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SUMMARY

Governor's Office of Energy Justice (OEJ)

- Creates the Governor's Office of Energy Justice (OEJ) within the Department of Development to ensure that the Public Utilities Commission (PUCO) and other agency decisions and actions are guided by, and benefit from, "energy justice principles" and advance "energy justice" goals for residential consumers and participants in OEJ-administered programs.
- Defines "energy justice" as the provision of sustainable energy services and technologies in a manner that advances the public interest by achieving equity in social and economic participation in the energy system, provides Ohio customers equitable access to, and the chance to benefit from energy system services and technologies, and remediates social, economic, and health burdens on those historically harmed by the energy system.
- Defines "energy justice principles" to include, for example, equitable access to contracting and employment in energy projects and regulated utility operations, and intentional design and implementation of clean and sustainable energy programs, rates, and services to ensure equity in access to, and participation in, the programs.
- Requires the Governor to designate the OEJ Director, who reports directly to the Office of the Governor, and allows the Director to appoint employees necessary to carry out OEJ duties.
- Requires that each fiscal year through FY 2031, the General Assembly must ensure that OEJ has a budget adequate for OEJ's operation and sufficient for it to perform its critical missions and achieve the energy transformation described in the bill.
- Creates the Governor's Office of Energy Justice Operating Fund for the sole purpose of maintaining and administering OEJ through an amount (equal to the appropriation to

OEJ in each fiscal year) that is apportioned among and assessed against each public utility in Ohio and deposited in the fund.

- Specifies how assessments are to be computed and when public utilities must pay them.
- Requires OEJ to be a primary advocate for energy justice in matters before PUCO to address OEJ-related issues.
- Permits OEJ to participate in rulemaking and other PUCO and Power Siting Board (PSB) actions and proceedings to address issues of energy justice principles through filing a report regarding proceeding matters and where necessary, sponsoring a witness on the report, or in a PSB proceeding, filing a report and providing a witness to the proceeding.
- Requires OEJ to be an advocate for energy justice for other agencies upon request and to conduct outreach to residential customers and community representatives and organizations to ensure benefits from timely and relevant information about how energy actions and decisions impact energy justice and energy justice principles.
- Requires OEJ, by December 31, 2030, to provide a report about OEJ activities, its effectiveness, and what more needs to be done for OEJ to fulfill its mission to the Speaker of the House of Representatives, President of the Senate, Minority Leaders of each house, and chairpersons of the House and Senate energy and utility committees.

PUCO duties regarding energy justice

- Requires PUCO, for each major decision, rulemaking, rate setting, or other action, to address likely and potential impacts on energy justice and energy justice principles and on outcomes for residential customers and to consider certain specified impacts.
- Requires PUCO, in making any decision or taking any action regarding energy justice, to (1) seek, obtain, and consider written comments from OEJ, if comments or a report have not already been submitted and (2) include a description of how PUCO considered the OEJ report and how the report impacted PUCO's decision or action.
- Permits PUCO to request OEJ to address specific questions or issues if OEJ has submitted comments or a report regarding a decision or action PUCO is considering and to assign a high priority to any OEJ proposals to initiate, conduct, and complete rulemakings or other regulatory actions impacting energy justice and energy justice principles.
- Requires PUCO, at least once every two years and in consultation with OEJ, to hold hearings and develop a comprehensive assessment and publish a report of existing issues regarding energy justice and energy justice principles associated with rates, provision of electric services, regarding existing energy facilities, retired or closed facilities, and impending facility retirements or closures.

PSB duties regarding energy justice

- Permits the PUCO chairperson, who serves as PSB chairperson, to call any employee of OEJ temporarily to assist the chairperson for the purpose of making studies, conducting hearings, investigating applications, or preparing PSB reports.

- In each application considered, decision issued, or investigation conducted, requires PSB to address the likely and potential impacts of the decision or action on energy justice outcomes for residential customers.
- Requires PSB to adopt rules establishing a requirement that:
 - Applications provide an assessment of energy justice impacts associated with the proposed project;
 - Any accelerated review of an application is suspended whenever a significant adverse impact on energy justice is reasonably likely as a result of the proposed project;
 - If an accelerated review is suspended, the applicant must provide an assessment, including energy justice impacts, of the proposed action and proposals to address adverse impacts.
- Requires PSB to consider an OEJ report as it relates to an application before PSB.
- Requires PSB to explain its application decisions and (1) how it evaluated energy justice issues and factored them into a decision, (2) the mitigation required to avoid or minimize adverse energy justice impacts, and (3) the monitoring, reporting, and compliance actions required for application approval.

Changes to state policy for retail electric service

- Adds to ongoing state policy for competitive retail electric service to specify that it is state policy to, within ten years, achieve a statewide energy transformation to protect the health and welfare of Ohioans who rely on affordable electricity and because it is in the public interest to transform the state's energy sector and create a modern, more resilient, and more reliable energy system.
- Specifies several actions the state must take to achieve the energy transformation policy, including, for example, the following:
 - Reduce the threat of climate change by becoming a zero-carbon state not later than 2050;
 - Promote distributed energy resources, which are critical to modernizing Ohio's electric utilities;
 - Protect the state's critical facilities and ensure that the electric grid serving Ohio is reliable, resilient, and secure.

Grid modernization

- Requires PUCO to commence, by 30 days after the bill's effective date, a regulatory proceeding to implement grid modernization efforts and requires the proceeding, at a minimum, to include (1) a plan for meeting the objectives in a timely manner, (2) guidance based on stakeholder input, and (3) other steps and factors as determined by PUCO.

- Not later than eight months after the bill's effective date, requires PUCO to issue a grid modernization order to accomplish the grid modernization plan and goals and to establish a staggered schedule that assigns the dates by which Ohio electric distribution utilities (EDUs) must submit a grid modernization plan for PUCO approval.
- Requires EDUs to file a grid modernization plan application according to the PUCO established schedule that, at a minimum, includes information regarding a hosting capacity analysis for, evaluation of the potential contributions of, and growth scenarios for, distributed energy resources (for example, energy produced or developed behind the meter, such as microgrids, energy storage, and photovoltaic power).
- Requires an EDU's grid modernization plan application to include numerous plans, certain information about proposed technology, and other descriptions and demonstrations such as, for example, a detailed plan and timeline for system upgrades, the value of the technology to each customer class, and a description of how the plan addresses the needs of critical facilities.
- Requires an EDU's plan also to include a cost-benefit analysis that analyzes whether the long-term benefits of the plan exceed the costs due to a reduction in operating costs, avoided costs, such as reduced storm damage costs and thwarted cyberattacks, and the facilitation of new technologies that help lower distribution and generation costs.
- Specifies that PUCO must require plans to include enforceable reliability objectives, transparent reporting requirements, distribution investments that are targeted to provide the most significant impacts, and other mechanisms or requirements PUCO considers appropriate.
- Prior to its decision to approve, modify and approve, or disapprove a plan, requires PUCO to hold an evidentiary hearing for each plan application to allow for stakeholder comments, determine whether the plan meets plan requirements and identify any plan deficiencies.
- Requires PUCO to approve, modify and approve, disapprove a plan application, or take any action it considers appropriate with respect to the EDU's application, but prohibits PUCO from approving a plan unless it meets the bill's state policy objectives or until any identified deficiencies are corrected.
- If it approves or modifies and approves an EDU's plan, requires PUCO to issue an order with findings of fact and conclusions of law that address each application and plan requirement established by the bill.
- Specifies that if a grid modernization plan application proposes any increase in rates to implement any aspect of the plan, the EDU must file a rate case under the utility ratemaking provisions in R.C. Chapter 4909 or if the EDU has a pending rate case, the rates under the plan must be included in the pending case.
- Requires PUCO, as part of a rate case, to approve an EDU's plan costs only if PUCO determines that the costs incurred by the EDU are just, reasonable, and prudent and to

determine, before approving any costs, the net benefits compared to the net costs for grid modernization programs.

- When determining, in a rate case, whether to approve plan costs, requires PUCO to consider (1) the plan's rate impacts on each customer class and (2) whether there is a need for periodic independent audits of the costs incurred.
- Permits PUCO to adopt criteria, benchmarks, and accountability mechanisms to use when evaluating any EDU investment under the plan.
- Requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the grid modernization provisions of the bill and to specify requirements for filing grid modernization plans.

Smart meter plans

- Requires EDUs to file an application for a smart meter plan with PUCO before installing any advanced metering infrastructure, new smart meters, new smart meter functions, enhancements, services, or rates.
- Establishes requirements for what smart meter plan applications must include, such as, for example:
 - Plans for smart meter and advanced metering infrastructure deployment, reporting and publishing EDU performance, offering customers a time-varying rate option, recovery of costs associated with smart meter deployment, protecting the privacy of customer information, and informing customers how to use a smart meter.
 - A cost-benefit analysis for the type of smart meter the EDU proposes for deployment under the plan and an analysis of the rate impacts, on each customer class, of smart meter tariffs and installations.
- Requires a smart meter plan application to include plans for protecting customer information, which protection plan must include (1) an acknowledgement that customer data is owned by the customer, (2) processes for third-party providers and aggregators to access and to receive individual customer data only upon customer written consent while protecting customers' identities, and (3) a plan for the Green Button Connect initiative or a similar program.
- Specifies that PUCO must require each smart meter plan to include enforceable reliability objectives, transparent reporting requirements, distribution investments that are targeted to provide the most significant impacts, and other mechanisms or requirements that PUCO considers appropriate.
- Specifies that if a smart meter plan application proposes any increase in rates to implement any aspect of the plan, the EDU must file a rate case under the utility ratemaking provisions in R.C. Chapter 4909 or if the EDU has a pending rate case, rates under the plan must be included in the pending case.

- Requires PUCO, as part of a rate case and after first determining the net benefits compared to the net costs for smart meter programs, to approve an EDU's smart meter plan costs only if PUCO determines that the costs incurred by the EDU are just, reasonable, and prudent.
- When determining, in a rate case, whether to approve plan costs, requires PUCO to consider (1) the plan's rate impacts on each customer class and (2) whether there is a need for periodic independent audits of the costs incurred.
- Permits PUCO to adopt criteria, benchmarks, and accountability mechanisms to use when evaluating any EDU investment under the plan.
- Requires PUCO to approve, modify and approve, disapprove, or take any action it considers appropriate with respect to an EDU's plan application and upon approval of a plan, to issue an order that includes the findings of fact with respect to each application requirement and the plan's PUCO-approved time-varying rate options.
- Specifies that EDUs must offer time-varying rates not later than one year after an EDU installs the first group of smart meters under a PUCO-approved plan.
- Requires EDUs offering time-varying rates to customers under an approved plan to provide to customers, for a period of one year, a "shadow bill" (a bill that lists what the bill would be under the applicable time-varying rate and is provided, in addition to, and with the same frequency as, the customer's actual bill for electric service).
- Permits PUCO, as part of a rate case and under PUCO-established terms and conditions, to authorize the marketing and sale of demand response by EDUs, third-party providers, or aggregators of retail customers to optimize the potential benefits of smart meters for customers.
- Requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the smart meter plan provisions of the bill and to specify requirements for filing smart meter plans.

Carbon reduction plans

- Requires each EDU and competitive retail electric service provider (CRES) in Ohio to develop and implement a carbon reduction plan (CRP) to meet the following requirements:
 - No later than January 1, 2030, a 50% reduction of their greenhouse gas emissions from 2005 levels;
 - By January 1, 2050, 100% carbon-free electricity.
- Requires PUCO to hold biennial hearings to review each CRP and require modification as necessary to meet CRP requirements.
- Requires the PUCO to (1) issue an order with findings of and conclusions of law for each hearing, and (2) make specific findings from the provider's grid modernization plan.

- Permits PUCO to impose financial and other penalties on providers for failure to achieve CRP goals.
- Permits any electric cooperative or municipal electric utility to file a CRP with PUCO, which must be deemed approved if both of the following apply:
 - The Ohio Environmental Protection Agency (OEPA), in cooperation with PUCO, verifies that the CRP demonstrates, by no later than 2030, at least a 50% reduction in the cooperative's or utility's greenhouse gas emissions from 2005 levels;
 - It has been approved by the cooperative's or utility's governing body.
- Provides that submission of a CRP by a cooperative or utility cannot be construed as altering the cooperative's or utility's regulatory status with respect to PUCO.
- Requires PUCO, no later than six months after the bill's effective date, to adopt rules to implement the provisions governing CRPs and, prior to adopting the rules, to seek comments from stakeholders and the public.
- Requires the rules adopted by the PUCO to include (1) filing requirements for each CRP and (2) numerous specified CRP requirements, such as plans that demonstrate how carbon-free electricity and emissions reduction requirements will be achieved and plans to capture all cost-effective energy waste potential.

Energy waste reduction portfolio plans

- Requires, for any EDU that had an energy efficiency portfolio plan that terminated on December 31, 2020, the EDU to reestablish the portfolio plan (renamed to energy waste portfolio plan under the bill).
- Requires the portfolio plan to include the same terms and conditions that PUCO approved as the plan existed prior to termination.
- Requires, no later than 60 days after the bill's effective date, PUCO to issue an order requiring EDUs to reestablish the portfolio plan programs and adopt rules for a collaborative preapproval process for EDUs to reestablish the portfolio plans.
- Specifies that the reconciliation of revenue collected and allowable costs cost-recovery mechanisms under continuing law includes the reconciliation for energy waste reduction portfolio plans under the bill.
- Prohibits EDUs from qualifying for shared savings in any year it uses banked savings to each minimum compliance with energy waste reduction requirements under continuing law.
- Repeals the requirements that EE savings and peak demand reduction (PDR) achieved through actions taken by customers or through EDU programs that comply with federal standards for either or both EE or PDR requirements be counted toward meeting the EE/PDR requirements.

- Repeals the requirement that certain EE savings and PDR be measured on the higher of an as found or deemed basis, and specifies how EE savings and PDR are to be counted for new construction.
- Repeals the requirements that PUCO count (1) both the EE savings and PDR on an annualized basis and a gross savings basis and (2) count EE savings and PDR associated with transmission and distribution infrastructure improvements that reduce line losses.

“Energy efficiency” to “energy waste reduction”

- Changes the term “energy efficiency” to “energy waste reduction” throughout the Revised Code, except when “energy efficiency” is used to refer to a federal standard.

Clean jobs programs

- Creates the Clean Jobs Training Program, Ohio Jumpstart Clean Jobs Training Program, Clean Energy Entrepreneurs Program, and BIPOC Clean Energy Contractor Accelerator to provide training, resources, and other services to prepare participants for opportunities in the clean energy industry.
- Requires the Director of the Governor’s Office of Energy Justice (OEJ Director) to implement and administer the programs and to contract with a community-based organization to provide training under the programs.
- Requires the OEJ Director to establish at least 15 Ohio clean energy incubators throughout Ohio and to operate the programs at the incubators.
- Requires the OEJ Director to engage in community education and outreach regarding the opportunities available through the programs and in Ohio’s clean energy industry.
- Appropriates \$15 million in FY 2022 and FY 2023 for the programs.

Electric generating facility closures

- Establishes a process for reimbursing taxing districts for a five-year period, if the district loses tangible personal property (TPP) tax revenues due to the closure of an electric generating facility (an electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more).
- Requires the owner of a facility that is to be closed to provide notice to PUCO and to the Department of Taxation prior to the date of the closure in addition to any notice the owner must provide to PJM Interconnection, L.L.C. or the Federal Energy Regulatory Commission.
- Requires the Tax Commissioner to certify to PUCO the annual TPP tax loss attributable to each taxing district in which the closed facility is located and specifies how the tax loss is calculated.
- Requires PUCO to establish a nonbypassable rate mechanism (collected from customers of all Ohio EDUs) to collect 125% of the amount certified by the Tax Commissioner to replace the TPP tax revenue losses resulting from the facility closure and to provide

funding for economic development and job training programs in the affected taxing districts.

- Requires the rate mechanism design to be based on the kilowatt hour usage and collected from customers through monthly charges for a period beginning two months before the facility's closure and ending not more than five years later and caps the charges at:
 - \$1.50 for residential customers;
 - \$500 for commercial customers using less than 700,000 kilowatt hours of electricity;
 - \$1,500 for mercantile customers (commercial or industrial customers, that consume, for nonresidential use, more than 700,000 kilowatt hours per year or that are part of a national account involving multiple facilities in one or more states).
- In the case of more than one facility closure, requires PUCO to review the rate mechanism charges being collected and taxing district payments being made, revise the mechanism and, subject to the rate cap, adjust the distribution and allocation of the charges to account for taxing districts' TPP tax losses.
- Creates the Community Transition Facility Closure Fund consisting of the charges collected from electric customers in Ohio through the PUCO-established rate mechanism authorized by the bill to be used to reimburse taxing districts for TPP tax losses when a facility closes and to establish economic development and job creation programs.
- At the direction of PUCO and for five years after the closure of an electric generating facility, requires the Treasurer of State to distribute from the Community Transition Facility Closure Fund certified TPP tax loss payments to the county treasurer of each county in which a taxing district that is entitled to payment is located.
- Specifies that taxing districts that receive distributions from the fund must apportion them in the same proportion as if the amounts had been levied and collected as taxes.
- At the direction of, and in the amounts specified by PUCO, requires the Treasurer of State to distribute funds to the general fund of each county that is entitled to a distribution, which funds must be appropriated by the board of county commissioners for economic development and job creation programs within the taxing district.
- Requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the facility closure provisions of the bill.

Community Support Committee

- Creates the Community Support Committee to study the economic and workforce impacts that electric generating facility closures have on Ohio communities and develop recommendations for legislative action regarding strategies to mitigate the negative impacts that facility closures have on those communities.

- Requires the Committee to prepare a report on its activities, findings, and recommendations, post the report on its website, and submit the report to the Governor and specified members of the General Assembly.
- Appropriates \$100,000 in FY 2022 for the Committee.

Ohio Clean Energy Jobs and Justice Linked Deposit Program

- Establishes the Ohio Clean Energy Jobs and Justice Linked Deposit Program to provide lower-cost loans to small, clean energy businesses led by Black, Indigenous, and People of Color (BIPOC).
- Requires the Treasurer of State to take all steps necessary to implement the program and monitor eligible lending institution and borrower compliance with the program.
- Requires an eligible lending institution that would like to receive an Ohio clean energy jobs and justice linked deposit to accept and review loan applications using the usual lending standards to determine the creditworthiness of the business.
- Requires the lending institution to send loan packages to the Treasurer for approval, and requires the Treasurer to accept or reject the loan package based on its evaluation of each business and the amount of state funds to be placed with the lending institution.
- Requires the lending institution and the Treasurer to enter into a deposit agreement, if the Treasurer places an Ohio clean energy jobs and justice linked deposit with the lending institution.
- Permits the Treasurer to determine the maturity of the financial instrument that constitutes the Ohio clean energy jobs and justice linked deposit, but maturity cannot exceed four years.
- Requires the lending institution to certify with the Treasurer that once the Ohio clean energy jobs and justice linked deposit has been placed, the institution will lend the funds to each approved borrower listed in the loan package in accordance with the deposit agreement.
- Requires the Treasurer to file an annual report with the Governor, the Speaker of the House, and the Senate President regarding the program.

Greenhouse gas emission reduction goals

- Requires OEPA to establish the following greenhouse gas reduction goals, relative to 2005 statewide greenhouse gas pollution levels:
 - A 26% reduction in statewide greenhouse gas emissions by 2025;
 - A 50% reduction in statewide greenhouse gas emissions by 2030; and
 - A 100% reduction in statewide greenhouse gas emissions by 2050.

- Requires the OEPA Director to adopt rules to achieve those goals, including establishing strategies and requirements designed to achieve reductions in greenhouse gas emissions, including carbon reduction plans.
- Prior to adopting rules to reduce greenhouse gas pollution levels, requires the Director to solicit input from other state agencies, stakeholders, and the public on the advantages of different statewide greenhouse gas emission mitigation measures.
- Allows the Director to employ demand-side management and renewable energy development strategies and regulatory strategies that have been deployed by other jurisdictions to reduce multi-sector greenhouse gas emissions.
- Requires the Director to take into consideration any greenhouse gas emission reduction plan established by PUCO that will assist in achieving a 50% reduction in statewide greenhouse gas emissions by 2030.
- Requires the Director to submit a report to the General Assembly every two years that, among other things, specifies the progress made towards reducing greenhouse gas emissions and meeting the reduction goals.

Voluntary greenhouse gas emission reduction plans

- Allows an electric cooperative or a municipal electric utility to submit to the Director a voluntary greenhouse gas emission reduction plan approved by the applicable governing body of the cooperative or utility.

Energy and greenhouse gas emission control audits

- Specifies that the Director must require an energy-intensive, trade-exposed manufacturing source to execute an energy and greenhouse gas emission control audit, according to criteria established by OEPA, every five years through 2035.
- Requires a qualified third party, as determined by OEPA, to conduct the audit and submit the results to OEPA.
- Allows the Director to impose an administrative charge on an energy-intensive, trade-exposed manufacturing source that does not meet certain criteria.

Energy Community Reinvestment Fee

- Requires the Director of Environmental Protection to charge a fossil fuel generating plant owner a quarterly energy community reinvestment fee, calculated by the Director in accordance with an equation established by the bill.
- Requires the Director to deposit energy community reinvestment fees into the Greenhouse Gases Pollution Fund, created by the bill, to pay for any expenses incurred by OEJ.
- Allows the Director to suspend or revoke a plant owner's operating permit if the owner does not pay the fee within 60 days after receiving a payment warning.

- Requires OEJ to notify the Director of the revenue and spending requirements for the Office's energy programs for the upcoming fiscal year and the projected spending for all program years through FY 2036.
- Requires the projected revenue and spending required for any program year to be at least \$100 million per year for all calendar years that the Ohio electric sector generates greenhouse gas emissions.

Refunds of unlawful utility charges

- Requires the PUCO to issue an order requiring the refund of any amounts unlawfully collected by a public utility from consumers if a PUCO decision is reversed by the Ohio Supreme Court or another entity having the authority to do so.

Intervenor expenses

- Directs PUCO to adopt rules providing for the reimbursement by the applicant utility of expenses of any intervenor in a PUCO proceeding.

Performance-based regulation of public utilities

- Directs PUCO to issue performance-based rules to align the interests of public utilities with those of consumers and to provide incentives for public utilities to improve their performance in areas PUCO deems necessary.
- Allows PUCO to create incentives for a public utility to meet performance targets, including payments of up to 0.5% of the public utility's most recently approved return on equity, as well as penalties for failing to reach such targets.
- Sets forth a process for the creation of performance-based regulation, incorporating public input.

PUCO settlements

- Allows parties to a docket in a PUCO investigation, proceeding, case, or other matter to seek a settlement agreement or stipulation on one or more issues raised in an application or proceeding at PUCO.
- Requires settlement discussions to be conducted when all parties receive notice and opportunity of the discussion and all discovery requests have been received.
- Requires parties that have entered into any settlement agreement or stipulation to file the agreement or stipulation with PUCO when certain conditions are met and requires other documents to be filed when a settlement or stipulation is proposed by some, but not all, parties to a docket.
- Requires the parties to a proposed settlement agreement or stipulation to convene at least one conference when the proposed settlement or stipulation is not supported by all of the parties.
- Grants full discovery rights to intervenors in a docket.

- Allows, if a settlement agreement or stipulation has been reached on some, but not all, of the issues, for the unresolved issues to be adjudicated until an agreement is reached on them.
- Requires PUCO to establish a hearing schedule on the agreement or stipulation no later than 30 days after a settlement agreement or stipulation is filed.
- Provides that if a settlement agreement or stipulation is unanimous, PUCO cannot approve it unless it finds that the agreement or stipulation is in the public interest and is just and reasonable.
- Provides that if a settlement agreement or stipulation is not unanimous, PUCO must apply the same standards it applies in cases with no settlement and ensure that all parties had a fair and reasonable opportunity to participate in negotiations.
- Requires PUCO to consider all of the record evidence, intervenor testimony, and briefs or comments on a settlement agreement or stipulation before making a decision and issuing an order on it.
- Allows PUCO to approve a settlement agreement or stipulation, in whole or in part, and with conditions and modifications and allows parties to determine if they want to proceed with a modified agreement or withdraw and file a rehearing application.
- Provides that a PUCO decision to approve a settlement agreement or stipulation cannot be construed as precedent for any future PUCO proceeding.

Interconnection of distributed generation facilities

- Allows PUCO to adopt rules regarding interconnection of distributed generation facilities of all system types and fuel sources to the distribution system of each EDU in order to carry out stated goals.
- Requires an applicant that applies for interconnection to comply with safety and performance standards established by the Institute of Electrical and Electronics Engineers (IEEE), the Underwriters Laboratory (UL), the National Electrical Code (NEC), and relevant American National Standards Institute (ANSI) standards.
- Requires PUCO to establish a schedule for implementing interconnection standards to be effective no later than one year after the effective date of this bill.
- Requires an EDU to take certain actions to provide for and promote interconnection and distributed generation.

Distributed energy resources

- Requires PUCO, not later than 12 months after the bill's effective date, to open a proceeding to consider distributed energy resources and issue an order to encourage and promote distributed energy resources in Ohio.

Electric security plans

- Allows an electric security plan (ESP) to include a provision for the recovery of certain costs only if they are determined to be prudently incurred after a hearing by PUCO.
- Prohibits PUCO from authorizing an allowance, under an ESP, for construction work in progress (CWIP) for an electric generating facility or an environmental expenditure for an electric generating facility that would otherwise be prohibited under continuing law governing CWIP.
- Prohibits an allowance, under an ESP, for CWIP for an electric generating facility or an environmental expenditure for an electric generating facility from being established as a nonbypassable surcharge for the life of the facility.
- Eliminates the ability to include in an ESP a nonbypassable surcharge for the life of an electric generating facility once it becomes used and useful.
- Eliminates various terms, conditions, or charges relating to limitations on, for example, customer shopping, bypassability, default service, and other EDU services and products.
- Allows an ESP to include any increases or decreases in any component of an EDU's standard service offer price, only subject to prior approval of PUCO, instead of permitting automatic inclusion, as in current law.
- Prohibits provisions regarding single-issue ratemaking relating to an EDU's distribution service from being included in an ESP.
- Requires a decoupling mechanism included in an ESP to be based on the base rates currently in effect for the EDU and include the following elements:
 - A symmetrical design;
 - A customer charge sufficient to recover the EDU's cost of metering and billing only;
 - A revenue per customer mechanism;
 - A proposed cap on surcharges and refunds and a symmetrical method for addressing the imposition of the cap;
 - Other necessary elements.
- Makes changes to the standards for approving an ESP and the requirements for quadrennial and annual ESP reviews, including the repeal of the excessive earnings tests under the reviews.

Wind farm minimum setback distance

- Changes one of the minimum wind farm setback requirements to a horizontal distance of 1,125 feet from the tip of the turbine's nearest blade at 90 degrees to the exterior of the nearest habitable residential structure, if any, located on an adjacent property (instead of to the property line of the nearest adjacent property).

- Applies the new minimum setback distance to amendments made to existing certificates for wind farms on and after the bill’s effective date.

Virtual net metering

- Requires PUCO to promulgate rules to support and promote virtual net metering systems.

Property tax exemption for qualified renewable energy projects

- Makes the tangible personal property tax exemption for qualified energy projects using renewable energy resources permanent.

Changes in Consumers’ Counsel law

- Permits the Consumers’ Counsel, on behalf of residential consumers and without posting a bond or any form of surety, to seek a stay of the implementation of any PUCO order that Consumers’ Counsel is appealing.
- Repeals the law that requires the Consumers’ Counsel to follow the policies of the state that address supporting natural gas competition.
- Repeals the prohibition against the Office of the Consumers’ Counsel operating a telephone call center for consumer complaints.

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DETAILED ANALYSIS

Governor's Office of Energy Justice (OEJ)

The bill creates the Governor's Office of Energy Justice (OEJ) in the Department of Development. The Governor must designate the OEJ Director, who reports directly to the Office of the Governor. Under the bill, the OEJ Director may appoint employees necessary to exercise the powers and duties of OEJ.¹

The mission of OEJ is to ensure that decisions and actions made by the Public Utilities Commission (PUCO) and other relevant agencies (1) are guided by, and benefit from, energy justice principles and (2) advance energy justice goals for all residential consumers and participants in the job training, workforce development, and accelerator programs established by the bill and administered by OEJ. The mission applies to decisions and actions pertaining to

¹ R.C. 185.03.

energy issues and energy-related activities established on behalf of residential consumers in Ohio and to participants in the OEJ programs.²

“Energy justice”

The bill defines “energy justice” as the provision of sustainable energy services and technologies in a manner that does the following:

- Advances the public interest by achieving equity in social and economic participation in the energy system;
- Provides all Ohio customers equitable access to, and the opportunity to benefit from, energy system services and technologies;
- Remediates social, economic, and health burdens on those who have been historically harmed by the energy system.³

“Energy justice principles”

“Energy justice principles” include the following:

- Equitable access to contracting and employment in energy projects and regulated utility operations;
- Equitable distribution of any unavoidable adverse environmental impacts associated with fossil fuel energy facilities development, siting, and operations, including recommendations for mitigation of the adverse impacts;
- Development and implementation of plans and programs to end and redress historical energy project impacts on disadvantaged and front line communities;
- Objective evaluation and maximum avoidance of regressive or unjust discriminatory impacts related to rates and services provided by regulated energy businesses;
- Intentional design and implementation of clean and sustainable energy programs, rates, and services to ensure equity in access to, and enrollment and participation in, the programs.⁴

OEJ budget and fund

The bill requires that each fiscal year through FY 2031, the General Assembly must ensure that OEJ has a budget adequate for OEJ’s operation and sufficient for it to perform its critical missions and achieve the energy transformation described in the bill (see “**Energy transformation policy**” below).

² R.C. 185.06.

³ R.C. 185.01(B).

⁴ R.C. 185.01(C).

The bill creates the Governor’s Office of Energy Justice Operating Fund for the sole purpose of maintaining and administering OEJ. An amount equal to the appropriation to OEJ in each fiscal year is apportioned among and assessed against each public utility in Ohio. Assessment payments received into the state treasury are deposited to the credit of the fund.⁵

Under the bill, “public utilities” include telephone companies, electric light companies, gas companies, natural gas companies, pipe-line companies, water-works companies, heating and cooling companies, and sewage disposal system companies, except for not-for-profit electric light companies, customer-owned and operated public utilities (other than telephone companies), and municipally owned public utilities.⁶ Also included as a public utility for assessment purposes are (1) electric services companies, electric cooperatives, and governmental aggregators, to the extent that they engage in the business of supplying or arranging for the supply of any retail electric service in Ohio for which they must be certified and (2) retail natural gas suppliers and governmental aggregators to the extent that they engage in the business of supplying or arranging for the supply of any competitive retail natural gas service in Ohio for which they must be certified.⁷

Public utilities assessments for OEJ funding

Assessments against utilities under the bill are determined in the same manner as assessments are made to fund the Office of the Consumers’ Counsel.⁸ Under the bill, an assessment amount is first computed as though it were to be made in proportion to the intrastate gross earnings or receipts of the utility for the calendar year next preceding that in which the assessment is made. The computation excludes earnings or receipts from sales to other public utilities for resale.⁹

Assessment computation

For the first computation of the assessment, OEJ may do the following:

- Exclude any amount of a public utility’s intrastate gross earnings or receipts that were overreported in a prior year;
- Include any amount of a public utility’s intrastate gross earnings or receipts underreported in a prior year;
- In addition to any penalties under the law for underreporting intrastate gross earnings or receipts, OEJ must assess the utility interest at the rate stated in ongoing commercial transactions law (not more than 8.0% per year payable annually, unless a party agrees

⁵ R.C. 185.09 and 185.12(A) to (C).

⁶ R.C. 185.12(B); R.C. 4905.03 and 4911.01, not in the bill.

⁷ R.C. 185.12(D).

⁸ R.C. 4911.18, not in the bill.

⁹ R.C. 185.12(B).

to a higher rate under certain circumstances). OEJ must deposit into the Governor's Office of Energy Justice Operating Fund any interest collected from this assessment and any penalties.¹⁰

The bill requires the final assessment computation to consist of imposing a \$100 assessment upon each utility whose assessment under the first computation would have been \$100 or less and recomputing the assessment of the remaining companies (presumably, the reference to "companies" in this and other assessment provisions means the "public utilities, as defined by the bill") by apportioning an amount equal to the OEJ's appropriation in each fiscal year less the total amount recovered from utilities paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies (utilities) for the calendar year next preceding that in which assessments are made, excluding earnings or receipts from sales to other public utilities for resale.¹¹

In the case of an assessment based on intrastate gross receipts as described above, the following applies:

- If the assessment is against an electric utility, or electric services company, electric cooperative, or governmental aggregator of electric service, the receipts must be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with, and verified by, PUCO as required under the competitive retail electric service law.¹²
- If the assessment is against a retail natural gas supplier or governmental aggregate of natural gas service, the receipts must be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with, and verified by, PUCO as required under the law for the certification of retail natural gas suppliers and governmental aggregators, except that the supplier or aggregator must not be assessed until after PUCO removes from the base rates of the natural gas company the amount of assessment attributable to the value of commodity sales service in the base rates paid by customers that do not purchase that service from the natural gas company.¹³

Assessment timeline

The bill establishes a timeline and process for assessment payments. Through calendar year 2022, by October 1 of each year, OEJ must notify each utility of the sum assessed against it.

¹⁰ R.C. 185.12(B)(1); R.C. 1343.01(A), not in the bill.

¹¹ R.C. 185.12(B)(2).

¹² R.C. 185.12(B)(2)(a); R.C. 4928.06(F), not in the bill.

¹³ R.C. 185.12(B)(2)(b); R.C. 4929.23(B), not in the bill.

Beginning in calendar year 2023, by May 15 of each year, OEJ must notify each utility that had a sum assessed against it for the current fiscal year of more than \$1,000 that 50% of that amount must be paid to OEJ by June 20 of that year as an initial payment of the assessment against the company for the next fiscal year. (Presumably, the reference to “the company” in this sentence means the “public utility.”) Then, by October 1, in each year, OEJ must make a final determination of the total assessment against each utility and notify each utility of the total assessed against it. OEJ must deduct any initial payment received from the assessment. Utilities must pay the assessment by November 1 of that year.

Utilities must pay the assessment to OEJ, and payments shall be deposited to the credit of the Governor’s Office of Energy Justice Operating Fund.

Under the bill, OEJ must credit ratably the payment amounts made to OEJ but not expended. The utilities that receive the credit are those that pay more than the minimum assessment, according to the respective portions of such sum assessable against the utilities for the ensuing fiscal year. This credit is determined after first deducting any deficits accumulated from prior years. Assessments for the ensuing fiscal year must be reduced correspondingly.¹⁴



OEJ advocacy for energy justice

Advocacy before PUCO and Power Siting Board

The bill requires OEJ to be a primary advocate for energy justice in matters before PUCO to address issues relating to OEJ duties.¹⁵ The bill permits OEJ to develop and propose rules and to participate in rulemaking and other PUCO and Power Siting Board (PSB) actions and proceedings to address issues of energy justice principles.¹⁶ OEJ must exercise its discretion regarding its participation in PUCO proceedings, but at a minimum, OEJ must participate in PUCO and PSB proceedings in which there is a significant issue impacting these principles.

Under the bill, OEJ must participate in PUCO and PSB proceedings through filing a report regarding the matters at issue in the proceeding and where necessary, sponsoring a witness on

¹⁴ R.C. 185.12(C).

¹⁵ R.C. 185.15(B).

¹⁶ R.C. 185.15(E).

the report, that will be represented by OEJ. In the case of a PSB proceeding, OEJ may, at its discretion, file a report and provide a witness to the proceeding. Because of the usage of the term “proceeding” (definition discussed in the next paragraph) there may be some confusion as to whether OEJ participation in PSB proceedings is required to, or simply may, involve a report and witness.¹⁷

As used in the provisions regarding OEJ advocacy, “report” is any formal document, including written comments and testimony, filed by OEJ in a PUCO or PSB regulatory proceeding that discusses and makes recommendations regarding the impact of proposals contained in the proceeding on energy justice principles. And, a “proceeding” includes any formal rulemaking procedure, application, contested case, rate case, or any other official matter considered by PUCO or PSB, regardless of whether it is formally docketed in the PUCO docketing information system.¹⁸

Other advocacy efforts

OEJ also must serve as an advocate for energy justice for other agencies upon request. The bill does not define “agencies” for this purpose. Consequently, it is not clear whether OEJ could advocate for energy justice for agencies other than state agencies if requested to do so.¹⁹

Under the bill, OEJ must conduct outreach to residential customers and community representatives and organizations to ensure that “it benefits from the most timely and relevant information about how energy actions and decisions impact energy justice and energy justice principles.” What “it” refers to may be the customers, representatives, and organizations to whom OEJ provides outreach. But, it might refer to OEJ instead. This provision might need clarification.²⁰

OEJ report

Not later than December 31, 2030, OEJ must issue a report to the Speaker of the House of Representatives, President of the Senate, the Minority Leaders of each house, and the chairpersons of the House and Senate committees with primary jurisdiction over energy and utility matters. The bill requires the report to include a description of OEJ activities since the bill’s effective date, an assessment of OEJ’s effectiveness, and an explanation of what more needs to be done for OEJ to fulfill its mission.²¹

¹⁷ R.C. 185.15(D).

¹⁸ R.C. 185.15(A)(1) and (2).

¹⁹ R.C. 185.15(B).

²⁰ R.C. 185.15(C).

²¹ R.C. 185.13.

OEJ rules

Under the bill, OEJ may develop and propose rules in accordance with R.C. Chapter 119 (Administrative Procedure Act) to address energy justice principles.²²

PUCO duties regarding energy justice

The bill requires PUCO, for each major decision, rulemaking, rate setting, or other action, to address likely and potential impacts on energy justice and energy justice principles and on outcomes for residential customers. PUCO must consider such impacts as the following:

- Short-term and long-term health impacts on people, government, schools, and businesses located in the surrounding area affected by the decision or action;
- Short-term and long-term impacts on transportation, commerce, real estate values, and other economic impacts on entities and infrastructure in the surrounding area affected by the decision or action;
- Distribution of impacts by demographic and historical factors, whether positive or negative, on communities in the area impacted by the decision or action;
- Other impacts as appropriate.²³

Under the bill, PUCO must do the following in making any decision or taking any action regarding energy justice and energy justice principles:

- Seek, obtain, and consider written comments from OEJ, if comments or a report have not already been submitted;
- Include a description of how PUCO considered the OEJ report and how the report impacted PUCO's decision or action.

The bill permits PUCO to request OEJ to address specific questions or issues not addressed in OEJ comments or its report, if OEJ has submitted comments or a report regarding a decision or action PUCO is considering.²⁴

A PUCO decision or action must include specific findings of fact and conclusions of law relating to the energy justice and energy justice principles impacts, OEJ duties, and the energy justice assessments that the bill requires PUCO to conduct. (See "**Energy justice assessments**" below.)²⁵

²² R.C. 185.15(E).

²³ R.C. 4905.044(B).

²⁴ R.C. 4905.044(C).

²⁵ R.C. 4905.044(D).

Under the bill, if OEJ submits any proposals to initiate, conduct, and complete rulemakings or other regulatory actions impacting energy justice and energy justice principles, PUCO must assign a high priority to the proposals.²⁶

Energy justice assessments

The bill requires that at least once every two years, PUCO must develop a comprehensive assessment of existing issues regarding energy justice and energy justice principles that are associated with rates, provision of energy services, operation of existing energy facilities of any kind, nonremediated issues associated with retired or closed energy facilities, and impending retirements or closures of energy facilities. PUCO must conduct assessments in consultation with OEJ. For each assessment, PUCO must hold public hearings and publish assessment results in a report that includes comments and testimony submitted to PUCO by interested stakeholders and offered at the hearings. The report must include a comprehensive discussion of all planned and ongoing actions by any party to address the issues regarding energy justice and energy justice principles identified in the assessment.²⁷

PSB duties regarding energy justice

The bill permits the PUCO chairperson, who also serves as PSB chairperson, to call any employee of OEJ temporarily to assist the chairperson for the purpose of making studies, conducting hearings, investigating applications, or preparing PSB reports. If called upon to assist the PSB chairperson, the OEJ employee would not receive any additional compensation over that which the employee receives from OEJ, but would be eligible to be reimbursed for actual and necessary expenses incurred while working under the chairperson's direction.²⁸

The bill expands PSB's duties in ongoing law by adding certain requirements. In addition to its current duties, PSB must do the following under the bill:

- In each application considered, decision issued, or investigation conducted, address the likely and potential impacts of the decision or action on energy justice outcomes for residential customers;²⁹
- Adopt rules that establish:
 - A requirement that applications must provide an assessment of energy justice impacts associated with the proposal (presumably this refers to the project proposed in the application).³⁰

²⁶ R.C. 4905.044(E).

²⁷ R.C. 4905.047.

²⁸ R.C. 4906.02(D).

²⁹ R.C. 4906.03(A)(4).

³⁰ R.C. 4906.03(A)(5)(a).

- A suspension of any accelerated review of an application whenever a significant adverse impact on energy justice is reasonably likely as a result of the proposed project. (Accelerated reviews are permitted under current law for certain electric transmission line projects, certain electric generating facilities that use waste heat or natural gas, and certain natural gas pipeline projects.)³¹
- If an accelerated review is suspended because of a significant adverse impact on energy justice, a requirement that the applicant provide a comprehensive assessment of the benefits and costs, including energy justice impacts, of the proposed action and any proposed mitigation to address the adverse impact.³²
- Consider, if presented in a proceeding, an OEJ report as it relates to an application before PSB;³³
- In any decision issued, explain how energy justice issues were evaluated and factored into any decision on the application, the mitigation required to avoid or minimize adverse energy justice impacts, and the monitoring, reporting, and compliance actions required from the applicant as a condition of approval.³⁴

Changes to state policy for retail electric service

The bill establishes a new state policy (in addition to ongoing state policy for competitive retail electric service) that specifically sets out to achieve a statewide energy transformation within ten years of the bill's effective date. The bill states that the purpose of this policy is to protect the health and welfare of Ohio's citizens "who rely on the continuous availability of affordable electricity for their homes, businesses, schools, and public places and because it is in the public interest to transform the state's energy sector and to create a modern energy system that is more resilient and reliable." Under the bill, the state policy is to do the following:

- Reduce the threat of climate change by becoming a zero-carbon state not later than 2050;
- Promote distributed energy resources, which are critical to modernizing Ohio's electric utilities;
- Protect the state's critical facilities and ensure that the electric grid serving Ohio is reliable, resilient, and secure;

³¹ R.C. 4906.03(A)(5)(b) and (C).

³² R.C. 4906.03(A)(5)(c).

³³ R.C. 4906.03(A)(6).

³⁴ R.C. 4906.03(A)(7).

- Ensure the development of grid modernization plans to protect the critical facilities and electric grid against cyber or physical attacks, severe weather, and other unforeseen or catastrophic events;
- Promote, and remove barriers to, customer engagement in energy options that are consistent with the competitive energy environment;
- Alleviate the economic burden on Ohio's most vulnerable citizens through least-cost technologies and customer choice in energy options;
- Incorporate least-cost solutions to make energy more affordable for all consumers through a fair process that requires verification and accountability of costs so that rates are fair, just, equitable, and reasonable;
- Consider methods through which customers may manage energy bills to reduce costs, reduce environmental impacts on communities, and provide opportunities for economic development through the creation of localized jobs;
- Enable businesses in Ohio to thrive and be more competitive in world markets;
- Provide energy services equitably to all customers;
- Ensure that public utilities are accountable to the public they serve and that their activities, including the establishment and implementation of rates and services, are transparent and accessible to the public.³⁵

Grid modernization

PUCO proceeding

The bill requires PUCO to commence a regulatory proceeding to implement grid modernization efforts to meet the state policy objectives related to (1) promoting distributed energy resources, (2) protecting Ohio's critical facilities to ensure electric grid reliability, resiliency, and security, and (3) ensuring the development of grid modernization plans to protect against cyber or physical attacks, severe weather, and catastrophic events.³⁶ The proceeding must commence not later than 30 days after the bill's effective date and, at a minimum, must including the following:

- A plan for meeting the objectives in a timely manner;
- Guidance based on stakeholder input for utility grid modernization plans;
- Additional steps and other factors that PUCO determines are needed to achieve grid modernization.³⁷

³⁵ R.C. 4928.021.

³⁶ R.C. 4928.832(A).

³⁷ R.C. 4928.832(A)(1) to (3).

The bill requires PUCO to issue an order to accomplish the plan and goals for the grid modernization proceeding not more than eight months after the bill’s effective date. The order must establish a schedule that assigns, on a staggered basis, the dates by which EDUs in Ohio must submit a grid modernization plan for PUCO approval. Under the bill, no assigned grid modernization plan application deadline may be later than 12 months after the PUCO order date.³⁸

Definitions

The bill includes the following definitions that apply to its grid modernization provisions:³⁹

Term	Definition
“Critical facilities”	Military installations; hospitals; police, fire, and rescue headquarters, stations, and substations; airports; railroad and other transportation facilities; electric, gas, and water facilities; wastewater treatment plants; and facilities designated by federal or state authorities as disaster staging areas or emergency shelters.
“Distributed energy resources”	Energy produced or developed behind the meter, such as: <ul style="list-style-type: none"> ▪ Distributed generation; ▪ Microgrids; ▪ Photovoltaic power; ▪ Energy storage; ▪ Energy waste reduction; ▪ Demand response; and ▪ Aggregated forms of behind-the-meter energy, including: <ul style="list-style-type: none"> ▫ Aggregated demand response; ▫ “Virtual power plants” (a cloud-based power network of independent, decentralized power plants through which the capacities of distributed resources are aggregated and dispatched); ▫ Community solar project facilities (a “community solar project” is defined as a virtual power plant project that enables customers who are unable to implement rooftop solar systems to participate in a solar project by contracting to receive a portion of the output from the solar project).

³⁸ R.C. 4928.832(B).

³⁹ R.C. 4928.83.

Term	Definition
“Energy justice” and “energy justice principles”	The bill applies the same definition as described in the OEJ provisions discussed at “ Energy justice ” and “ Energy justice principles ” above.
“Third party provider”	A provider of utility or technology services that is not a regulated distribution utility.

EDU grid modernization plan requirements

Under the bill, each EDU in Ohio must file a grid modernization plan application by the date prescribed for the EDU in the PUCO grid modernization order described above in “**PUCO proceeding**.”⁴⁰ An EDU’s grid modernization plan, at a minimum, must include the following information:

- A hosting capacity analysis that establishes a baseline for the maximum amount of distributed energy resources, including portfolios of distributed energy resources, that an existing distribution grid, from feeder stations to substations, may accommodate safely and reliably without infrastructure upgrades;
- A detailed evaluation of the potential contributions from distributed energy resources that (1) includes a cost-benefit assessment according to the geographic or physical location where the resources operate and are interconnected and (2) is based on reductions or increases in local generation capacity needs, avoided or increased investments in distribution infrastructure, safety and reliability benefits, and any other savings the resources provide to the electrical grid or to utility matters;
- A description of multiple plausible scenarios for distributed energy resource growth in a format compatible with utility resource planning processes.⁴¹

Additional grid modernization plan application requirements

The bill also requires an EDU’s application for a grid modernization plan to include certain other information as described in the tables below.⁴²

⁴⁰ R.C. 4928.835.

⁴¹ R.C. 4928.838.

⁴² R.C. 4928.8310.

Plans to be included
A reasonable plan offering a time-varying rate option to all customer classes.
A detailed plan and timeline for system upgrades.
A plan for encouraging and incorporating distributed energy resources where feasible and cost-effective.
A plan for fostering the adoption of, and maximizing the benefits from, solar energy and storage by customers.
A plan for enabling increased demand response and energy waste reduction programs by the EDU or third-party providers.
A detailed plan for addressing cybersecurity risks.
A detailed plan for the preservation of customer privacy.

What is to be included for each proposed technology
The cost of the technology, including a cost comparison with alternative resources, such as distributed energy resources.
The value of the technology to each customer class.
Whether the technology does any of the following: <ul style="list-style-type: none"> ▪ Provides two-way communication; ▪ Strengthens the grid and improves resiliency issues; ▪ Provides data that enables third-party providers to improve customer service and provide grid services; ▪ Enables customer interaction and options for the delivery and consumption of electricity; ▪ Enables multiple components in the plan, such as ancillary services, energy, and capacity, from which EDUs and customers may derive value; ▪ Assists in renewable energy integration.

Other information, descriptions, or demonstrations to be included
Information that describes system vulnerabilities and proposed solutions to address them.
A description of the interoperability of the electrical grid and how proposed computer software can facilitate the exchange and use of information regarding electricity use.
A demonstration that any proposed technologies are adaptable to upgrades as technologies evolve, in order to avoid obsolescence and stranded costs.
A description of how the plan addresses the needs of critical facilities.
A description of how the EDU will educate customers about aspects of grid modernization, including programs, service changes, service enhancements, rate options, and customer information tools and resources.
A description of the plan's contribution to the improvement of public health, safety, and national security.
A description of how the plan addresses energy justice principles.
An analysis comparing the cost-effectiveness of the various technology and implementation options considered by the EDU before it submitted its plan.
Any other information or data required by PUCO.

Cost-benefit analysis

The bill specifies that, in addition to the requirements in the tables above, a grid modernization plan submitted by an EDU must include a detailed cost-benefit analysis of the plan. At a minimum, the analysis must provide an analysis as to whether the long-term benefits of the plan exceed the costs due to: (1) a reduction in operating costs, (2) avoided costs, such as reduced storm damage costs and thwarted cyberattacks, and (3) the facilitation of new technologies that help lower distribution and generation costs. The third factor includes technologies for strategically located distributed energy resources, low-cost renewable and demand response options, implementation of time-varying rates, increased system resiliency, and improved system flexibility and demand response options.⁴³

PUCO requirements for grid modernization plans

Under the bill, PUCO must require the following for each grid modernization plan:

⁴³ R.C. 4928.8312.

- Enforceable reliability objectives, including such measures as reduction in the frequency and duration of outages;
- Transparent reporting requirements, including publicly available performance metrics and incentives;
- Distribution investments that are targeted to provide the most significant impacts;
- Other mechanisms or requirements PUCO considers appropriate.⁴⁴

Grid modernization plan hearings

The bill requires PUCO to hold an evidentiary hearing for each grid modernization plan application. The hearing must be held prior to PUCO's decision to approve, modify and approve, or disapprove the plan. According to the bill, the purpose of the hearing is to (1) allow stakeholders to provide comments on the plan, (2) determine whether the plan meets the bill's state policy objectives, and (3) identify any deficiencies in the plan. If PUCO identifies deficiencies, PUCO must order the EDU to amend and resubmit the plan.⁴⁵

Rate case required for plans proposing rate increase

If a grid modernization plan application proposes any increase in rates to implement any aspect of the plan, the bill requires the EDU to file a rate case under the utility ratemaking provisions in R.C. Chapter 4909. If the EDU has a rate case pending, the rates under the plan must be included in the pending case.⁴⁶

Approval of plan costs under a rate case

Under the bill, PUCO, as part of a rate case, must approve an EDU's grid modernization plan costs only if PUCO determines that the costs incurred by the EDU are just, reasonable, and prudent. Before approving any costs, PUCO must determine the net benefits compared to the net costs for grid modernization programs. The purpose of the determination, as specified by the bill, is to reduce the overall cost under the plans by (1) netting the savings against the costs to be recovered and (2) adjusting the base rates and revenue requirements to reflect any added costs or reductions for costs no longer incurred.

When determining whether to approve costs incurred under a plan, PUCO must consider (1) the plan's rate impacts on each customer class and (2) whether there is a need for periodic independent audits of the costs incurred.⁴⁷

⁴⁴ R.C. 4928.8314.

⁴⁵ R.C. 4928.8315.

⁴⁶ R.C. 4928.8317.

⁴⁷ R.C. 4928.8321, 4928.8324, and 4928.8327(A).

Under the bill, PUCO may adopt criteria, benchmarks, and accountability mechanisms to use when evaluating any EDU investment under the plan.⁴⁸

PUCO approval process for grid modernization plans

In its review of an EDU's grid modernization plan application, PUCO must consider whether the EDU's plan meets the bill's requirements for plans and plan applications. PUCO must also consider whether any proposed technologies described in the plan provide outcomes necessary to meet the state policy objectives of the bill.⁴⁹ (See "**Changes to state policy for retail electric service**" above.)

Under the bill, PUCO must approve, modify and approve, disapprove, or take any action it considers appropriate with respect to a grid modernization plan application submitted by an EDU. PUCO may not approve a plan unless it meets the state policy objectives set forth in the bill. Nor may PUCO approve the plan until all deficiencies are corrected, if any are identified during the hearing process for the plan.⁵⁰

If PUCO approves, or modifies and approves, an EDU's plan, PUCO must issue an order with findings of fact and conclusions of law that address each application and plan requirement under the bill.⁵¹

Grid modernization rules

The bill requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the grid modernization provisions of the bill. The rules must include grid modernization plan filing requirements.⁵²

Smart meter plans

EDUs also must file with PUCO an application for a smart meter plan under the bill. Each EDU must file such application before installing any advanced metering infrastructure, new smart meters, new smart meter functions, enhancements, services, or rates.⁵³

Definitions

For the purposes of its smart meter provisions, the bill defines the following terms:⁵⁴

⁴⁸ R.C. 4928.8327(B).

⁴⁹ R.C. 4928.8319.

⁵⁰ R.C. 4928.8330.

⁵¹ R.C. 4928.8335.

⁵² R.C. 4928.8340.

⁵³ R.C. 4928.853.

⁵⁴ R.C. 4928.85.

Term	Definition
“Demand response”	Actions taken, including actions by customers of electric service, to reduce energy consumption during times of peak demand for the service, which may include incentives to customers, such as an offer of a credit or payment to customers who reduce their consumption.
“Green Button Connect Program”	The industry-led initiative through which an electric utility customer may access the customer’s detailed energy usage information by securely downloading the usage data from the customer’s electric utility website.
“Shadow bill”	A sample billing statement that clearly explains what a customer’s total bill for electric service would be under a time-varying rate measured by a smart meter in comparison to the total due under the current billing rate method.
“Smart meter”	Any electric meter, including an advanced meter, that meets pertinent engineering standards using digital technology and is capable of providing usage and other technical data through two-way communications with an “electric utility” (an electric light company that has a certified territory and on a nonprofit basis supplies in Ohio noncompetitive retail electric service or both a noncompetitive and a competitive retail electric service).
“Third-party provider”	A provider of utility or technology services that is not a regulated distribution utility.
“Time-varying rate”	A type of rate for electric service, including a time-of-use rate, real-time pricing, critical peak pricing, and peak-time rebates, applicable by appropriate customer class.

Smart meter plan application requirements

The bill establishes requirements for smart meter plan applications filed with PUCO. An EDU must include the following in its application:

- Plans for the following:
 - The deployment of smart meters to various customer classes and any associated advanced metering infrastructure;
 - Reporting and publishing EDU performance based on smart meter metrics measured during and after smart meter installations;
 - Offering a time-varying rate option for all customer classes, including proposed new tariffs for those rate options;
 - The recovery of costs associated with smart meter deployment;

- Protecting the privacy of customer information;
- Informing customers how to use a smart meter;
- A cost-benefit analysis, including the metrics used to track the benefits achieved, for the type of smart meter the EDU proposes for deployment under the plan;
- An analysis of the rate impacts, on each customer class, of smart meter tariffs and installations;
- A cost-of-service analysis, allocated by function, of costs primarily associated with the measurement of consumption, management of demand and energy use, and other functions for smart meters and associated equipment and infrastructure;
- Any other information requested by PUCO.⁵⁵

Privacy of customer information

Under the bill, a plan for protecting the privacy of customer information in an EDU's smart meter plan application must include:

- An acknowledgement by the EDU that a customer's data is owned by the customer;
- A process for third-party providers and aggregators to access individual customer data only upon the customer's written consent;
- A process for providing data to third-party providers or aggregators in a manner that protects the identity of individual customers;
- A plan for considering or implementing the Green Button Connect initiative or similar program that streamlines customer data acquisition while maintaining customer privacy.

The bill specifies that the process for providing data to third-party providers or aggregators must use (1) aggregation of customer data by similar customers or (2) redaction of information. Either method may be used provided that any identifying customer information is excluded or redacted. Or, the process under the plan may use any other means of providing data that PUCO considers appropriate to ensure customer privacy.⁵⁶

The Green Button initiative is an industry-led effort launched in 2012 that provides utility customers with access to their energy usage information. Under this initiative, utilities may implement Green Button Download My Data, a program through which utility customers

⁵⁵ R.C. 4928.855.

⁵⁶ R.C. 4928.859.

may download their own energy consumption data by clicking on a “Green Button” on the utility’s website.⁵⁷

PUCO requirements for smart meter plans

Under the bill, PUCO must require each of the following for each smart meter plan:

- Enforceable reliability objectives, including such objectives as reduction in the frequency and duration of outages;
- Transparent reporting requirements, including publicly available performance metrics and incentives;
- Distribution investments that are targeted to provide the most significant impacts;
- Other mechanisms or requirements that PUCO considers appropriate.⁵⁸

Rate case required for plans proposing rate increase

If a smart meter plan application proposes any increase in rates to implement any aspect of the plan, the bill requires the EDU to file a rate case under the utility ratemaking provisions in R.C. Chapter 4909. If the EDU has a pending rate case filed under that chapter, the rates under the plan must be included in the pending case.⁵⁹

Approval of plan costs under a rate case

Under the bill, PUCO, as part of a rate case, must approve an EDU’s smart meter plan costs only if PUCO determines that the costs incurred by the EDU are just, reasonable, and prudent. Before approving any costs, PUCO must determine the net benefits compared to the costs for smart meter programs. The purpose of the determination, as specified by the bill, is to reduce the overall cost under the plans by (1) netting the savings against the costs to be recovered, (2) adjusting the base rates and revenue requirements to reflect any added costs or reductions for costs no longer incurred, and (3) maximizing the benefits for the customer and reducing the customer share of overall smart meter costs.

When determining whether to approve costs incurred under a plan, PUCO must consider (1) the plan’s rate impacts on each customer class and (2) whether there is a need for periodic independent audits of the costs incurred.⁶⁰

⁵⁷ U.S. Department of Energy, “Green Button Download My Data,” available at: <https://www.energy.gov/data/green-button>, accessed on October 14, 2021. See an example of a utility website with Green Button for downloading customer data at AEP Ohio, “Green Button,” available at: <https://www.aepohio.com/account/usage/green-button/>, accessed on October 14, 2021.

⁵⁸ R.C. 4928.8513.

⁵⁹ R.C. 4928.8517.

⁶⁰ R.C. 4928.8521, 4928.8524, and 4928.8527(A).

Under the bill, PUCO may adopt criteria, benchmarks, and accountability mechanisms to use when evaluating any EDU investment under the plan.⁶¹

PUCO approval process for smart meter plans

Under the bill, PUCO must approve, modify and approve, disapprove, or take any action it considers appropriate with respect to a smart meter plan application submitted by an EDU.⁶² If PUCO approves, or modifies and approves, an EDU's plan, PUCO must issue an order that includes, at a minimum, the (1) findings of fact with respect to each plan requirement under the bill and (2) time-varying rate options approved by PUCO under the order.⁶³

When time-varying rates must be offered

EDUs must offer time-varying rates not later than one year after an EDU installs the first group of smart meters under a PUCO-approved smart meter plan. The time-varying rates must be approved by PUCO under the plan and consistent with the determination of a rate case regarding the plan.⁶⁴

Shadow bill requirement

Under the bill, an EDU that offers time-varying rates to customers under an approved smart meter plan must provide customers a "shadow bill." The shadow bill for each customer must list what the customer's bill would be under the applicable time-varying rate and must be provided, in addition to, and with the same frequency as, the customer's actual bill for electric service. Shadow bills must be provided for a period of one year.⁶⁵

Marketing and sale of demand response

The bill permits PUCO to authorize the marketing and sale of demand response by EDUs, third-party providers, or aggregators of retail customers. The purpose of such authorization is to optimize the potential benefits of smart meters for customers and the authorization must be determined as part of a rate case under R.C. Chapter 4909. The marketing and sale must be done under terms and conditions that PUCO establishes.⁶⁶

The terms and conditions may include demand response from retail customers that is any of the following:

- Used by the EDU;

⁶¹ R.C. 4928.8527(B).

⁶² R.C. 4928.8530.

⁶³ R.C. 4928.8535.

⁶⁴ R.C. 4928.8537.

⁶⁵ R.C. 4928.8540.

⁶⁶ R.C. 4928.8543.

- Sold to the EDU, if provided through a third-party provider or aggregator of retail customers;
- Sold into the wholesale electricity markets by the EDU, third-party provider, or aggregator.⁶⁷

Smart meter plan rules

The bill requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the provisions of the bill regarding smart meter plans. The rules must include rules for smart meter plan filing requirements.⁶⁸

Carbon reduction plans

Competitive retail electric service providers

Requirements

The bill requires each EDU and competitive retail electric service provider (CRES) in Ohio (also referred to in the bill as “retail electric service provider” because EDUs and CRESs provide what are defined in current law as retail electric service⁶⁹) to develop and implement a carbon reduction plan (CRP) to meet the following requirements:

- No later than January 1, 2030, a 50% reduction of the retail electric service provider’s greenhouse gas emissions from 2005 levels;
- No later than January 1, 2050, 100% carbon-free electricity.⁷⁰

Biennial hearings

Under the bill, the PUCO is to hold a hearing every two years to review each EDU’s and CRES’s current CRP and require modification as necessary to meet the carbon-free electricity and emissions reduction requirements. The hearing must be held in accordance with laws governing PUCO hearing procedures. Regarding the hearing, PUCO must (1) issue an order with findings of fact and conclusions of law for each hearing on an implemented CRP and (2) make specific findings from the provider’s⁷¹ grid modernization plan (see above, “**Grid modernization**”).

⁶⁷ R.C. 4928.8545.

⁶⁸ R.C. 4928.8550.

⁶⁹ R.C. 4928.01(A)(27).

⁷⁰ R.C. 4928.45.

⁷¹ An LSC technical amendment is required to change “provider” to “electric distribution utility” in R.C. 4928.451(D).

The bill permits PUCO to impose financial and other penalties, including revocation of operating licenses or certificates, for failure to achieve CRP goals.⁷²

Electric cooperatives or municipal electric utilities

Under the bill, any electric cooperative or municipal electric utility may file a CRP with PUCO. The CRP must be deemed approved if both of the following apply:

- The Ohio Environmental Protection Agency (OEPA), in cooperation with PUCO, publicly verifies that the CRP demonstrates, by no later than 2030, at least a 50% reduction in the cooperative's or utility's greenhouse gas emissions caused by its electricity generation and sales in Ohio from 2005 levels;
- It has been approved by the cooperative's or utility's governing body.

Submission of a CRP by a cooperative or utility cannot be construed as altering the cooperative's or utility's regulatory status with respect to PUCO.⁷³

Rules

The bill requires PUCO, no later than six months after the bill's effective date, to adopt rules to implement the provisions governing CRPs. Prior to adopting the rules, PUCO must seek comments from stakeholders and the public.

The rules must include all of the following:⁷⁴

- Filing requirements for each retail electric service provider's CRP;
- The requirements for each CRP, including all of the following:
 - Plans that demonstrate how the retail electric service provider will achieve the carbon-free electricity and emissions reduction requirements, with proof of verification by OEPA;
 - Plans to capture all cost-effective energy waste reduction potential, as determined by an independent, third-party potential study conducted in accordance with best practices;
 - Plans to maximize cost-effective adoption of beneficial electrification technologies and resources, including replacement of direct fossil combustion for thermal energy generation with heat pumps, electric cooking, and other technologies, especially where indoor air quality for low- and moderate-income households can be improved;

⁷² R.C. 4928.451.

⁷³ R.C. 4928.452.

⁷⁴ R.C. 4928.453.

- Identification of all opportunities to eliminate energy waste that are less costly than the generation, transmission, and distribution of an equal level of electricity;
 - Financial or demonstrable and quantifiable in-kind support for the development of at least 20 gigawatts of in-state solar and wind resources by 2030 to create clean energy jobs statewide, with priority for local workforce hiring;
 - For an owner or operator of a nuclear generating facility in Ohio:
 - ❖ The attribution of value of nuclear generation for the purpose of meeting greenhouse gas emission reductions for a period of not more ten years after the effective date of this section;
 - ❖ A plan for the disposal of nuclear waste generated by the provider's operations;
 - ❖ A plan for a just transition associated with the retirement of the nuclear generating facility.
 - The reports and findings of independent operational, economic, and financial audits of all existing fossil fuel and nuclear generation facilities the provider used to develop and support the CRP;
 - The reports and findings of independent management and organizational audits of all investor-owned utilities operating in Ohio used to develop and support the CRP;
 - Identification of the potential for stranded costs or unrecovered investments in fossil fuel generation facilities, the measures to be taken to minimize or eliminate the stranded costs or unrecovered investments, and the measures to be taken to avoid future stranded costs or unrecovered investments;
 - Detailed explanation on how the CRP ensures that low- and moderate-income customers are able to participate in the economic and environmental benefits of clean energy resources, including weatherization, energy waste reduction, energy audits, and community solar;
 - Interim carbon reduction benchmarks for achieving the requirements established under the bill (see above, "**Requirements**");
 - Creation of incentives to direct clean energy investments to economically disadvantaged communities and communities affected by the transition from fossil fuel generation facilities and decommissioned nuclear power plants.
- Financial and other penalties, including revocation of operating licenses or certificates, for failure to achieve CRP goals.

Energy waste reduction portfolio plans

Reestablishment of terminated portfolio plans

Under H.B. 6 of the 133rd General Assembly, effective October 22, 2019, all comprehensive energy efficiency (EE) (renamed as "energy waste reduction" under the bill; see below, "**Energy efficiency**" to "**energy waste reduction**") and peak demand

reduction (PDR) program portfolio plans were terminated on December 31, 2020. The bill requires that if any EDU had a portfolio plan that terminated on December 31, 2020, it must reestablish the portfolio plan. The reestablished portfolio plan program must include the same terms and conditions that PUCO approved for the plan as it existed prior to the portfolio plan's termination.

No later than 60 days after the bill's effective date, PUCO must issue an order requiring EDUs to reestablish the portfolio plan programs and adopt rules for a collaborative preapproval process for EDUs to reestablish the portfolio plans.⁷⁵

Energy waste savings extended and increased

The bill requires, beginning with 2023, that EDUs must increase their annual energy waste savings by 2% each year, in addition to the savings amount achieved up to 2020 as EE (renamed as "energy waste reduction" under the bill), to achieve cumulative energy waste savings in excess of 22% by the end of 2030.⁷⁶

Energy waste/PDR cost recovery mechanisms

Under continuing law, on the date of full compliance with the EE (renamed as "energy waste reduction" under the bill) requirements is deemed achieved, any EDU cost recovery mechanisms authorized by PUCO for compliance with the energy waste requirements must be terminated, except as may be necessary to reconcile the revenue collected and the allowable compliance costs for compliance efforts occurring before full compliance is deemed achieved.⁷⁷ The bill specifies that the reconciliation of revenue collected and allowable costs includes the reconciliation for portfolio plan programs reestablished under the bill.⁷⁸

Energy waste/PDR shared savings

The bill changes the requirements regarding how PUCO measures and determines EW/PDR compliance. The bill retains the compliance standards requiring the PUCO to count both the energy waste reduction savings and PDR on an annualized basis. Energy waste reduction savings and PDR amounts approved by PUCO also must continue to be counted toward achieving the energy waste and PDR requirements as long as the requirements remain in effect. Any energy waste reduction savings or PDR amount achieved in excess of the requirements may, at the EDU's discretion, also continue to be banked and applied toward achieving the energy waste or PDR requirements in future years.⁷⁹

⁷⁵ R.C. 4928.66 and 4928.663.

⁷⁶ R.C. 4928.66(A)(1)(a).

⁷⁷ R.C. 4928.66(G)(3)(a).

⁷⁸ R.C. 4928.66(G)(3)(b).

⁷⁹ R.C. 4928.662.

The bill prohibits EDUs from qualifying for shared savings in any year it uses banked savings to each minimum compliance with energy waste reduction requirements.⁸⁰ “Shared savings” is not defined under current law or the bill.

Repeal of EE/PDR requirements

The bill repeals the requirements that both of the following be recognized and counted toward meeting EE/PDR requirements:

- EE savings and PDR achieved through actions taken by customers or through EDU programs that comply with federal standards for either or both EE or PDR requirements, including resources associated with such savings or reduction that are recognized as capacity resources by the regional transmission organization operating in Ohio in compliance with continuing law governing transmission functions.
- EE savings and PDR achieved on and after September 12, 2014, to be measured on the higher of an as found or deemed basis, except that, solely at the EDU’s option, such savings and reduction achieved since 2006 may also be measured using this method. For new construction, the EE savings and PDR are to be counted based on 2008 federal standards, provided that when new construction replaces an existing facility, the difference in energy consumed, energy intensity, and peak demand between the new and replaced facility is to be counted toward meeting the EE and PDR requirements.

The bill also repeals the requirements that PUCO count (1) both the EE savings and PDR on an annualized basis and a gross savings basis and (2) count EE savings and PDRs associated with transmission and distribution infrastructure improvements that reduce line losses.⁸¹

“Energy efficiency” to “energy waste reduction”

The bill changes the term “energy efficiency” to “energy waste reduction” throughout the Revised Code, except when “energy efficiency” is used to refer to a federal standard.

Clean jobs programs

Program implementation

Not later than 120 days after the bill’s effective date, or as soon as practicable thereafter, the OEJ Director must adopt rules for and implement the following clean jobs programs created under the bill:

- The Clean Jobs Training Program;
- The Ohio Jumpstart Clean Jobs Training Program;
- The Clean Energy Entrepreneurs Program; and

⁸⁰ R.C. 4928.66(G)(4).

⁸¹ R.C. 4928.662.

- The BIPOC Clean Energy Contractor Accelerator.⁸²

Ohio clean energy incubators

Not later than 120 days after the bill’s effective date, or as soon as practicable thereafter, the OEJ Director must establish at least 15 Ohio clean energy incubators throughout Ohio in any of the following locations:

- A community that has a high concentration of minorities;
- A community with low income;
- An environmental justice community;
- A just transition community;
- A community that has a high concentration of individuals who are available for work and who are underserved by another incubator location.

The OEJ Director must operate the programs created under the bill at the incubators and adopt rules that establish criteria under which the OEJ Director will determine whether an area in Ohio is considered one of the communities listed above.⁸³

Under the bill, an “environmental justice community” is an area in Ohio that is disproportionately and adversely impacted by poor air quality and climate change as compared to other areas. A “just transition community” is an area that is adversely impacted by an electric generating facility closure or a decline in the extractive fossil fuel industry. A “minority” means an individual who is a member of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.⁸⁴

Training providers

Not later than one year after the bill’s effective date, or as soon as practicable thereafter, the OEJ Director, in accordance with continuing law’s competitive selection procedure,⁸⁵ must enter into a contract with a community-based organization to provide training under the clean jobs programs (a “training provider”) for a five-year period. At the end of the five-year period, and every five years after that, the OEJ Director, in accordance with that competitive selection procedure, must enter into a contract with a training provider for a five-year period.

A training provider may contract with a subcontractor to provide training services under the programs. A contract or proposed contract between a training provider and a subcontractor

⁸² R.C. 185.17.

⁸³ R.C. 185.18.

⁸⁴ R.C. 185.16.

⁸⁵ R.C. Chapter 125, not in the bill.

is subject to any applicable provisions governing subcontractors contained in a contract between the OEJ Director and the training provider.⁸⁶

It is not clear how the OEJ Director implements the clean jobs programs within 120 days as required under the bill, as the bill does not require the OEJ Director to contract with a training provider until one year after the bill's effective date.

Clean Jobs Training Program

The bill creates the Clean Jobs Training Program to prepare participants for occupations in the clean energy industry, including the renewable energy and energy waste reduction sectors. The OEJ Director administers the program.⁸⁷

Eligible participants

The following individuals are eligible to participate in the program:

- An individual who is aging out of foster care;
- An individual who is a minority;
- A member of an environmental justice community;
- A member of a just transition community;
- A member of a community with low income; and
- An individual released from custody of the Department of Rehabilitation and Correction (DRC) within six months after applying to participate in the program.

An eligible individual who wishes to participate in the program must apply to the OEJ Director on a form the OEJ Director prescribes. In selecting participants, the OEJ Director must prioritize applications of individuals who are aging out of foster care.⁸⁸

Training providers, apprenticeships, and resources

Training under the program may be provided by a training provider, and the OEJ Director may establish an apprenticeship program for purposes of providing training to participants. An apprenticeship program must comply with the curriculum requirements developed under the bill.

The OEJ Director must ensure all of the following are available to a participant:

- Transportation to and from an incubator location;
- Childcare support;

⁸⁶ R.C. 185.19.

⁸⁷ R.C. 185.20(A).

⁸⁸ R.C. 185.20(B).

- Career counseling during the program and for a period of one year after the participant graduates from the program.⁸⁹

Curriculum

Not later than 120 days after the bill's effective date, or as soon as practicable thereafter, the OEJ Director must convene a stakeholder group to develop a curriculum for the program. The group must include in the curriculum a framework with content that provides a program participant with a standard set of skills that allows the participant to pursue an occupation in the clean energy industry or in the general construction and building trades. A training provider must comply with the curriculum requirements to receive any funds appropriated to provide training services under the program.

Not later than three years after the date the curriculum is developed, and not later than every three years after that, the OEJ Director must convene a stakeholder group to review and update the curriculum to ensure it reflects the best practices with respect to the technological and other needs of the clean energy industry. For purposes of the update, the OEJ Director is not required to convene a stakeholder group that is composed of the same persons as any previous group.

Each stakeholder group must include all of the following members:

- The OEJ Director or the OEJ Director's designee;
- The Director of Job and Family Services or the Director's designee;
- The Superintendent of Public Instruction or the Superintendent's designee;
- A representative from a labor union and the building trades;
- A representative from a community organization;
- A representative from a nonprofit organization;
- A member of a community that has a high concentration of minorities;
- A member of an environmental justice community;
- A member of a just transition community;
- A member of a community with low income;
- A representative from an organization that provides opportunities in clean energy occupations.⁹⁰

⁸⁹ R.C. 185.20(C).

⁹⁰ R.C. 185.20(D).

Ohio Jumpstart Clean Jobs Training Program

The bill creates the Ohio Jumpstart Clean Jobs Training Program. The OEJ Director, in collaboration with the DRC Director, must administer the program at each state correctional institution in coordination with, to the extent practicable, existing job training programs administered at each institution.

An individual is eligible to participate in the program if the individual is an offender who is serving a term of imprisonment under DRC custody and is expected to be released from incarceration within one year after the date of applying to participate in the program or completing the program.

Under the program, a training provider must do both of the following:

- Prepare participants for an occupation in the clean energy industry, including the renewable and energy waste reduction sectors;
- Comply, to the extent practicable, with the curriculum described above.

The OEJ Director, in adopting rules to administer the program, must consult with the DRC Director.⁹¹

Clean Energy Entrepreneurs Program

The bill creates the Clean Energy Entrepreneurs Program, which is administered by the OEJ Director. To participate in the program, a business must be a newly established small minority business in the clean energy industry, including in the energy waste reduction, transit, and electrification sectors and the solar, wind, and other renewable energy sectors.

For eligibility purposes, a “minority business” means an individual who is an Ohio resident and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by an individual or individuals who are Ohio residents and minorities.

The OEJ Director must make all of the following available to a participating business:

- Low-interest loans, including loans through the Ohio Clean Energy Jobs and Justice Linked Deposit Program created under the bill and described below;
- Mentoring, training, and business development and planning assistance;
- Assistance in obtaining financial assurance, including bonding and insurance;
- Assistance in obtaining any applicable license, permit, or certification;
- Assistance in preparing a contract bid and an application for project funding;

⁹¹ R.C. 185.21.

- Compliance training with respect to the requirements of the Prevailing Wage Law;⁹²
- Administrative support with respect to the resources and services listed above.

The OEJ Director must adopt rules that prescribe both of the following:

- Eligibility requirements for a newly established small minority business to participate in the program;
- Program requirements that, on satisfying those requirements, enables a participating business to be recognized as an approved clean energy contractor.⁹³

BIPOC Clean Energy Contractor Accelerator

The bill creates the BIPOC Clean Energy Contractor Accelerator, which is administered by the OEJ Director. A business that is recognized as an approved clean energy contractor by meeting the requirements the OEJ Director prescribes by rule is eligible to participate in the programs offered through the accelerator.

The OEJ Director must make all of the following available to a participating business:

- Monthly, personalized coaching sessions to assist a participating business with preparing a five-year business plan, contract bid, and application for project funding;
- A two-year mentorship program that matches a participating business with a qualified business that has had success in the clean energy industry;
- Low-interest loans, including loans through the Ohio Clean Energy Jobs and Justice Linked Deposit Program;
- Grants of not more than \$1 million.⁹⁴

Community education and outreach

The OEJ Director and training providers must engage in community education and outreach regarding the opportunities available through the clean jobs programs in communities where the Ohio clean energy incubators are located.

The OEJ Director also must engage in community education and outreach to inform eligible businesses, potential clients of participating businesses, and community partners about the Clean Energy Entrepreneurs Program and about the opportunities available in Ohio's clean energy industry.⁹⁵

⁹² R.C. 4115.03 to 4115.16, not in the bill.

⁹³ R.C. 185.22.

⁹⁴ R.C. 185.23.

⁹⁵ R.C. 185.24.

Clean Energy Justice Task Force

Not later than 90 days after the bill's effective date, or as soon as practicable thereafter, the OEJ Director must establish a Clean Energy Justice Task Force. The Task Force must develop objective accountability and feedback mechanisms that generate quantitative data to measure whether progress is being made in Ohio toward an increase in clean energy occupations and to measure the success rate of contracting efforts by participants of the clean jobs programs.⁹⁶

Appropriation

The bill appropriates \$15 million in FY 2022 and 2023 to be used by the OEJ Director to support the clean jobs programs created under the bill.⁹⁷

Electric generating facility closures

The bill establishes a process for reimbursing taxing districts for a five-year period if the district loses tangible personal property (TPP) tax revenues due to the closure of an electric generating facility, defined under the bill as an electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more.⁹⁸

Facility closure notice

If the owner of an electric generating facility located in Ohio schedules the closure of the facility, the bill requires the owner to provide notice to PUCO and to the Department of Taxation prior to the date of the closure. The notice must be posted on PUCO's docketing information system and must be in addition to any notice the owner must provide to PJM Interconnection, L.L.C. or the Federal Energy Regulatory Commission.⁹⁹

Certification of TPP tax loss

Under the bill, if a facility permanently closes, the Tax Commissioner must certify to PUCO the annual TPP tax loss attributable to each taxing district in which the facility is located. The bill specifies that the amount of the loss is equal to the average of the taxes charged and payable to each taxing district with respect to the tangible personal property at the facility for the three tax years preceding the tax year in which the facility closed.¹⁰⁰

Rate mechanism to replace TPP loss

If a facility permanently closes, the bill requires PUCO to establish a nonbypassable rate mechanism to replace the TPP tax revenue losses resulting from the closure and to provide funding for economic development and job training programs for the taxing districts in which

⁹⁶ R.C. 185.25.

⁹⁷ Section 4.

⁹⁸ R.C. 4906.01(C)(1)(a) and 4928.90 to 4928.9025.

⁹⁹ R.C. 4928.901.

¹⁰⁰ R.C. 4928.903.

the facility is located. The mechanism (presumably the charge under the mechanism) must be collected from customers of all EDUs in Ohio. The bill sets the amount to be collected from the mechanism as 125% of the amount certified by the Tax Commissioner.¹⁰¹

Under the bill, the rate mechanism must be established through a process that PUCO determines “is not for an increase in any rate, joint rate, toll, classification, charge, or rental notwithstanding anything to the contrary [in public utilities law].”¹⁰²

Rate design and collection period

The bill requires PUCO to determine the proper rate design for collecting the charges for the rate mechanism. The rate design must be based on the kilowatt hour usage to be collected from customers through monthly charges. The charges must be collected for a period beginning two months before the facility’s closure and ending not more than five years later.¹⁰³

As specified in the bill, the terms and conditions for the mechanism must be established by a PUCO order that requires each EDU to do the following:

- Remit the charges it collects under the mechanism to the Treasurer of State;
- Submit to PUCO quarterly reports that detail the total of the remittances made to the Treasurer and the dates of each remittance.¹⁰⁴

Rate mechanism caps

The bill caps the charges under the rate mechanism. Monthly charges may not exceed the following:

- \$1.50 for residential customers.¹⁰⁵
- \$500 for commercial customers that use less than 700,000 kilowatt hours of electricity or less.¹⁰⁶
- \$1,500 for mercantile customers. (Under current law, a “mercantile customer” 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.)¹⁰⁷

¹⁰¹ R.C. 4928.904(A).

¹⁰² R.C. 4928.904(B).

¹⁰³ R.C. 4928.906(A) and 4928.909(B).

¹⁰⁴ R.C. 4928.906(B).

¹⁰⁵ R.C. 4928.909(A)(1).

¹⁰⁶ R.C. 4928.909(A)(2); the bill might require an amendment to remove the words “or less” at the end of this division to avoid confusion about what charge applies to customers that consume exactly 700,000 kilowatt hours per year.

¹⁰⁷ R.C. 4928.909(A)(3) and 4928.01(A)(19).

Charges collected for more than one facility closure

The bill provides for the case where charges are being collected for more than one facility closure under a rate mechanism. In the case of more than one facility closure, PUCO must review the charges being collected and the payments to which each taxing district is entitled. After its review, PUCO first must revise the mechanism to include charges to replace TPP tax losses attributable to each taxing district of all the facilities that close. Then, PUCO must determine how the distribution of the charges are to be adjusted and allocated. Under the bill, charges revised by PUCO are subject to the rate mechanism cost caps described above in **“Rate mechanism caps.”**¹⁰⁸

Community Transition Facility Closure Fund

The bill creates the Community Transition Facility Closure Fund in the custody of the Treasurer of State. The fund is not part of the state treasury. The fund consists of the charges collected from electric customers in Ohio through the PUCO-established rate mechanism authorized by the bill. The money deposited in the fund must be used to reimburse Ohio taxing districts for TPP tax losses that result from the closure of an electric generating facility and to establish economic development and job creation programs. PUCO must administer the fund and must request the Treasurer to create the account for the fund.¹⁰⁹

Distributions to taxing districts

TPP tax loss distributions

Under the bill, the Treasurer of State must distribute funds from the Community Transition Facility Closure Fund to the county treasurer of each county in which a taxing district that is entitled to payment is located. The distributions made by the Treasurer are to be made at the direction of PUCO.

Distributions must be made for five years after the closure of an electric generating facility. The distributions are subject to any adjustments made under the bill when there is more than one facility closure. The distribution amount is equal to the certified TPP tax loss for each taxing district. (See **“Certification of TPP tax loss”** above.) As required by the bill, distributions must be made as follows:

Distribution amounts sent to taxing districts	Distribution deadline
One-half of the certified TPP tax loss.	Not later than the last day of February each year.
The remaining one half of the certified TPP tax loss.	Not later than the last day of August each year.

¹⁰⁸ R.C. 4928.9013.

¹⁰⁹ R.C. 4928.9015.

Apportionment of distributions by taxing districts

Taxing districts that receive distributions from the fund must apportion the distributions received in the same proportion as if the amounts had been levied and collected as taxes.¹¹⁰

Distributions for economic development and job creation programs

The bill establishes a second distribution to taxing districts that is to be made *after* the TPP tax loss distribution to those districts. Under the bill, after this distribution occurs, the Treasurer of State must distribute funds to the general fund of each county that is entitled to a TPP tax loss distribution. The funds are to be distributed at the direction of, and in the amounts specified by, PUCO. The funds distributed to a county must be appropriated by the board of county commissioners for economic development and job creation programs within the taxing district.¹¹¹

Facility closure rules

The bill requires PUCO to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) to implement the facility closure provisions of the bill.¹¹²

Community Support Committee

Committee creation and duties

The bill creates the Community Support Committee, which must do all of the following:

- Study the economic and workforce impacts that the closures of electric generating facilities have on Ohio communities, including with respect to employment, local government revenues, and local school districts;
- Develop recommendations for legislative action regarding strategies to mitigate the negative impacts that electric generating facility closures have on Ohio communities;
- Create a website that includes a notice of each Committee meeting and other relevant information and that allows users to comment publicly on topics relating to Committee business.¹¹³

Report

Not later than 12 months after the bill's effective date, the Committee must compile a report of the Committee's activities, findings, and recommendations and publish the report on the Committee's website. The Committee must submit the report to all of the following individuals:

¹¹⁰ R.C. 4928.9018.

¹¹¹ R.C. 4928.9020.

¹¹² R.C. 4928.9025.

¹¹³ Section 7(A).

- The Governor;
- The Speaker and Minority Leader of the House of Representatives;
- The President and Minority Leader of the Senate;
- The Chairperson of the standing committee in the House of Representatives that primarily addresses energy and public utilities matters;
- The Chairperson of the standing committee in the Senate that primarily addresses energy and public utilities matters.

The Committee is abolished on submitting the report.¹¹⁴

Membership

The Committee consists of the following members:

- One member of the House of Representatives, appointed by the Speaker of the House of Representatives;
- One member of the House of Representatives, appointed by the Minority Leader of the House of Representatives;
- One member of the Senate, appointed by the President of the Senate;
- One member of the Senate, appointed by the Minority Leader of the Senate;
- The Director of Commerce or the Director's designee;
- The Director of Development or the Director's designee;
- The Superintendent of Public Instruction or the Superintendent's designee;
- The Chairperson of the JobsOhio Board of Directors or the Chairperson's designee;
- The OEJ Director;
- One member representing the Ohio Municipal League or its successor organization, appointed by the President of the League or its successor organization;
- One member who belongs to a labor organization, appointed by the Governor;
- One member who is a resident of a community impacted by a facility closure, appointed by the Consumers' Counsel;
- One member representing the County Commissioners Association of Ohio or its successor organization, appointed by the President of the Association or its successor organization;

¹¹⁴ Section 7(B) and (H).

- One member representing the Ohio Conference of the National Association for the Advancement of Colored People or its successor organization, appointed by the President and Chief Executive Officer of the Association or its successor organization;
- One member representing the Ohio Hispanic Coalition or its successor organization, appointed by the President and Chief Executive Officer of the Coalition or its successor organization;
- One member representing the Native American Indian Center of Central Ohio or its successor organization, appointed by the Executive Director of the Center or its successor organization;
- One member representing Asian Services in Action or its successor organization, appointed by the Board President and Chief Executive Officer of that organization or its successor organization;
- One member representing Equality Ohio or its successor organization, appointed by the Executive Director of that organization or its successor organization;
- One member representing Reimagine Appalachia or its successor organization, appointed by the Executive Director of that organization or its successor organization.

A vacancy in the membership of the Committee must be filled in the same manner as the original appointment. Committee members serve without compensation, except that the members representing private organizations may be reimbursed for actual and necessary expenses incurred in the performance of the members' duties.

Any experts invited by the Committee to assist with official Committee business may be reimbursed for reasonable travel expenses.¹¹⁵

Meetings

Not later than 60 days after the bill's effective date, the Committee must hold its first meeting, at which the members must elect from among its members a chairperson, vice-chairperson, and secretary. The secretary must record the minutes of each Committee meeting. The Committee must meet at least once each month at the Chairperson's call.

The bill creates an exception to the Open Meetings Law¹¹⁶ by allowing a Committee member to attend a meeting by means of teleconference or video conference. A member who attends a meeting by teleconference or video conference is considered present in person at the meeting, may vote, and is counted for purposes of determining whether a quorum is present. At any meeting at which a Committee member attends by means of teleconference or video conference, the Chairperson must ensure the public can hear and, if the means of attendance

¹¹⁵ Section 7(C) and (D).

¹¹⁶ R.C. 121.22, not in the bill.

technologically permits it, to observe, the discussions and deliberations of all the Committee members, whether the member is participating in person or electronically.

If the Committee holds a public hearing at any of its meetings, the Chairperson must provide an opportunity for public comment in person and by means of teleconference or video conference.¹¹⁷

Staff support

The staff of PUCO and the Department of Development must provide technical and administrative support as needed by the Committee. The Committee may request staff support from other agencies as the Committee considers necessary.¹¹⁸

Legislative committee hearings

After the Committee submits the required report, the chairpersons of the standing committees in the House of Representatives and the Senate that primarily address energy and public utilities matters each must hold at least one committee hearing to consider and provide an opportunity for public testimony and comment on the report. However, in lieu of holding separate committee hearings, the chairpersons may hold one joint hearing.¹¹⁹

Appropriation

The bill appropriates \$100,000 in FY 2022 to be used to support the Committee.¹²⁰

Ohio Clean Energy Jobs and Justice Linked Deposit Program

(R.C. 135.55, 135.551, 135.56, 135.57, 135.58, 135.59, 135.63, 135.78, 1733.04, and 1733.24)

Overview

The bill establishes the Ohio Clean Energy Jobs and Justice Linked Deposit Program (program) to provide lower-cost loans to small, clean energy businesses in Ohio that are led by Black, Indigenous, and People of Color (BIPOC). The bill makes a legislative finding that in Ohio there is a lack of access to low interest capital for clean energy businesses led by BIPOC. This is a result of the systemic racism and exclusion of the BIPOC community from traditional banking and lending institutions. Accordingly, the bill aims to create the availability of low interest loans specifically to encourage and accelerate clean energy businesses led by BIPOC and to bolster competition for clean energy-related projects.¹²¹

The program will function similarly to existing linked deposit programs in Ohio with the implementation and oversight of the Treasurer of State. The Treasurer will invest state funds in

¹¹⁷ Section 7(E) and (F).

¹¹⁸ Section 7(G).

¹¹⁹ Section 7(H).

¹²⁰ Section 4.

¹²¹ R.C. 135.551.

certificates of deposits or other fully collateralized financial institution instruments (financial instruments) at an eligible lending institution. In return, the Treasurer will accept a reduced rate-of-return on the investment. In turn, the eligible lending institution agrees to pass the savings on to the approved borrower in the form of an interest-rate reduction. The Treasurer must take all steps necessary to implement the program and monitor compliance of eligible lending institutions and eligible small businesses, including development of guidelines as necessary and the adoption of rules.¹²²

Loan transaction

Eligibility

First, an eligible lending institution that would like to receive an Ohio clean energy jobs and justice linked deposit must accept and review loan applications for eligible small businesses. The *loan* can be an upfront lump sum, line of credit, or any other reasonable arrangement approved by the Treasurer.¹²³

For purposes of the program, an *eligible lending institution* is a financial institution that can make commercial loans, agrees to participate in the program, and is either a public depository and is eligible under the existing Uniform Depository Act to accept state funds (banks, federal savings associations, savings and loan associations, or savings banks), or is a credit union. An eligible lending institution must comply with Ohio's Uniform Depository Act.

To be considered an *eligible small business*, the business must have a core business focused on energy waste reduction or renewables, be headquartered in Ohio, maintain offices and operating facilities exclusively in Ohio, and employ fewer than 150 employees, the majority of whom must be residents of Ohio. The business must also participate in either the Clean Energy Entrepreneurs Program or the Ohio BIPOC Clean Energy Contractor Accelerator established under the bill both described above.¹²⁴

Application

On the loan application, the eligible small businesses must certify that the reduced rate loan will be used exclusively for business focused on energy efficiency and renewables. The business must also specify on the loan application what specific project or business development program the loan will be used for. A person who makes a false statement on the application is guilty of falsification, a first degree misdemeanor.¹²⁵

Loan package

The eligible financial institution must certify that each applicant is an eligible small business, and for each business, certify the present borrowing rate applicable to the business.

¹²² R.C. 135.55, 135.58(B), 135.59(A), 135.63, and 135.78.

¹²³ R.C. 135.55(E) and 135.56(A).

¹²⁴ R.C. 135.55(B) and (C) and 135.57(D), and conforming changes in R.C. 1733.04 and 1733.24.

¹²⁵ R.C. 135.56(A) and (B); R.C. 2921.13, not in the bill.

In determining the creditworthiness of an eligible business, the lending institution must apply all usual lending standards. Then, the eligible financial institution must forward the loan package to the Treasurer, in the form and manner as prescribed by the Treasurer. The package must include the amount of the loan requested and proposed use of the loan.¹²⁶

The Treasurer will then accept or reject the loan package or any portion of it based on the Treasurer's evaluation of the eligible small business as presented in the package and based on the amount of state funds to be placed with the lending institution. If the Treasurer accepts part of or the entire loan package, the Treasurer can place financial instruments with the lending institution at a rate of return that is below the current market rate, as determined by the Treasurer. The Treasurer can also, when necessary, place financial instruments with the financial institution before acceptance of a loan package.¹²⁷

Deposit agreement

After accepting a loan package, the lending institution and the Treasurer must enter into a deposit agreement, which must include the requirements necessary to carry out the program's purpose and reflect the prevailing market conditions in the lending institution's area. The agreement must also include provisions regarding the financial instrument to be placed for any maturity considered appropriate by the Treasurer, but the maturity cannot exceed four years. Interest must be paid at the times determined by the Treasurer.¹²⁸

Loan to small business

The loan must be at a rate that reflects a percentage rate reduction below the present borrowing rate applicable to each eligible small business. The borrower's rate reduction must equal the percentage rate reduction for the financial instrument that constitutes the Ohio clean energy jobs and justice linked deposit.¹²⁹

Liability

The bill stipulates that the state and the Treasurer are not liable to any lending institution in any manner for the principal or interest on a loan to an eligible small business. Any delay in payments or default on the part of a borrower does not in any manner affect the agreement between the lending institution and the Treasurer.¹³⁰

Treasurer's report to Governor

Each February 1, the Treasurer must report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report must set forth the Ohio clean

¹²⁶ R.C. 135.56(A) and (C).

¹²⁷ R.C. 135.57(A) and (B).

¹²⁸ R.C. 135.57(C).

¹²⁹ R.C. 135.58(A).

¹³⁰ R.C. 135.59(B).

energy jobs and justice linked deposits made by the Treasurer during the preceding calendar year, and information regarding the nature, terms, and amounts of the loans upon which the deposits were based and the eligible small businesses to whom the loans were made.¹³¹

Greenhouse gas emission reduction goals

The bill requires the OEPA to establish the following greenhouse gas (which includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, and sulfur hexafluoride, expressed as carbon dioxide equivalent)¹³² reduction goals:

1. A 26% reduction in statewide greenhouse gas emissions by 2025;
2. A 50% reduction in statewide greenhouse gas emissions by 2030;
3. A 100% reduction in statewide greenhouse gas emissions by 2050.

OEPA must measure the reductions relative to 2005 statewide greenhouse gas pollution levels.¹³³ Statewide greenhouse gas emissions include the total net statewide anthropogenic emissions of greenhouse gas calculated using a methodology and data on radiative forcing and atmospheric persistence deemed appropriate by OEPA.¹³⁴

In order to achieve these goals, the OEPA Director must adopt rules that do all of the following:

1. Establish strategies and requirements designed to achieve reductions in greenhouse gas emissions, including carbon reduction plans;
2. Provide for the ongoing tracking of greenhouse gas emission sources statewide, including those that adversely affect disproportionately impacted communities;
3. Provide a mechanism for identifying disproportionately impacted communities. In doing so, the Director must consider both of the following:
 - Minority and low-income populations in the state that potentially experience disproportionate environmental harms and risks resulting in increased vulnerability to environmental degradation, lack of opportunity for public participation, or other factors; and
 - Environmental and socioeconomic stressors that may act cumulatively to affect the health and the environment and contribute to persistent environmental health disparities.
4. Establish requirements and procedures for third party audits of greenhouse gas emission controls of energy-intensive, trade-exposed manufacturing sources; and

¹³¹ R.C. 135.58(C).

¹³² R.C. 3704.20(E).

¹³³ R.C. 3704.21(A).

¹³⁴ R.C. 3704.20(G).

5. Establish any other requirements and procedures necessary for the implementation OEPA's program to reduce greenhouse gas emissions.

In adopting the rules, the Director cannot establish any requirements specifying a particular mix of electric generating resources that a public utility must use to meet applicable greenhouse gas emission limits.¹³⁵ Further, the Director must consider all of the following:¹³⁶

Considerations when adopting greenhouse gas pollution rules

- The benefits of compliance, including health, environmental, and air quality.

- The costs of compliance.

- The economic and employment impacts.

- The time necessary for compliance.

- The relative contribution of each source or source category to statewide greenhouse gas emissions based on current data updated at reasonable intervals as determined by the Director.

- The value of harmonizing emission reporting requirements with existing federal requirements as determined appropriate by the Director.

- The equitable distribution of the benefits of compliance, opportunities to incentivize renewable energy resources and pollution abatement opportunities in disproportionately impacted communities, and opportunities to encourage clean energy in communities.

- Issues related to the beneficial use of electricity to reduce greenhouse gas emissions.

- Whether program design could enhance the reliability of electric service.

- The potential to enhance the resilience of the Ohio's communities and natural resources to the climate.

- Whether greater or more cost-effective emission reductions are available through program design or other technologies.

- Issues relating to joint ownership of electric generating resources and the extent to which these resources are relying on power purchased from third parties to meet emissions reductions requirements.

¹³⁵ R.C. 3704.21(B) and (C).

¹³⁶ R.C. 3704.23.

Stakeholder input

Prior to adopting rules to reduce greenhouse gas pollution levels, the Director must solicit input from other state agencies, stakeholders, and the public on the advantages of different statewide greenhouse gas emission mitigation measures. The Director must specifically solicit input from those most impacted by climate change, including all of the following:

1. Disproportionately impacted communities. (A disproportionately impacted community is a community in which situations have developed where multiple factors, including both environmental and socioeconomic stressors, act cumulatively to affect health and the environment and contribute to persistent environmental health disparities);¹³⁷
2. Large emission sources;
3. Workers in relevant industries, including advanced energy and fuel delivery; and
4. Communities that are economically dependent on industries with high levels of greenhouse gas emissions.

In soliciting input from PUCO, the Director must consult with PUCO on certain issues. These issues include the cost of electricity, reliability of electric service, technology developments in electricity generation, and beneficial electrification. The Director must keep a record of all communications and consultations with the PUCO.¹³⁸

Implementation strategies

When implementing the rules, the Director may employ both of the following strategies:

1. Demand-side management and renewable energy development strategies; and
2. Regulatory strategies that have been deployed by other jurisdictions to reduce multi-sector greenhouse gas emissions that facilitate adoption of technologies that have very low or zero emissions and that enhance:

--Cost-effectiveness (which is the cost per unit of reduced emissions of greenhouse gases expressed as carbon dioxide equivalent);

--Compliance flexibility; and

--Transparency around compliance costs.¹³⁹

The Director may coordinate with other jurisdictions in securing statewide greenhouse gas emission reductions. In order to achieve the greenhouse gas emission reduction goals, the Director may apply reductions in net greenhouse gas emissions that occur as a result of coordinating with another jurisdiction. However, the Director may so coordinate only if the

¹³⁷ R.C. 3704.20(B).

¹³⁸ R.C. 3704.22.

¹³⁹ R.C. 3704.20(A) and 3704.24(A).

Director finds that the implementing regulations of the jurisdiction are sufficient to ensure the integrity of the reductions in greenhouse gas emissions.¹⁴⁰

Implementing programs, policies, and requirements

In designing, implementing, and enforcing programs, policies, and requirements to reduce statewide greenhouse gas pollution, the Director must take into consideration any greenhouse gas emission reduction plan established by PUCO that will assist in achieving a 50% reduction in statewide greenhouse gas emissions by 2030.

However, the bill prohibits the Director from doing either of the following:

1. Mandating that a public utility reduce greenhouse gas emissions caused by the utility's Ohio retail electricity sales (which is the electric energy sold to retail end-use electric consumers)¹⁴¹ and generation by more than is required under an approved carbon reduction plan for the utility to meet its reduction goals to achieve the 50% reduction; and

2. Imposing any administrative charge on the public utility directly associated with quantities of greenhouse gas emissions caused by the utility and its retail electric service providers' electricity sales and generation that remain after the reductions required by the carbon reduction plan, provided that: (a) the reductions are achieved and (b) the Director has verified that the approved carbon reduction plan will achieve at least a 50% reduction in greenhouse gas emissions by 2030, relative to 2005 levels, caused by the utility and its retail electric service providers.¹⁴²

OEPA report to the General Assembly

Beginning March 31, 2023, and every two years thereafter, the bill requires the Director to submit a report to the General Assembly that specifies the following:

1. The progress made towards reducing greenhouse gas emissions and meeting the reduction goals established by the bill;

2. Any newly available, cost-benefit, or regulatory analysis developed to assess the progress in meeting those goals; and

3. Any recommendations on future legislative action necessary to assist in meeting those goals, such as implementation of climate adaptation policies or accelerating deployment of cleaner technologies.¹⁴³

¹⁴⁰ R.C. 3704.24(B).

¹⁴¹ R.C. 3704.20(F).

¹⁴² R.C. 3704.25.

¹⁴³ R.C. 3704.26.

Voluntary greenhouse gas emission reduction plans

An electric cooperative (which is a not-for-profit electric light company that both is or has been financed in whole or in part under the federal “Rural Electrification Act of 1936” and owns or operates facilities in Ohio to generate, transmit, or distribute electricity, or a not-for-profit successor of the company)¹⁴⁴ or a municipal electric utility may submit to the Director a voluntary greenhouse gas emission reduction plan approved by the applicable governing body of the cooperative or utility. If submitted, the plan must demonstrate that, by 2030, the electric cooperative or municipal electric utility will achieve at least a 50% reduction in greenhouse gas emissions, relative to 2005 levels, caused by the entity’s retail electricity sales or generation in Ohio. Voluntary submission of a plan does not alter the entity’s regulatory status with respect to PUCO.

The Director must verify that a submitted plan, if implemented, will result, by 2030, in a 50% reduction in greenhouse gas emissions caused by the electric cooperative or municipal electric utility, relative to 2005 levels. OEPA also must verify that the plan has previously been approved by the applicable governing body of the electric cooperative or municipal electric utility.¹⁴⁵

Energy and greenhouse gas emission control audits

In addressing greenhouse gas emissions from an energy-intensive, trade-exposed manufacturing source, the Director must require the source to execute an energy and greenhouse gas emission control audit, according to criteria established by OEPA, every five years through 2035. An energy-intensive, trade-exposed manufacturing source is an entity that principally manufactures iron, steel, aluminum, pulp, paper, or cement and that is engaged in the manufacture of goods through one or more emissions-intensive, trade-exposed processes, as determined by OEPA.¹⁴⁶ A qualified third party, as determined by OEPA, must conduct the audit and submit the results to OEPA.

The Director may impose an administrative charge on an energy-intensive, trade-exposed manufacturing source unless the source meets all of the following criteria:

1. It currently employs best available emission control technologies for greenhouse gas emissions.
2. It currently employs best available energy efficiency practices.
3. Its emissions are not greater than the emissions associated with use of the best available emission control technologies as determined by OEPA.¹⁴⁷

¹⁴⁴ R.C. 3704.20(C).

¹⁴⁵ R.C. 3704.27.

¹⁴⁶ R.C. 3704.20(D).

¹⁴⁷ R.C. 3704.28.

Energy Community Reinvestment Fee

Beginning June 1, 2022, the bill requires the Director of Environmental Protection to charge a fossil fuel generating plant owner an energy community reinvestment fee.¹⁴⁸ Under the bill, a fossil fuel generating plant is an electric generating unit or a cogenerating unit that produces electricity using fossil fuels.¹⁴⁹ Once collected, the Director must deposit all energy community reinvestment fees into the Greenhouse Gases Pollution Fund created by the bill. The fund must be used to pay for any expenses incurred by OEJ (see “**Governor’s Office of Energy Justice (OEJ)**” above) to implement various energy programs.¹⁵⁰

Fee frequency and penalty for failure to pay

The Director must calculate and assess the fee for each plant once every quarter.¹⁵¹ By September 1, 2022, and every quarter thereafter on the 1st of the month, the Director must notify each plant owner of the quarterly fee that the owner must pay (see, “**Fee calculation,**” below).¹⁵² The bill requires the plant owner to pay the fee within 30 days after the close of each payment period, as specified by the Director. If a plant owner does not pay the fee within 30 days, the Director must issue a warning to the plant owner within 90 days after the payment due date. If the plant owner fails to pay the fee within 60 days of receiving the warning, the Director may, by written notice, suspend or revoke the plant’s Title V permit, which is the plant’s operating permit issued by the Director in accordance with the federal Clean Air Act.¹⁵³

Annual revenue requirements for energy programs

By June 1, 2022, and by every June 1 thereafter, the OEJ Director must notify the Director of Environmental Protection of both of the following:

1. The revenue and spending requirements for OEJ’s energy programs for the upcoming fiscal year; and
2. The projected spending for all program years through FY 2036.

The bill requires the projected revenue and spending required for any program year to be at least \$100 million per year for all calendar years that the Ohio electric sector generates greenhouse gas emissions.¹⁵⁴

¹⁴⁸ R.C. 185.32(A).

¹⁴⁹ R.C. 185.30(B).

¹⁵⁰ R.C. 185.31 and 185.32(B).

¹⁵¹ R.C. 185.30(C).

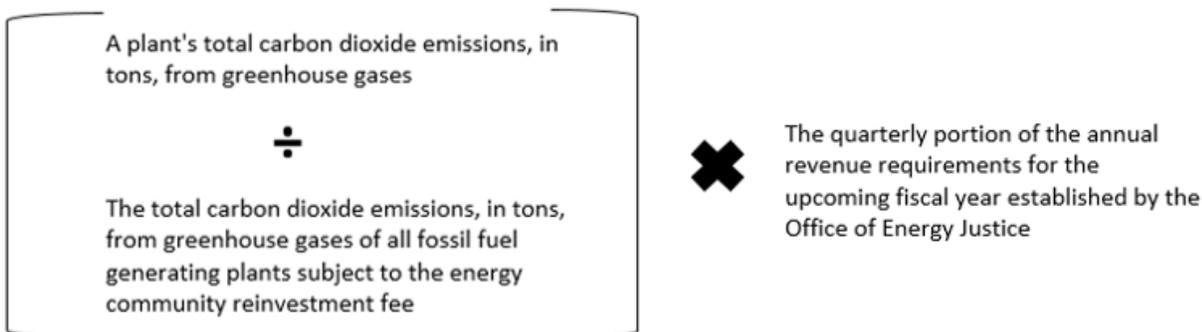
¹⁵² R.C. 185.32(A).

¹⁵³ R.C. 185.34 and 185.30(D).

¹⁵⁴ R.C. 185.33(B).

Fee calculation

The Director must calculate the energy community reinvestment fee for each plant every quarter as follows:¹⁵⁵



Refunds of unlawful utility charges

The bill requires, notwithstanding any contrary Revised Code provision, that PUCO issue an order requiring the refund of all amounts collected unlawfully from consumers if a decision by PUCO is reversed by the Ohio Supreme Court or another entity having authority to do so. PUCO must issue the order requiring a refund within 30 days of the decision. Full refunds, plus interest, must be completed within 120 days of the date of the final order of the Supreme Court or other entity.¹⁵⁶

Intervenor expenses

The bill requires PUCO to adopt rules providing for the reimbursement of expenses for any intervenor in a PUCO proceeding. The applicant utility shall be responsible for reimbursing those expenses.¹⁵⁷

Performance-based regulation of public utilities

The bill requires PUCO to issue proposed performance-based rules within 90 days of the bill's effective date. The purpose of the rules is to align public utility interests to that of the public and to provide incentives for the utilities to improve performance in areas PUCO deems necessary. The rules must, at a minimum, set forth the following components:

- The process for establishing performance metrics, including baselines, targets, and means of measurement;
- The frequency of review for resetting the baseline and targets;

¹⁵⁵ R.C. 185.33(A) and 185.30(A).

¹⁵⁶ R.C. 4903.191.

¹⁵⁷ R.C. 4903.30.

- The procedure for determining whether incentives will be established for certain metrics;
- A methodology for establishing incentives.

The bill requires PUCO to solicit public input on the proposed rules. The input process must, at a minimum, consist of the following:

1. At least two PUCO-hosted public meetings where stakeholders and interested parties may testify;
2. A month-long public comment period; and
3. A month-long reply comment period.¹⁵⁸

PUCO must make all written testimony, public comments, and reply comments received during the public input process available on PUCO's website.¹⁵⁹ Within 90 days of the public input process conclusion, PUCO must issue final rules that include the rule components (described above) and incorporate any changes PUCO deems necessary.¹⁶⁰

As part of performance-based regulation, PUCO may create incentives for utilities to meet the performance targets. These incentives may take the form of incentive payments to reward public utilities that hit their targets, as well as penalties for utilities that fail to reach such targets. The bill limits incentive payments so that they do not exceed more than 0.5% of the utility's most recently approved return on equity.¹⁶¹

The bill requires PUCO to hold open and transparent proceedings to establish metrics, baselines, and targets for a public utility and to determine which metrics to be subject to an incentive or penalty. Following a hearing on these topics, PUCO must issue an order, including findings of fact and conclusions of law, setting forth the metrics, targets, and penalties or rewards. Additionally, PUCO is required to establish periodic reporting requirements for the metrics, which must be made available on its website for public review.¹⁶²

PUCO settlements

In general, the bill allows parties to a docket to seek a settlement. A "docket" is defined in the bill as an investigation, proceeding, case, or any other matter opened by a vote of PUCO, except for rulemaking. A "settlement" means a proposed resolution of some or all of the issues raised in an application or proceeding before the PUCO.¹⁶³

¹⁵⁸ R.C. 4905.23(A) and (B)(1).

¹⁵⁹ R.C. 4905.23(B)(2).

¹⁶⁰ R.C. 4905.23(C).

¹⁶¹ R.C. 4905.24.

¹⁶² R.C. 4905.25.

¹⁶³ R.C. 4903.261 and 4903.26(A) and (B).

Settlement discussion

Under the bill, all settlement discussions must be conducted once all parties to the docket have received notice of discussion date, time, and venue and have the opportunity to be present.¹⁶⁴ A settlement discussion may commence seven days after the last discovery request has been received in accordance with the rights of discovery under existing law and PUCO rules.¹⁶⁵

Settlement agreement and stipulation procedures

After discussion, parties to a docket that enter into a settlement agreement or a stipulation must file the agreement or stipulation with PUCO. The bill defines a “settlement agreement” to mean any agreement to a settlement where: (1) the application or proceeding at PUCO to which the agreement applies involves two or more parties, other than the utility or PUCO staff, and (2) the agreement was entered into by two or more parties. A “stipulation” is an agreement, in writing, between two or more parties to an application or proceeding at PUCO, concerning issues of fact, the authenticity of documents, or a settlement. The bill also defines a “side agreement” as an agreement between two or more, but not all, of the parties to an application or proceeding at PUCO, that results in resolving some or all issues or disagreements between the parties to the agreement and the agreement: (1) was negotiated without the participation of all parties to the application or proceeding; and (2) contains terms that are not made public.

The bill requires a settlement agreement or stipulation to be entered upon the docket record and a copy to be served upon all parties to the docket. A stipulation concerning only issues of fact or the authenticity of documents must be regarded and used as evidence in the docket.¹⁶⁶ The parties that enter into a settlement agreement or stipulation that includes a settlement must file with PUCO any and all agreements, including side agreements, that have been negotiated between the utility and any signatory party and to which any of the following apply:

- The agreement relates to energy issues in the docket;
- The agreement was negotiated during the period commencing six months before the opening of the docket;
- The agreement was negotiated during the period beginning with the filing of the application and ending when PUCO or an appellate court issues a final order.¹⁶⁷

¹⁶⁴ R.C. 4903.261.

¹⁶⁵ R.C. 4903.263.

¹⁶⁶ R.C. 4903.264 and 4903.26(C) to (E).

¹⁶⁷ R.C. 4903.265.

When a written settlement agreement or stipulation that includes a settlement is proposed by some, but not all, of the parties to a docket, the proposing parties must file the following with PUCO:

- The proposed settlement agreement or stipulation;
- All documents, testimony, or exhibits, including existing record citations;
- Agreements relating to the docket and required to be filed as described under the preceding paragraph and bullets;
- Any other matters the filing parties consider relevant to the proposed settlement agreement or stipulation.¹⁶⁸

Settlement conference when not all parties agree

The bill provides that if a proposed settlement agreement or stipulation that includes a settlement is not supported by all of the parties, the parties to the proposed agreement or stipulation must convene at least one conference to discuss the proposed agreement or stipulation. Notice and opportunity to participate must be provided to all parties in the docket. A party that opposes or does not support the proposed agreement or stipulation may waive the right to notice and opportunity to participate in this conference.¹⁶⁹

Intervenor rights

The bill grants full discovery rights to all intervenors in a docket to obtain any settlement agreement, stipulation, side agreement, or other agreement, and any related documents, to the same extent as any other party to the docket.¹⁷⁰

Adjudication of unresolved issues

If a settlement agreement or stipulation has been reached on some, but not all, of the issues, the bill allows the unresolved issues to be adjudicated until agreement is reached on them.¹⁷¹

PUCO hearing

No later than 30 days after a settlement agreement or stipulation that includes a settlement is filed, the bill requires PUCO to establish a hearing schedule on the agreement or stipulation and any remaining issues. The hearing must meet both of the following requirements:

- Commence no sooner than 30 days from the date the agreement or stipulation is filed;

¹⁶⁸ R.C. 4903.266.

¹⁶⁹ R.C. 4903.267.

¹⁷⁰ R.C. 4903.269.

¹⁷¹ R.C. 4903.2611.

- PUCO must ensure that all parties have enough time to prepare testimony and review testimony of other parties before the hearing begins.¹⁷²

The bill requires PUCO to include an expedited period for discovery on the agreement or stipulation in relation to the hearing.¹⁷³ PUCO must also extend the date of the hearing upon the motion of an intervenor who is not a party to the agreement or stipulation and has successfully demonstrated the failure of any party who is a signatory to the agreement or stipulation to fully and timely comply with a discovery request.¹⁷⁴

PUCO ruling on order

The bill provides that if a settlement agreement or stipulation that includes a settlement is unanimous, PUCO cannot approve it unless it finds that the agreement or stipulation is in the public interest and is just and reasonable.¹⁷⁵ If a settlement agreement or stipulation concerning a settlement is not unanimous, PUCO must:

- Apply the same standards it applies in cases with no settlement, including that the settled issues are supported by substantial evidence and that the settling parties meet their burden of proof, with clear and convincing evidence; and
- Ensure, and find, that all parties had a fair and reasonable opportunity to participate in the negotiations.¹⁷⁶

The bill requires PUCO to consider all of the following in making its decision and issuing an order on a settlement agreement or stipulation that includes a settlement after a hearing:

- All of the record evidence, including the utility's initial filing and all testimony and documents in support of it;
- All intervenor testimony;
- All briefs or comments on the agreement or stipulation.¹⁷⁷

The bill allows PUCO to approve a settlement agreement or stipulation that includes a settlement, in whole or in part, and with conditions PUCO considers necessary.¹⁷⁸ If the agreement or stipulation does not resolve all of the issues in the docket, PUCO must decide the remaining issues in accordance with applicable law and procedure.¹⁷⁹ If PUCO modifies the

¹⁷² R.C. 4903.2613(A).

¹⁷³ R.C. 4903.2613(B)(1).

¹⁷⁴ R.C. 4903.2613(B)(2).

¹⁷⁵ R.C. 4903.2615(A).

¹⁷⁶ R.C. 4903.2615(B).

¹⁷⁷ R.C. 4903.2617.

¹⁷⁸ R.C. 4903.2619(A).

¹⁷⁹ R.C. 4903.2619(B)(1).

agreement or stipulation, the parties to the agreement or stipulation must meet to determine if the parties want to proceed with the agreement or stipulation as modified or withdraw from the agreement or stipulation and file an application for a rehearing.¹⁸⁰

A PUCO decision to approve a settlement agreement or stipulation cannot be construed as a precedent for any future agency proceeding.¹⁸¹

Interconnection of distributed generation facilities

Rulemaking authority

The bill authorizes PUCO to adopt rules regarding the interconnection of distributed generation facilities of all system types and fuel sources to the distribution system of each EDU through an open and transparent public process to carry out certain goals. This is in addition to rules that PUCO may adopt under existing law regarding interconnection. These new rules are intended to carry out the following goals:

- Ensure that interconnection standards and processes are transparent to applicants so that the costs and risks are understood before the filing of an application;
- Ensure that compliance with the interconnection requirements are timely and not unduly burdensome or expensive for any applicant;
- Establish uniform, nondiscriminatory, technology-neutral procedures for interconnecting distributed generation facilities to distribution facilities in a way that protects the public, ensures worker safety, and protects system reliability;
- Apply rules to all areas of the EDU's service territory where an applicant seeks to physically connect distributed generation, and operate it parallel, to the EDU's distribution system;
- Ensure that reasonable national standards of interconnection are applied to protect the grid and that corrective measures proposed are timely and proportional;
- Provide several differentiated review options for an applicant's request for interconnection with the utility in order to ensure timely consideration of applications based on project size and the character of the distributed generation facility.¹⁸²

Compliance requirements for applicant

Under the bill, an applicant that applies for interconnection must comply with the safety and performance standards established by all of the following that are in effect at the time of the application:

¹⁸⁰ R.C. 4903.2619(B)(2).

¹⁸¹ R.C. 4903.2621.

¹⁸² R.C. 4928.113.

- The Institute of Electrical and Electronics Engineers (IEEE);
- The Underwriters Laboratory (UL);
- The National Electrical Code (NEC);
- Relevant American National Standards Institute (ANSI) standards.¹⁸³

Schedule for implementation of standards

PUCO must establish a schedule to implement interconnection standards to be effective no later than one year after the effective date of this bill. The standards must provide for the filing by the EDU and ruling by PUCO on utility interconnection tariffs.¹⁸⁴

EDU requirements

An EDU must do all of the following regarding interconnection and distributed generation:

- Review its distribution system on a regular basis in order to identify system upgrades that may be necessary to allow for increased penetrations of distributed generation and storage necessary to maximize the benefit of cost-effective resources;
- Establish technical specifications and parameters for interconnecting facilities to the electric system that ensures the safe, secure, and economical operation of the grid;
- Purchase energy from distributed generation sources at a tariff approved by PUCO.¹⁸⁵

Distributed energy resource proceeding

The bill requires PUCO, not later than 12 months after the bill's effective date, to open a proceeding with stakeholder participation and issue an order regarding distributed energy resources. The bill defines a distributed energy resource as an energy generating resource that can be developed on the customer's side of the meter including (1) a distributed generation system, (2) microgrids, (3) photovoltaic power, (4) energy storage, (5) energy waste reduction technologies or programs, (6) demand-response technologies or programs, and (7) aggregated forms of the foregoing energy, including aggregated demand response and virtual net metering (discussed below).

The proceeding must consider the following:

- Appropriate tariffs, contracts, or other mechanisms for cost-effective distributed energy resource deployment consistent with PUCO distribution planning objectives;

¹⁸³ R.C. 4928.115.

¹⁸⁴ R.C. 4928.117.

¹⁸⁵ R.C. 4928.119.

- Cost-effective methods of effectively coordinating existing PUCO-approved programs, incentives, and tariffs to maximize the locational benefits and minimize any incremental distributed energy resource costs;
- Barriers to distributed energy resource deployment, including:
 - Safety standards related to technology interconnection requirements and procedures, or operation of a distribution circuit in a manner that ensures reliable service;
 - Utility policies, practices, and tariffs that do not appropriately value distributed energy resources.
- Interconnection requirements and procedures.

The bill further requires EDUs to provide any information that PUCO determines is relevant to issue an order. The bill also permits PUCO to adopt criteria, benchmarks, and accountability mechanisms to evaluate the success of an EDU's effort in promoting distributed energy resources.¹⁸⁶

Electric security plans

Contents of an ESP

Automatic cost recovery

Under the bill, an EDU may include the recovery, only after a hearing by PUCO, of any of the following in an electric security plan (ESP) established for the provision of a standard service offer (SSO):

- The cost of fuel used to generate the electricity supplied under the SSO;
- The cost of purchased power supplied under SSO, including the cost of energy and capacity, and including purchased power acquired from an affiliate;
- The cost of emission allowances;
- The cost of federally mandated carbon or energy taxes.

Under current law, an ESP may provide for automatic recovery of these expenses.¹⁸⁷

Construction work in progress

The bill alters the provisions regarding an ESP's inclusion of a reasonable allowance for construction work in progress (CWIP) for the cost of constructing an electric generating facility or for an environmental expenditure for such a facility. The bill removes PUCO authority to allow a CWIP allowance in an ESP upon the incurrence of a cost or expenditure, which cost or

¹⁸⁶ Section 6 of the bill.

¹⁸⁷ R.C. 4928.143(B)(2)(a).

expenditure would otherwise be prohibited under continuing law limitations and requirements for CWIP. The bill also eliminates the ability to include a CWIP allowance in an ESP from being established as a nonbypassable surcharge (which is a charge all customers must pay) for the life of the facility.¹⁸⁸

Nonbypassable surcharge for used and useful generating facility

The bill eliminates the ability of an EDU to include in its ESP a nonbypassable surcharge imposed for the life of an electric generating facility (1) owned or operated by the EDU, (2) that was sourced through a competitive bid process, and (3) that became used and useful on or after January 1, 2009. The surcharge covers all costs of the EDU for the facility, excluding CWIP costs recovered as described above. As a result, the surcharge becomes bypassable, although it still may be imposed under continuing law.¹⁸⁹

Limits on various terms, conditions, and charges

The bill eliminates the inclusion in an ESP of terms, conditions, or charges relating to **limitations on** (1) customer shopping for retail electric generation service, (2) bypassability, (3) standby, back-up, or supplemental power service, (4) default service, (5) carrying costs, (6) amortization periods, and (7) accounting or deferrals. Instead, the bill permits inclusion of terms, conditions, or charges relating to items (1) to (7) above.¹⁹⁰

SSO component adjustments

The bill eliminates the option for an ESP to provide for automatic increases or decreases in any component of the SSO offer price and, instead, requires the price increases and decreases to be subject to prior commission approval in a proceeding separate from the proceeding to approve the ESP.¹⁹¹

Single issue ratemaking

The bill prohibits the inclusion of any provision involving single issue ratemaking in an ESP, in relation to an EDU's distribution service.¹⁹²

Decoupling provisions of an ESP

The bill requires that any decoupling mechanism included in an ESP regarding an EDU's distribution service must be based on the EDU's base rates currently in effect and must include the following:

¹⁸⁸ R.C. 4928.143(B)(2)(b).

¹⁸⁹ R.C. 4928.143(B)(2)(c).

¹⁹⁰ R.C. 4928.143(B)(2)(d).

¹⁹¹ R.C. 4928.143(B)(2)(e).

¹⁹² R.C. 4928.143(B)(2)(h).

- A symmetrical design so that any underrecoveries of revenue requirements are recovered from customers and any overrecoveries of revenue requirements are credited to customers;
- A customer charge that is sufficient to recover the EDU's cost of metering and billing only. All other costs are to be recovered in a volumetric rate; however, the EDU may impose a small, reasonable demand charge on self-generation if the EDU is offering a reasonable bidirectional time-varying rate or other rate design that captures costs and contributions to the EDU system;
- A revenue per customer mechanism that may be combined with other revenue adjustments;
- A proposed cap on surcharges and refunds and a symmetrical method for addressing the imposition of the cap;
- Other elements as necessary.¹⁹³

PUCO approval of an application for an ESP

The bill provides that PUCO may only approve an application for an ESP if the ESP will provide a lower rate than would otherwise apply under a market rate offer (MRO – which under Ohio law is the other method for an EDU to establish a SSO). Under current law, an ESP can be approved if the ESP is more favorable in the aggregate as compared to the expected results of an MRO.

The bill eliminates the ability of an EDU to (1) withdraw an ESP application PUCO modifies and approves and (2) subsequently file a new ESP or MRO application. The bill also removes provisions requiring PUCO to issue an order, as necessary, to continue the provisions of an EDU's most recent standard service offer, as well as any expected increase or decrease in fuel costs, if an ESP application has been withdrawn by the EDU or is disapproved by PUCO, until a subsequent SSO is authorized through an ESP or MRO.¹⁹⁴

Evaluation of an existent ESP

Quadrennial evaluation

The bill modifies the PUCO requirement to test ESPs every four years. The bill provides that the test shall determine whether the ESP, including its then-existent pricing and all other terms and conditions, including current and future deferrals, continues to provide *a lower rate than the market rate* under an MRO. Under current law, the test is to determine whether the plan continues *to be more favorable in the aggregate compared to the expected results of an MRO*.

¹⁹³ R.C. 4928.143(B)(2)(h)(i) to (v).

¹⁹⁴ R.C. 4928.143(C).

The bill eliminates the requirement that PUCO determine the prospective effect of the ESP to determine if it is likely to provide the EDU with a return on common equity that significantly exceeds that of publicly traded companies facing comparable business and financial risk. Likewise, the bill eliminates PUCO's ability to terminate an ESP, and related provisions, if the ESP will generate substantially excessive earnings.¹⁹⁵

Annual evaluation

The bill removes the requirement that PUCO annually consider if adjustments made to an ESP resulted in excessive earnings as measured by whether the return on the EDU's common equity significantly exceeds that of publicly traded companies facing comparable business and financial risk and instead requires PUCO to consider annually whether the ESP provides a lower rate than the market rate that would otherwise apply under an MRO.¹⁹⁶

Low-use, low-cost rate

The bill requires all public utilities to file a low-use, low-cost rate with PUCO to encourage conservation. Each utility must file its rate within 90 days of the effective date of the bill, as well as its plans for educating its customers about the rate.¹⁹⁷

Wind farm minimum setback distance

The bill changes one of the minimum setback distances for most wind farms with five or more megawatts of generating capacity.¹⁹⁸ Under current law, the minimum setback distance is a two-part measurement requirement equal to the following:

1. A horizontal distance from the wind turbine's base to the property line of the wind farm property, equal to 1.1 times the total height of the turbine, as measured from the base to the tip of its highest blade;
2. At least 1,125 feet in horizontal distance from the tip of the turbine's nearest blade at 90 degrees to the property line of the nearest adjacent property at the time the certification application is filed with the Power Siting Board (PSB).

The bill alters the second requirement by measuring the 1,125-foot distance from the exterior of the nearest habitable residential structure, if one exists, located on an adjacent property at the time of the certificate application.¹⁹⁹

¹⁹⁵ R.C. 4928.143(E).

¹⁹⁶ R.C. 4928.143(F).

¹⁹⁷ R.C. 4933.50.

¹⁹⁸ The setbacks under current and continuing law do not apply to any wind farm: (1) with 5 to less than 50 megawatts (MWs) generating capacity in operation on June 24, 2008, or (2) with less than 20 MWs generating capacity and primarily dedicated to providing electricity to a single customer at a single location. See R.C. 4906.13(A), not in bill; R.C. 4906.20.

¹⁹⁹ R.C. 4906.20(B)(2)(a) and 4906.201(B)(1).

The bill applies the new minimum setback distance to any amendments made to existing certificates after the bill's effective date. The bill further provides that the application of the setback changes regarding existing certificates is not to be construed to limit or abridge any rights or remedies in equity or under common law.²⁰⁰

Virtual net metering

Definition

The bill defines a “virtual net metering system” as a facility for the production of electricity that does the following:

- Uses as its fuel either solar, wind, biomass, landfill gas, hydropower, or any other renewable resource;
- Is not located on a customer-generator's premises;
- Has at least one interconnection to the state's electrical grid;
- Is intended primarily to offset part or all of a customer-generator's requirements for electricity through the use of credits or other mechanisms.²⁰¹

PUCO rules and customer eligibility

The bill requires PUCO to promulgate rules regarding virtual net metering systems. These rules must include provisions requiring EDUs to support contracts and arrangements for customer-generators utilizing such systems. Furthermore, the bill allows customers utilizing virtual net metering systems to be eligible for net metering under continuing law on the same terms as a customer-generator utilizing a net metering system (a net metering system is similar to a virtual system, except for a few differences such as, for example, having to be located on the customer generator's premises and a narrower list of fuels that may be used).²⁰²

Property tax exemption for qualified renewable energy projects

The bill makes the exemption of tangible personal property (TPP) for qualified energy projects using renewable resources from taxation (PILOT Program) permanent. Under current law, this exemption ends in 2025. A “qualified energy project” is an energy project certified by the Director of Development. An “energy project” that may be certified is a project that provides electric power from an energy facility that, in this instance, is a renewable energy resource (such as, for example, wind, solar, hydroelectric, and geothermal energy).²⁰³

Under the bill, the PILOT program exempts TPP from taxation if the following conditions are met:

²⁰⁰ R.C. 4906.20(B)(2)(b)(iii) and 4906.201(B)(3).

²⁰¹ R.C. 4928.671(A).

²⁰² R.C. 4928.671(B) and(C).

²⁰³ R.C. 4928.01 and 5727.75(A); R.C. 5727.01, not in the bill.

- The owner or lessee of the energy project submits an application to the PSB for certification under continuing law, or to a public agency or political subdivision (whichever is applicable) for any approval, consent, permit, or certificate for the project. (Current law requires the application to be submitted on or before December 31, 2024 – the bill removes that requirement);
- Construction of the facility began on or after January 1, 2009. (Current law requires the project to have started on that date and be completed before January 1, 2025 – the bill removes the 2025 cut-off date);
- For projects with a nameplate capacity of 20 or more megawatts, the board of county commissioners of the county where the project is sited has adopted a resolution to exempt the property located in the county from taxation. (Unchanged by the bill).

Under current law, A TPP could remain untaxed under the PILOT Program for tax year 2026 and beyond if: (1) the TPP was exempt from taxation in any of tax years 2011 through 2025, (2) the project’s certification as a “qualified energy project” is not revoked.²⁰⁴ The bill eliminates this provision.

Changes in Consumers’ Counsel law

In addition to its duties in ongoing law, the bill permits the Consumers’ Counsel, on behalf of residential consumers, to seek a stay of the implementation of any PUCO order that Consumers’ Counsel is appealing. The bill permits the Consumers’ Counsel to do this without posting a bond or any form of surety.²⁰⁵

The bill repeals the provision that requires the Consumers’ Counsel to follow the policies of the state regarding supporting natural gas competition.²⁰⁶ Ongoing law allows consumers to select a natural gas supplier under the provisions regarding an alternative rate plan for natural gas companies. State policies under this law include, for example, policies to:

- Promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods;
- Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;
- Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers.²⁰⁷

²⁰⁴ R.C. 5727.75(B)(1) and (2).

²⁰⁵ R.C. 4911.02(B)(2)(e).

²⁰⁶ R.C. 4911.02(C), repealed by the bill.

²⁰⁷ R.C. Chapter 4929, all but R.C. 4929.02 and 4929.051, not in the bill.

Repeal of call center prohibition

The bill repeals the current law that prohibits the Consumers' Counsel from operating a telephone call center for consumer complaints. The bill also repeals the express requirement in current law that if the Office of the Consumers' Counsel receives calls concerning consumer complaints, it may assist consumers with their complaints or forward the calls to PUCO's call center.²⁰⁸ Although, with this repeal, the Consumers' Counsel could operate a call center, the bill does not require the Consumers' Counsel to establish and operate one.

Continuing law requires PUCO to operate a telephone call center for consumer complaints against any public utility by any person, firm, or corporation. Under this law, PUCO must expeditiously provide the Consumers' Counsel with all information it receives in the operation of the call center concerning residential consumer complaints and with any materials concerning residential consumer complaints produced in call center operations. If technology is reasonably available, PUCO must provide the Consumers' Counsel with real-time access to the PUCO's residential consumer complaint information.²⁰⁹

HISTORY

Action	Date
Introduced	09-21-21

H0429-I-134/ks

²⁰⁸ R.C. 4911.021, repealed by the bill.

²⁰⁹ R.C. 4905.261, not in the bill.