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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Baldrige and Lanese

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SUMMARY

- Amends state energy policy to encourage the development of “community solar projects” (CSP) which are energy generating facilities that meet certain requirements and allow for customers to offset a portion of their electric consumption with energy generated by the project through subscriptions.
- Allows the Public Utilities Commission (PUCO) to certify up to:
 - 2,000 megawatts (MWs) of CSPs, based on nameplate capacity; and
 - An additional 1,000 MWs of CSPs to be constructed in distressed areas, the majority of which must be in Ohio’s Appalachian Region counties.
- Requires subscribers to a CSP to be eligible for net metering on the same terms as a customer-generator, which terms must also include a process to unsubscribe from a CSP.
- Caps the amount a subscriber can subscribe from a CSP to no more than 120% of the subscriber’s average annual electricity usage.
- Provides an owner or operator of a CSP built on certain distressed sites the following incentives:
 - A nameplate capacity of up to 45 MWs based on the CSP’s point of interconnection (CSPs sited elsewhere are capped at 10 MWs);
 - Eligible to receive a grant awarded by the Department of Development under the Brownsfield Remediation Program under continuing law.
- Requires PUCO to conduct an annual review of the CSP Program and to submit a report to the General Assembly with their findings.
- Directs PUCO, not later than six months after the bill’s effective date, to promulgate rules to implement the bill’s provisions.

DETAILED ANALYSIS

Community solar projects

The bill makes it state energy policy to encourage the development of “community solar projects” (CSPs) for the benefit of Ohio customers and to facilitate customer participation in the projects.¹

Under the bill, a CSP is a facility owned and operated by a subscriber organization (a for-profit or nonprofit entity that owns or operates one or more CSPs) that generates electricity by means of a solar photovoltaic device and the facility meets the following requirements:

- It is located in Ohio and is connected to the electric transmission grid, or an electric distribution system, serving Ohio;
- It has at least three subscribers (customers of an electric distribution utility (EDU) that purchase shares of a CSP’s output and are not “self-assessing purchasers”)²;
- It is located on one or more adjacent and contiguous parcels of land, and is not located within one mile of solar facilities under the control of the same entity, based on the project’s point of interconnection (control means possession of the power to direct the management and policies of an entity);
- No subscriber holds more than a 40% proportional interest in the output of the system, and not less than 60% of the facility capacity subscribed by subscriptions of 40 kilowatts or less;
- Its nameplate capacity is 10 or less megawatts (MW);
- It is not under the control of an EDU, except that an EDU’s affiliate may control it.³

Certification of CSPs

The bill allows the Public Utilities Commission (PUCO) to certify up to 2,000 MWs of CSPs, based on nameplate capacity.⁴

The bill also allows PUCO to certify an additional 1,000 MWs, which must be reserved for CSPs constructed exclusively on distressed sites. PUCO must ensure that a majority of the 1,000 MWs for distressed sites be distributed to projects that are to be constructed in the

¹ R.C. 4928.02.

² R.C. 5727.81, not in the bill.

³ R.C. 4928.85(A), (C), (D), and (E).

⁴ R.C. 4928.851(A).

Appalachian Region (certain Ohio counties located in Southern and Easter parts of the state and designated as part of Appalachia by the federal government).⁵

Under the bill, a distressed site is made up of contiguous parcels within an EDU's certified territory, or located within a county in which an EDU operates, where a majority of the acreage is at least one of the following:

- A "brownfield" (an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion and redevelopment is complicated by the possibility or presence of hazardous substances or petroleum);
- A parcel that is within an area where an investor may receive a New Markets Tax Credit under federal law;
- A closed solid waste facility licensed by the Environmental Protection Agency.⁶

The bill further specifies that certification of CSPs is separate from any certification process related to renewable energy benchmarks and renewable energy credits under continuing law.⁷

CSP subscription and net metering

The bill requires CSP subscribers to be eligible for net metering under continuing law, on the same terms as a typical customer-generator, offsetting the subscriber's usage based on the amount of electricity represented by the subscription. These terms must also include a process for customers to unsubscribe from the CSP. The bill prohibits a subscriber from subscribing to a share of a CSP representing more than 120% of their average annual electricity usage.⁸

Distressed sites incentives

The bill gives incentives for a CSP to be constructed on a distressed site. The bill allows such a CSP to have a nameplate capacity of up to 45 MW based on the project's point of interconnection, rather than up to 10 MW for a CSP built elsewhere. A subscription organization⁹ is also eligible to receive a grant awarded by the Department of Development from the Brownfield Remediation Program under continuing law for costs associated with construction and remediation related to the CSP construction. The Department must promulgate rules for awarding the grants.¹⁰

⁵ R.C. 4928.851(B).

⁶ R.C. 4928.85(B); R.C. 122.65 and 3734.02, not in the bill; 26 United States Code 45D.

⁷ R.C. 4928.851(C); R.C. 4928.64 to 4928.645, not in the bill.

⁸ R.C. 4928.852.

⁹ A technical amendment is needed to correct the reference to "subscription organization." It should be "subscriber organization." See R.C. 4928.85.

¹⁰ R.C. 4928.856 and 4928.857; R.C. 122.6511, not in the bill.

Reporting requirement

The bill directs PUCO to conduct an annual review of the CSP Program and submit a report to the General Assembly, which must contain at least:

- The number and location of the CSPs;
- The amount of nameplate capacity available;
- The number of subscribers, how much energy they consumed, the type of customer classes that subscribed, and whether they achieved any bill savings;
- Any other information PUCO determines is necessary.

The bill requires PUCO to promulgate rules requiring subscriber organizations to provide PUCO with a report containing the information described above, and any other info PUCO requests.¹¹

Rulemaking

The bill requires PUCO, not later than six months after the bill's effective date and notwithstanding continuing law governing the review and reduction of administrative rules with regulatory restrictions to the contrary,¹² to promulgate rules to implement the bill's provisions, including rules for the creation and establishment of CSPs and the following:

- Subscriber enrollment to purchase share of the output of CSPs, which must ensure customer protection and participation opportunities for all subscribers;
- CSP certification, including rules requiring a decision by PUCO to approve or deny a project within 90 days, unless PUCO determines there is good cause for not meeting the deadline;
- Prohibit removing a customer from the customer's applicable customer class due to the customer's subscription;
- Reasonably allow for the transfer and portability of subscriptions, including allowing a subscriber to retain a subscription if the subscriber moves within the same EDU's service territory;
- Modify existing interconnection standards, fees, and processes, as needed, to facilitate the efficient and cost-effective interconnection of CSPs to allow an EDU to recover reasonable interconnection costs for each project. Any increase in such fees occurring due to the modification must be paid by the EDU;
- Provide for consumer protection in accordance with all applicable laws and regulation, including those protecting against disconnection of service;

¹¹ R.C. 4928.858.

¹² R.C. 121.95, not in the bill.

- Allows an EDU to recover reasonable costs for administering the CSP program;
- Require EDUs to efficiently connect a CSP to the electrical grid and to not discriminate against CSPs or subscribers;
- Ensure that CSPs have reached a milestone (determined by PUCO) in the interconnection process, can demonstrate site control, and have received all applicable nonministerial permits (necessary governmental permits and approvals to construct a project notwithstanding any pending legal challenge to one or more permits or approvals¹³);
- Require subscriber organizations to send a notice in a standardized format containing information related to customer enrollment to the EDU that services the area where the project is sited.¹⁴

HISTORY

Action	Date
Introduced	10-12-21

H0450-I-134/ts

¹³ R.C. 4928.85(F).

¹⁴ R.C. 4928.859.