

As Introduced

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Representatives Rader, Thomas, D.

Cosponsors: Representatives Brennan, Brewer, Somani, Cockley, McNally, Synenberg, Kishman, Bryant Bailey, Abdulla, Sigrist, Sims, Thomas, C., Fischer, Deeter, Pizzulli, Manning, Miller, J.

To enact sections 4934.01, 4934.02, 4934.03, 1
4934.04, 4934.05, 4934.06, 4934.07, 4934.08, 2
4934.09, 4934.10, 4934.11, and 4934.12 of the 3
Revised Code to impose certain minimum 4
requirements on data center customers in the 5
state. 6

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

Section 1. That sections 4934.01, 4934.02, 4934.03, 7
4934.04, 4934.05, 4934.06, 4934.07, 4934.08, 4934.09, 4934.10, 8
4934.11, and 4934.12 of the Revised Code be enacted to read as 9
follows: 10

Sec. 4934.01. As used in sections 4934.01 to 4934.09 of 11
the Revised Code: 12

(A) "Electric distribution utility" has the same meaning 13
as in section 4928.01 of the Revised Code. 14

(B) "Data center" means a centralized facility that: 15

(1) Is used primarily or exclusively for electronic 16
information services such as the management, storage, 17

processing, and dissemination of electronic data and information 18
through the use of computer systems, servers, networking 19
equipment, and related components; 20

(2) Has an aggregate monthly maximum demand of greater 21
than twenty-five thousand kilowatts. 22

(C) "Data center customer" means a customer, or group of 23
affiliated customers, of an electric distribution utility that 24
own or operate a data center. 25

Sec. 4934.02. (A) An electric distribution utility shall 26
not recover any distribution, transmission, or generation costs, 27
including financial or operational risks associated with, or 28
caused by, a data center customer from other customer classes 29
unless the public utilities commission determines such recovery 30
is just and reasonable. 31

(B) Prior to approving agreements under sections 4934.04 32
and 4934.05 of the Revised Code, and any cost recovery mechanism 33
requested by the electric distribution utility based on those 34
agreements, the commission shall determine that the approval 35
will not increase rates for other existing customers. The 36
electric distribution utility has the burden of proof in any 37
such proceedings for approval of the agreements and related cost 38
recovery mechanism. 39

Sec. 4934.03. An electric distribution utility shall not 40
provide electric service to, or make any investments in 41
infrastructure for, a data center customer that has not complied 42
with the requirements stated in sections 4934.04 to 4934.07 of 43
the Revised Code. 44

Sec. 4934.04. (A) A data center seeking electric service 45
from an electric distribution utility shall enter into a binding 46

<u>commitment with the utility, which shall include the following:</u>	47
<u>(1) Minimum demand or usage commitments that are in</u>	48
<u>addition to the requirement described in section 4934.05 of the</u>	49
<u>Revised Code;</u>	50
<u>(2) Long-term service agreements;</u>	51
<u>(3) Exit fees or liquidated damages;</u>	52
<u>(4) Collateral, guarantees, or other financial assets.</u>	53
<u>(B) An agreement under this section is subject to approval</u>	54
<u>by the public utilities commission.</u>	55
 Sec. 4934.05. (A) <u>A data center customer shall enter into</u>	56
<u>an agreement with the electric distribution utility, subject to</u>	57
<u>approval by the public utilities commission, agreeing to a</u>	58
<u>minimum billing demand sufficient to support data center</u>	59
<u>customer infrastructure planning and cost recovery from data</u>	60
<u>center customers. The utility shall determine the minimum</u>	61
<u>billing demand, contract terms, any ramp periods, additional</u>	62
<u>financial assistance, and any other terms the utility determines</u>	63
<u>are necessary to address reliability needs, protect against</u>	64
<u>stranded asset costs, and to comply with section 4934.02 of the</u>	65
<u>Revised Code.</u>	66
<u>(B) Notwithstanding division (A) of this section, the</u>	67
<u>minimum billing demand for a data center customer that has</u>	68
<u>reached full commercial capacity shall be not less than eighty-</u>	69
<u>five per cent of contracted capacity, and the minimum contract</u>	70
<u>term shall be not less than twelve years, inclusive of any</u>	71
<u>approved load ramp period up to four years.</u>	72
 Sec. 4934.06. (A) <u>Prior to commencing construction of any</u>	73
<u>transmission or distribution facilities dedicated in whole or in</u>	74

<u>part to a data center customer, the public utilities commission</u>	75
<u>shall require each data center customer to provide financial</u>	76
<u>assurance to the applicable electric distribution utility to</u>	77
<u>protect other customer classes from costs arising from the data</u>	78
<u>center customer prematurely exiting, downsizing, defaulting, or</u>	79
<u>otherwise disconnecting, or reducing, electric service contrary</u>	80
<u>to the agreement made under section 4934.05 of the Revised Code</u>	81
<u>and may include the following:</u>	82
<u>(1) Exit fees or liquidated damages;</u>	83
<u>(2) Letters of credit or cash collateral;</u>	84
<u>(3) Parental or affiliate guarantees.</u>	85
<u>(B) The financial assurance described in division (A) of</u>	86
<u>this section shall be adequate to cover the unrecovered net book</u>	87
<u>value of all dedicated facilities, minimum billing exposure, and</u>	88
<u>any applicable exit fees.</u>	89
<u>Sec. 4934.07. The financial assurance required under</u>	90
<u>section 4934.06 of the Revised Code shall be reviewed and</u>	91
<u>adjusted at least biennially by the electric distribution</u>	92
<u>utility to reflect remaining unrecovered investment and risk of</u>	93
<u>exit and downsizing or cessation of operations.</u>	94
<u>Sec. 4934.08. The requirements stated in sections 4934.04</u>	95
<u>to 4934.07 of the Revised Code shall be construed as minimum</u>	96
<u>requirements. Nothing in those sections shall preclude the</u>	97
<u>public utilities commission from imposing more stringent</u>	98
<u>requirements.</u>	99
<u>Sec. 4934.09. Any exit fees, collateral forfeitures, or</u>	100
<u>unused-capacity payments collected from a data center customer</u>	101
<u>shall be credited to retail customers in the next available rate</u>	102
<u>period or deferred as regulatory liabilities for the benefit of</u>	103

customers. An electric distribution utility shall not retain 104
such revenues as utility earnings. 105

Sec. 4934.10. Not later than six months after the 106
effective date of this section, the public utilities commission 107
shall establish uniform statewide standards governing the 108
following: 109

(A) Load study deposits, including nonrefundable 110
components; 111

(B) Queue-position forfeitures for failure to meet 112
milestones; 113

(C) First-come-first-served or tranche-based processing; 114

(D) Aggregation of affiliated projects for queue priority. 115

Sec. 4934.11. Notwithstanding any provision of section 116
121.95 of the Revised Code to the contrary, a regulatory 117
restriction contained in a rule adopted under section 4934.10 of 118
the Revised Code is not subject to sections 121.95 to 121.953 of 119
the Revised Code. 120

Sec. 4934.12. Nothing in this chapter is intended to 121
restrict or modify the public utilities commission's authority 122
under section 4905.31 of the Revised Code. 123