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H.B. 303  
136<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsors:** Reps. Ray and Hoops

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## SUMMARY

### Community energy facilities

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

### Community Energy Pilot Program

- Requires the Public Utilities Commission (PUCO) to establish a Community Energy Pilot Program “Pilot Program,” consisting of 1,500 megawatts (MWs) of CEFs to be implemented throughout Ohio.
- Specifies that only the General Assembly can expand the amount of MWs in the Pilot Program.

### CEFs statewide

- Requires PUCO to annually certify 250 MWs of CEFs, based on nameplate capacity, until 1,000 MWs from such facilities are certified, and allocate MWs proportionally based on the size of each electric distribution utility’s (EDU’s) retail electric sales as published by the Energy Information Administration.

- Creates procedures regarding uncertified MWs and applications for certification, including a requirement that the certification process be separate from certification regarding renewable energy benchmarks and energy credits.

### **CEFs on distressed sites/commercial or public sector rooftops**

- Defines a “distressed site” as a site made up of one or more parcels of land located within an EDU’s certified territory, or in a county in which the EDU operates, where a majority of the acreage is a certain type of property, including, for example, a brownfield.
- Requires PUCO to certify 500 MWs of CEFs to be reserved for CEFs constructed exclusively on distressed sites or one or more commercial or public sector rooftops.
- Requires PUCO to ensure the certification process is separate from certification under renewable energy benchmarks and renewable energy credits.
- Allows a CEF, after all 500 MWs for distressed sites or a commercial or public sector rooftop, are certified, to be certified out of the 1,000 MWs allocated statewide (described above).

### **Bill credits**

- Requires an EDU with a CEF in its certified territory to allocate bill credits for all electricity generated by the facility that is attributable to a subscription.
- Allows a community energy organization (CEO) to account for unsubscribed electricity on a monthly basis and accumulate bill credits for the unsubscribed electricity for a period of up to 12 months after it was generated, which must be allocated to future subscribers at the direction of the CEO.
- Requires a CEO, at least once annually, to furnish to the EDU, in whose certified territory the CEF is located, an allocation for distribution of bill credits to subscribers for unsubscribed electricity.
- Requires the CEO to forfeit, to the applicable EDU, any bill credits for unsubscribed electricity that are not allocated.
- Provides that a CEF subscriber (any retail electric customer who meets certain requirements, including, for example, contracting with a CEF for a subscription) is eligible for a bill credit from the subscriber’s EDU for the proportional output of a CEF attributable to the subscriber.
- Requires PUCO to establish the bill credit for each subscriber that is equal to the EDU’s retail rate (all costs of providing generation, transmission, and distribution services that may be charged by an EDU) on a per-customer class basis, minus certain distribution charges assessed by the EDU.
- Requires EDUs, not later than nine months after the bill’s effective date, to publish new tariffs or update existing tariffs based on the initially established bill credit.

- Requires any bill credit exceeding a subscriber's monthly bill amount to carry forward until fully allocated to the subscriber's bill or until the termination of the subscriber's subscription.

### **Subscriptions**

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

### **Consumer transactions**

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

### **Renewable attributes**

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

### **Customers exempted from charges under the Pilot Program**

- Prohibits large industrial customers and mercantile customers (as defined under the CRES law) from participating in, or being charged, directly or indirectly, for any costs related to, the Pilot Program, including any approved bill credits.
- Defines "large industrial customer" as any manufacturer that uses electricity primarily in a process involving a change of raw or unfinished materials into another form or product, and that takes service from an EDU at certain voltages.
- Exempts nonparticipating residential and commercial customers from being charged, directly or indirectly, for any costs related to the Pilot Program.

### **Interconnection of a CEF**

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

### **Discrimination prohibited**

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

## **CEFs located on a brownfield**

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

## **Stakeholder working group**

- Requires PUCO to convene and facilitate an ongoing stakeholder working group, or designate an existing group to function as the working group, to assist PUCO staff with effectively and efficiently promulgating rules for the Pilot Program.
- Requires the working group to consist of EDUs, consumer advocates, community energy industry representatives, and other interested parties.

## **PUCO jurisdiction**

- Grants PUCO exclusive jurisdiction over the regulation of the interconnection of CEFs to electric utilities' distribution systems.
- Prohibits a board of county commissioners, township trustees, or the legislative authority of a municipal corporation from adopting or enforcing regulations governing the technical requirements, processes, or costs of interconnection for a CEF.
- Provides that counties, townships, and municipal corporations still retain all powers to zone "small wind farms" and "small solar farms" as under continuing law, unchanged by the bill.

## **PUCO rulemaking for Pilot Program**

- Requires PUCO, not later than 12 months after the bill's effective date, with assistance from the working group, to promulgate rules to implement the Pilot Program, which must include rules for the creation and establishment of CEFs and a variety of other rules.

## **Distributed energy resources**

- Provides that a "distributed energy resource" that meets the criteria to be a CEF, and certain other requirements, must retain its original position in the interconnection queue and remain eligible to participate in the Pilot Program.
- Defines "distributed energy resource" as a small-scale electricity-generating or storage system connected to the distribution grid, including certain technologies that enhance grid resilience, provide energy security, and offer potential cost savings.
- Requires PUCO to ensure that projects do not restart the interconnection process or forfeit any completed engineering reviews or fees, and that projects commence any applicable study process within a certain time.

- Provides that a distributed energy resource owner or operator that fails to engage in good faith progression of the interconnection process may lose queue position or eligibility in the Pilot Program.

## **Net crediting**

- Requires an EDU to establish a net crediting program under which the EDU must enter into a net crediting agreement with a CEO, the terms of which must specify certain provisions regarding customer billing and payments made by the EDU to the CEO and may also include a net crediting fee.
- Defines “net crediting” as a program offered by an EDU under which it issues to a customer-subscriber a consolidated electric bill and remits the customer’s subscription fee to the owner or operator of the CEO to which the customer subscribes.
- Requires an EDU, under a net crediting agreement, to do various things related to customer billing and payments to a CEO such as, for example, remit the cash value of the subscriber’s subscription fee, minus any net crediting fee, to the CEO, and issue itemized monthly bills to subscribers that are customers of an EDU.
- Allows a nonresidential customer that subscribes to multiple CEFs to participate in the net crediting program only if each facility is included in a net credit agreement.
- Applies the minimum service requirements established under the CRES law to the bill’s net crediting agreement provisions.
- Requires PUCO to adopt rules to implement net crediting programs authorized by the bill’s provisions.

## **Decommissioning of CEF**

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

## **PUCO review and report**

- Requires PUCO, 48 months after the rules for the Pilot Program have been promulgated, to conduct reviews of the Pilot Program and present the report at a hearing before the appropriate committees in each chamber of the General Assembly.

## **Regulatory restriction reduction exemption**

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

## **Electricity expressed in alternating current**

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

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## DETAILED ANALYSIS

### Summary

The bill creates a framework by which community energy facilities (CEFs) can be developed in Ohio. First, the bill amends Ohio energy policy to include provisions encouraging the development of CEFs, consumer protections for subscribers of CEFs, and the establishment of a Community Energy Pilot Program (“Pilot Program”), which the Public Utilities Commission (PUCO) must develop. The Pilot Program allows up to 1,500 megawatts (MWs) of CEFs to be implemented throughout Ohio. The bill also provides for how the Pilot Program must be implemented, including, for example, criteria for facilities to qualify as a CEF, calculation of bill credits for subscribers, PUCO jurisdiction over the interconnection process, rules for subscriptions, and a requirement for PUCO to conduct a review of the Pilot Program and present a report to the applicable committees within each chamber of the General Assembly. There are additional provisions related to distributed energy resources that qualify as CEFs keeping their position within the interconnection queue.

The bill also establishes for all CEFs a net crediting program by an electric distribution utility (EDU) and provides for CEF decommissioning. The bill additionally provides that all rules required to be adopted by the bill’s provisions be exempt from regulatory restriction reduction limitations in existing law. Lastly, the bill specifies that all measures of electricity used throughout the Revised Code (watts, kilowatts, MWs, etc.) mean electricity expressed in alternating current, unless otherwise stated.

### Discussion

#### Community energy facilities

##### State CRES policy includes community energy facilities

The bill adds to the state competitive retail electric service (CRES) policy, new policies to encourage the development of CEFs for the benefit of customers in Ohio, facilitate participation by customers with the CEFs, and establish the Pilot Program.<sup>1</sup>

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<sup>1</sup> R.C. 4928.02(Q) and (R).

## Definitions of frequently used terms

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

- “Community energy facility” means a single facility that generates electricity by means of a solar photovoltaic device or uses as its fuel either solar, wind, biomass, landfill gas, or hydroelectric power, or uses a microturbine, natural gas-fired generator, energy storage system, or a fuel cell, and meets all of the following criteria:
  - Is located in Ohio and is directly connected to an EDU’s distribution system.
  - Has at least three subscribers;
  - Is located on one parcel of land and there is no CEF on the same or a contiguous parcel that is developed, owned, or operated by the same entity, affiliated entity, or entity under common control;
  - No subscriber holds more than 60% proportional interest in the output of the system, which must be measured as the sum total of all meters on the subscriber’s property;
  - Not less than 40% of the CEF capacity must be subscribed by subscriptions of 40 KWs or less, with a multi-unit building served by a single meter being considered a single customer, provided the average usage, based on the number of units, is 40 KWs or less;
  - The CEF has a nameplate capacity of 10 MWs or less, or 20 MWs or less if the CEF is on a distressed site or one or more commercial or public sector rooftops, as measured at the point of interconnection;
  - The CEF is not under the control of an EDU, but may be under the control of an affiliate of the EDU.

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

- “Subscriber” means any retail electric customer who:
  - Has an electric meter on the customer’s property;
  - Is located within the certified territory of an EDU;
  - Contracts for a subscription from a CEF located in the same certified territory as the customer;
  - For customers with subscriptions of 40 kilowatts or less that are not located on a distressed site, the CEF must be located in either the same county as the customer or in a contiguous county to the customer’s electric meter. “Contiguous county” means a county that directly shares a border with another county, including counties who

- only share a border with another county's endpoints, and counties that are adjacent geographically, with no intervening counties between them.
- Is not a large industrial customer or mercantile customer (discussed below).
  - "Subscription" means the right to obtain, from a community energy organization, an allocation of bill credits (discussed below) for electricity generated by a CEF.
  - "Unsubscribed electricity" means any electricity generated by a CEF that is not attributable to a subscription.
  - "Community energy organization" (CEO) means a for-profit or nonprofit entity that operates one or more CEFs.<sup>2</sup>
  - "Distressed site" means a site made up of one or more parcels of land, located within an EDU's certified territory where the majority of the acreage is at least one or more of the following:
    - A brownfield;<sup>3</sup>
    - 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;
    - A solid waste facility licensed by the Ohio EPA;<sup>4</sup>
    - A parcel of land that is described by section 45(b)(11) (B)(iii) of the Internal Revenue Code;
    - Land or structure owned by a metropolitan housing authority;<sup>5</sup>
    - Land owned by a county land reutilization corporation.<sup>6</sup>

### **CEFs placed on the same parcel**

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

- The parcel or parcels of land are a distressed site or CEF is on one or more "commercial or public sector rooftops" (either a roof of a building located on commercial real estate, or any property owned by a public authority, located in an EDU's certified territory) and the total capacity of all CEFs on the parcel or parcels does not exceed 20 MWs.
- All of the following are satisfied:

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<sup>2</sup> R.C. 4934.01(D), (E), (F), (M), (N), and (O).

<sup>3</sup> R.C. 122.6511, not in the bill.

<sup>4</sup> R.C. 3734.02, not in the bill.

<sup>5</sup> R.C. 3735.27, not in the bill.

<sup>6</sup> R.C. 4934.01(G); R.C. 1724.01, not in the bill.

- The CEF is to be located on a parcel of land, or multiple parcels of land, that were created prior to the bill's effective date.
- The total capacity of all CEFs on the parcel or parcels of land does not exceed 10 MWs.
- Each CEF has its own distinct point of interconnection with the serving EDU, including separate and distinct metering and the ability to be directly connected to or disconnected from the EDU.
- The generation components of each CEF are separate, including separate fencing, and not connected with neighboring facilities other than by the EDU's distribution system.
- Each CEF shares only nonoperational infrastructure, including access roads, utility poles, and other features necessary to provide utility and physical access to each CEF.<sup>7</sup>

### **Community Energy Pilot Program**

The bill requires PUCO to establish a Community Energy Pilot Program ("Pilot Program") consisting of 1,500 MWs of CEFs (which can only be expanded by the General Assembly) to be implemented throughout Ohio as follows.

#### **CEFs statewide**

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

- All MWs certified must be allocated proportionally based on the size of each EDU's retail electric sales published by the Energy Information Administration.
- Any uncertified MWs for a year carry over to the subsequent year until all available MWs are certified.
- All MWs certified must be certified in the order that the certification applications were received.
- If applications for certification exceed the total capacity available for the year, then the applications must be placed on a wait list, determined by PUCO, and once certification of 1,000 MWs of CEFs has occurred, the wait list is eliminated.
- Requires PUCO to ensure that certification for these CEFs is separate from any certification process under Ohio's renewable energy benchmark and renewable energy credits laws and regulations.<sup>8</sup>

#### **CEFs on distressed sites/commercial or public sector rooftops**

The bill requires PUCO to certify 500 MWs of CEFs, in addition to the 1,000 MWs described above, which must be reserved for CEFs constructed exclusively on distressed sites or one or more commercial or public sector rooftops. PUCO must ensure that certification of these CEFs is

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<sup>7</sup> R.C. 4934.01(C) and 4934.011; R.C. 1311.25 and 1311.85, not in the bill.

<sup>8</sup> R.C. 4934.04 and 4934.05; R.C. 4928.64 to 4928.645, not in the bill.

separate from any certification process under Ohio's renewable energy benchmark and renewable energy credits laws. After these 500 MWs are certified, a CEF on a distressed site or a commercial or public sector rooftop may be certified from the 1,000 MWs for CEFs statewide.<sup>9</sup>

### **Bill credits**

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

The bill requires a CEO, at least once annually, to furnish to the EDU in whose certified territory the CEF is located an allocation for distribution of bill credits to subscribers for unsubscribed electricity. Additionally, a CEO must forfeit to the applicable EDU any bill credits for unallocated unsubscribed electricity.<sup>10</sup>

### ***Establishment of bill credit***

The bill requires PUCO to establish the bill credit for each subscriber that is equal to the EDU's retail rate (all costs of providing generation service, transmission service, and distribution service that may be charged by an EDU) on a per-customer class basis, minus only the EDU's base charge for distribution service approved under Ohio's Utility Ratemaking laws (Chapter 4909 of the Revised Code) and the EDU's distribution riders or other distribution charges approved under the CRES law. The bill also requires EDUs, not later than nine months after the bill's effective date, to publish new tariffs or update existing tariffs based on the bill credit.<sup>11</sup>

### ***Carryover bill credits***

The bill requires any bill credit exceeding a subscriber's monthly bill amount to carry forward until fully allocated to the subscriber's bill or until the termination of the subscriber's CEO subscription.<sup>12</sup>

### **Subscription rules**

#### ***Size limit***

The bill prohibits subscribers from obtaining a subscription for electricity generated by a CEF representing more than 100% of the subscriber's average annual electricity usage.<sup>13</sup>

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<sup>9</sup> R.C. 4934.06; R.C. 4928.64 to 4928.645, not in the bill.

<sup>10</sup> R.C. 4934.01(A), 4934.07, and 4934.08(B).

<sup>11</sup> R.C. 4934.08(A), (C), and (D).

<sup>12</sup> R.C. 4934.10.

<sup>13</sup> R.C. 4934.11.

### ***Consumer transactions***

The bill requires a subscription to be considered:

- A consumer transaction subject to Ohio’s Consumer Sales Practices law in Chapter 1345. of the Revised Code regarding the enrollment of residential subscribers to obtain an allocation of bill credits;
- Goods subject to Ohio’s Commercial Code covering Sales in Chapter 1302. of the Revised Code regarding the enrollment of nonresidential subscribers to obtain an allocation of bill credits.<sup>14</sup>

### **Renewable attributes**

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

Under the bill, a “regional governmental aggregator” means a regional council of governments established under continuing law, unchanged by the bill, with members in at least 17 counties that is also a governmental aggregator under the CRES law.

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

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

The bill defines “political subdivision” as a county, township, or municipal corporation, or any other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.<sup>15</sup>

### **Customers excluded from the Pilot Program**

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

Under the bill, “large industrial customer” means any manufacturer that uses electricity primarily in a process involving a change of raw or unfinished materials into another form or

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<sup>14</sup> R.C. 4934.12.

<sup>15</sup> R.C. 4934.01(L) and 4934.071; R.C. 4928.20 and Chapter 167, not in the bill.

product, and that takes service from an EDU at primary voltage, subtransmission voltage, or transmission voltage.

“Mercantile customer” has the same definition as used in the CRES law, which 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.<sup>16</sup>

### **Interconnection of a CEF**

The bill requires an EDU to interconnect a CEF located in that EDU’s certified territory to its distribution system within a reasonable time after the CEF is constructed and must ensure such interconnections are made efficiently, safely, and in compliance with any applicable federal and state regulations and standards.<sup>17</sup>

### **Discrimination prohibited**

The bill prohibits an EDU from discriminating against CEFs or their subscribers, which includes adding extraordinary fees and charges not applied to similar facilities.<sup>18</sup>

### **CEFs located on a brownfield**

The bill provides that a CEO that constructs a CEF on a distressed site that is a brownfield is eligible to receive a grant awarded by the Department of Development (DEV) from the Brownfield Remediation Program for costs associated with remediation. The bill further requires DEV to promulgate rules for awarding such grants.<sup>19</sup>

### **Stakeholder working group**

The bill requires PUCO to convene and facilitate an ongoing stakeholder working group, or designate an existing group to function as the working group, to assist PUCO staff with effectively and efficiently promulgating rules for the Pilot Program. The bill requires the working group to consist of EDUs, consumer advocates, community energy industry representatives, and other interested parties.<sup>20</sup>

### **PUCO jurisdiction**

The bill grants PUCO exclusive jurisdiction over the regulation of CEF-interconnection to an electric utilities’ distribution system, prohibiting a board of county commissioners, township trustees, or the legislative authority of a municipal corporation from adopting or enforcing regulations governing the technical requirements, processes, or costs of CEF-interconnection.

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<sup>16</sup> R.C. 4934.01(H) and (I), and 4934.072; R.C. 4928.01(A)(19), not in the bill.

<sup>17</sup> R.C. 4934.13.

<sup>18</sup> R.C. 4934.14.

<sup>19</sup> R.C. 4934.25; R.C. 122.6511(A)(1), not in the bill.

<sup>20</sup> R.C. 4934.26.

The bill, however, provides that nothing in the law created by the bill can be construed to limit the authority of a board of county commissioners, township trustees, zoning appeals, or the legislative authority of a municipal corporation to regulate the zoning of a small wind farm or small solar facility.

Under continuing law, unchanged by the bill, a “small wind farm” means wind turbines and associated facilities that are not subject to the Power Siting Board’s jurisdiction (meaning the nameplate capacity for such facilities is, with some exceptions, less than 5 MWs).

A “small solar facility” means solar panels and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than 50 MWs.<sup>21</sup>

### **PUCO review**

The bill requires PUCO to conduct reviews of the Pilot Program 48 months after the rules for the program have been promulgated and present a report at a hearing before the appropriate House and Senate committees, containing the following:

- The number and location of operating CEFs;
- The amount of nameplate capacity certified;
- The number of subscribers, how much energy was subscribed to by those subscribers, and the types of customer classes that subscribed;
- Avoided costs for generation, capacity, and transmission;
- Deferred transmission distribution investments;
- Avoided line loss;
- Increases in electric grid resiliency;
- Other benefits associated with locally produced electricity;
- An evaluation of the overall costs and benefits of the Pilot Program, including an assessment of whether the Pilot Program has successfully minimized direct or indirect costs related to CEFs to an EDU’s nonsubscriber ratepayers and whether program costs and benefits have been allocated in proportion to customer participation within each rate class.<sup>22</sup>

### **PUCO rulemaking for Pilot Program**

The bill requires PUCO, not later than 12 months after the bill’s effective date and with assistance from the working group described above, to promulgate rules to implement the Pilot Program, which must include the following:

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<sup>21</sup> R.C. 4934.17; R.C. 303.213, 519.213, 713.081, 4906.13, 4906.20, and 4906.201, not in the bill.

<sup>22</sup> R.C. 4934.37.

- Rules for the creation and establishment of CEFs and the collection of a reasonable application fee from each participating CEO;
- CEF certification, including rules for PUCO to approve or deny each CEF application within 90 days, unless good cause is shown for not meeting the deadline, as determined by PUCO;
- Prohibit removing a subscriber from the subscriber's applicable customer class because of the subscriber's subscription to a CEF;
- Reasonably allow for the transfer and portability of subscriptions, including allowing a subscriber to retain a subscription to a CEF if the subscriber moves within the same EDU's service territory;
- Modify existing interconnection standards, fees, and processes as needed to facilitate the efficient and cost-effective interconnection of CEFs that allow an EDU to recover reasonable interconnection costs for each CEF;
- Require each EDU to efficiently connect a CEF to its electrical distribution grid and not to discriminate against CEFs or subscribers;
- Provide for consumer protection in existing laws and regulations, including any protections against disconnection of service;
- Establish robust consumer protections for subscribers, including at least:
  - A standardized customer disclosure form for residential subscribers;
  - Prohibiting upfront sign-on fees or credit checks;
  - Preventing early termination charges to any subscriber who unsubscribes.
- Allow an EDU to recover reasonable costs associated with administering the Pilot Program from subscribers or CEOs;
- Ensure that the bill's provisions are construed to minimize direct or indirect costs related to CEFs to an EDU's nonsubscriber ratepayers and must maximize benefits to all rate classes, regardless of participation in a community energy program;
- Ensure CEFs qualifying for the Pilot Program have a signed interconnection agreement or a system impact study, as determined by PUCO, can demonstrate site control, and have received all applicable nonministerial permits (all necessary and discretionary governmental permits and approvals to construct a CEF notwithstanding any pending legal challenge to one or more permits or approvals).
- Require each CEO to send a notice in a standardized format containing information related to subscriber enrollment to the EDU that services the area where the CEO's CEF is sited;
- Require each EDU, not later than nine months after the bill's effective date, to publish new tariffs or update existing tariffs to implement the Pilot Program;

- Require a CEO to be responsible for the CEF's decommissioning.<sup>23</sup>

### **Distributed energy resources**

The bill requires a distributed energy resource (DER) to retain its original position in the interconnection queue and remain eligible to participate in the Pilot Program, if:

- The DER meets all the criteria to be a CEF, all Pilot Program eligibility requirements, and any rules adopted by PUCO;
- The DER has submitted a completed interconnection application to an EDU;
- The DER has site control before the bill's effective date.

Under the bill, a DER is defined as a small-scale electricity-generating or storage system connected to the distribution grid, including technologies such as rooftop solar, batteries, and generators, that enhance grid resilience, provide energy security, and offer potential cost savings.

The bill requires PUCO to ensure that DERs that have met the criteria described above do not restart the interconnection process or forfeit any previously completed engineering reviews or fees, and that the DERs commence any applicable study process within 30 days of receiving the study agreement or pursuant to PUCO-established timelines.

The bill further provides that an owner or operator of a DER that fails to engage in good faith progression of the interconnection process, including willful delay or obstruction, may result in loss of queue position or eligibility in the Pilot Program.<sup>24</sup>

### **Net crediting program**

The bill requires an EDU to establish a net crediting program, under which the EDU must enter into a net crediting agreement with a CEO. Under the bill, "net crediting" means a program offered by an EDU under which it: (1) issues to a customer-subscriber a consolidated electric bill that includes the utility charges for electric service, the subscription charge, and any bill credits, (2) remits the customer's subscription fee to the owner or operator of the CEO to which the customer subscribes.

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

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

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<sup>23</sup> R.C. 4934.01(K) and 4934.27.

<sup>24</sup> R.C. 4934.28.

- Remit, through an electronic funds transfer, the cash value of the subscriber's subscription fee, less any net crediting fee, to the CEO not later than 30 days after the billing period;
- Issue EDU customers who are subscribers an itemized monthly bill that includes, in addition to charges for basic electric services, the subscriber's bill credit for the billing period and the subscriber's bill credit for the billing period and the subscriber's subscription fee;
- Process monthly bills for subscribers who participate in low-income customer assistance programs or budget billing programs in the same manner as bills for customers who are not participating in such programs;
- Bill for all basic electric services, including, transmission, distribution, and generation charges, consistent with the bill's net crediting programs provisions and PUCO regulations.<sup>25</sup>

### **Nonresidential customer**

The bill allows a nonresidential customer that subscribes to multiple CEFs to participate in the net crediting program only if each CEF is included in a net crediting agreement.<sup>26</sup>

### **Minimum service requirements**

The bill provides that the minimum service requirements established in the CRES law to apply to the bill's net crediting program provisions.<sup>27</sup>

### **PUCO rulemaking**

The bill requires PUCO to adopt rules to implement net crediting programs authorized under the bill's net crediting program provisions.<sup>28</sup>

### **Decommissioning of CEF**

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

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

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<sup>25</sup> R.C. 4934.01(J) and 4934.19.

<sup>26</sup> R.C. 4934.20.

<sup>27</sup> R.C. 4934.21; R.C. 4928.10, not in the bill.

<sup>28</sup> R.C. 4934.22.

The bill further provides that not more than 20% of the total combined mass of the CEF may enter a landfill.<sup>29</sup>

### **Bonding requirements**

The bill requires CEOs to maintain sufficient financial assurances, in the form of a bond, through the life of a CEF's operation to provide for decommissioning. The amount of the bond must be calculated by a third-party professional engineer obtained by the CEO. The bond amount must be recalculated in the same manner every five years from the date of the initial assessment. Lastly, the bill requires the board of county commissioners where the project is located to be the obligee of the bond.<sup>30</sup>

### **Regulatory restriction reduction exemption**

All rules required to be adopted by PUCO and DEV under the CEF provisions in the bill are exempted from the regulatory restriction limitation in existing law. Specifically, PUCO rules regarding implementing the Pilot Program, the Net Crediting Program, and rules regarding the Pilot Project presentation to the General Assembly are excluded from this limitation. DEV rules for awarding Brownfield Remediation Program grants to CEOs that construct CEFs on distressed sites that are brownfields are also exempted.<sup>31</sup>

### **Electricity expressed in alternating current**

The bill adds a provision that specifies that throughout the Revised Code, unless the context requires otherwise, all measures of electricity described in watts, kW, MW, or any derivative thereof means such electricity expressed in alternating current.<sup>32</sup>

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## **HISTORY**

Action	Date
Introduced	05-27-25
Reported, H. Energy	11-18-25
Passed House (77-8)	11-19-25

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<sup>29</sup> R.C. 4934.35.

<sup>30</sup> R.C. 4934.36.

<sup>31</sup> R.C. 4934.22, 4934.25, 4934.27, 4934.37, and 4934.38; R.C. 121.95 to 121.953, not in the bill.

<sup>32</sup> R.C. 1.66.