

As Introduced

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H. B. No. 706

Representatives Rader, Thomas, D.

**Cosponsors: Representatives Brennan, Brewer, Somani, Cockley, McNally,
Synenberg, Kishman, Bryant Bailey, Abdullahi, 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

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

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

<u>(B) "Data center" means a centralized facility that:</u>	15
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<u>(1) Is used primarily or exclusively for electronic</u>	16
<u>information services such as the management, storage,</u>	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

commitment with the utility, which shall include the following: 47

(1) Minimum demand or usage commitments that are in 48
addition to the requirement described in section 4934.05 of the 49
Revised Code; 50

(2) Long-term service agreements; 51

(3) Exit fees or liquidated damages; 52

(4) Collateral, guarantees, or other financial assets. 53

(B) An agreement under this section is subject to approval 54
by the public utilities commission. 55

Sec. 4934.05. (A) A data center customer shall enter into 56
an agreement with the electric distribution utility, subject to 57
approval by the public utilities commission, agreeing to a 58
minimum billing demand sufficient to support data center 59
customer infrastructure planning and cost recovery from data 60
center customers. The utility shall determine the minimum 61
billing demand, contract terms, any ramp periods, additional 62
financial assistance, and any other terms the utility determines 63
are necessary to address reliability needs, protect against 64
stranded asset costs, and to comply with section 4934.02 of the 65
Revised Code. 66

(B) Notwithstanding division (A) of this section, the 67
minimum billing demand for a data center customer that has 68
reached full commercial capacity shall be not less than eighty- 69
five per cent of contracted capacity, and the minimum contract 70
term shall be not less than twelve years, inclusive of any 71
approved load ramp period up to four years. 72

Sec. 4934.06. (A) Prior to commencing construction of any 73
transmission or distribution facilities dedicated in whole or in 74

part to a data center customer, the public utilities commission 75
shall require each data center customer to provide financial 76
assurance to the applicable electric distribution utility to 77
protect other customer classes from costs arising from the data 78
center customer prematurely exiting, downsizing, defaulting, or 79
otherwise disconnecting, or reducing, electric service contrary 80
to the agreement made under section 4934.05 of the Revised Code 81
and may include the following: 82

(1) Exit fees or liquidated damages; 83

(2) Letters of credit or cash collateral; 84

(3) Parental or affiliate guarantees. 85

(B) The financial assurance described in division (A) of 86
this section shall be adequate to cover the unrecovered net book 87
value of all dedicated facilities, minimum billing exposure, and 88
any applicable exit fees. 89

Sec. 4934.07. The financial assurance required under 90
section 4934.06 of the Revised Code shall be reviewed and 91
adjusted at least biennially by the electric distribution 92
utility to reflect remaining unrecovered investment and risk of 93
exit and downsizing or cessation of operations. 94

Sec. 4934.08. The requirements stated in sections 4934.04 95
to 4934.07 of the Revised Code shall be construed as minimum 96
requirements. Nothing in those sections shall preclude the 97
public utilities commission from imposing more stringent 98
requirements. 99

Sec. 4934.09. Any exit fees, collateral forfeitures, or 100
unused-capacity payments collected from a data center customer 101
shall be credited to retail customers in the next available rate 102
period or deferred as regulatory liabilities for the benefit of 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