

As Introduced

136th General Assembly

Regular Session

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S. B. No. 383

Senators Weinstein, Blessing

To amend section 4928.01 and to enact sections	1
4928.74, 4928.741, and 4928.742 of the Revised	2
Code regarding portable solar generation	3
devices.	4

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

Section 1. That section 4928.01 be amended and sections	5
4928.74, 4928.741, and 4928.742 of the Revised Code be enacted	6
to read as follows:	7

Sec. 4928.01. (A) As used in this chapter:	8
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(1) "Ancillary service" means any function necessary to	9
the provision of electric transmission or distribution service	10
to a retail customer and includes, but is not limited to,	11
scheduling, system control, and dispatch services; reactive	12
supply from generation resources and voltage control service;	13
reactive supply from transmission resources service; regulation	14
service; frequency response service; energy imbalance service;	15
operating reserve-spinning reserve service; operating reserve-	16
supplemental reserve service; load following; back-up supply	17
service; real-power loss replacement service; dynamic	18
scheduling; system black start capability; and network stability	19
service.	20

(2) "Billing and collection agent" means a fully 21
independent agent, not affiliated with or otherwise controlled 22
by an electric utility, electric services company, electric 23
cooperative, or governmental aggregator subject to certification 24
under section 4928.08 of the Revised Code, to the extent that 25
the agent is under contract with such utility, company, 26
cooperative, or aggregator solely to provide billing and 27
collection for retail electric service on behalf of the utility 28
company, cooperative, or aggregator. 29

(3) "Certified territory" means the certified territory 30
established for an electric supplier under sections 4933.81 to 31
4933.90 of the Revised Code. 32

(4) "Competitive retail electric service" means a 33
component of retail electric service that is competitive as 34
provided under division (B) of this section. 35

(5) "Electric cooperative" means a not-for-profit electric 36
light company that both is or has been financed in whole or in 37
part under the "Rural Electrification Act of 1936," 49 Stat. 38
1363, 7 U.S.C. 901, and owns or operates facilities in this 39
state to generate, transmit, or distribute electricity, or a 40
not-for-profit successor of such company. 41

(6) "Electric distribution utility" means an electric 42
utility that supplies at least retail electric distribution 43
service and does not own or operate an electric generating 44
facility. 45

(7) "Electric light company" has the same meaning as in 46
section 4905.03 of the Revised Code and includes an electric 47
services company. 48

(8) "Electric load center" has the same meaning as in 49

section 4933.81 of the Revised Code. 50

(9) "Electric services company" means an electric light 51
company that is engaged on a for-profit or not-for-profit basis 52
in the business of supplying or arranging for the supply of only 53
a competitive retail electric service in this state. "Electric 54
services company" includes a power marketer, power broker, 55
aggregator, or independent power producer but excludes an 56
electric cooperative, municipal electric utility, governmental 57
aggregator, or billing and collection agent. 58

(10) "Electric supplier" has the same meaning as in 59
section 4933.81 of the Revised Code. 60

(11) "Electric utility" means an electric light company 61
that has a certified territory and is engaged on a for-profit 62
basis in the business of supplying at least a noncompetitive 63
retail electric service in this state. "Electric utility" 64
excludes a municipal electric utility or a billing and 65
collection agent. 66

(12) "Firm electric service" means electric service other 67
than nonfirm electric service. 68

(13) "Governmental aggregator" means a legislative 69
authority of a municipal corporation, a board of township 70
trustees, or a board of county commissioners acting as an 71
aggregator for the provision of a competitive retail electric 72
service under authority conferred under section 4928.20 of the 73
Revised Code. 74

(14) A person acts "knowingly," regardless of the person's 75
purpose, when the person is aware that the person's conduct will 76
probably cause a certain result or will probably be of a certain 77
nature. A person has knowledge of circumstances when the person 78

is aware that such circumstances probably exist. 79

(15) "Level of funding for low-income customer energy 80
efficiency programs provided through electric utility rates" 81
means the level of funds specifically included in an electric 82
utility's rates on October 5, 1999, pursuant to an order of the 83
public utilities commission issued under Chapter 4905. or 4909. 84
of the Revised Code and in effect on October 4, 1999, for the 85
purpose of improving the energy efficiency of housing for the 86
utility's low-income customers. The term excludes the level of 87
any such funds committed to a specific nonprofit organization or 88
organizations pursuant to a stipulation or contract. 89

(16) "Low-income customer assistance programs" means the 90
percentage of income payment plan program, the home energy 91
assistance program, the home weatherization assistance program, 92
and the targeted energy efficiency and weatherization program. 93

(17) "Market development period" for an electric utility 94
means the period of time beginning on the starting date of 95
competitive retail electric service and ending on the applicable 96
date for that utility as specified in section 4928.40 of the 97
Revised Code, irrespective of whether the utility applies to 98
receive transition revenues under this chapter. 99

(18) "Market power" means the ability to impose on 100
customers a sustained price for a product or service above the 101
price that would prevail in a competitive market. 102

(19) "Mercantile customer" means a commercial or 103
industrial customer if the electricity consumed is for 104
nonresidential use and the customer consumes more than seven 105
hundred thousand kilowatt hours per year or is part of a 106
national account involving multiple facilities in one or more 107

states. 108

(20) "Municipal electric utility" means a municipal 109
corporation that owns or operates facilities to generate, 110
transmit, or distribute electricity. 111

(21) "Noncompetitive retail electric service" means a 112
component of retail electric service that is noncompetitive as 113
provided under division (B) of this section. 114

(22) "Nonfirm electric service" means electric service 115
provided pursuant to a schedule filed under section 4905.30 of 116
the Revised Code or pursuant to an arrangement under section 117
4905.31 of the Revised Code, which schedule or arrangement 118
includes conditions that may require the customer to curtail or 119
interrupt electric usage during nonemergency circumstances upon 120
notification by an electric utility. 121

(23) "Percentage of income payment plan arrears" means 122
funds eligible for collection through the percentage of income 123
payment plan rider, but uncollected as of July 1, 2000. 124

(24) "Person" has the same meaning as in section 1.59 of 125
the Revised Code. 126

(25) "Advanced energy project" means any technologies, 127
products, activities, or management practices or strategies that 128
facilitate the generation or use of electricity or energy and 129
that reduce or support the reduction of energy consumption or 130
support the production of clean, renewable energy for 131
industrial, distribution, commercial, institutional, 132
governmental, research, not-for-profit, or residential energy 133
users, including, but not limited to, advanced energy resources 134
and renewable energy resources. "Advanced energy project" also 135
includes any project described in division (A), (B), or (C) of 136

section 4928.621 of the Revised Code. 137

(26) "Regulatory assets" means the unamortized net 138
regulatory assets that are capitalized or deferred on the 139
regulatory books of the electric utility, pursuant to an order 140
or practice of the public utilities commission or pursuant to 141
generally accepted accounting principles as a result of a prior 142
commission rate-making decision, and that would otherwise have 143
been charged to expense as incurred or would not have been 144
capitalized or otherwise deferred for future regulatory 145
consideration absent commission action. "Regulatory assets" 146
includes, but is not limited to, all deferred demand-side 147
management costs; all deferred percentage of income payment plan 148
arrears; post-in-service capitalized charges and assets 149
recognized in connection with statement of financial accounting 150
standards no. 109 (receivables from customers for income taxes); 151
future nuclear decommissioning costs and fuel disposal costs as 152
those costs have been determined by the commission in the 153
electric utility's most recent rate or accounting application 154
proceeding addressing such costs; the undepreciated costs of 155
safety and radiation control equipment on nuclear generating 156
plants owned or leased by an electric utility; and fuel costs 157
currently deferred pursuant to the terms of one or more 158
settlement agreements approved by the commission. 159

(27) "Retail electric service" means any service involved 160
in supplying or arranging for the supply of electricity to 161
ultimate consumers in this state, from the point of generation 162
to the point of consumption. For the purposes of this chapter, 163
retail electric service includes one or more of the following 164
"service components": generation service, aggregation service, 165
power marketing service, power brokerage service, transmission 166
service, distribution service, ancillary service, metering 167

service, and billing and collection service. 168

(28) "Starting date of competitive retail electric 169
service" means January 1, 2001. 170

(29) "Customer-generator" means a user of a net metering 171
system. 172

(30) "Net metering" means measuring the difference in an 173
applicable billing period between the electricity supplied by an 174
electric service provider and the electricity generated by a 175
customer-generator that is fed back to the electric service 176
provider. 177

(31) "Net metering system" means a facility for the 178
production of electrical energy that does all of the following: 179

(a) Uses as its fuel either solar, wind, biomass, landfill 180
gas, or hydropower, or uses a microturbine or a fuel cell; 181

(b) Is located on a customer-generator's premises; 182

(c) Operates in parallel with the electric utility's 183
transmission and distribution facilities; 184

(d) Is intended primarily to offset part or all of the 185
customer-generator's requirements for electricity. For an 186
industrial customer-generator with a net metering system that 187
has a capacity of less than twenty megawatts and uses wind as 188
energy, this means the net metering system was sized so as to 189
not exceed one hundred per cent of the customer-generator's 190
annual requirements for electric energy at the time of 191
interconnection. 192

"Net metering system" does not include a portable solar 193
generation device. 194

(32) "Self-generator" means an entity in this state that 195
owns or hosts on property the entity controls an electric 196
generation facility that produces electricity primarily for the 197
owner's consumption and that may provide any such excess 198
electricity to another entity, and that meets all of the 199
following: 200

(a) The facility is installed or operated by the owner or 201
by a third party under a contract, including a lease, purchase 202
power agreement, or other service contract. 203

(b) The facility connects directly to the owner's side of 204
the electric meter. 205

(c) The facility delivers electricity to the owner's side 206
of the electric meter without the use of an electric 207
distribution utility's or electric cooperative's distribution 208
system or transmission system. 209

(33) "Rate plan" means the standard service offer in 210
effect on the effective date of the amendment of this section by 211
S.B. 221 of the 127th general assembly, July 31, 2008. 212

(34) "Advanced energy resource" means any of the 213
following: 214

(a) Any method or any modification or replacement of any 215
property, process, device, structure, or equipment that 216
increases the generation output of an electric generating 217
facility to the extent such efficiency is achieved without 218
additional carbon dioxide emissions by that facility; 219

(b) Any distributed generation system consisting of 220
customer cogeneration technology; 221

(c) Clean coal technology that includes a carbon-based 222

product that is chemically altered before combustion to 223
demonstrate a reduction, as expressed as ash, in emissions of 224
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 225
sulfur trioxide in accordance with the American society of 226
testing and materials standard D1757A or a reduction of metal 227
oxide emissions in accordance with standard D5142 of that 228
society, or clean coal technology that includes the design 229
capability to control or prevent the emission of carbon dioxide, 230
which design capability the commission shall adopt by rule and 231
shall be based on economically feasible best available 232
technology or, in the absence of a determined best available 233
technology, shall be of the highest level of economically 234
feasible design capability for which there exists generally 235
accepted scientific opinion; 236

(d) Advanced nuclear energy technology consisting of 237
generation III technology as defined by the nuclear regulatory 238
commission; other, later technology; or significant improvements 239
to existing facilities; 240

(e) Any fuel cell used in the generation of electricity, 241
including, but not limited to, a proton exchange membrane fuel 242
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 243
solid oxide fuel cell; 244

(f) Advanced solid waste or construction and demolition 245
debris conversion technology, including, but not limited to, 246
advanced stoker technology, and advanced fluidized bed 247
gasification technology, that results in measurable greenhouse 248
gas emissions reductions as calculated pursuant to the United 249
States environmental protection agency's waste reduction model 250
(WARM); 251

(g) Demand-side management and any energy efficiency 252

improvement;	253
(h) Any new, retrofitted, refueled, or repowered	254
generating facility located in Ohio, including a simple or	255
combined-cycle natural gas generating facility or a generating	256
facility that uses biomass, coal, modular nuclear, or any other	257
fuel as its input;	258
(i) Any uprated capacity of an existing electric	259
generating facility if the uprated capacity results from the	260
deployment of advanced technology.	261
"Advanced energy resource" does not include a waste energy	262
recovery system that is, or has been, included in an energy	263
efficiency program of an electric distribution utility pursuant	264
to requirements under section 4928.66 of the Revised Code.	265
(35) "Air contaminant source" has the same meaning as in	266
section 3704.01 of the Revised Code.	267
(36) "Cogeneration technology" means technology that	268
produces electricity and useful thermal output simultaneously.	269
(37) (a) "Renewable energy resource" means any of the	270
following:	271
(i) Solar photovoltaic or solar thermal energy;	272
(ii) Wind energy;	273
(iii) Power produced by a hydroelectric facility;	274
(iv) Power produced by a small hydroelectric facility,	275
which is a facility that operates, or is rated to operate, at an	276
aggregate capacity of less than six megawatts;	277
(v) Power produced by a run-of-the-river hydroelectric	278
facility placed in service on or after January 1, 1980, that is	279

located within this state, relies upon the Ohio river, and 280
operates, or is rated to operate, at an aggregate capacity of 281
forty or more megawatts; 282

(vi) Geothermal energy; 283

(vii) Fuel derived from solid wastes, as defined in 284
section 3734.01 of the Revised Code, through fractionation, 285
biological decomposition, or other process that does not 286
principally involve combustion; 287

(viii) Biomass energy; 288

(ix) Energy produced by cogeneration technology that is 289
placed into service on or before December 31, 2015, and for 290
which more than ninety per cent of the total annual energy input 291
is from combustion of a waste or byproduct gas from an air 292
contaminant source in this state, which source has been in 293
operation since on or before January 1, 1985, provided that the 294
cogeneration technology is a part of a facility located in a 295
county having a population of more than three hundred sixty-five 296
thousand but less than three hundred seventy thousand according 297
to the most recent federal decennial census; 298

(x) Biologically derived methane gas; 299

(xi) Heat captured from a generator of electricity, 300
boiler, or heat exchanger fueled by biologically derived methane 301
gas; 302

(xii) Energy derived from nontreated by-products of the 303
pulping process or wood manufacturing process, including bark, 304
wood chips, sawdust, and lignin in spent pulping liquors. 305

"Renewable energy resource" includes, but is not limited 306
to, any fuel cell used in the generation of electricity, 307

including, but not limited to, a proton exchange membrane fuel 308
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 309
solid oxide fuel cell; a linear generator; wind turbine located 310
in the state's territorial waters of Lake Erie; methane gas 311
emitted from an abandoned or active coal mine; waste energy 312
recovery system placed into service or retrofitted on or after 313
the effective date of the amendment of this section by S.B. 315 314
of the 129th general assembly, September 10, 2012, except that a 315
waste energy recovery system described in division (A) (38) (b) of 316
this section may be included only if it was placed into service 317
between January 1, 2002, and December 31, 2004; storage facility 318
that will promote the better utilization of a renewable energy 319
resource; or distributed generation system used by a customer to 320
generate electricity from any such energy. 321

"Renewable energy resource" does not include a waste 322
energy recovery system that is, or was, on or after January 1, 323
2012, included in an energy efficiency program of an electric 324
distribution utility pursuant to requirements under section 325
4928.66 of the Revised Code. 326

(b) As used in division (A) (37) of this section, 327
"hydroelectric facility" means a hydroelectric generating 328
facility that is located at a dam on a river, or on any water 329
discharged to a river, that is within or bordering this state or 330
within or bordering an adjoining state and meets all of the 331
following standards: 332

(i) The facility provides for river flows that are not 333
detrimental for fish, wildlife, and water quality, including 334
seasonal flow fluctuations as defined by the applicable 335
licensing agency for the facility. 336

(ii) The facility demonstrates that it complies with the 337

water quality standards of this state, which compliance may 338
consist of certification under Section 401 of the "Clean Water 339
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 340
demonstrates that it has not contributed to a finding by this 341
state that the river has impaired water quality under Section 342
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 343
U.S.C. 1313. 344

(iii) The facility complies with mandatory prescriptions 345
regarding fish passage as required by the federal energy 346
regulatory commission license issued for the project, regarding 347
fish protection for riverine, anadromous, and catadromous fish. 348

(iv) The facility complies with the recommendations of the 349
Ohio environmental protection agency and with the terms of its 350
federal energy regulatory commission license regarding watershed 351
protection, mitigation, or enhancement, to the extent of each 352
agency's respective jurisdiction over the facility. 353

(v) The facility complies with provisions of the 354
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 355
to 1544, as amended. 356

(vi) The facility does not harm cultural resources of the 357
area. This can be shown through compliance with the terms of its 358
federal energy regulatory commission license or, if the facility 359
is not regulated by that commission, through development of a 360
plan approved by the Ohio historic preservation office, to the 361
extent it has jurisdiction over the facility. 362

(vii) The facility complies with the terms of its federal 363
energy regulatory commission license or exemption that are 364
related to recreational access, accommodation, and facilities 365
or, if the facility is not regulated by that commission, the 366

facility complies with similar requirements as are recommended 367
by resource agencies, to the extent they have jurisdiction over 368
the facility; and the facility provides access to water to the 369
public without fee or charge. 370

(viii) The facility is not recommended for removal by any 371
federal agency or agency of any state, to the extent the 372
particular agency has jurisdiction over the facility. 373

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 374
this section do not apply to a small hydroelectric facility 375
under division (A) (37) (a) (iv) of this section. 376

(38) "Waste energy recovery system" means any of the 377
following: 378

(a) A facility that generates electricity through the 379
conversion of energy from either of the following: 380

(i) Exhaust heat from engines or manufacturing, 381
industrial, commercial, or institutional sites, except for 382
exhaust heat from a facility whose primary purpose is the 383
generation of electricity; 384

(ii) Reduction of pressure in gas pipelines before gas is 385
distributed through the pipeline, provided that the conversion 386
of energy to electricity is achieved without using additional 387
fossil fuels. 388

(b) A facility at a state institution of higher education 389
as defined in section 3345.011 of the Revised Code that recovers 390
waste heat from electricity-producing engines or combustion 391
turbines and that simultaneously uses the recovered heat to 392
produce steam, provided that the facility was placed into 393
service between January 1, 2002, and December 31, 2004; 394

(c) A facility that produces steam from recovered waste 395
heat from a manufacturing process and uses that steam, or 396
transfers that steam to another facility, to provide heat to 397
another manufacturing process or to generate electricity. 398

(39) "Smart grid" means capital improvements to an 399
electric distribution utility's distribution infrastructure that 400
improve reliability, efficiency, resiliency, or reduce energy 401
demand or use, including, but not limited to, advanced metering 402
and automation of system functions. 403

(40) "Combined heat and power system" means the 404
coproduction of electricity and useful thermal energy from the 405
same fuel source designed to achieve thermal-efficiency levels 406
of at least sixty per cent, with at least twenty per cent of the 407
system's total useful energy in the form of thermal energy. 408

(41) (a) "Green energy" means any energy generated by using 409
an energy resource that does one or more of the following: 410

(i) Releases reduced air pollutants, thereby reducing 411
cumulative air emissions; 412

(ii) Is more sustainable and reliable relative to some 413
fossil fuels. 414

(b) "Green energy" includes energy generated using the 415
following: 416

(i) Natural gas as a resource; 417

(ii) Nuclear reaction. 418

(42) "Energy storage" means electrical generation and 419
storage performed by a distributed energy system connected 420
battery. 421

(43) "Linear generator" means an integrated system 422
consisting of oscillators, cylinders, electricity conversion 423
equipment, and associated balance of plant components that meet 424
the following criteria: 425

(a) Converts the linear motion of oscillators directly 426
into electricity without the use of a flame or spark; 427

(b) Is dispatchable with the ability to vary power output 428
across all loads; 429

(c) Can operate on multiple fuel types including renewable 430
fuels such as hydrogen, ammonia, and biogas. 431

(44) "Portable solar generation device" means a moveable 432
photovoltaic electric generation device that satisfies all of 433
the following: 434

(a) Has a maximum power output of not more than one 435
thousand two hundred watts; 436

(b) Is designed to be connected to a building's electrical 437
system through a standard one hundred twenty volt alternating 438
current outlet; 439

(c) Is intended primarily to offset part of the customer's 440
electricity consumption; 441

(d) Is certified by underwriters laboratories or an 442
equivalent nationally recognized testing laboratory. 443

(B) For the purposes of this chapter, a retail electric 444
service component shall be deemed a competitive retail electric 445
service if the service component is competitive pursuant to a 446
declaration by a provision of the Revised Code or pursuant to an 447
order of the public utilities commission authorized under 448
division (A) of section 4928.04 of the Revised Code. Otherwise, 449

the service component shall be deemed a noncompetitive retail 450
electric service. 451

Sec. 4928.74. A portable solar generation device is exempt 452
from any interconnection requirement and any requirement to 453
enter into an interconnection agreement with an electric utility 454
imposed pursuant to Chapter 4928. of the Revised Code. 455

Sec. 4928.741. No electric utility shall require a 456
customer using a portable solar generation device to do any of 457
the following: 458

(A) Obtain the utility's approval before installing or 459
using the device; 460

(B) Pay any fee or charge related to the device or for 461
feeding small amounts of electricity back into the utility grid; 462

(C) Install any additional controls or equipment beyond 463
what is integrated into the device. 464

Sec. 4928.742. The public utilities commission shall adopt 465
rules to implement sections 4928.74 and 4928.741 of the Revised 466
Code. 467

Section 2. That existing section 4928.01 of the Revised 468
Code is hereby repealed. 469