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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Rader and D. Thomas

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### SUMMARY

#### Cost recovery for data centers prohibited

- Prohibits an electric distribution utility (EDU) from recovering certain costs associated with, or caused by, a data center customer (a customer, or group of affiliated customers, of an EDU that own or operate a data center) from other customer classes unless the Public Utilities Commission (PUCO) determines such recovery is just and reasonable.
- Defines “data center” as a centralized facility that:
  - Is used primarily or exclusively for electronic information services using computer systems, servers, networking equipment, and related components;
  - Has an aggregate monthly maximum demand of greater than 25,000 kilowatts (25 megawatts).
- Requires PUCO, prior to approving certain agreements required by the bill, or any cost recovery mechanism requested by an EDU based on those agreements, to determine that the approval will not increase rates for other customers; and the EDU has the burden of proof in any such proceedings.

#### Data center agreements and commitments

- Prohibits an EDU from providing electric service to, or make any investments in infrastructure for, a data center customer that has not complied with the following requirements, all subject to PUCO approval:
  - Enter into a binding commitment with the EDU that includes minimum demand or usage commitments, long-term service agreements, exit fees or liquidated damages, collateral, guarantees, or other financial assets.
  - Enter into an agreement with the EDU for a minimum billing demand sufficient to support data center customer infrastructure planning and cost recovery from data

- center customers that must meet certain minimum requirements when the data center customer is operating at full commercial capacity.
- Provide financial assurance to the EDU to protect other customer classes from costs arising from the customer not meeting the agreed upon minimum billing demand described above, which can take a variety of forms but must be adequate to cover the unrecovered net book value of all dedicated facilities, minimum billing exposure, and any applicable exit fees.
  - Requires the financial assurance described above to be reviewed and adjusted at least biennially by the EDU to reflect remaining unrecovered investment and risk of exit and downsizing or cessation of operations.
  - Provides that all the requirements stated above are to be construed as minimum requirements, and that nothing in those provisions preclude PUCO from imposing more stringent requirements.
  - Requires any exit fees, collateral forfeitures, or unused-capacity payments collected from a data center customer to be credited to retail customers in the next available rate period or deferred as regulatory liabilities for the benefit of customers; prohibits EDUs from retaining such revenues as utility earnings.

### **PUCO rules**

- Requires PUCO, not later than six months after the bill's effective date, to establish uniform statewide standards governing certain topics related to electric interconnection queues and processing.
- Exempts these rules from the regulatory restriction limitation in existing law.

### **PUCO authority**

- Expressly provides that nothing in the bill's provisions is intended to restrict or modify PUCO's authority under continuing law regarding the establishment of reasonable arrangements between a public utility and a customer.

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## **DETAILED ANALYSIS**

### **Cost recovery for data centers prohibited**

The bill prohibits an electric distribution utility ("EDU" – which is an electric utility that supplies at least retail electric distribution service and does not own or operate an electric generating facility) from recovering any distribution, transmission, or generation costs, including financial or operational risks associated with, or caused by, a data center customer (a customer, or group of affiliated customers, of an EDU that own or operate a data center) from other customer classes unless the Public Utilities Commission (PUCO) determines such recovery is just and reasonable.

Under the bill, "data center" means a centralized facility that: (1) is used primarily or exclusively for electronic information services such as the management, storage, processing, and

dissemination of electronic data and information through the use of computer systems, servers, networking equipment, and related components, and (2) has an aggregate monthly maximum demand of greater than 25,000 kilowatts (25 megawatts).<sup>1</sup>

## **Data center agreements and commitments**

The bill further prohibits an EDU from providing electric service to, or making any investments in infrastructure for, a data center customer that has not complied with the bill's provisions, as explained below.<sup>2</sup>

### **Binding commitment between data center and EDU**

The bill requires a data center seeking electric service from an EDU to enter into a binding commitment, subject to PUCO approval, which must include the following:

- Minimum demand or usage commitments that would be in addition to the bill's other requirements (described immediately below);
- Long-term service agreements;
- Exit fees or liquidated damages;
- Collateral, guarantees, or other financial assets.<sup>3</sup>

### **Minimum billing demand agreement**

The bill requires a data center customer to enter into an agreement with the EDU, subject to PUCO approval, for a minimum billing demand. The bill specifies that this agreement must be sufficient to support data center customer infrastructure planning and cost recovery from such customers. The EDU must determine:

- The minimum billing demand;
- Contract terms;
- Any ramp periods;
- Additional financial assistance;
- Any other terms the EDU determines are necessary to address reliability needs, protect against stranded asset costs, and to comply with the bill's prohibition from recovering costs from other customer classes.

Despite the bill allowing the EDU to set the agreement's terms, it does mandate minimum terms for a data center customer that has reached full commercial capacity. For those customers, the minimum billing demand must be not less than 85% of contracted capacity, and the minimum

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<sup>1</sup> R.C. 4934.01 and 4934.02(A).

<sup>2</sup> R.C. 4934.03.

<sup>3</sup> R.C. 4934.04.

contract term must be not less than 12 years, inclusive of any approved load ramp period up to four years.<sup>4</sup>

### **PUCO approval and cost recovery**

The bill requires PUCO, prior to approving the binding agreements and the minimum billing demand agreement described in the two preceding sections, and any cost recovery mechanism requested by an EDU based on those agreements, to determine that the approval will not increase rates for the other existing customers. The bill places the burden of proof on the EDU in any such proceedings for approval of the agreements and related cost recovery mechanisms.<sup>5</sup>

### **Financial assurance**

The bill provides that PUCO (prior to the construction of any transmission or distribution facilities dedicated in whole or in part to a data center customer) must require each data center customer to provide financial assurance to the applicable EDU to protect other customer classes from costs arising from the data center customer prematurely exiting, downsizing, defaulting, or otherwise disconnecting, or reducing, electric service contrary to the minimum billing demand agreement (see “**Minimum billing demand agreement**” above).

The financial assurance must be adequate to cover the unrecovered net book value of all dedicated facilities, minimum billing exposure, and any applicable exit fees; and may include:

- Exit fees or liquidated damages;
- Letters of credit or cash collateral;
- Parental or affiliate guarantees.

The bill further requires the financial assurance to be reviewed and adjusted at least biennially by the EDU to reflect remaining unrecovered investment and risk of exit and downsizing or cessation of operations.<sup>6</sup>

### **Bill construction**

The bill provides that the binding commitment, minimum billing, and financial assurance requirements it imposes are to be construed as minimum requirements. PUCO is not precluded from imposing more stringent requirements.<sup>7</sup>

### **Collected payments**

The bill specifies that any exit fees, collateral forfeitures, or unused-capacity payments collected from a data center customer must be credited to retail customers in the next available

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<sup>4</sup> R.C. 4934.05.

<sup>5</sup> R.C. 4934.02(B).

<sup>6</sup> R.C. 4934.06 and 4934.07.

<sup>7</sup> R.C. 4934.08.

rate period or deferred as regulatory liabilities for the benefit of customers; EDUs are prohibited from retaining any such revenue as utility earnings.<sup>8</sup>

## PUCO rules

The bill requires PUCO, not later than six months after the bill's effective date, to establish uniform statewide standards governing the following:

- Load study deposits, including nonrefundable components;
- Queue-position forfeitures for failure to meet milestones;
- First-come-first-served or tranche-based processing;
- Aggregation of affiliated projects for queue priority.

The bill exempts these rules from the regulatory restriction limitation in continuing law, unchanged by the bill.<sup>9</sup>

## PUCO authority

The bill expressly provides its provisions are not intended to restrict or modify PUCO's authority under continuing law regarding a public utility making reasonable arrangements with another utility or with one or more of its customers, consumers, employees, or a mercantile customer or group of such customers.<sup>10</sup>

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## HISTORY

Action	Date
Introduced	02-17-26

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<sup>8</sup> R.C. 4934.09.

<sup>9</sup> R.C. 4934.10 and 4934.11; R.C. 121.95 to 121.953, not in the bill.

<sup>10</sup> R.C. 4934.12; R.C. 4905.31, not in the bill.