competitive RNGS (whichever is applicable) by using customer account information (CAI). Under the bill, CAI is defined as a unique EDU or NGC number or other customer identification number used by the EDU or NGC to identify a customer and the customer's account record.

The bill further provides that a customer who consents to a change of supplier cannot be required to provide CAI to the supplier if the customer provides a valid form of government-issued identification issued to the customer or a sufficient alternative form of identification that allows the supplier to establish the customer's identity accurately.

The bill also specifies that a regulatory restriction contained in the CAI rules adopted as described above are not subject to the requirement for the reduction and limitation of regulatory restrictions under Ohio law.⁴²

Power Siting Board

The bill makes several changes to the law requiring PSB to issue a certificate of environmental compatibility and public need before an economically significant wind farm or major utility facility may be constructed. Existing law defines a major utility facility as:

- Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts (MWs) or more;

⁴⁰ R.C. 4928.101(E) and 4929.221(D).

⁴¹ R.C. 4928.101(F) and (G) and 4929.221(E) and (F); R.C. 121.95 to 121.953, not in the bill.

⁴² R.C. 4928.102 and 4929.222; R.C. 121.95 to 121.953, not in the bill.

- An electric transmission line and associated facilities of a design capacity of 100 kilovolts (kV) or more;
- A gas pipeline that is greater than 500 feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of 125 pounds per square inch.

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 MWs but less than 50 MWs, excluding: (1) any such wind farm in operation on June 24, 2008, and (2) 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 20 MWs, as measured at the customer's point of interconnection to the electrical grid. The definition excludes several types of facilities, such as, for example, gas transmission lines over which an agency of the United States has exclusive jurisdiction, electric distributing lines and associated facilities as defined by PSB, and any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by PSB.⁴³

Electric transmission line major utility facility classification

The bill reduces the design capacity threshold for an electric transmission line and associated facilities to qualify as a major utility facility from 100 kV to 60 kV.⁴⁴

PSB technical or legal staff

The bill permits the PUCO Chairperson to hire technical or legal staff as full-time PSB employees, which are to be funded through application fees or, if necessary, an additional fee assessment on PSB certificate applications. Current law only provides for the Chairperson to assign or transfer duties among PSB staff.⁴⁵

Transmission line replacement

The bill classifies the rebuilding or replacement of an existing transmission line that is one mile or more in length as construction of a major utility facility, meaning that such a transmission line must obtain a PSB certificate. This change appears to be an exception to continuing law that states a replacement of an existing major utility facility with a like facility, as determined by PSB, does not constitute construction of a major utility facility for which a PSB certificate is necessary.⁴⁶

⁴³ R.C. 4906.01(B) and 4906.04; R.C. 4906.13 and 4906.20, not in the bill.

⁴⁴ R.C. 4906.01(B)(1)(b).

⁴⁵ R.C. 4906.02.

⁴⁶ R.C. 4906.04(C).

Deadlines for nonaccelerated PSB certificate applications

The bill establishes the following deadlines that are applicable to applications for a certificate of environmental compatibility and public need from PSB under the regular, nonaccelerated process:

- The PSB chairperson must determine whether a certificate application complies with all application requirements not more than 45 days after the application is filed. If the chairperson does not issue a determination within this time period, the application is deemed in compliance by operation of law.
- PSB must hold a hearing on a certificate application not less than 45 days, nor more than 60 days, after receiving a complete application. Current law requires this hearing to be held not more than 60 days, nor more than 90 days, after receiving the compliant application.
- PSB must render a decision on a certificate application not later than 180 days after the application is determined complete. If PSB does not issue a decision within this time period, the application is deemed approved by operation of law and PSB must issue a certificate to the applicant.⁴⁷

PSB certificate applications

The bill adds that an applicant for a PSB certificate has the burden of proof. Additionally, the application must also include, for an electric transmission line, a summary of studies that have been made by or for the applicant of cost-effective advanced transmission technologies that maximize the value, expand the capacity, or improve the reliability of the facility.

The bill defines “advanced transmission technologies” as software or hardware technologies that increase the capacity, efficiency, reliability, or safety of an existing or new electric transmission system, including grid-enhancing technologies such as dynamic line rating, advanced power flow controllers, and topology optimization; advanced conductors; and other technologies designed to reduce transmission congestion, or increase the capacity, efficiency, reliability, or safety of an existing or new electric transmission system. “Advanced conductor” means a conductor with a direct current electrical resistance that is at least 10% lower than existing conductors of a similar diameter on the electric transmission system while simultaneously increasing the energy carrying capacity by at least 75%.⁴⁸

PSB certificate decision finding requirements

PSB must make several findings and determinations to grant a certificate for a major utility facility, such as, for example, the nature of the probable environmental impact. The bill adds the following findings and determinations requirements:

⁴⁷ R.C. 4906.06, 4906.07, and 4906.10.

⁴⁸ R.C. 4906.01(M) and (N) and 4906.06(A)(7).

- For an electric transmission line, that the facility must consider implementing cost-effective advanced transmission technologies to maximize the value, expand capacity, or improve the reliability of the facility;
- For all certificate proceedings involving an electric transmission line and associated facilities, *including those that qualify for accelerated PSB review*, that: (1) other alternatives to the transmission project were considered and that the project is the most cost effective and best suited alternative, (2) the project will be competitively bid or, if not, will be comparable in cost had the project been competitively bid, (3) the project has been considered in the context of the utility's larger transmission plan, (4) the project could not be addressed through the construction or replacement of a distribution line or facility, (5) the project has been considered in the context of the regional transmission planning process of PJM, and (6) the project could not have been deferred or redesigned to achieve the same operational result at a lower overall cost.⁴⁹

Additional applicant information

The bill requires a PSB certificate applicant, within 60 days after the competition of a certificated facility, to file the following information in the certificate proceeding:

- A copy of the as-built drawings for the entire facility;
- The final facility rating or nameplate capability for the facility;
- The final cost for the entire facility and an explanation for deviations from any cost estimate included with the certificate application.⁵⁰

Wind major utility facility setback applicability

Existing law subjects an electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electric grid that is designed for, or capable of, operation at an aggregate capacity of 50 MWs or more to certain setback requirements. The bill does the following:

- For purposes of the setback requirements for existing PSB certificates and amendments to those certificates, and existing applications found in compliance prior to September 29, 2013, adds that existing certificates and amendments includes repowering operational projects and the applicable setback distance is 750 feet.
- For purposes of the setback requirements for any amendment made to an existing PSB certificate *issued after* September 15, 2014, specifies that the setback distance is 1,225 feet.
- Specifies that this section does not limit the county commission review process for purposes of determining utility facility restricted areas.

⁴⁹ R.C. 4906.10.

⁵⁰ R.C. 4906.105.

The bill does not define “repower” for purposes of PSB law making it unclear what activities would qualify.⁵¹

Accelerated review if no further consent needed

The bill requires PSB to adopt rules for the accelerated review of a construction certificate application for a major utility facility if, at the time the application is filed, the construction will be located: (1) in whole on property owned by the applicant, (2) in whole or in part on an easement or right-of-way, or (3) any combination of such property, easement, or right-of-way. However, no accelerated application can be granted for the construction of a major utility facility located in whole or in part on property under an easement or right-of-way if additional consent for construction on the easement or right-of-way is required by any person or entity other than the PSB.

PSB must render a decision on an accelerated application described above not later than 90 days after receipt of the application. If PSB does not render a decision within 90 days, the application is considered approved by operation of law and PSB must issue a certificate to the applicant.⁵²

Repeal of expired transmission report requirement

The bill repeals the dated law requiring PSB to submit a report by December 1, 2021, to the General Assembly regarding whether the current requirements for the planning of the power transmission system and associated facilities and investment in Ohio are cost effective and in the interests of consumers.⁵³

Electric energy storage system

The bill prohibits an EDU from using any electric energy storage system to participate in the wholesale market, if the EDU purchased or acquired that system for distribution service.⁵⁴

Energy storage definition

The bill adds a definition of “energy storage” to competitive retail electric service law. “Energy storage” means electrical generation and storage performed by a distributed energy system connected battery.⁵⁵

Transmission and distribution line extensions

The bill requires PUCO, in addition to rules already required to be adopted regarding electric transmission and distribution line extensions and requisite substations and related

⁵¹ R.C. 4906.201; R.C. 303.58, not in the bill.

⁵² R.C. 4906.02(D) and 4906.03(H).

⁵³ R.C. 4906.105.

⁵⁴ R.C. 4928.149.

⁵⁵ R.C. 4928.01(A)(42).

facilities that are requested by nonresidential customers of electric utilities, to include rules that do the following:

- Require nonresidential customers to be responsible for the actual cost of necessary technical studies regarding the customer's requested transmission and distribution line extensions.
- Require nonresidential customers that take service at greater than 34,000 volts and do not elect to self-build transmission and distribution line extensions and related facilities (includes any requisite substation, switching station, breaker station, or other related system upgrades) that are dedicated to the nonresidential customer's new service to provide credit support or reimbursement to the utility for 100% of the utility's costs of any such line extension and any requisite substations and related facilities, including the costs of necessary technical studies, operations and maintenance costs, and capital costs, including a return on capital costs.

The bill further requires PUCO to adopt rules to require the utility to give nonresidential customers taking service at greater than 34,000 volts the option to self-build any such transmission and distribution line extensions and related facilities. Should the customer elect to self-build, the customer is responsible for 100% of the costs and must build the system to the utility's published engineering and construction standards using contractors that have been approved by the utility, subject to PUCO's approval, and the utility must publish such standards and approved contractors on a public website. A self-building nonresidential customer must transfer ownership and operation of the facilities to the utility to own, operate, and maintain.

Additionally, the bill repeals provision in current law requiring initial rules to be adopted not later than six months from the effective date of that section, which has since passed.

Current law requires the rules PUCO must adopt to address the just and reasonable allocation to, and utility recovery from, the requesting customer or other customers of the utility of all costs of any such line extension and any requisite substation or related facility, including, costs of necessary technical studies, operations and maintenance costs, and capital costs, including a return on capital costs.⁵⁶

Solar energy credit program repeal

The bill repeals the solar energy credit program, which allows qualifying solar energy resources to apply to OAQDA for payments from the Solar Generation Fund for credits received for generating electricity via solar energy. The provisions also allow for an EDU to collect a monthly charge from each retail customer in the state to produce a revenue requirement of \$20 million annually for disbursement through the credit program.

The bill prohibits an EDU, beginning on the bill's effective date, from collecting any charge that was authorized pursuant to the solar energy credit program provisions the bill repeals. The bill further prohibits OAQDA from directing the State Treasurer to remit, and the Treasurer is

⁵⁶ R.C. 4928.151

prohibited from remitting, any money from the Solar Generation Fund to owners or operators of qualifying solar resources.

The bill does, however, make an exception to the prohibition described above by requiring OAQDA to direct the State Treasurer to remit money from the Solar Generation Fund to owners or operators of qualifying solar resources that were operational prior to December 31, 2024, in the same manner as provided in current law that is repealed by the bill. Under current law, OAQDA must, every three months until January 21, 2028, direct the State Treasurer to remit money from the Solar Generation Fund to owners and operators of qualifying solar resources in the amount required under that law.

The bill further requires any amounts remaining in the Solar Generation Fund as of December 31, 2027, minus the remittances that are required to be made between that date and January 21, 2028, to be refunded to customers in a manner that OAQDA, in consultation with PUCO, must determine.⁵⁷

EDU mercantile customer agreements repeal

The bill repeals provisions of law that allow an EDU, on a nondiscriminatory basis and subject to PUCO approval, to enter into agreements lasting three or more years with a mercantile customer or group of mercantile customers for the purpose of constructing a customer sited renewable energy resource in Ohio to provide the mercantile customer or group with a material portion of their electricity requirements. There is also a requirement that the EDU and mercantile customers pay for any direct or indirect costs, including costs for infrastructure development or generation, associated with those renewable energy resources. Lastly, at no point can PUCO authorize the EDU to collect, nor can the EDU ever collect, any of those costs from any customer other than the mercantile customer or group of such customers.

Notwithstanding the above, the bill requires any agreement that was executed and filed with PUCO prior to the bill's effective date to remain in effect according to the agreement's terms and must be governed by the law the bill repeals.⁵⁸

Legacy generation resource recovery repeal

The bill repeals provisions of law that allow an EDU to collect a monthly charge from each customer in the state to recover costs for a legacy generation resource, such as the Ohio Valley Electric Company (LGR/OVEC). For a more detailed discussion of the LGR/OVEC provisions of current law being repealed see [pages 22-23 of LSC's analysis of H.B. 6 of the 133rd General Assembly](#) available on the General Assembly's website: <https://www.legislature.ohio.gov/>.

As of the bill's effective date, EDUs are prohibited from collecting the LGR/OVEC charge from any of its retail customers. Additionally, EDUs cannot apply for, and PUCO cannot authorize, any rider or cost recovery mechanism for an LGR/OVEC.

⁵⁷ R.C. 4928.64(B)(2), and 4928.645(C); R.C. 3706.40 to 3706.65 and 4928.642, repealed; Section 5.

⁵⁸ Section 10; R.C. 4928.47, repealed.

PUCO is required to continue any investigation regarding LGR/OVEC commenced under current law to determine the prudence and reasonableness of the actions of the EDUs with ownership interests in LGR/OVEC, including their decisions related to offering the contractual commitment into the wholesale markets, and excluding from recovery those costs that PUCO determines imprudent and unreasonable.⁵⁹

Refunds for utility charges

The bill requires all revenues collected from customers by a public utility as part of a rider or rates that are later found to be unreasonable, unlawful, imprudent, or otherwise improper by the Supreme Court are subject to refund from the date of the issuance of the Court's opinion until the date when, on remand, PUCO makes changes to the rider or rates to implement the decision. PUCO must order repayment of these refunds in a manner designed to allocate them to customer classes in the same proportion as the charges were originally collected. PUCO must determine how to allocate any remaining funds that cannot be refunded for whatever reason. PUCO must order the refund payment and determine how to allocate any remaining funds that cannot be refunded not more than 30 days after the date the Supreme Court order was issued.

Current law contains a provision that has been interpreted by the Ohio Supreme Court to mean that the PUCO cannot order refunds of charges, even if those charges are later determined excessive, because they were collected pursuant to a PUCO-approved tariff.⁶⁰

Settlement of matters pending before PUCO

The bill prohibits an EDU or its affiliate from doing either of the following to induce any party to a PUCO proceeding to enter into a settlement of a matter pending before PUCO:

- Make a cash payment to that party;
- Enter into any agreement or any financial or private arrangement with that party that is not made part of the public case record.

However, notwithstanding these prohibitions, PUCO may: (1) reasonably allocate costs among, and design rates within, rate schedules, (2) approve reasonable rates designed for particular customers or classes of customers, (3) approve a resolution of a proceeding regarding complaints against public utilities, and (4) approve payments to any governmental entity, nonprofit organization, or other association for implementing low-income weatherization service programs, which payments are subject to the following conditions: (a) the payments are at a rate that is reasonably tailored to the costs of providing the program, (b) the payments are for programs that are subject to an existing or new audit procedure, and (c) the payments are not for low-income weatherization education programs.

⁵⁹ R.C. 4928.01(A)(41) and (42); Section 4; R.C. 4928.148, repealed.

⁶⁰ R.C. 4905.321; R.C. 4905.32, not in the bill; *In re Fuel Adjustment Clauses for Columbus S. Power Co.*, 140 Ohio St.3d 352, 358-359 (2014).

For the purposes of the bill's changes regarding settlements, a "proceeding" includes a proceeding relating to electric service under the utility ratemaking law in R.C. Chapter 4909 or CRES law in R.C. Chapter 4928. "Electric service" is "any service involved in supplying or arranging for the supply of electricity to ultimate consumers in this state" and includes "retail electric service" as defined in the CRES law as any service involved in supplying or arranging for the supply of electricity to ultimate consumers in Ohio, from the point of generation to the point of consumption.⁶¹

Net metering system

The bill modifies the definition of "net metering system" in the CRES law to modify one of the criteria an electrical energy producing facility must meet to be a net metering system. Under the bill, the facility must be intended primarily to offset part or all of the customer-generator's annual requirement for electrical energy.

That criteria under current law requires that the facility "[i]s 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 20 MWs 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."⁶²

Self-generators

The bill modifies the definition of "self-generator" in the CRES law to mean an entity in Ohio that owns or hosts an electric generation facility on property the entity controls that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity and that meets all of the following:

- The facility that is installed or operated by a third party under a contract, including a lease, purchase power agreement, or other service contract;
- The facility connects directly to the owner's side of the electric meter;
- The facility delivers electricity to the owner's side of the electric meter without the use of an EDU's or electric cooperative's distribution system or transmission system.

Current law defines a "self-generator" as an entity in Ohio 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.⁶³ It is not clear what impact the new definition will have regarding existing self-generators under the current law definition. There may be a question as to whether the changes described below under "**Electric**

⁶¹ R.C. 4905.331 and 4928.01(A)(27).

⁶² R.C. 4928.01(A)(31)(d).

⁶³ R.C. 4928.01(A)(32).

light company exemption” and **“Certified Territories Act exemption”** would apply to them.

Mercantile customer self-power systems

The bill allows for the creation of mercantile customer self-power systems, which provide electric generation service to one or more mercantile customers. A mercantile customer self-power system may be owned or operated by a mercantile customer member, group of mercantile customer members, or an entity that is not a mercantile customer member. PUCO is directed to adopt rules to implement the mercantile customer self-power systems law that are applicable to EDUs. Nothing in the bill prohibits an EDU or an electric cooperative from charging a mercantile customer for distribution or transmission service used by a mercantile customer.

A “mercantile customer self-power system” is one or more electric generation facilities, electric storage facilities, or both, along with any associated facilities, that meet all of the following:

- Produce electricity primarily for the consumption of a mercantile customer member or a group of mercantile customer members;
- Connect directly to the mercantile customer member’s side of the electric meter;
- Deliver electricity to the mercantile customer member’s side of the electric meter without the use of an EDU’s or electric cooperative’s distribution system or transmission system;
- Is located on either of the following:
 - A property owned or controlled by a mercantile customer member or the entity that owns or operates the mercantile customer self-power system;
 - Land adjacent to a mercantile customer member if the facilities directly connect with the customer.

A “mercantile customer member” is a mercantile customer connected to a mercantile customer self-power system.⁶⁴

Distribution system hosting capacity maps

The bill requires, not later than May 31, 2026, every EDU in the state to develop and publicly share distribution system hosting capacity maps. The EDU must ensure that the maps are available on the EDU’s website and must be updated at least once per quarter, and must include, at a minimum:

- Total available distribution hosting capacity, expressed in megawatts, for new loads;
- Separate hosting capacity availability for distributed energy resources or a separate distributed energy resource specific map;

⁶⁴ R.C. 4928.73.

- Geographic locations and voltage levels of circuits and substations;
- Total, existing, and queued loads or generation exceeding one MW per circuit and substation;
- Available substation and circuit capacity expressed in MWs.

The bill further requires each EDU publish annual reliability reports, including the following metrics, identified per circuit:

- The system average interruption frequency index, representing the average number of interruptions per customer;
- The customer average interruption duration index, representing the average interruption duration or average time to restore service per interrupted customer;
- Customers experiencing multiple interruptions, which identifies customers experiencing at least five interruptions annually divided by the total number of customers served;
- Customers experiencing long interruption durations, which identifies customers that experienced outages of one or more hours in duration divided by the total number of customers served;
- Average outage frequency and duration per circuit and substation;
- Identification of circuits and substations with persistent reliability issues;
- Planned and completed upgrades to enhance grid reliability.

PUCO responsibilities

The bill requires PUCO to hold at least two stakeholder meetings annually to receive input on map design, data accuracy, and usability, and to establish uniform reporting standards to ensure consistency across all EDUs. PUCO may also require EDUs to include additional data points as necessary to improve transparency and planning.

Additionally, PUCO must review and publish a statewide reliability report annually, summarizing trends and recommending grid modernization measures.⁶⁵

Heat maps

The bill requires each entity that owns or controls transmission facilities located in Ohio, and is not a regional transmission organization, to create a heat map that includes both of the following:

- For major transmission lines and substations, the additional power load the lines and substations can take at the time that the map is created, accounting for all signed electric service agreements;

⁶⁵ R.C. 4928.83.

- The amount of localized generation that can be hosted on each transmission line.

The bill further provides, if a heat map created due to the bill's provisions is not critical infrastructure information, that the entity that created the map must publish it on the entity's website.⁶⁶

Electric light company exemption

The bill expressly exempts a self-generator (the bill's modification of which is discussed above) and mercantile customer self-power system from being considered an "electric light company" under the law governing PUCO general powers (R.C. Chapter 4905).⁶⁷ The exemption would also extend to other provisions of Ohio law that uses the electric light company definition, such as electrical requirements and certification under Amusement Ride Safety law (R.C. 993.05), and Asbestos Abatement (R.C. 3710.18).

The PUCO regulates public utilities, which include electric light companies, with certain exceptions (such as electric light companies that operate not-for-profit and municipally owned or operated public utilities). As a result of the exemption, self-generators and mercantile customer self-power systems are not public utilities subject to other laws addressing PUCO organization, hearings, railroad powers, and fixation of rates (R.C. Chapters 4901, 4903, 4907, and 4909); the Consumers' Counsel (R.C. Chapter 4911); and Use of the Municipal Public Way (R.C. Chapter 4939).

Further, continuing law (described in greater detail immediately below) grants each "electric supplier" (defined as an electric light company, including nonprofit corporations, but excluding municipal and other local government electric service providers) the exclusive right to furnish electric service to all electric load centers located within its PUCO-approved certified territory. Electric suppliers are also prohibited from providing electric service for electric load centers located within the territory of another electric load center.⁶⁸

By exempting the facilities described above from being an "electric light company" it appears that these facilities would not be subject to the Certified Territories Act and its prohibition against providing electric service within an electric supplier's certified territory.

Certified Territories Act exemption

Under the "Certified Territories Act," PUCO must create maps of the certified territory for each electric supplier and generally grants each electric supplier the exclusive right to furnish electric service (meaning retail electric service furnished to an electric load center for ultimate consumption, excluding furnishing electric power or energy at wholesale for resale) to all electric load centers located presently or in the future within its certified territory. Any electric supplier

⁶⁶ R.C. 4928.86.

⁶⁷ R.C. 4905.03, 4928.01(A)(32), and 4928.73.

⁶⁸ R.C. 4933.81; R.C. 4905.02, 4905.04, and 4933.82 to 4933.90, not in the bill.

that renders electric service in violation of the Certified Territories Act is subject to various penalties, such as for example a forfeiture assessed by PUCO.

The bill exempts the following from being classified as “electric service” for purposes of the Certified Territories Act:

- In the case of a for-profit electric supplier, beginning after the effective date of the bill: (1) retail electric service provided to a mercantile customer member by a mercantile customer self-power system connected to that mercantile customer member, and (2) retail electric service provided to an electric load center to the extent the center is acting as a self-generator;
- In the case of a not-for-profit electric supplier, for any new electric load centers going into service after the bill’s effective date: (1) retail electric service provided to a mercantile customer member by its own mercantile customer self-power system connected to that mercantile customer member, and (2) retail electric service provided to an electric load center to the extent the center is acting as a self-generator.

“Electric load center” means all the electric-consuming facilities of any type or character owned, occupied, controlled, or used by a person at a single location, which facilities have been, are, or will be connected to and served at a metered point of delivery and to which electric service has been, is, or will be rendered.⁶⁹

Linear generators

The bill adds that a “renewable energy resource” in the CRES law includes a linear generator. A “linear generator” is defined as an integrated system consisting of oscillators, cylinders, electricity conversion equipment, and associated balance of plant components that meet the following criteria: (1) converts the linear motion of oscillators directly into electricity without the use of a flame or spark, (2) is dispatchable with the ability to vary power output across all loads, and (3) can operate on multiple fuel types including renewable fuels, such as hydrogen, ammonia, and biogas.

“Renewable energy resource” is defined to mean several energy resources, such as, for example, solar photovoltaic or solar thermal energy or wind energy.⁷⁰

Long-term forecast report

As part of the report each person owning or operating a major utility facility in Ohio is required to submit under current law, the bill requires the person, with respect to electric transmission, to include an evaluation and report of the potential use of, or investment in, one or more advanced transmission technologies to enable the electric utility to safely, reliably, efficiently, and cost-effectively meet electric system demand through its major utility facilities.

⁶⁹ R.C. 4933.81; R.C. 4933.82 to 4933.90, not in the bill.

⁷⁰ R.C. 4928.01(A)(37) and (43).

The bill further requires the report to identify which advanced transmission technologies were considered as a part of the review of the major utility facilities for the next five years and must also include: (1) a cost evaluation comparing costs of traditional transmission investments and costs of advanced transmission technologies for the projects considered on the major utility facilities applied individually, together, or in sequence, and (2) an advanced transmission technology congestion mitigation study to cost-effectively maximize the delivery of energy resources in the near term that:

- Identifies locations on the entity's transmission system where congestion has occurred for a total of 50 hours per year or more during the last three years or is likely to occur during the next five years, including due to planned transmission outages or other factors;
- Estimates the frequency of congestion at each location and the increased cost to ratepayers resulting from the substitution of higher-priced electricity;
- Evaluates the technical feasibility and estimates the cost of installing one or more advanced transmission technologies to address each instance of grid congestion and projects the grid-enhancing technology's efficacy in reducing congestion;
- Analyzes the cost-effectiveness of installing grid-enhancing technologies to address each instance of identified congestion by using the information described immediately above to calculate the payback period of each installation, using a methodology developed by PUCO;
- Proposes an implementation plan, including a schedule and cost estimate, to install grid-enhancing technologies at each congestion point at which the payback period is less than or equal to a value determined by PUCO, to maximize transmission system capacity, and explains the entity's current line rating methodology.

The bill further requires PUCO to review and evaluate that advanced transmission technologies were properly reported and allow stakeholders to provide comments and to approve advanced transmission technology congestion mitigation implementation plans, including cost recovery.

Under current law, a utility, in its long-term forecast report, must report items such as, for example: (1) a ten year forecast of annual energy demand, peak load, reserves, and a general description of the resource planning projections to meet demand, (2) a range of projected loads during the period, and (3) a description of major utility facilities planned to be added or taken out of service in the next ten years. Additionally, current law requires PUCO to perform several tasks related to the reports such as, for example, (1) review and comment on the reports and make the information readily available to the public and other government agencies, (2) compile and publish each year the general locations of proposed and existing transmission line routes within its jurisdiction as identified in the reports, and (3) hold a public hearing upon the showing of good cause to PUCO by an interested party.⁷¹

⁷¹ R.C. 4935.04.

Advanced transmission technology study

The bill requires PUCO to conduct a study to evaluate the potential use or deployment of advanced transmission technologies, by public utilities to enable public utilities to “safely, reliably, efficiently, and cost-effectively” meet electric system demand and provide “safe, reliable, and affordable” utility service. PUCO must do the following:

- Evaluate the attributes, functions, costs, and benefits of various advanced transmission technologies, including grid-enhancing technologies and advanced conductors;
- Evaluate the potential of each of the advanced transmission technologies studied to be used or deployed by public utilities to provide safe, reliable, and affordable electric utility service to customers, considering existing and planned transmission infrastructure and projected demand growth;
- Identify the potential reductions in project costs and project completion timelines by deploying advanced transmission technologies, as compared to traditional transmission infrastructure;
- Evaluate potential ways to streamline the deployment of advanced transmission technologies, including streamlined processes for permitting, maintenance, and upgrades;
- Evaluate other deregulated states’ policies and laws relating to advanced transmission technologies and provide recommendations in accordance with other states’ policies and laws to enable and encourage adoption of advanced transmission technologies in Ohio;
- Identify processes or ways that end-use customers, such as industrial or mercantile customers, can invest and deploy advanced transmission technologies in partnership with their respective utility to allow for the more rapid deployment of such technologies;
- Identify how PUCO can support and encourage the implementation of advanced transmission technologies in Ohio through future rulemaking or other PUCO activities;
- Evaluate any other aspect of advanced transmission technologies that PUCO determines will assist policymakers, public utilities, ratepayers, and other stakeholders in understanding the potential role of advanced transmission technologies in the transmission system serving Ohio and the region;
- Identify opportunities for the Federal Energy Advocate, employed under current law, to support and advocate for the implementation of advanced transmission technologies at the regional transmission organization, Federal Energy Regulatory Commission, and other relevant agencies, commissions, or regulatory bodies.

The bill further requires PUCO, in conducting the study, to consult with or invite comments from stakeholders and must hold a minimum of two public workshops to review public comments from stakeholders. PUCO may incorporate any information or comments received in the report the bill requires PUCO submit, not later than March 1, 2026. The report must also

include PUCO's findings with respect to the topics described above. A copy of the report must be available online and sent to all members of the General Assembly.⁷²

Public utility tangible personal property (TPP) taxation

Under continuing law, local property taxes extend to the tangible personal property (TPP) of public utilities. The bill modifies the extent to which the property of the following four types of public utilities are taxed:

- Electric companies, i.e., companies that generate, transmit, or distribute electricity and are not rural electric companies or energy companies;
- Rural electric companies, i.e., electric cooperatives;
- Energy companies, i.e., companies that generate, transmit, or distribute electricity from a facility that has a nameplate capacity of more than 250 kilowatts and consists of wind turbines, solar panels, other renewable energy source, clean coal, or cogeneration technology;
- Pipe-line companies engaged in transporting gas, oil, or coal derivatives.

Assessment percentage reductions

Under continuing law, utility TPP, similar to real property, is taxed, or assessed, on only a portion of its true value. The bill lowers the assessment percentage that applies to new electric generation, electric transmission and distribution, and energy conversion TPP, certain converted or repowered existing generation TPP, and new pipe-line company TPP.

Under continuing law, energy conversion TPP is generally designed to convert renewable energy sources, such as sunlight and wind, into electricity.⁷³ Under the bill, existing generation property is converted if it switches fuel input from one energy source to another, and it is repowered if it is upgraded or replaced with new technology to increase its efficiency and reliability.

The table below lists the assessment percentages for each affected public utility, arranged by type of TPP under current law and as modified by the bill. For the purpose of this analysis, TPP is considered "existing" if it was first subject to property tax in Ohio before 2027 and "new" if it is first subject to tax in or after 2027.⁷⁴

⁷² Section 7; R.C. 4928.24, not in the bill.

⁷³ R.C. 5727.01(O).

⁷⁴ R.C. 5727.111; Section 8.

TPP taxation assessment percentages		
Utility type	Assessment percentages: current law	Assessment percentages: the bill
Electric company	Transmission/distribution TPP: 85% Energy conversion TPP: 85% Other TPP (including generation): 24%	New transmission/distribution TPP: 25% Existing transmission/distribution TPP: 85% New energy conversion TPP: 7% Existing energy conversion TPP: 85% New generation TPP and repowered or converted existing generation TPP: 7% Other existing generation TPP and other TPP: 24%
Rural electric company	Transmission/distribution TPP: 50% Energy conversion TPP: 50% Other TPP (including generation): 25%	New transmission/distribution TPP: 25% Existing transmission/distribution TPP: 50% New energy conversion TPP: 7% Existing energy conversion TPP: 50% New generation TPP and repowered or converted existing generation TPP: 7% Other existing generation TPP and other TPP: 25%
Energy company	Generation TPP: 24% Other TPP: 85%	New transmission/distribution TPP: 25% Existing transmission/distribution TPP: 85% New energy conversion TPP: 7% Existing energy conversion TPP: 85% New generation TPP and repowered or converted existing generation TPP: 7% Other existing generation TPP: 24% Other TPP: 85%
Pipe-line company	88%	New TPP: 25% Existing TPP: 88%

Taxation of energy storage systems

The bill reclassifies a subset of electric TPP as energy conversion equipment and production equipment, which, in essence, allows such property to qualify for the assessment rate reductions discussed above, provided the property is first used in Ohio in 2027, or after. Specifically, the reclassification applies to TPP to store energy for future use as electricity, which the bill refers to as an “energy storage system.” This TPP has particular significance in the context of energy companies, where the bill lists it as a type of energy resource that energy companies can generate electricity from, along with wind, solar, clean coal, or cogeneration.⁷⁵

Applicability of renewable energy exemptions

Continuing law authorizes a real and TPP tax exemption for certain renewable energy projects. In general, a project seeking the exemption must (1) apply to the Director of Development to be certified as a qualifying project, (2) in some cases obtain the approval of a county in which the project will be located, (3) comply with certain deadlines and construction, safety, education, and labor requirements, and (4) make payments in lieu of taxes (PILOTs) to be distributed in the same manner as property taxes.

The bill specifies that an exemption and PILOTs continue to apply and be required despite any other modification made by the bill.⁷⁶

Community energy facilities

State CRES policy includes community energy facilities

The bill adds to the state CRES policy, new policies to do all of the following:

- Encourage the development of community energy facilities for the benefit of customers in Ohio and to facilitate participation by customers with the facilities;
- Establish a Community Energy Pilot Program;
- Establish program evaluations and consumer protections ensuring that community energy subscribers are effectively and equitably receiving savings from participating in the Pilot Program.⁷⁷

Definitions of frequently used terms

The bill defines the following terms for the community energy facility provisions:

- “Community energy facility” (CEF) means a single facility that generates electricity by means of a solar photovoltaic device or uses as its fuel either solar, wind, biomass, landfill

⁷⁵ R.C. 5727.01(D)(10), (J), (N), (O), (P), and (R); Section 8.

⁷⁶ R.C. 5727.75.

⁷⁷ R.C. 4928.02(Q) to (S).

gas, or hydroelectric power, or uses a microturbine, natural gas-fired generator, energy storage system, or a fuel cell, and meets all of the following:

- Is located in Ohio and is directly connected to an EDU's distribution system.
- Has at least three subscribers;
- Is located on one parcel of land and there is no CEF on the same or a contiguous parcel that is developed, owned, or operated by the same entity, affiliated entity, or entity under common control;
- No subscriber holds more than 40% proportional interest in the output of the system, which must be measured as the sum total of all meters on the subscriber's property;
- Not less than 60% of the CEF capacity must be subscribed by subscriptions of 40 KWs or less based on the average annual demand for the prior 12-month period, specifying that a multi-unit building served by a single meter must be considered a single customer provided the average usage, based on the number of units, is 40 KWs or less;
- The CEF has a nameplate capacity of 10 MWs or less, or 20 MWs or less if the CEF is on a distressed site or one or more commercial or public sector rooftops, as measured at the point of interconnection;
- The CEF is not under the control of an EDU but may be under the control of an affiliate of the EDU.

The bill further provides if the CEF uses either an energy storage system or natural gas-fired generator, then the storage system or generator cannot be sized to exceed the size of any co-located CEF using solar, wind, biomass, landfill gas, or hydroelectric power as its fuel. If both an energy storage system and natural gas-fired generator are used, then the combined nameplate capacity of the storage system and generator cannot be sized to exceed the size of any co-located CEF using solar, wind, biomass, landfill gas, or hydroelectric power as its fuel.

- "Subscriber" means any retail electric customer who:
 - Has a single unique tax identification number;
 - Has an electric meter on the customer's property;
 - Resides within the certified territory of an EDU;
 - Contracts for a subscription from a CEF located in the same certified territory as the customer;
 - Is not a large industrial customer (discussed below) or a mercantile customer as defined under the CRES law.
- "Subscription" means the right to obtain, from a community energy organization, an allocation of bill credits (discussed below) for electricity generated by a CEF.
- "Unsubscribed electricity" means any electricity generated by a CEF that is not attributable to a subscription.

- “Community energy organization” (CEO) means a for-profit or nonprofit entity that operates one or more CEFs.⁷⁸
- “Distressed site” means a site made up of one or more parcels of land, located within an EDU’s certified territory where the majority of the acreage is at least one or more of the following:
 - A brownfield;⁷⁹
 - A parcel that is within an area where an investor may receive a New Markets Tax Credit under Section 45D of the Internal Revenue Code in federal law;
 - A solid waste facility licensed by the Ohio EPA;⁸⁰
 - A parcel of land that is described by section 45(b)(11) (B)(iii) of the Internal Revenue Code;
 - Land or structure owned by a metropolitan housing authority;⁸¹
 - Land owned by a county land reutilization corporation.⁸²

CEFs placed on the same parcel

The bill allows a CEF to be placed on the same parcel or contiguous parcel of land as a CEF that is developed, owned, or operated by the same entity, affiliated entity, or entity under common control if at least one of the following is met:

- The parcel or parcels of land are a distressed site or CEF is on one or more “commercial or public sector rooftops” (which can be either of the following located in an EDU’s certified territory: a roof of a building located on commercial real estate,⁸³ or any property owned by a public authority⁸⁴) and the total capacity of all CEFs on the parcel or parcels does not exceed 20 MWs.
- All of the following are satisfied:
 - The CEF is to be located on a parcel of land, or multiple parcels of land, that were created prior to the bill’s effective date.
 - The total capacity of all CEFs on the parcel or parcels of land does not exceed 10 MWs.

⁷⁸ R.C. 4934.01(D), (E), (J), (K), and (L).

⁷⁹ R.C. 122.6511.

⁸⁰ R.C. 3734.02, not in the bill.

⁸¹ R.C. 3735.27, not in the bill.

⁸² R.C. 4934.01(F); R.C. 1724.01, not in the bill.

⁸³ R.C. 4934.01(C)(1); R.C. 1311.85, not in the bill.

⁸⁴ R.C. 4934.01(C)(2); R.C. 1311.25, not in the bill.

- Each CEF has its own distinct point of interconnection with the service EDU, including separate and distinct metering and the ability to be directly connected to or disconnected from the EDU.
- The generation components of each CEF are separate, including separate fencing, and not connected with neighboring facilities other than by the EDU's distribution system.
- Each CEF shares only nonoperational infrastructure, including access roads, utility poles, and other features necessary to provide utility and physical access to each facility.

Community Energy Pilot Program

The bill requires PUCO to establish a Community Energy Pilot Program ("Pilot Program") consisting of 1,500 MWs of CEFs to be implemented throughout Ohio as follows.

CEFs statewide

The bill requires PUCO to annually certify 250 MWs of CEFs, based on nameplate capacity, until 1,000 MWs are certified. The bill further provides the following regarding these MWs:

- All MWs certified must be allocated proportionally based on the size of each EDU's retail electric sales published by the Energy Information Administration.
- Any uncertified MWs for a year carry over to the subsequent year until all available MWs are certified.
- All MWs certified must be certified in the order that the certification applications were received.
- If applications for certification exceed the total capacity available for the year, then the applications must be placed on a wait list, determined by PUCO, and once certification of 1,000 MWs of CEFs has occurred, the wait list is eliminated.
- Requires PUCO to ensure that certification for these CEFs is separate from any certification process under Ohio's renewable energy benchmark and renewable energy credits laws.⁸⁵

CEFs on distressed sites/commercial or public sector rooftops

The bill requires PUCO to certify 500 MWs of CEFs, in addition to the 1,000 MWs described above, which must be reserved for CEFs constructed exclusively on distressed sites or one or more commercial or public sector rooftops. PUCO must ensure that certification of these CEFs is separate from any certification process under Ohio's renewable energy benchmark and renewable energy credits laws. After these 500 MWs are certified, a CEF on a distressed site or a commercial or public sector rooftop may be certified from the 1,000 MWs for CEFs statewide.⁸⁶

⁸⁵ R.C. 4928.64, 4928.645, 4934.04, and 4934.05; R.C. 4928.641 to 4928.644, not in the bill.

⁸⁶ R.C. 4928.64, 4928.645, and 4934.07; R.C. 4928.641 to 4928.644, not in the bill.

Bill credits

The bill requires a subscriber to be eligible for a bill credit (the monetary value approved or revised by PUCO for each kilowatt hour of electricity generated by a CEF) from the subscriber's EDU for the proportional output of a CEF attributable to the subscriber. An EDU with a CEF in its certified territory must allocate these bill credits for all electricity generated by the CEF that is attributable to a subscription. The bill further allows for a CEO to account for unsubscribed electricity on a monthly basis and accumulate bill credits for the unsubscribed electricity for a period of up to 12 months after it was generated with bill credits for unsubscribed electricity to be allocated to future subscribers at the CEO's direction.

The bill requires a CEO, at least once annually, to furnish to the EDU in whose certified territory the CEF is located an allocation for distribution of bill credits to subscribers for unsubscribed electricity. Additionally, a CEO must forfeit to the EDU any bill credits for unallocated unsubscribed electricity.⁸⁷

Establishment of bill credit

The bill requires PUCO to establish the bill credit for each subscriber that is equal to the EDU's retail rate (all costs of providing generation service, transmission service, and distribution service that may be charged by an EDU) on a per-customer class basis, minus only the EDU's base charge for distribution service approved under the rate making provisions of law in Chapter 4909 of the Revised Code and the EDU's distribution riders or other distribution charges approved under the CRES law.

The bill further requires PUCO, when determining the bill credit for each EDU, to take into account all of the following:

- The costs and benefits provided by CEFs participating in the Pilot Program;
- All proposed rules, fees, and charges;
- Any other item that PUCO determines is necessary.⁸⁸

Revised bill credit tariff

The bill requires PUCO, not later than 12 months after the report required to be submitted by PUCO (see "**PUCO review**" below) is submitted, to approve a tariff based on the revised bill credit rate.⁸⁹

⁸⁷ R.C. 4934.01(A), 4934.07, and 4934.08(B).

⁸⁸ R.C. 4934.08(A), (C), and (D).

⁸⁹ R.C. 4934.09.

Carryover bill credits

The bill requires any bill credit exceeding a subscriber's monthly bill amount to carry forward until fully allocated to the subscriber's bill or until the termination of the subscriber's CEF subscription.⁹⁰

Subscription rules

Size limit

The bill prohibits subscribers from obtaining a subscription for electricity generated by a CEF representing more than 100% of the subscriber's average annual electricity usage.⁹¹

Consumer transactions

The bill requires a subscription to be considered:

- A consumer transaction subject to Ohio's Consumer Sales Practices law in Chapter 1345 of the Revised Code regarding the enrollment of residential subscribers to obtain an allocation of bill credits;
- Goods subject to Ohio's Commercial Code covering Sales in Chapter 1302 of the Revised Code regarding the enrollment of nonresidential subscribers to obtain an allocation of bill credits.⁹²

Renewable attributes

The bill allows a regional governmental aggregator to purchase any amount of renewable attributes from a CEF.

Under the bill, a "regional governmental aggregator" means a regional council of governments established under Chapter 167 of the Revised Code with members in at least 17 counties that is also a governmental aggregator under the CRES law.

A "renewable attribute" is any of the following that are attributable to a CEF or the electricity generated by a facility provided by the federal or state governments or any other legislative authority of a political subdivision in Ohio:

- Any credits, certificates, benefits, or offsets and allowances computed on the basis of a CEF's displacement of fossil fuel-derived, or other conventional, electric generation;
- Any renewable energy credits or any other environmental certificates issued or administered in connection with electricity generated from a CEF;
- Any voluntary emission reduction credits obtained, or obtainable, in connection with the electric generation from a CEF.

⁹⁰ R.C. 4934.10.

⁹¹ R.C. 4934.11.

⁹² R.C. 4934.12.

Customers exempted from charges under the Pilot Program

The bill prohibits any large industrial customer or mercantile customer from participating in, or being charged, directly or indirectly, for any costs related to, the Pilot Program. The bill further prohibits residential and commercial customers who do not participate in the Pilot Program from being charged, directly or indirectly, for any costs related to the Pilot Program.

Under the bill, “large industrial customer” means any manufacturer that uses electricity primarily in a process involving a change of raw or unfinished materials into another form or product, and that takes service from an EDU at primary voltage, subtransmission voltage, or transmission voltage.⁹³

Interconnection of a CEF

The bill requires an EDU to interconnect a CEF located in that EDU’s certified territory to its distribution system within a reasonable time after the CEF is constructed and must ensure such interconnections are made efficiently, safely, and in compliance with any applicable federal and state regulations and standards.⁹⁴

Discrimination prohibited

The bill prohibits an EDU against CEFs or their subscribers, which includes adding extraordinary fees and charges not applied to similar facilities.⁹⁵

Net crediting program

The bill allows an EDU to establish a net crediting program, under which the EDU must enter into a net crediting agreement with a CEO. The bill further requires the terms of the agreement must specify: (1) that authorization by or on behalf of a subscriber is required before a subscriber may be billed by the EDU under the program, and (2) the terms for payments made by the EDU to the CEO, which terms may include a net crediting fee of not more than 1% of the subscription fee to be deducted from the EDU’s payment to the CEO.

The bill requires an EDU, under a net crediting agreement, to do the following:

- Remit, through an electronic funds transfer, the cash value of the subscriber’s subscription fee, less any net crediting fee, to the CEO not later than 30 days after the billing period;
- Issue EDU customers who are subscribers an itemized monthly bill that includes, in addition to charges for basic electric services, the subscriber’s bill credit for the billing period and the subscriber’s bill credit for the billing period and the subscriber’s subscription fee;

⁹³ R.C. 4928.01(A)(19), 4934.01(G), 4934.071, and 4934.072.

⁹⁴ R.C. 4934.13.

⁹⁵ R.C. 4934.14.

- Process monthly bills for subscribers who participate in low-income customer assistance programs or budget billing programs in the same manner as bills for customers who are not participating in such programs;
- Bill for all basic electric services, including, transmission, distribution, and generation charges, consistent with the net crediting programs provisions of the bill and PUCO regulations.⁹⁶

Priority of payments

The bill requires an EDU that enters into a net crediting agreement with a CEO to prioritize payments from a customer who is a subscriber for each billing period. The bill requires past due subscriber fees owed to a CEO to be paid prior to payments to the EDU for any arrearages on the customer's electric service bill. The EDU cannot apply a customer's bill credit to a customer's outstanding balance for electric service for the billing period.⁹⁷

Nonresidential customer

The bill allows a nonresidential customer that subscribes to multiple CEFs to participate in the net crediting program only if each CEF is included in a net crediting agreement.⁹⁸

Minimum service requirements

The bill provides that the minimum service requirements established in the CRES law to apply to the net crediting program provisions.⁹⁹

PUCO rulemaking

The bill requires PUCO to adopt rules to implement net crediting programs authorized under the bill's net crediting program provisions.¹⁰⁰

CEFs located on a brownfield

The bill provides that a CEO that constructs a CEF on a distressed site that is a brownfield is eligible to receive a grant awarded by the Department of Development from the Brownfield Remediation Program for costs associated with construction and remediation. The bill further requires the Department to promulgate rules for awarding such grants.¹⁰¹

⁹⁶ R.C. 4934.01(H) and 4934.17.

⁹⁷ R.C. 4934.18.

⁹⁸ R.C. 4934.20.

⁹⁹ R.C. 4934.21; R.C. 4928.10, not in the bill.

¹⁰⁰ R.C. 4934.23.

¹⁰¹ R.C. 122.6511(A)(1) and 4934.25.

Stakeholder working group

The bill requires PUCO to convene and facilitate an ongoing stakeholder working group to assist PUCO staff with effectively and efficiently promulgating rules for the Pilot Program. The bill requires the working group to consist of the following:

- EDUs;
- Consumer advocates;
- Community energy industry representatives;
- Other interested parties.¹⁰²

PUCO rulemaking for Pilot Program

The bill requires PUCO, not later than six months after the bill's effective date and with assistance from the working group described above, to promulgate rules to implement the community energy program, which must include rules for the creation and establishment of CEFs, and:

- CEF certification, including rules for PUCO to approve or deny each CEF application within 90 days, unless good cause is shown for not meeting the deadline, as determined by PUCO;
- Prohibit removing a subscriber from the subscriber's applicable customer class because of the subscriber's subscription to a CEF;
- Reasonably allow for the transfer and portability of subscriptions, including allowing a subscriber to retain a subscription to a CEF if the subscriber moves within the same EDU's service territory;
- Modify existing interconnection standards, fees, and processes as needed to facilitate the efficient and cost-effective interconnection of CEFs that allow an EDU to recover reasonable interconnection costs for each CEF;
- Require each EDU to efficiently connect a CEF to its electrical distribution grid and not to discriminate against CEFs or subscribers;
- Provide for consumer protection in existing laws and regulations, including, any protections against disconnection of service;
- Establish robust consumer protections for subscribers, including at least the following:
 - A standardized customer disclosure form for residential subscribers;
 - Prohibiting upfront sign-on fees or credit checks;
 - Preventing early termination charges to any subscriber who unsubscribes.

¹⁰² R.C. 4934.26.

- Allow an EDU to recover reasonable costs associated with administering the Pilot Program;
- Ensure that costs associated with the Pilot Program only be recovered from customer classes participating in the program and that no cross-subsidization of costs between classes occurs;
- Ensure facilities qualifying for the Pilot Program have a signed interconnection agreement or a system impact study, as determined by PUCO, can demonstrate site control, and have received all applicable “non-ministerial permits” (which are all necessary and discretionary governmental permits and approvals to construct a CEF notwithstanding any pending legal challenge to one or more permits or approvals).
- Require each CEO to send a notice in a standardized format containing information related to subscriber enrollment to the EDU that services the area where the CEO’s CEF is sited;
- Require each EDU, not later than nine months after the bill’s effective date, to publish new tariffs or update existing tariffs to implement the Pilot Program;
- Require a CEO to be responsible for the decommissioning of a CEF pursuant to the bill’s provisions described below.¹⁰³

Decommissioning of CEF

The bill requires a CEO, not later than 18 months after a CEF has ceased generating electricity, to commence decommissioning of the CEF, which must include the following, to be mutually agreed to in writing by the property owner or owners and the CEO:

- The removal, and potential reuse and recycling, of solar panels and other community energy equipment, and the remediation of the site;
- The removal of all nonutility-owned equipment, graveled areas, and access roads;
- The replacement of any topsoil that was removed for the construction of the CEF and reseeded of the cleared area.

The bill further provides that not more than 20% of the total combined mass of the CEF may enter a landfill.¹⁰⁴

Bonding requirements

The bill requires CEOs to maintain sufficient financial assurances, in the form of a bond, through the life of a CEF’s operation to provide for decommissioning. The bill provides that the amount of the bond must be calculated by a third-party professional engineer obtained by the CEO. The bond amount, every five years from the date of the initial assessment, must be

¹⁰³ R.C. 4934.01(I) and 4934.27.

¹⁰⁴ R.C. 4934.35.

recalculated in the same manner. Lastly, the bill requires the board of county commissioners where the project is located to be the obligee of the bond.¹⁰⁵

PUCO review

The bill requires PUCO to conduct reviews of the Pilot Program 48 months after the rules for the program have been promulgated and submit a report to the General Assembly containing the following:

- The number and location of operating CEFs;
- The amount of nameplate capacity certified;
- The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed;
- Whether savings were achieved by the subscribers.

The bill further requires PUCO to promulgate rules to require CEOs and EDUs to provide PUCO with a report containing the relevant information described above.¹⁰⁶

Regulatory restriction reduction exemption

All rules required to be adopted by PUCO and DEV under the CEF provisions in the bill are exempted from the regulatory restriction limitation in existing law. Specifically, PUCO rules regarding implementing the Pilot Program, the Net Crediting Program, and rules regarding decommissioning of CEFs are excluded from this limitation. DEV rules for awarding Brownfield Remediation Program grants to CEOs that construct CEFs on distressed sites that are brownfields are also exempted.

Continuing law prohibits state agencies, from adopting a new regulatory restriction unless the agency simultaneously removes two or more existing regulatory restrictions until June 30, 2025. State agencies are also required to achieve a 30% total regulatory restriction reduction by June 30, 2025. Regulatory restrictions are state agency rules that include words such as “shall,” “require,” and “prohibit.”¹⁰⁷

Electricity expressed in alternating current

The bill adds a provision that specifies that throughout the Revised Code, unless the context requires otherwise, all measures of electricity described in watts, kW, MW, or any derivative thereof means such electricity expressed in alternating current.¹⁰⁸

¹⁰⁵ R.C. 4934.36.

¹⁰⁶ R.C. 4934.37.

¹⁰⁷ R.C. 4934.23, 4934.25, 4934.27, 4934.37, and 4934.38; R.C. 121.95 to 121.953, not in the bill.

¹⁰⁸ R.C. 1.66.

HISTORY

Action	Date
Introduced	01-23-25
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