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Bill Analysis

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SUMMARY

EDU-owned nuclear generating facilities

EDU ownership permitted

- Authorizes an electric distribution utility (EDU) to construct, own, and operate a nuclear generating facility in Ohio if the EDU obtains a nuclear project financing order from the Public Utilities Commission (PUCO).
- Allows an EDU to construct, own, and operate a nuclear generating facility for each nuclear project financing order obtained, and requires a separate order for each facility.

Nuclear project financing order

- Permits an EDU to file an application with PUCO for a nuclear project financing order in such form as the PUCO prescribes in a manner consistent with the bill and containing certain other documents, including, for example, proof supporting a finding of need and proof that one or more retail participation agreements (RPAs) are signed with a minimum term of 20 years and a renewal option.
- Establishes two processes for PUCO's review of a nuclear project financing order application that apply depending on whether either the federal government, Ohio government, or both, provide financial support for constructing the nuclear generating facility in the application on a brownfield or former coal mine.
- Imposes certain deadlines for PUCO to determine if an application complies with all requirements and to render a decision on an application, which, if not met, result in the application being found in compliance or approved by operation of law.
- Requires PUCO to also make a finding of need and issue a ratemaking order if a nuclear project financing order application is approved, including by operation of law.

- Requires PUCO to issue a nuclear project financing order if both of the following are satisfied:
  - All application requirements are met;
  - It makes a finding that Ohio has a need for new EDU generation in order to help Ohio become more energy independent and ensure adequate supply to fulfill the EDU's long-term projections of load.

Ratemaking order

- Requires PUCO, at the same time that it issues a nuclear project financing order, to issue a final ratemaking order that ensures various conditions are met regarding cost recovery for the nuclear generating facility subject to the order, such as, for example:
  - The nuclear generating facility is reflected in the EDU's rate base for the life of the nuclear generating facility;
  - During the entire period that one or more RPAs are in effect, the net prudently incurred costs for the facility are recovered from the customer or group of customers that entered into the RPA and that no costs can be recovered from any other EDU customer;
  - PUCO conducts an audit after the expiration or termination of any RPA concerning the cost of electricity generated by the facility and, depending on the results of the audit, either all remaining costs of the facility or only the market price of electricity can be collected from all the EDU's customers for the life of the facility.

Action following ratemaking order reversal or vacatur

- Provides that, in the event of a reversal or vacatur of PUCO's final ratemaking order described above, the EDU's recovery of costs incurred prior to the reversal or vacatur must be collected consistent with the ratemaking order issued in conjunction with the granting of the nuclear project financing order.

Retail participation agreements

- Requires an EDU, at the same time it files its nuclear project financing order application, to file an application for approval of one or more reasonable arrangements that includes various terms, such as, for example, a minimum term of 20 years, a renewal option, and permitting the customer or group of customers to shop for generation supply.
- Requires PUCO to approve a proposed reasonable arrangement under the bill if it meets all of the bill's requirements.

Prudence and financial audit

- Requires a prudence and financial audit to be conducted at the direction of PUCO by PUCO staff or an independent PUCO-approved auditor not more than three years after the nuclear project financing order is approved, and not less than every three years thereafter.

- Specifies that each audit proceeding must commence not more than 60 days after the end of each three-year period and be fully decided through a PUCO order not more than 180 days after the audit is commenced.
- Prohibits costs that are deemed imprudent by the audit from being recovered from any EDU customer.

Rules

- Requires PUCO to adopt rules to implement the bill's EDU-owned nuclear generating facilities provisions.

Nuclear generating facility Power Siting Board certificate

- Requires the Power Siting Board (PSB) to adopt rules providing for the efficient review of an application for a construction certificate for a nuclear generating facility to which both of the following apply:
  - The facility is to be constructed pursuant to a nuclear project financing order;
  - The federal government, Ohio government, or both, provide financial support for the facility on a brownfield or former coal mine.
- Requires the PSB Chairperson to determine if a construction certificate application submitted under the bill complies with all requirements not later than 45 days after the application is deemed complete, and consider the application in compliance by operation of law if this deadline is not met.
- Requires the PSB to render a decision on a construction certificate application submitted under the bill not later than 150 days after the application is determined in compliance with all requirements set by PUCO, subject to an extension of up to another 150 days with applicant consent, and to approve the application by operation of law if this deadline is not met.

State nuclear coordinator

- Requires the Ohio Nuclear Development Authority to appoint a State Nuclear Coordinator by majority vote for a five-year term, subject to removal.
- Provides that the Coordinator is uncompensated.
- Establishes certain duties for the Coordinator, such as, for example: acting as the internal advocate and ombudsperson for nuclear energy facilities within state government; and filing an annual report with the Governor and General Assembly with information concerning nuclear facility deployment and recommended legislative or regulatory changes.

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DETAILED ANALYSIS

Summary

The bill allows an electric distribution utility (EDU) to construct, own, and operate a nuclear generating facility in Ohio if the EDU satisfies all requirements and obtains a nuclear project financing order issued by the Public Utilities Commission (PUCO). It also establishes various other requirements relating to a nuclear project financing order and EDU-owned nuclear generating facility, such as, for example, an EDU must file one or more retail participation agreements (RPAs) applications simultaneously with its nuclear project financing order application, and PUCO must direct a prudence and financial audit to be conducted every three years.

Additionally, the bill requires: (1) the Power Siting Board (PSB) to establish rules for the efficient review of a construction certificate application for a nuclear generating facility constructed pursuant to a nuclear project financing order and for which the federal or Ohio

government, or both, provide financial support for the facility on a brownfield or former coal mine; and (2) the Ohio Nuclear Development Authority to appoint a State Nuclear Coordinator.

EDU-owned nuclear generating facilities

EDU ownership permitted

The bill authorizes an EDU to construct, own, and operate a nuclear generating facility in Ohio if the EDU satisfies all requirements and obtains a nuclear project financing order issued by PUCO. An EDU may construct, own, and operate a nuclear generating facility for each nuclear project financing order obtained, and an EDU must obtain a separate order for each facility. No EDU can construct, own, or operate a nuclear generating facility except pursuant to a nuclear project financing order.

The bill specifies that the provisions described above do not waive or abrogate any other requirements imposed by law for constructing, owning, or operating a nuclear generating facility, including any requirements to obtain a certificate under the PSB Law or any environmental requirements.

"Nuclear generating facility" is defined by the bill as a nuclear generating plant, including a group of individual generating units located on a single real estate parcel or group of adjacent parcels. "Nuclear project financing order" means a nuclear project financing order issued by PUCO under the bill.[1]

Current law prohibits both of the following: (1) an EDU from owning or operating an electric generating facility (since current law defines an EDU as an electric utility that supplies at least retail distribution service and does not own or operate an electric generating facility), and (2) an electric utility from providing a competitive retail electric service, other than the standard service offer (SSO), if that service was deemed competitive or classified as competitive prior to August 14, 2025 (which includes retail electric generation service). An EDU with nuclear generating facilities as permitted by the bill is exempted from both of these prohibitions.[2]

Nuclear project financing order

Order application

An EDU may file an application with PUCO for a nuclear project financing order in such form as the PUCO prescribes in a manner consistent with the bill. The application must contain all of the following:

- Proof supporting a finding of need (see "**Order issuance**" below);
- Proof that one or more RPAs are signed between the EDU and a customer or group of customers, with a minimum term of 20 years and a renewal option, subject to PUCO

[1] R.C. 4928.76(B) and (C) and 4928.761.

[2] R.C. 4928.01(A)(6) and 4928.041; R.C. 4928.03, 4928.141, and 4928.142, not in the bill.

approval. An RPA is a reasonable arrangement described by the bill (see "**Retail participation agreements**" below);

- An application for a proposed ratemaking order consistent with the bill's requirements (see "**Ratemaking order**" below);
- Proof that the EDU will own the nuclear generating facility based on a price structure approved by PUCO;
- Proof of any financial guarantees required by federal law.[3]

Order application review

The bill establishes two processes for PUCO's review of a nuclear project financing order application that apply as described below:

- For a nuclear project financing order application where either the federal government, Ohio government, or both, provide financial support for constructing the nuclear generating facility in the application on a brownfield or former coal mine:
  - PUCO must determine whether the application is in compliance with all application requirements not more than 45 days after the application is deemed complete;
  - PUCO must render a decision to approve or deny the application not later than 365 days after the application is determined in compliance with all application requirements.
- For all other nuclear project financing order applications:
  - PUCO must determine whether the application is in compliance with all application requirements not more than 45 days after the application is deemed complete;
  - If the application is found in compliance with all requirements, PUCO must promptly fix a date for a public hearing on the application that is not less than 45 days, but not more than 60 days, after the determination, and conduct the proceeding as expeditiously as practicable;
  - PUCO must render a decision to approve or deny the application not later than 365 days after the application is determined in compliance with all application requirements.

If PUCO fails to determine whether an application is in compliance with all application requirements or fails to render a decision to approve or deny an application, within the deadlines described above, then the application must be (1) deemed either in compliance or (2) approved as a matter of law, as applicable.

If either type of nuclear project financing order application is approved, including by operation of law, PUCO must issue a nuclear project financing order to the applicant, make a

[3] R.C. 4928.76(D) and 4928.762.

finding of need (see "**Order issuance**" below), and issue a ratemaking order (see "**Ratemaking order**" below).

Continuing law, unchanged by the bill, defines "brownfield" as an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum. Existing law also defines "former coal mine" as a location that was, but is no longer, used in connection with the extraction of coal from its natural deposit in the Earth.[4]

Order issuance

PUCO must issue a nuclear project financing order if both of the following are satisfied:

- All application requirements are met;
- PUCO makes a finding that Ohio has a need for new EDU generation in order to help Ohio become more energy independent and ensure adequate supply to fulfill the EDU's long-term projections of load.[5]

Ratemaking order

The bill requires PUCO to issue a final ratemaking order that ensures various conditions are met at the same time that it issues a nuclear project financing order. These conditions are described below.[6]

Separate accounting ledger

The final ratemaking order must ensure that the EDU establishes a separate accounting ledger to record all costs and revenues associated with owning and operating the nuclear generating facility, including the accrual for construction work in progress during the period following technical completion and continuing until the facility commences commercial operation.[7]

EDU base rates

The final ratemaking order must also, for purposes of establishing the EDU's base rates under the Ratemaking Law, ensure that the nuclear generating facility is reflected in the EDU's rate base for the life of the nuclear generating facility. This ratemaking treatment must be afforded during the RPA term. Subject to the "**Provisions during RPA term**" and "**Provisions after RPA term**" below, all prudently incurred costs related to the nuclear generating facility must be reflected in the EDU's distribution rates established under the Ratemaking Law for the life of the facility and including during the RPA term.[8]

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[4] R.C. 4928.01(A)(44) and (45) and 4928.763; R.C. 122.161 and 122.6511, not in the bill.

[5] R.C. 4928.764.

[6] R.C. 4928.765.

[7] R.C. 4928.765(A).

[8] R.C. 4928.765(B).

Provisions during RPA term

During the entire period that one or more RPAs established and approved by PUCO remain in effect, the final ratemaking order must ensure all of the following:

- The net prudently incurred costs for the nuclear generating facility are recovered from the customer or group of customers that entered into the RPA.
- No costs for a nuclear generating facility authorized by a nuclear project financing order are recovered from any EDU customer except for the customer or group of customers that entered into the RPA regarding the facility.
- All of the revenue collected under such RPA is credited against the EDU's cost of service in setting rates for the EDU under the Ratemaking Law.
- PUCO must defer or, to the extent costs incurred are determined to be imprudent, disallow any costs not offset by such revenues during the entire period of time that one or more RPAs remain in effect.

The bill defines "net prudently incurred costs" as the monthly allocation of prudently incurred costs related to a nuclear generating facility, less a monthly allocation of any revenues realized by the EDU from offering the output of the nuclear generating facility into the wholesale markets.[9]

Provisions after RPA term

The final ratemaking order must ensure that, after the expiration or termination of any RPA, PUCO conducts an audit of the nuclear generating facility to determine if the cost of electricity generated by the facility to the EDU's customers is less than, equal to, or greater than the market price of electricity based on the most current EDU base rate. Each audit proceeding must commence not more than 60 days after the expiration or termination of the RPA and be fully resolved through a PUCO order not more than 180 days after the audit is commenced.

Cost recovery for the nuclear generating facility occurs in one of the methods described in the table below, depending on the results of the audit.

Cost recovery depending on audit results[10]

Audit result	Cost recovery
If the cost of electricity generated by the facility to the EDU's customers is less than or equal to the market price of electricity based on the most current EDU base rate ---	--- then the nuclear generating facility must remain in the EDU's rate base and any remaining costs associated with the facility, including development costs, must be collected from all of the EDU's customers for the remaining life of the facility, including recovery of the remaining

[9] R.C. 4928.76(A) and 4928.765(C).

[10] R.C. 4928.765(D).

Audit result	Cost recovery
	decommissioning and retirements costs, if any, not already funded through any RPA.
If the cost of electricity generated by the facility to the EDU's customers is greater than the market price of electricity based on the most current EDU base rate ---	--- then the nuclear generating facility must remain in the EDU's rate base, but only the market price of electricity shall be collected from all of the EDU's customers for the remaining life of the facility.

PUCO approval for sale, disposition, or transfer of facility

The final ratemaking order is required to ensure that any sale, disposition, or transfer of the nuclear generating facility must be approved by PUCO, and the net proceeds from the sale, disposition, or sale are credited to customers though the adjustment to the EDU's revenue requirement or rates as determined by PUCO.[11]

Action following ratemaking order reversal or vacatur

The bill provides that, in the event of a reversal or vacatur of PUCO's final ratemaking order described above, the EDU's recovery of costs incurred prior to the reversal or vacatur must be collected consistent with the ratemaking order issued in conjunction with the granting of the nuclear project financing order.[12]

Retail participation agreements

At the same time an EDU files its nuclear project financing order application, it must file an application for approval of one or more reasonable arrangements under existing law. Each reasonable arrangement under the bill must meet all of the following:

- Have a term of at least 20 years that pays monthly retail electric charges to the EDU equal to the net prudently incurred costs for the nuclear generating facility;
- Have a renewal option that is presumed to be elected unless notice that the renewal option is declined is received not later than 365 days prior to the expiration of the reasonable arrangement;
- Require the EDU to arrange for the output of the facility, including capacity and energy, to be liquidated into the wholesale markets, but the reasonable arrangement must provide that the customer or group of customers retain environmental attributes of the output of the facility;
- Include reasonable collateral and security provisions to ensure performance and also require the customer or group of customers to pay all distribution and transmission rates and charges in accordance with the EDU's tariffs;

[11] R.C. 4933.765(E).

[12] R.C. 4928.766.

- Permit the customer or group of customers to shop for generation supply and, to the extent that EDU issues a consolidated bill, the EDU must pass through the applicable charges that each participating customer incurs for generation supply either from a competitive retail electric service provider, to the extent that the participating customer is shopping and the EDU issues a consolidated bill, or under the otherwise applicable SSO tariff rate of the EDU for participating customers who are not shopping.

If the proposed reasonable arrangement meets all of the above requirements, then PUCO must approve it.

Continuing law regarding reasonable arrangements provides that various chapters of the Public Utilities Law do not prohibit a public utility from filing a schedule or establishing or entering into reasonable arrangements with another public utility or utility customers, consumers, or employees that includes certain provisions, such as, for example the division or distribution of its surplus profits. A reasonable arrangement under current law is subject to PUCO approval.[13]

Prudence and financial audit

Under the bill, a prudence and financial audit must be conducted not more than three years from the date that a nuclear project financing order is approved and not less than every three years thereafter. The audit is conducted by PUCO staff or an independent auditor approved by PUCO at the direction of PUCO. The audit is to review the EDU's accounting ledgers for a nuclear generating facility built pursuant to a nuclear project financing order and confirm that the total revenue from each approved RPA equals or exceeds the net prudently incurred costs during each audit period.

Each audit proceeding must commence not more than 60 days after the end of each three-year period and be fully decided through a PUCO order not more than 180 days after the audit is commenced.

Costs that are deemed imprudent by the audit cannot be recovered from any EDU customers.[14]

Rules

PUCO is required to adopt rules to implement the bill's provisions regarding EDU-owned nuclear generating facilities.[15]

[13] R.C. 4928.767; R.C. 4905.31, not in the bill.

[14] R.C. 4928.768.

[15] R.C. 4928.769.

Nuclear generating facility Power Siting Board certificate

Efficient review of certificate application

PSB is required by the bill to adopt rules to provide for the efficient review of an application for a construction certificate for a nuclear generating facility to which both of the following apply:

1. The facility is to be constructed pursuant to a PUCO-issued nuclear project financing order;
2. The federal government, Ohio government, or both, provide financial support for the facility on a brownfield or former coal mine.

The efficient review of an application under the bill is exempt from certain current law provisions concerning PSB review and approval of certificates, such as, for example, the law regarding PSB application contents and public hearing requirements.

The bill retains existing law prohibiting a person from commencing the construction of a major utility facility in Ohio without a certificate for the facility from the PSB. Continuing law defines a "major utility facility" as certain types of utility facilities, including, for example, an electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more.[16]

Application compliance review period

The PSB Chairperson must determine if a construction certificate application submitted under the bill complies with both of the following not later than 45 days after the application is deemed complete: (1) all application requirements set by the PSB by rule, and (2) all federal statutes, as well as regulations promulgated by the U.S. Nuclear Regulatory Commission with respect to permitting, licensing, operation, and decommissioning.

If the Chairperson does not issue a determination within the 45 days after the application is deemed complete, the application must be deemed in compliance by operation of law. The bill specifies that an application being deemed in compliance by operation of law does not waive or abrogate any other requirements imposed by law for constructing, owning, or operating a nuclear generating facility, including any requirements to obtain a certificate under the PSB Law or any environmental requirements.[17]

Application decision review period

PSB must generally render a decision on a construction certificate application submitted under the bill not later than 150 days after the application is determined in compliance with all requirements set by PUCO. But, PSB may, in its discretion, extend this 150-day review period by up to 150 additional days if the applicant consents to such extension.

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[16] R.C. 4906.01(B) and (D) and 4906.03(I)(1); R.C. 4906.04, 4906.06, and 4906.07, not in the bill.

[17] R.C. 4906.03(I)(2).

If PSB fails to render a decision within the time described above, then the application is considered approved by operation of law and a certificate must be issued to the applicant.[18]

State Nuclear Coordinator

The bill requires the Ohio Nuclear Development Authority to appoint a State Nuclear Coordinator, who may be a member of the Authority. The Coordinator must be appointed by a majority vote of the Authority for a five-year term, subject to removal by a majority vote of the Authority. The Coordinator is uncompensated.

The Coordinator must do all of the following:

- Act as the internal advocate and ombudsperson for nuclear energy facilities within state government;
- Facilitate permitting and siting by coordinating agency timelines, identifying critical path items, and providing a single point of contact for project sponsors and communities;
- Coordinating with federal entities, including the U.S. Nuclear Regulatory Commission and the U.S. Department of Energy, on matters within state purview;
- Engage communities and local governments on nuclear education and infrastructure needs;
- File an annual report with the Governor and the General Assembly that details nuclear deployment progress, interagency performances against timelines, workforce needs, infrastructure needs, and recommended statutory or regulatory improvements to existing state law and practice.[19]

HISTORY

Action	Date
Introduced	05-12-26

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[18] R.C. 4906.03(I)(3).

[19] R.C. 4164.11(E) and 4164.20.