

**As Introduced**

**CORRECTED BY SPONSORS**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 197**

**Representatives Hoops, Ray**

**Cosponsors: Representatives Hillyer, Weinstein, Skindell, Miller, J., Sweeney**

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**A BILL**

To amend sections 4928.01 and 4928.02 and to enact 1  
sections 1.66, 4934.01, 4934.011, 4934.04, 2  
4934.05, 4934.06, 4934.07, 4934.08, 4934.09, 3  
4934.10, 4934.11, 4934.12, 4934.13, 4934.14, 4  
4934.15, 4934.16, 4934.17, 4934.19, 4934.20, 5  
4934.21, 4934.22, 4934.23, 4934.25, and 4934.27 6  
of the Revised Code to establish the community 7  
solar pilot program and the solar development 8  
program. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4928.01 and 4928.02 be amended 10  
and sections 1.66, 4934.01, 4934.011, 4934.04, 4934.05, 4934.06, 11  
4934.07, 4934.08, 4934.09, 4934.10, 4934.11, 4934.12, 4934.13, 12  
4934.14, 4934.15, 4934.16, 4934.17, 4934.19, 4934.20, 4934.21, 13  
4934.22, 4934.23, 4934.25, and 4934.27 of the Revised Code be 14  
enacted to read as follows: 15

**Sec. 1.66.** As used in the Revised Code, unless the 16  
context requires otherwise, all measures of electricity 17  
described in watts, kilowatts, megawatts, or any derivative 18

thereof means such electricity expressed in alternating current. 19

**Sec. 4928.01.** (A) As used in this chapter: 20

(1) "Ancillary service" means any function necessary to 21  
the provision of electric transmission or distribution service 22  
to a retail customer and includes, but is not limited to, 23  
scheduling, system control, and dispatch services; reactive 24  
supply from generation resources and voltage control service; 25  
reactive supply from transmission resources service; regulation 26  
service; frequency response service; energy imbalance service; 27  
operating reserve-spinning reserve service; operating reserve- 28  
supplemental reserve service; load following; back-up supply 29  
service; real-power loss replacement service; dynamic 30  
scheduling; system black start capability; and network stability 31  
service. 32

(2) "Billing and collection agent" means a fully 33  
independent agent, not affiliated with or otherwise controlled 34  
by an electric utility, electric services company, electric 35  
cooperative, or governmental aggregator subject to certification 36  
under section 4928.08 of the Revised Code, to the extent that 37  
the agent is under contract with such utility, company, 38  
cooperative, or aggregator solely to provide billing and 39  
collection for retail electric service on behalf of the utility 40  
company, cooperative, or aggregator. 41

(3) "Certified territory" means the certified territory 42  
established for an electric supplier under sections 4933.81 to 43  
4933.90 of the Revised Code. 44

(4) "Competitive retail electric service" means a 45  
component of retail electric service that is competitive as 46  
provided under division (B) of this section. 47

(5) "Electric cooperative" means a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service.

(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company, but excludes any self-generator to the extent that it consumes electricity it so produces, sells that electricity for resale, or obtains electricity from a generating facility it hosts on its premises.

(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.

(9) "Electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit

basis either in the business of supplying a noncompetitive 77  
retail electric service in this state or in the businesses of 78  
supplying both a noncompetitive and a competitive retail 79  
electric service in this state. "Electric utility" excludes a 80  
municipal electric utility or a billing and collection agent. 81

(12) "Firm electric service" means electric service other 82  
than nonfirm electric service. 83

(13) "Governmental aggregator" means a legislative 84  
authority of a municipal corporation, a board of township 85  
trustees, or a board of county commissioners acting as an 86  
aggregator for the provision of a competitive retail electric 87  
service under authority conferred under section 4928.20 of the 88  
Revised Code. 89

(14) A person acts "knowingly," regardless of the person's 90  
purpose, when the person is aware that the person's conduct will 91  
probably cause a certain result or will probably be of a certain 92  
nature. A person has knowledge of circumstances when the person 93  
is aware that such circumstances probably exist. 94

(15) "Level of funding for low-income customer energy 95  
efficiency programs provided through electric utility rates" 96  
means the level of funds specifically included in an electric 97  
utility's rates on October 5, 1999, pursuant to an order of the 98  
public utilities commission issued under Chapter 4905. or 4909. 99  
of the Revised Code and in effect on October 4, 1999, for the 100  
purpose of improving the energy efficiency of housing for the 101  
utility's low-income customers. The term excludes the level of 102  
any such funds committed to a specific nonprofit organization or 103  
organizations pursuant to a stipulation or contract. 104

(16) "Low-income customer assistance programs" means the 105

percentage of income payment plan program, the home energy 106  
assistance program, the home weatherization assistance program, 107  
and the targeted energy efficiency and weatherization program. 108

(17) "Market development period" for an electric utility 109  
means the period of time beginning on the starting date of 110  
competitive retail electric service and ending on the applicable 111  
date for that utility as specified in section 4928.40 of the 112  
Revised Code, irrespective of whether the utility applies to 113  
receive transition revenues under this chapter. 114

(18) "Market power" means the ability to impose on 115  
customers a sustained price for a product or service above the 116  
price that would prevail in a competitive market. 117

(19) "Mercantile customer" means a commercial or 118  
industrial customer if the electricity consumed is for 119  
nonresidential use and the customer consumes more than seven 120  
hundred thousand kilowatt hours per year or is part of a 121  
national account involving multiple facilities in one or more 122  
states. 123

(20) "Municipal electric utility" means a municipal 124  
corporation that owns or operates facilities to generate, 125  
transmit, or distribute electricity. 126

(21) "Noncompetitive retail electric service" means a 127  
component of retail electric service that is noncompetitive as 128  
provided under division (B) of this section. 129

(22) "Nonfirm electric service" means electric service 130  
provided pursuant to a schedule filed under section 4905.30 of 131  
the Revised Code or pursuant to an arrangement under section 132  
4905.31 of the Revised Code, which schedule or arrangement 133  
includes conditions that may require the customer to curtail or 134

interrupt electric usage during nonemergency circumstances upon 135  
notification by an electric utility. 136

(23) "Percentage of income payment plan arrears" means 137  
funds eligible for collection through the percentage of income 138  
payment plan rider, but uncollected as of July 1, 2000. 139

(24) "Person" has the same meaning as in section 1.59 of 140  
the Revised Code. 141

(25) "Advanced energy project" means any technologies, 142  
products, activities, or management practices or strategies that 143  
facilitate the generation or use of electricity or energy and 144  
that reduce or support the reduction of energy consumption or 145  
support the production of clean, renewable energy for 146  
industrial, distribution, commercial, institutional, 147  
governmental, research, not-for-profit, or residential energy 148  
users, including, but not limited to, advanced energy resources 149  
and renewable energy resources. "Advanced energy project" also 150  
includes any project described in division (A), (B), or (C) of 151  
section 4928.621 of the Revised Code. 152

(26) "Regulatory assets" means the unamortized net 153  
regulatory assets that are capitalized or deferred on the 154  
regulatory books of the electric utility, pursuant to an order 155  
or practice of the public utilities commission or pursuant to 156  
generally accepted accounting principles as a result of a prior 157  
commission rate-making decision, and that would otherwise have 158  
been charged to expense as incurred or would not have been 159  
capitalized or otherwise deferred for future regulatory 160  
consideration absent commission action. "Regulatory assets" 161  
includes, but is not limited to, all deferred demand-side 162  
management costs; all deferred percentage of income payment plan 163  
arrears; post-in-service capitalized charges and assets 164

recognized in connection with statement of financial accounting 165  
standards no. 109 (receivables from customers for income taxes); 166  
future nuclear decommissioning costs and fuel disposal costs as 167  
those costs have been determined by the commission in the 168  
electric utility's most recent rate or accounting application 169  
proceeding addressing such costs; the undepreciated costs of 170  
safety and radiation control equipment on nuclear generating 171  
plants owned or leased by an electric utility; and fuel costs 172  
currently deferred pursuant to the terms of one or more 173  
settlement agreements approved by the commission. 174

(27) "Retail electric service" means any service involved 175  
in supplying or arranging for the supply of electricity to 176  
ultimate consumers in this state, from the point of generation 177  
to the point of consumption. For the purposes of this chapter, 178  
retail electric service includes one or more of the following 179  
"service components": generation service, aggregation service, 180  
power marketing service, power brokerage service, transmission 181  
service, distribution service, ancillary service, metering 182  
service, and billing and collection service. 183

(28) "Starting date of competitive retail electric 184  
service" means January 1, 2001. 185

(29) "Customer-generator" means a user of a net metering 186  
system. 187

(30) "Net metering" means measuring the difference in an 188  
applicable billing period between the electricity supplied by an 189  
electric service provider and the electricity generated by a 190  
customer-generator that is fed back to the electric service 191  
provider. 192

(31) "Net metering system" means a facility for the 193

production of electrical energy that does all of the following:	194
(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;	195 196
(b) Is located on a customer-generator's premises;	197
(c) Operates in parallel with the electric utility's transmission and distribution facilities;	198 199
(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection.	200 201 202 203 204 205 206 207
(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract.	208 209 210 211 212 213
(33) "Rate plan" means the standard service offer in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.	214 215 216
(34) "Advanced energy resource" means any of the following:	217 218
(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating	219 220 221

facility to the extent such efficiency is achieved without	222
additional carbon dioxide emissions by that facility;	223
(b) Any distributed generation system consisting of	224
customer cogeneration technology;	225
(c) Clean coal technology that includes a carbon-based	226
product that is chemically altered before combustion to	227
demonstrate a reduction, as expressed as ash, in emissions of	228
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or	229
sulfur trioxide in accordance with the American society of	230
testing and materials standard D1757A or a reduction of metal	231
oxide emissions in accordance with standard D5142 of that	232
society, or clean coal technology that includes the design	233
capability to control or prevent the emission of carbon dioxide,	234
which design capability the commission shall adopt by rule and	235
shall be based on economically feasible best available	236
technology or, in the absence of a determined best available	237
technology, shall be of the highest level of economically	238
feasible design capability for which there exists generally	239
accepted scientific opinion;	240
(d) Advanced nuclear energy technology consisting of	241
generation III technology as defined by the nuclear regulatory	242
commission; other, later technology; or significant improvements	243
to existing facilities;	244
(e) Any fuel cell used in the generation of electricity,	245
including, but not limited to, a proton exchange membrane fuel	246
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	247
solid oxide fuel cell;	248
(f) Advanced solid waste or construction and demolition	249
debris conversion technology, including, but not limited to,	250

advanced stoker technology, and advanced fluidized bed	251
gasification technology, that results in measurable greenhouse	252
gas emissions reductions as calculated pursuant to the United	253
States environmental protection agency's waste reduction model	254
(WARM);	255
(g) Demand-side management and any energy efficiency	256
improvement;	257
(h) Any new, retrofitted, refueled, or repowered	258
generating facility located in Ohio, including a simple or	259
combined-cycle natural gas generating facility or a generating	260
facility that uses biomass, coal, modular nuclear, or any other	261
fuel as its input;	262
(i) Any uprated capacity of an existing electric	263
generating facility if the uprated capacity results from the	264
deployment of advanced technology.	265
"Advanced energy resource" does not include a waste energy	266
recovery system that is, or has been, included in an energy	267
efficiency program of an electric distribution utility pursuant	268
to requirements under section 4928.66 of the Revised Code.	269
(35) "Air contaminant source" has the same meaning as in	270
section 3704.01 of the Revised Code.	271
(36) "Cogeneration technology" means technology that	272
produces electricity and useful thermal output simultaneously.	273
(37) (a) "Renewable energy resource" means any of the	274
following:	275
(i) Solar photovoltaic or solar thermal energy;	276
(ii) Wind energy;	277

(iii) Power produced by a hydroelectric facility;	278
(iv) Power produced by a small hydroelectric facility, which is a facility that operates, or is rated to operate, at an aggregate capacity of less than six megawatts;	279 280 281
(v) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;	282 283 284 285 286
(vi) Geothermal energy;	287
(vii) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;	288 289 290 291
(viii) Biomass energy;	292
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	293 294 295 296 297 298 299 300 301 302
(x) Biologically derived methane gas;	303
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane	304 305

gas; 306

(xii) Energy derived from nontreated by-products of the 307  
pulping process or wood manufacturing process, including bark, 308  
wood chips, sawdust, and lignin in spent pulping liquors. 309

"Renewable energy resource" includes, but is not limited 310  
to, any fuel cell used in the generation of electricity, 311  
including, but not limited to, a proton exchange membrane fuel 312  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 313  
solid oxide fuel cell; wind turbine located in the state's 314  
territorial waters of Lake Erie; methane gas emitted from an 315  
abandoned coal mine; waste energy recovery system placed into 316  
service or retrofitted on or after the effective date of the 317  
amendment of this section by S.B. 315 of the 129th general 318  
assembly, September 10, 2012, except that a waste energy 319  
recovery system described in division (A) (38) (b) of this section 320  
may be included only if it was placed into service between 321  
January 1, 2002, and December 31, 2004; storage facility that 322  
will promote the better utilization of a renewable energy 323  
resource; or distributed generation system used by a customer to 324  
generate electricity from any such energy. 325

"Renewable energy resource" does not include a waste 326  
energy recovery system that is, or was, on or after January 1, 327  
2012, included in an energy efficiency program of an electric 328  
distribution utility pursuant to requirements under section 329  
4928.66 of the Revised Code. 330

(b) As used in division (A) (37) of this section, 331  
"hydroelectric facility" means a hydroelectric generating 332  
facility that is located at a dam on a river, or on any water 333  
discharged to a river, that is within or bordering this state or 334  
within or bordering an adjoining state and meets all of the 335

following standards: 336

(i) The facility provides for river flows that are not 337  
detrimental for fish, wildlife, and water quality, including 338  
seasonal flow fluctuations as defined by the applicable 339  
licensing agency for the facility. 340

(ii) The facility demonstrates that it complies with the 341  
water quality standards of this state, which compliance may 342  
consist of certification under Section 401 of the "Clean Water 343  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 344  
demonstrates that it has not contributed to a finding by this 345  
state that the river has impaired water quality under Section 346  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 347  
U.S.C. 1313. 348

(iii) The facility complies with mandatory prescriptions 349  
regarding fish passage as required by the federal energy 350  
regulatory commission license issued for the project, regarding 351  
fish protection for riverine, anadromous, and catadromous fish. 352

(iv) The facility complies with the recommendations of the 353  
Ohio environmental protection agency and with the terms of its 354  
federal energy regulatory commission license regarding watershed 355  
protection, mitigation, or enhancement, to the extent of each 356  
agency's respective jurisdiction over the facility. 357

(v) The facility complies with provisions of the 358  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 359  
to 1544, as amended. 360

(vi) The facility does not harm cultural resources of the 361  
area. This can be shown through compliance with the terms of its 362  
federal energy regulatory commission license or, if the facility 363  
is not regulated by that commission, through development of a 364

plan approved by the Ohio historic preservation office, to the 365  
extent it has jurisdiction over the facility. 366

(vii) The facility complies with the terms of its federal 367  
energy regulatory commission license or exemption that are 368  
related to recreational access, accommodation, and facilities 369  
or, if the facility is not regulated by that commission, the 370  
facility complies with similar requirements as are recommended 371  
by resource agencies, to the extent they have jurisdiction over 372  
the facility; and the facility provides access to water to the 373  
public without fee or charge. 374

(viii) The facility is not recommended for removal by any 375  
federal agency or agency of any state, to the extent the 376  
particular agency has jurisdiction over the facility. 377

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 378  
this section do not apply to a small hydroelectric facility 379  
under division (A) (37) (a) (iv) of this section. 380

(38) "Waste energy recovery system" means either of the 381  
following: 382

(a) A facility that generates electricity through the 383  
conversion of energy from either of the following: 384

(i) Exhaust heat from engines or manufacturing, 385  
industrial, commercial, or institutional sites, except for 386  
exhaust heat from a facility whose primary purpose is the 387  
generation of electricity; 388

(ii) Reduction of pressure in gas pipelines before gas is 389  
distributed through the pipeline, provided that the conversion 390  
of energy to electricity is achieved without using additional 391  
fossil fuels. 392

(b) A facility at a state institution of higher education 393  
as defined in section 3345.011 of the Revised Code that recovers 394  
waste heat from electricity-producing engines or combustion 395  
turbines and that simultaneously uses the recovered heat to 396  
produce steam, provided that the facility was placed into 397  
service between January 1, 2002, and December 31, 2004. 398

(39) "Smart grid" means capital improvements to an 399  
electric distribution utility's distribution infrastructure that 400  
improve reliability, efficiency, resiliency, or reduce energy 401  
demand or use, including, but not limited to, advanced metering 402  
and automation of system functions. 403

(40) "Combined heat and power system" means the 404  
coproduction of electricity and useful thermal energy from the 405  
same fuel source designed to achieve thermal-efficiency levels 406  
of at least sixty per cent, with at least twenty per cent of the 407  
system's total useful energy in the form of thermal energy. 408

(41) "Legacy generation resource" means all generating 409  
facilities owned directly or indirectly by a corporation that 410  
was formed prior to 1960 by investor-owned utilities for the 411  
original purpose of providing power to the federal government 412  
for use in the nation's defense or in furtherance of national 413  
interests, including the Ohio valley electric corporation. 414

(42) "Prudently incurred costs related to a legacy 415  
generation resource" means costs, including deferred costs, 416  
allocated pursuant to a power agreement approved by the federal 417  
energy regulatory commission that relates to a legacy generation 418  
resource, less any revenues realized from offering the 419  
contractual commitment for the power agreement into the 420  
wholesale markets, provided that where the net revenues exceed 421  
net costs, those excess revenues shall be credited to customers. 422

Such costs shall exclude any return on investment in common equity and, in the event of a premature retirement of a legacy generation resource, shall exclude any recovery of remaining debt. Such costs shall include any incremental costs resulting from the bankruptcy of a current or former sponsor under such power agreement or co-owner of the legacy generation resource if not otherwise recovered through a utility rate cost recovery mechanism.

(43) "Green energy" means any energy generated by using an energy resource that does one or more of the following:

(a) Releases reduced air pollutants, thereby reducing cumulative air emissions;

(b) Is more sustainable and reliable relative to some fossil fuels.

"Green energy" includes energy generated by using natural gas as a resource.

(44) "Energy storage" means electrical generation and storage performed by a distributed energy system connected battery.

(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service.

**Sec. 4928.02.** It is the policy of this state to do the following throughout this state:

- (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service; 452  
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- (B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs; 455  
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- (C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities; 459  
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- (D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure; 463  
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- (E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language; 469  
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- (F) Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces; 476  
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- (G) Recognize the continuing emergence of competitive 480

electricity markets through the development and implementation	481
of flexible regulatory treatment;	482
(H) Ensure effective competition in the provision of	483
retail electric service by avoiding anticompetitive subsidies	484
flowing from a noncompetitive retail electric service to a	485
competitive retail electric service or to a product or service	486
other than retail electric service, and vice versa, including by	487
prohibiting the recovery of any generation-related costs through	488
distribution or transmission rates;	489
(I) Ensure retail electric service consumers protection	490
against unreasonable sales practices, market deficiencies, and	491
market power;	492
(J) Provide coherent, transparent means of giving	493
appropriate incentives to technologies that can adapt	494
successfully to potential environmental mandates;	495
(K) Encourage implementation of distributed generation	496
across customer classes through regular review and updating of	497
administrative rules governing critical issues such as, but not	498
limited to, interconnection standards, standby charges, and net	499
metering;	500
(L) Protect at-risk populations, including, but not	501
limited to, when considering the implementation of any new	502
advanced energy or renewable energy resource;	503
(M) Encourage the education of small business owners in	504
this state regarding the use of, and encourage the use of,	505
energy efficiency programs and alternative energy resources in	506
their businesses;	507
(N) Facilitate the state's effectiveness in the global	508
economy.	509

(O) Encourage cost-effective, timely, and efficient access to and sharing of customer usage data with customers and competitive suppliers to promote customer choice and grid modernization.

(P) Ensure that a customer's data is provided in a standard format and provided to third parties in as close to real time as is economically justifiable in order to spur economic investment and improve the energy options of individual customers.

(Q) Encourage the development of community solar facilities, as defined in section 4934.01 of the Revised Code, for the benefit of customers in this state and to facilitate participation by customers with the facilities.

(R) Establish a community solar pilot program, pursuant to sections 4934.04 to 4934.17 of the Revised Code, and a solar development program, pursuant to sections 4934.19 to 4934.23 of the Revised Code.

(S) Establish program evaluations and consumer protections ensuring community solar subscribers are effectively and equitably receiving guaranteed savings, as defined in section 4934.01 of the Revised Code, from participating in the community solar pilot program.

In carrying out this policy, the commission shall consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in this state.

**Sec. 4934.01.** As used in this chapter:

(A) "Appalachian region" has the same meaning as in section 107.21 of the Revised Code.

(B) "Appalachian-region site" means a distressed site that 539  
is located in the Appalachian region. 540

(C) "Bill credit" means the monetary value approved or 541  
revised under section 4934.08 or 4934.09 of the Revised Code by 542  
the public utilities commission for each kilowatt hour of 543  
electricity generated by a community solar facility and 544  
allocated to a subscriber's monthly electric bill to offset any 545  
part of the subscriber's electric bill. 546

(D) "Certified territory," "electric distribution 547  
utility," and "retail electric service" have the same meanings 548  
as in section 4928.01 of the Revised Code. 549

(E) "Community solar facility" means a single facility 550  
that generates electricity by means of a solar photovoltaic 551  
device and meets all of the following requirements: 552

(1) The facility is located in this state and is directly 553  
connected to an electric distribution utility's distribution 554  
system. 555

(2) The facility has at least three subscribers. 556

(3) The facility is located on one parcel of land and, 557  
except as provided in section 4934.011 of the Revised Code, 558  
there is no community solar facility or solar field on the same 559  
or a contiguous parcel that is developed, owned, or operated by 560  
the same entity, affiliated entity, or entity under common 561  
control. 562

(4) No subscriber holds more than a forty per cent 563  
proportional interest in the output of the system, which shall 564  
be measured as the sum total of all meters on the subscriber's 565  
property. 566

(5) Not less than sixty per cent of the facility capacity shall be subscribed by subscriptions of forty kilowatts or less based on the average annual demand for the prior twelve-month period. For purposes of this division, a multi-unit building served by a single meter shall be considered a single customer provided the average usage, based on the number of units, is forty kilowatts or less. 567  
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(6) The facility has a nameplate capacity of ten or less megawatts, or twenty or less megawatts if the facility is on a distressed site, as measured at the point of interconnection. 574  
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(7) The facility is not under the control of an electric distribution utility, but may be under the control of an affiliate of the utility. 577  
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(8) The facility provides retail electric service only to subscribers within the same electric distribution utility certified territory as the facility. 580  
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(F) "Community solar organization" means a for-profit or nonprofit entity that operates one or more community solar facilities. 583  
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(G) "Distressed site" means a site made up of one or more parcels of land, located within an electric distribution utility's certified territory, or located within a county in which such a utility operates, where the majority of the acreage is at least one or more of the following: 586  
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(1) A brownfield as defined in section 122.65 of the Revised Code; 591  
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(2) A parcel that is within an area where an investor may receive a new markets tax credit under section 45D of the Internal Revenue Code; 593  
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<u>(3) A solid waste facility licensed by the environmental</u>	596
<u>protection agency under section 3734.02 of the Revised Code;</u>	597
<u>(4) A parcel of land that is described by division (b) (11)</u>	598
<u>(B) (iii) of section 45 of the Internal Revenue Code;</u>	599
<u>(5) Land or structure owned by a metropolitan housing</u>	600
<u>authority, as described in section 3735.27 of the Revised Code;</u>	601
<u>(6) Land owned by a county land reutilization corporation</u>	602
<u>as defined in section 1724.01 of the Revised Code.</u>	603
<u>(H) "Guaranteed savings" means the realized savings by the</u>	604
<u>subscriber as the difference between the cost of a subscription</u>	605
<u>to a community solar facility and the bill credit received for</u>	606
<u>the generation attributed to the subscription.</u>	607
<u>(I) "Non-ministerial permit" means all necessary and</u>	608
<u>discretionary governmental permits and approvals to construct a</u>	609
<u>community solar facility or a solar field notwithstanding any</u>	610
<u>pending legal challenge to one or more permits or approvals.</u>	611
<u>(J) "Solar field" means a single facility that generates</u>	612
<u>electricity by means of a solar photovoltaic device that is</u>	613
<u>directly connected to an electric distribution utility's</u>	614
<u>distribution grid and is not a community solar facility,</u>	615
<u>regardless of the operational capacity that the facility is</u>	616
<u>designed for or capable of.</u>	617
<u>(K) "Subscriber" means any retail electric customer who</u>	618
<u>meets all of the following:</u>	619
<u>(1) The customer has a single unique tax identification</u>	620
<u>number;</u>	621
<u>(2) The customer has an electric meter on the customer's</u>	622
<u>property;</u>	623

(3) The customer resides within the certified territory of 624  
an electric distribution utility; 625

(4) The customer purchases a subscription. 626

(L) "Subscription" means the right to a share of the 627  
output of a community solar facility located in an electric 628  
distribution utility's certified territory purchased from a 629  
community solar organization. 630

(M) "Value stack" means distributed generation 631  
compensation calculated under section 4939.09 of the Revised 632  
Code that recognizes the benefits that community solar 633  
facilities bring to the electrical grid, including all of the 634  
following: 635

(1) Avoided costs for generation, capacity, and 636  
transmission; 637

(2) Deferred transmission distribution investments; 638

(3) Avoided line loss; 639

(4) Increased resiliency; 640

(5) Other benefits associated with locally produced 641  
electricity. 642

**Sec. 4934.011.** A community solar facility may be placed on 643  
the same parcel or a contiguous parcel of land as a community 644  
solar facility or solar field that is developed, owned, or 645  
operated by the same entity, affiliated entity, or entity under 646  
common control if at least one of the following is met: 647

(A) The parcel or parcels of land are a distressed site, 648  
and the total capacity of all community solar facilities and 649  
solar fields on the parcel or parcels does not exceed twenty 650

megawatts. 651

(B) All of the following are satisfied: 652

(1) The community solar facility is to be located on a 653  
parcel of land, or multiple parcels of land, that were created 654  
prior to the effective date of this section. 655

(2) The total capacity of all community solar facilities 656  
and solar fields on the parcel or parcels of land does not 657  
exceed ten megawatts. 658

(3) Each community solar facility has its own distinct 659  
point of interconnection with the serving electric distribution 660  
utility, including separate and distinct metering and the 661  
ability to be directly connected to or disconnected from the 662  
utility. 663

(4) The generation components of each community solar 664  
facility are separate, including separate fencing, and not 665  
connected with neighboring facilities other than by the 666  
utility's distribution system. 667

(5) Each community solar facility shares only non- 668  
operational infrastructure, including access roads, utility 669  
poles, and other features necessary to provide utility and 670  
physical access to each facility. 671

**Sec. 4934.04.** The public utilities commission shall 672  
establish a community solar pilot program, as described in 673  
sections 4934.05 to 4934.17 of the Revised Code, consisting of 674  
one thousand five hundred megawatts to be implemented throughout 675  
this state. 676

**Sec. 4934.05.** (A) The public utilities commission shall 677  
annually certify two hundred fifty megawatts of community solar 678

facilities, based on nameplate capacity, until one thousand 679  
megawatts from such facilities are certified. 680

(B) All megawatts certified pursuant to this section shall 681  
be allocated proportionally based off of the size of each 682  
utility's retail electric sales published by the energy 683  
information administration. 684

(C) Any uncertified megawatts for a year carry over to the 685  
subsequent year until all available megawatts are certified. 686

(D) All megawatts certified pursuant to this section shall 687  
be certified in the order that the certification applications 688  
were received. 689

(E) If applications for certification exceed the total 690  
capacity available for the year, then the applications shall be 691  
placed on a wait list as determined by the commission. Once 692  
certification of one thousand megawatts for community solar 693  
facilities has occurred, the wait list shall be eliminated. 694

(F) The commission shall ensure that certification under 695  
this section is separate from a certification process required 696  
under sections 4928.64 to 4928.645 of the Revised Code, or any 697  
related rules in the Ohio Administrative Code. 698

**Sec. 4934.06.** (A) The public utilities commission shall 699  
certify five hundred megawatts of community solar facilities, in 700  
addition to the megawatts certified under section 4934.05 of the 701  
Revised Code, which shall be reserved for community solar 702  
facilities constructed exclusively on distressed sites. 703

(B) The commission shall ensure that certification under 704  
this section is separate from a certification process required 705  
under sections 4928.64 to 4928.645 of the Revised Code, or any 706  
related rules in the Administrative Code. 707

(C) After all megawatts are certified pursuant to this 708  
section, a community solar facility on a distressed site may be 709  
certified from the megawatts allocated under section 4934.05 of 710  
the Revised Code. 711

**Sec. 4934.07.** (A) An electric distribution utility with a 712  
community solar facility in its certified territory shall 713  
purchase all electricity generated by the facility that is 714  
attributable to a subscriber's bill credit. 715

(B) An electric distribution utility with a community 716  
solar facility in its certified territory shall purchase the 717  
unsubscribed electricity from a community solar facility at the 718  
utility's wholesale energy cost as approved by the public 719  
utilities commission. 720

**Sec. 4934.08.** (A) As used in this section, "retail rate" 721  
means all costs of providing generation service, transmission 722  
service, and distribution service that may be charged by an 723  
electric distribution utility. 724

(B) A subscriber to a community solar facility shall be 725  
eligible for a bill credit from the subscriber's electric 726  
distribution utility for the proportional output of a community 727  
solar facility attributable to the subscriber. 728

(C) The public utilities commission shall establish the 729  
bill credit for each subscriber, subject to divisions (C) and 730  
(D) of this section, in either of the following amounts: 731

(1) If the community solar facility is not on a distressed 732  
site, the subscriber shall receive a non-distressed site bill 733  
credit that is equal to the utility's retail rate on a per- 734  
customer class basis, minus the utility's charge for 735  
distribution service. 736

(2) If the community solar facility is on a distressed site, the subscriber shall receive a distressed site bill credit that is equal to the utility's retail rate on a per-customer class basis. 737  
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(D) When determining the bill credit for each utility, the commission shall ensure that the bill credit is set at a reasonably compensatory level to create a financeable community solar market. 741  
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(E) When determining the bill credit for each utility, the commission shall consider all of the following: 745  
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(1) The costs and benefits provided by community solar facilities participating in the community solar pilot program; 747  
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(2) All proposed rules, fees, and charges; 749

(3) Any other item that the commission determines is necessary. 750  
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(F) The bill credit initially established under this section shall not be modified unless the commission determines, after the community solar pilot program review under section 4934.25 of the Revised Code is completed, that such changes are necessary to adjust for unallocated community solar capacity. Upon making such determination, the bill credit shall be modified pursuant to section 4934.09 of the Revised Code. 752  
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(G) The utility shall publish new tariffs or update existing tariffs based on the bill credit set under this section not later than nine months after the effective date of this section. 759  
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**Sec. 4934.09.** (A) If the public utilities commission determines that a bill credit modification is necessary pursuant 763  
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to division (F) of section 4934.08 of the Revised Code, the 765  
commission shall calculate the value stack for each electric 766  
distribution utility and use it to revise the bill credit. 767

(B) The commission shall approve a tariff based on the 768  
revised bill credit rate not later than twelve months after the 769  
report under section 4934.25 of the Revised Code is submitted. 770

**Sec. 4934.10.** Any bill credit exceeding a subscriber's 771  
monthly bill amount shall carry forward until fully allocated to 772  
the subscriber's bill or until the termination of the 773  
subscriber's community solar organization subscription. 774

**Sec. 4934.11.** (A) No subscriber may subscribe to a share 775  
of a community solar facility representing more than one hundred 776  
per cent of the subscriber's average annual electricity usage. 777

(B) A subscriber whose community solar subscription 778  
provides less than one hundred per cent of the subscriber's 779  
monthly electric usage may shop for the subscriber's remaining 780  
monthly electric usage as provided under Chapter 4928. of the 781  
Revised Code. 782

(C) A subscriber whose community solar subscription 783  
provides less than one hundred per cent of the subscriber's 784  
monthly electric usage and who chooses not to shop shall be 785  
provided the subscriber's remaining monthly electricity usage 786  
under the electric distribution utility's current standard 787  
service offer approved by the public utilities commission under 788  
Chapter 4928. of the Revised Code. 789

**Sec. 4934.12.** The purchase of a subscription shall be 790  
considered one of the following: 791

(A) A consumer transaction subject to Chapter 1345. of the 792  
Revised Code regarding the enrollment of residential subscribers 793

to purchase their shares; 794

(B) Goods subject to Chapter 1302. of the Revised Code 795  
regarding the enrollment of nonresidential subscribers to 796  
purchase such shares. 797

**Sec. 4934.13. An electric distribution utility shall** 798  
interconnect a community solar facility that is in that 799  
utility's certified territory to its distribution system within 800  
a reasonable time after the facility is constructed and shall 801  
ensure such interconnections are made efficiently, safely, and 802  
in compliance with any applicable federal and state regulations 803  
and standards. 804

**Sec. 4934.14. An electric distribution utility shall not** 805  
discriminate against community solar facilities or their 806  
subscribers, which includes adding extraordinary fees and 807  
charges not applied to similar facilities. 808

**Sec. 4934.15. (A) A community solar organization that** 809  
constructs a community solar facility on a distressed site that 810  
is a brownfield, as defined in section 122.65 of the Revised 811  
Code, shall be eligible to receive a grant awarded by the 812  
department of development from the brownfield remediation 813  
program under section 122.6511 of the Revised Code for costs 814  
associated with construction and remediation. 815

(B) The department of development shall promulgate rules 816  
for awarding grants described in this section. 817

**Sec. 4934.16. (A) The public utilities commission shall** 818  
convene and facilitate an ongoing stakeholder working group to 819  
assist commission staff with effectively and efficiently 820  
promulgating rules for the community solar pilot program. 821

(B) The working group shall consist of the following: 822

<u>(1) Electric distribution utilities;</u>	823
<u>(2) Consumer advocates;</u>	824
<u>(3) Community solar industry representatives;</u>	825
<u>(4) Other interested parties.</u>	826
<b><u>Sec. 4934.17. Not later than six months after the</u></b>	827
<u>effective date of this section, the public utilities commission,</u>	828
<u>with assistance from the working group established by section</u>	829
<u>4934.16 of the Revised Code shall promulgate rules to implement</u>	830
<u>the community solar pilot program, which shall include rules for</u>	831
<u>the creation and establishment of community solar facilities,</u>	832
<u>and the following:</u>	833
<u>(A) The certification of community solar facilities, which</u>	834
<u>shall include rules for the commission to approve or deny each</u>	835
<u>facility application within ninety days, unless good cause is</u>	836
<u>shown for not meeting the deadline, as determined by the</u>	837
<u>commission;</u>	838
<u>(B) Prohibit removing a subscriber from the subscriber's</u>	839
<u>applicable customer class because of the subscriber's</u>	840
<u>subscription to a community solar facility;</u>	841
<u>(C) Reasonably allow for the transfer and portability of</u>	842
<u>subscriptions, including allowing a subscriber to retain a</u>	843
<u>subscription to a facility if the subscriber moves within the</u>	844
<u>same electric distribution utility's service territory;</u>	845
<u>(D) Modify existing interconnection standards, fees, and</u>	846
<u>processes as needed to facilitate the efficient and cost-</u>	847
<u>effective interconnection of community solar facilities that</u>	848
<u>allow an electric distribution utility to recover reasonable</u>	849
<u>interconnection costs for each facility;</u>	850

(E) Require each electric distribution utility to 851  
efficiently connect a community solar facility to its electrical 852  
distribution grid and not to discriminate against facilities or 853  
subscribers; 854

(F) Provide for consumer protection in accordance with 855  
existing laws and regulations, including any protections against 856  
disconnection of service; 857

(G) Establish robust consumer protections for subscribers, 858  
including at least the following: 859

(1) A standardized customer disclosure form for 860  
residential subscribers; 861

(2) Prohibiting upfront sign-on fees or credit checks; 862

(3) Preventing early termination charges to any subscriber 863  
who unsubscribes. 864

(H) Allow an electric distribution utility to recover 865  
reasonable costs associated with administering the community 866  
solar pilot program; 867

(I) Ensure that costs associated with the community solar 868  
pilot program only be recovered from customer classes 869  
participating in the program and that no cross-subsidization of 870  
costs between customer classes occurs; 871

(J) Ensure facilities qualifying for the community solar 872  
pilot program have a signed interconnection agreement or a 873  
system impact study, as determined by the commission, can 874  
demonstrate site control, and have received all applicable non- 875  
ministerial permits; 876

(K) Require each community solar organization to send a 877  
notice in a standardized format containing information related 878

to subscriber enrollment to the electric distribution utility 879  
that services the area where the organization's community solar 880  
facility is sited; 881

(L) Not later than nine months after the effective date of 882  
this section, require each electric distribution utility to 883  
publish new tariffs or update existing tariffs to implement the 884  
community solar pilot program; 885

(M) Establish community solar pilot program evaluations 886  
and consumer protections to ensure that subscribers are 887  
effectively and equitably receiving guaranteed savings from 888  
participating in the community solar pilot program. 889

**Sec. 4934.19.** The public utilities commission shall 890  
establish a solar development program, as described in sections 891  
4934.20 to 4934.23 of the Revised Code, consisting of two 892  
hundred fifty megawatts implemented in the Appalachian region of 893  
this state. 894

**Sec. 4934.20.** The public utilities commission shall 895  
certify two hundred fifty megawatts of capacity for community 896  
solar facilities or solar fields constructed on Appalachian- 897  
region sites, distributed among the electric distribution 898  
utilities serving the Appalachian region. 899

**Sec. 4934.21.** A subscriber to a community solar facility 900  
certified on an Appalachian-region site shall receive a 901  
distressed site bill credit under the community solar pilot 902  
program. 903

**Sec. 4934.22.** (A) The public utilities commission shall 904  
determine an energy value, which shall be used to incentivize 905  
the development of community solar facilities or solar fields on 906  
Appalachian-region sites. 907

<u>(B) The energy value shall include at least the following:</u>	908
<u>(1) Real-time hourly location marginal prices;</u>	909
<u>(2) Effective-load carrying capacity rating corresponding to facility design;</u>	910 911
<u>(3) A transmission value that encompasses historical zonal transmission peaks published in the network integration transmission service rate;</u>	912 913 914
<u>(4) Annual net capacity factors for solar;</u>	915
<u>(5) The average clearing price for the governing regional transmission operator's tier I renewable energy credits;</u>	916 917
<u>(6) The locational value of avoided or deferred costs to local load.</u>	918 919
<b><u>Sec. 4934.23. Not later than six months after the effective date of this section, the public utilities commission shall promulgate rules to implement the solar development program, which shall include the following:</u></b>	920 921 922 923
<u>(A) Community solar facilities and solar fields on Appalachian-region sites shall be permitted to connect into the distribution grid or transmission infrastructure in the most cost-effective manner to ensure redevelopment;</u>	924 925 926 927
<u>(B) Community solar facilities and solar fields on Appalachian-region sites shall be permitted to locate multiple facilities on the same parcel of land or contiguous parcels of land;</u>	928 929 930 931
<u>(C) The certification of community solar facilities or solar fields on Appalachian-region sites, which shall include rules for the commission to approve or deny each facility</u>	932 933 934

application within ninety days, unless good cause is shown for 935  
not meeting the deadline, as determined by the commission; 936

(D) Modify existing interconnection standards, fees, and 937  
processes as needed to facilitate the efficient and cost- 938  
effective interconnection of facilities on Appalachian-region 939  
sites that allow for the reasonable cost recovery by the 940  
governing electric distribution utility for the interconnection 941  
costs for each facility; 942

(E) Provide consumer protection in accordance with 943  
existing laws and regulations, including any protections against 944  
disconnection of service; 945

(F) Ensure that costs associated with the solar 946  
development program only be recovered from customer classes 947  
participating in the solar development program and that no 948  
cross-subsidization of costs between customer classes occurs; 949

(G) Ensure that community solar facilities on Appalachian- 950  
region sites also satisfy all applicable requirements under the 951  
community solar pilot program. 952

**Sec. 4934.25.** (A) The public utilities commission shall 953  
conduct reviews of the community solar pilot program and the 954  
solar development program forty-eight months after the rules for 955  
each program have been promulgated and submit a report to the 956  
general assembly with the following information: 957

(1) The number and location of operating community solar 958  
facilities and operating solar fields on Appalachian-region 959  
sites; 960

(2) The amount of nameplate capacity certified; 961

(3) The number of subscribers, how much energy was 962

subscribed to by those subscribers, and the types of customer 963  
classes that subscribed; 964

(4) Whether guaranteed savings were achieved by the 965  
subscribers. 966

(B) The commission shall promulgate rules to require 967  
community solar organizations and electric distribution 968  
utilities to provide the commission with a report containing the 969  
relevant information described in division (A) of this section. 970

**Sec. 4934.27.** Notwithstanding any provision of section 971  
121.95 of the Revised Code to the contrary, a regulatory 972  
restriction contained in a rule adopted under sections 4934.15, 973  
4934.17, 4934.23, and 4934.25 of the Revised Code is not subject 974  
to sections 121.95 to 121.953 of the Revised Code. 975

**Section 2.** That existing sections 4928.01 and 4928.02 of 976  
the Revised Code are hereby repealed. 977