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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 6\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 6's Fiscal Note](#)

**Version:** As Reported by Senate Energy & Public Utilities

**Primary Sponsors:** Reps. Callender and Wilkin

Niyah Walters, Attorney

## SUMMARY

### Payments for in-state nuclear and in-state renewable resources

#### Customer charges

- Requires an electric distribution utility (EDU) to collect a per-customer monthly charge from all of its retail electric customers in Ohio beginning January 1, 2020, and ending December 31, 2026, that is sufficient to produce the following revenue requirements:
  - \$150 million annually for total disbursements from the Nuclear Generation Fund;
  - \$20 million annually for total disbursements from the Renewable Generation Fund.
- Requires the Public Utilities Commission (PUCO) to determine the method by which the revenue is allocated or assigned to each EDU for billing and collection provided that the method is based on (1) the relative number of customers, (2) the relative quantity of kilowatt hour sales, or (3) a combination of the two.
- Requires the level and structure of the charge to be authorized by the PUCO through a process that the PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Title 49 of the Revised Code.
- Requires the charge to be for bills rendered beginning January 1, 2020, and ending December 31, 2026. Those charges must not exceed the following:
  - Residential: \$0.85.

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\* This analysis was prepared before the report of the Senate Energy and Public Utilities Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Industrial customers that exceeded 45 million kilowatt hours of electricity at one location in the preceding year, \$2,400.
- Requires the level and design of the charge or charges established for nonresidential customers that do *not* exceed 45 million kilowatt hours of electricity to be established in a way that avoids abrupt or excessive bill impacts for typical customers.
- Requires authorized charges to be subject to reconciliation of actual revenue collected with revenue needed to meet the revenue requirements.
- Authorizes EDUs to adopt accounting practices to facilitate reconciliation of revenue collected.
- Authorizes the charges to be extended beyond December 31, 2026, for the purposes of reconciliation.
- Creates the Nuclear Generation Fund and the Renewable Generation Fund, where the above charges are to be deposited (88.25% of charges going into the Nuclear Generation Fund and 11.75% of charges going into the Renewable Generation Fund).
- Requires the Treasurer to distribute the money from the Nuclear Generation Fund and Renewable Generation Fund in accordance with directions provided by the Ohio Air Quality Development Authority (Authority), who must consult with the PUCO.
- Requires any amount remaining in the Nuclear Generation Fund or Renewable Generation Fund as of December 31, 2026, minus remittances that are required to be made by January 21, 2027, to be refunded to customers in a manner determined by the Authority in consultation with the PUCO.

### **In-state nuclear**

- Permits an owner or operator of an in-state nuclear resource to apply, not later than February 1, 2020, to the Authority to receive quarterly payments from the Nuclear Generation Fund for nuclear resource credits earned by the resource.
- Requires the application to include certain financial, operational, and risk information pertaining to the resource.
- Requires the Authority to review and approve the application not later than March 31, 2020, if the resource meets the bill's definition, if the application meets the application requirements, and if the resource's operator maintains both a principal place of business in Ohio and a substantial presence in Ohio with regard to its business operations, offices, and transactions.
- Specifies that all financial and proprietary information, including trade secrets, submitted to the Authority for application purposes is confidential information and is not a public record.
- Requires the owner or operator of the nuclear resource to report its electricity production not later than seven days after the close of each quarter.

- Requires the reported production to be in accordance with data from the generation attribute tracking system designated by the Authority.
- Requires the Authority to issue one nuclear resource credit to the nuclear resource for every megawatt hour reported and approved by the Authority.
- Requires the payments for nuclear resource credits to begin in April of 2020 and end in January of 2027.
- Sets the price of a nuclear resource credit at \$9 per megawatt hour, subject to reduction as provided in the bill.
- Beginning April of 2020 and ending January of 2027, requires the Authority every quarter and not later than 14 days after the receipt of the megawatt hours produced to direct the Treasurer to remit money from the Nuclear Generation Fund to pay for the credits earned by the resource during the previous quarter.
- If money in the Nuclear Generation Fund is insufficient, requires the Authority to direct the Treasurer to remit money from the fund not later than 21 days after the close of any quarter in which an owner or operator was not fully compensated, to pay for the unpaid credits.
- Requires a portion of the funds in the Nuclear Generation Fund to be used by the PUCO for conducting the annual management and financial reviews of the owner or operator of a nuclear resource, which the bill requires.
- Requires an annual management and financial review of the owner or operator of a nuclear resource to be conducted beginning in 2021 and ending in 2026 not later than May 1st in each of those years.
- Permits the PUCO to retain consultants and advisors to perform all or any portion of the annual review.
- Allows the owner or operator of a nuclear resource to provide the PUCO or the PUCO's consultants or advisors with any information the owner or operator chooses.
- Requires the owner or operator to promptly and fully respond to any document, information, data, or other request by the PUCO or the PUCO's consultants or advisors and provides that the material failure to do so will result in suspension of payments for nuclear resource credits until the failure is cured to the PUCO's satisfaction.
- Requires a review report, which must include a copy of the owner or operator's certified annual audit, to be submitted to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Authority and to be made publicly available, provided that report does not reveal any confidential or proprietary information.
- Requires the Authority in consultation with the PUCO to consider the findings in the report and permits the Authority to reduce or cease payments for nuclear resource credits if it determines any of the following:

- The Federal Energy Regulatory Commission or the Nuclear Regulatory Commission has established a monetary benefit or other incentive payment to continue the resource's commercial operation;
- The resource no longer meets the definition of qualifying nuclear resource or no longer meets the bill's business-operations requirement.
- The resource's owner or operator applies, before May 1, 2026, to decommission the resource;
- To ensure funding for nuclear resource credits remains reasonable, that the market price index (defined by the bill using certain projected energy and capacity prices) exceeds \$46 per megawatt hour on June 1st of the year the report is submitted, in which case the bill requires the Authority to reduce the credit price by the difference between the market price index and \$46 per megawatt hour.
- Requires, if the Authority determines, based on the review, that it's necessary to make reductions, that the PUCO must, as necessary, reduce the revenue requirement, reduce the credit price, reduce the customer charge or charges, and adjust percentages for customer charge allocation.
- Requires that any revisions made by the PUCO as described above be made through a process that the PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Title 49 of the Revised Code.
- Requires the PUCO to instruct EDUs to suspend or cease billing and collection of customer charges if payments for nuclear resource credits are suspended or ceased.
- Exempts the review process from continuing law governing PUCO hearing procedure.
- Specifies that the tangible personal property constituting a certified qualifying nuclear resource may not be assessed for taxation at a taxable value less than its current value, and that the utility may not seek a reduction in taxable value below that current value.

### **In-state solar projects**

- Permits an owner or operator of an in-state solar resource that obtained a certificate for construction of a major utility facility from the Power Siting Board prior to June 1, 2019, and that is interconnected with the transmission grid that is subject to the operational control of PJM interconnection, L.L.C., or its successor, to apply, not later than February 1, 2020, to the Authority to receive quarterly payments from the Renewable Generation Fund for renewable energy credits earned by the resource.
- Requires the Authority to review and approve the application not later than March 31, 2020, if the resource meets the bill's definition.
- Specifies that all financial and proprietary information, including trade secrets, submitted to the Authority for application purposes is confidential information and is not a public record.

- Requires the owner or operator of the solar resource to report its electricity production not later than seven days after the close of each quarter.
- Requires the reported production to be in accordance with data from the generation attribute tracking system designated by the Authority.
- Requires the Authority to issue one renewable energy credit to the solar resource for every megawatt hour reported and approved by the Authority.
- Sets the price of a renewable energy credit at \$9 per megawatt hour.
- Beginning April of 2020 and ending January of 2027, requires the Authority every quarter and not later than 14 days after the receipt of the megawatt hours produced to direct the Treasurer to remit money from the Renewable Generation Fund to pay for the credits earned by the resource during the previous quarter.
- If money in the Renewable Generation Fund is insufficient, requires the Authority to do both of the following:
  - Direct the Treasurer to prorate payments from the total amount available in the fund based on the number of credits earned by qualifying solar resources in the previous quarter, not later than 21 days after the close of the quarter.
  - Direct the Treasurer to remit money from the fund to pay the unpaid credits not later than 21 days after the close of a quarter in which an owner or operator received prorated payments.
- Requires unpaid renewable energy credits to be paid before other remittances for renewable energy credits are made from the Renewable Generation Fund.

### **Administrative provisions**

- Permits the Authority to make use of the staff and experts employed by PUCO in such manner as is provided by mutual arrangement between the Authority and PUCO, and requires PUCO's information, data, and equipment to be placed at the disposal of the Authority.
- Provides that any information, data, or equipment that is not a public record because the Authority or the PUCO possesses it cannot be construed as a public record due to the mutual arrangement between the Authority and the PUCO, notwithstanding anything to the contrary under the Revised Code.
- Requires the Authority to adopt rules, not later than January 1, 2020, for the implementation of the bill's provisions regarding payments to in-state nuclear and in-state solar resources.

### **Changes to renewable energy requirements**

- Changes the renewable energy standards for EDUs and electric services companies as follows:

Year	Overall renewable portion		Solar portion	
	Current	Bill	Current	Bill
2020	6.5%	5.5%	0.26%	0%
2021	7.5%	6%	0.3%	0%
2022	8.5%	6.5%	0.34%	0%
2023	9.5%	7%	0.38%	0%
2024	10.5%	7.5%	0.42%	0%
2025	11.5%	8%	0.46%	0%
2026	12.5%	8.5%	0.5%	0%
2027 and each year thereafter	12.5%	No further requirements	0.5%	No further requirements

- Requires the PUCO to reduce the number of kilowatt hours for compliance with the renewable energy requirements for all EDUs and electric service companies (ESCs) in Ohio, to be determined by taking the total number of kilowatt hours produced by all solar resources receiving renewable energy credits from the Authority in the preceding compliance year, allocating that number across all EDUs and ESCs in proportion to their baselines for that compliance year, and subtracting that allocated amount from the EDU's or ESC's compliance amount as it would have otherwise been determined using the percentage for the renewable energy requirement.
- Reduces the baselines of an EDU and ESC to exclude the load and usage of self-assessing purchasers (45 million kilowatt hours a year) to facilitate competitiveness of those customers.
- Requires both of the following after the baseline has been reduced by the exclusion of self-assessing purchasers:
  - Relief for EDUs and ESCs of the amount of compliance with the renewable energy requirements that would be required but for the baseline reduction;
  - Exemption of those self-assessing purchasers from any bypassable charge imposed for compliance with the renewable energy requirements.
- Specifies that costs for certain renewable energy contracts, which may be recovered under continuing law, may be recovered regardless of the bill's amendments to the renewable energy requirements.

- Beginning January 1, 2020, prohibits a solar resource receiving renewable energy credits from the Authority from being eligible to obtain a renewable energy credit for the renewable energy requirements for any megawatt of electricity for which the resource has been issued a renewable energy credit by the Authority.

## **Changes to energy efficiency requirements**

- Replaces the current energy efficiency benchmarks for years 2021 through 2027 with the 17.5% compliance process discussed below, and terminates energy efficiency/peak demand reduction portfolio plans on December 31, 2020.
- Extends the expiration date for all portfolio plans in effect on the effective date of this bill to December 31, 2020.
- If a portfolio plan is extended beyond its PUCO-approved term, requires the existing plan's budget to be increased to include an amount equal to the annual average of the approved budget for all years of the portfolio plan in effect as of the effective date of the bill.
- Maintains all other terms and conditions of a portfolio plan extended beyond its PUCO-approved term unless changes are authorized by the PUCO.
- Permits mercantile customers to opt out and later opt back into an EDU's energy efficiency/peak demand reduction plan.
- Requires the PUCO to determine the cumulative energy savings collectively achieved by all EDUs in Ohio since 2009, as of December 31, 2020, using both of the following:
  - Energy savings estimated by the PUCO to be achieved as of December 31, 2020, and banked under continuing law;
  - An energy savings baseline that is the average of total kilowatt hours sold by all EDUs in Ohio in calendar years 2018 through 2020.
- Provides that if the cumulative energy savings collectively achieved are at least 17.5% of the energy savings baseline then energy efficiency compliance must be deemed achieved.
- If the cumulative energy savings collectively achieved is less than 17.5% of the energy savings baseline, both of the following apply:
  - Requires a PUCO determination on how further implementation of the energy efficiency programs is to occur as necessary for a collective achievement of cumulative energy savings of 17.5%;
  - Requires full compliance to be deemed achieved as of the date certain established by the PUCO, notwithstanding any contrary provision.
- Requires, upon compliance with the energy efficiency requirements being deemed achieved, any cost recovery mechanisms authorized by the PUCO for compliance with energy efficiency to be terminated except as necessary for reconciliation, and prohibits

a cost recovery mechanism beyond the period of time necessary to complete that final reconciliation.

- Repeals the requirement that customers that opt out of an EDU's energy efficiency/peak demand reduction portfolio plan submit initial and updated reports to PUCO staff regarding energy intensity reduction projects, actions, policies, and practices, and cumulative energy-intensity reductions achieved.

## **Recovery for a legacy generation resource**

- Defines "legacy generation resource" as generating facilities owned directly or indirectly by a corporation formed before 1960 by investor-owned utilities for the original purpose of providing power for use in the defense of the United States or in furtherance of its national interests, and includes the Ohio Valley Electric Corporation.
- Replaces, on January 1, 2020, any mechanism approved by the PUCO, prior to the effective date of the bill, for recovery of prudently incurred costs associated with the EDU's contractual commitments related to a legacy generation resource, with a nonbypassable rate mechanism for recovery through December 31, 2030, from customers of all EDUs in Ohio.
- Requires the nonbypassable rate mechanism to be established through a process that the PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything contrary to Title 49 of the Revised Code.
- Caps monthly charges for the nonbypassable rate mechanism at \$1.50 for residential customers and \$1,500 for all other customer classes.
- Requires the PUCO to determine, in 2021, 2024, 2027, and 2030, the prudence and reasonableness of the actions of utilities over the past year or three years, as applicable, with ownership interests in the legacy generation resource and whether the revenue from the contractual commitments is greater than the costs associated with the commitments.
- Requires the PUCO to exclude from recovery those costs that it determines imprudent and unreasonable.
- If prudently incurred costs exceed the monthly caps, requires an EDU to defer any remaining prudently incurred costs as a regulatory asset or liability to be recovered as determined by the PUCO subject to the monthly caps.
- Requires the PUCO to provide for discontinuation subject to final reconciliation of the nonbypassable rate mechanism on December 31, 2030, including recovery of any deferrals existing at that time.
- Requires the PUCO to determine the manner in which charges collected by EDUs with no ownership in a legacy generation resource are remitted to EDUs with an ownership interest, in direct proportion to each EDU's sponsorship interest.



- Requires an EDU, including all EDUs in the same holding company, to bid all output from the legacy generation resource into the wholesale market.
- Prohibits an EDU from using the output to supply the EDU's standard service offer.

### **Certain wind farms of 5-20 megawatts under local control**

- Subjects wind farms of 5-20 megawatts that are primarily dedicated to providing electricity to a single customer at a single location to local control.

### **Property tax exemption for energy projects**

- Permits energy projects of up to 20 megawatts to be exempted from property taxation without the formal approval of a board of county commissioners (the current threshold is 5 megawatts).
- Releases such energy projects from other prerequisites for tax exemption, including repair of affected public infrastructure, training and equipping emergency responders, and career training.

### **Net metering system**

- Qualifies the definition of "net metering system" by specifying that, for an industrial customer-generator with a net metering system that has a capacity of less than 20 megawatts and uses wind as energy, it satisfies the definition if it was sized so as to not exceed 100% of the customer-generator's annual requirements for electric energy at the time of interconnection.

### **Agreements for customer-sited renewable energy resources**

- Permits an EDU, on a nondiscriminatory basis and subject to PUCO approval, to enter into an agreement having a term of three years or more with a mercantile customer or group of mercantile customers for the purpose of constructing a customer-sited renewable energy resource in Ohio that will provide the mercantile customer or group with a material portion of the customer's electricity requirements.
- Requires any direct or indirect costs, including costs for infrastructure development or generation, associated with the resource to be paid for solely by the EDU and the mercantile customer.

### **County fair and agricultural societies**

- Requires an EDU to file a rate schedule with the PUCO that is applicable to county fairs and agricultural societies that includes a fixed monthly service fee or an energy charge on a kilowatt-hour basis.
- Prohibits the minimum monthly charge from exceeding the fixed monthly service fee and prohibits a fair or society from being subject to any demand-based rider.
- Requires an EDU to be eligible to recover any revenue loss associated with the migration of customers to the rate schedule.

## Home energy assistance programs (HEAP)

- Requires the Director of the Development Services Agency to submit in each fiscal year, beginning in FY 2021, a completed waiver request to expend 25% of federal low-income HEAP funds from the home energy assistance block grants for weatherization services.

## Decoupling

- Allows certain electric distribution utilities to file an application for a decoupling mechanism with the PUCO.

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## HISTORY

Action	Date
Introduced	04-12-19
Reported, H. Energy and Natural Resources	05-23-19
Reported, H. Rules and Reference	05-29-19
Passed House (53-43)	05-29-19
Reported, S. Energy & Public Utilities	---

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