

I_135_1111-3

135th General Assembly
Regular Session
2023-2024

. B. No.

A BILL

To amend sections 4928.01 and 4928.02 and to enact
sections 1.66, 4934.01, 4934.011, 4934.04,
4934.05, 4934.06, 4934.07, 4934.071, 4934.072,
4934.08, 4934.09, 4934.10, 4934.11, 4934.12,
4934.13, 4934.14, 4934.15, 4934.16, 4934.17,
4934.24, 4934.25, 4934.26, and 4934.27 of the
Revised Code to establish the community solar
pilot program.

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

Section 1. That sections 4928.01 and 4928.02 be amended
and sections 1.66, 4934.01, 4934.011, 4934.04, 4934.05, 4934.06,
4934.07, 4934.071, 4934.072, 4934.08, 4934.09, 4934.10, 4934.11,
4934.12, 4934.13, 4934.14, 4934.15, 4934.16, 4934.17, 4934.24,
4934.25, 4934.26, and 4934.27 of the Revised Code be enacted to
read as follows:

Sec. 1.66. As used in the Revised Code, unless the
context requires otherwise, all measures of electricity
described in watts, kilowatts, megawatts, or any derivative
thereof means such electricity expressed in alternating current.



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Sec. 4928.01. (A) As used in this chapter: 19

(1) "Ancillary service" means any function necessary to 20
the provision of electric transmission or distribution service 21
to a retail customer and includes, but is not limited to, 22
scheduling, system control, and dispatch services; reactive 23
supply from generation resources and voltage control service; 24
reactive supply from transmission resources service; regulation 25
service; frequency response service; energy imbalance service; 26
operating reserve-spinning reserve service; operating reserve- 27
supplemental reserve service; load following; back-up supply 28
service; real-power loss replacement service; dynamic 29
scheduling; system black start capability; and network stability 30
service. 31

(2) "Billing and collection agent" means a fully 32
independent agent, not affiliated with or otherwise controlled 33
by an electric utility, electric services company, electric 34
cooperative, or governmental aggregator subject to certification 35
under section 4928.08 of the Revised Code, to the extent that 36
the agent is under contract with such utility, company, 37
cooperative, or aggregator solely to provide billing and 38
collection for retail electric service on behalf of the utility 39
company, cooperative, or aggregator. 40

(3) "Certified territory" means the certified territory 41
established for an electric supplier under sections 4933.81 to 42
4933.90 of the Revised Code. 43

(4) "Competitive retail electric service" means a 44
component of retail electric service that is competitive as 45
provided under division (B) of this section. 46

(5) "Electric cooperative" means a not-for-profit electric 47

light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service.

(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company, but excludes any self-generator to the extent that it consumes electricity it so produces, sells that electricity for resale, or obtains electricity from a generating facility it hosts on its premises.

(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.

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

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

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis either in the business of supplying a noncompetitive

retail electric service in this state or in the businesses of 77
supplying both a noncompetitive and a competitive retail 78
electric service in this state. "Electric utility" excludes a 79
municipal electric utility or a billing and collection agent. 80

(12) "Firm electric service" means electric service other 81
than nonfirm electric service. 82

(13) "Governmental aggregator" means a legislative 83
authority of a municipal corporation, a board of township 84
trustees, or a board of county commissioners acting as an 85
aggregator for the provision of a competitive retail electric 86
service under authority conferred under section 4928.20 of the 87
Revised Code. 88

(14) A person acts "knowingly," regardless of the person's 89
purpose, when the person is aware that the person's conduct will 90
probably cause a certain result or will probably be of a certain 91
nature. A person has knowledge of circumstances when the person 92
is aware that such circumstances probably exist. 93

(15) "Level of funding for low-income customer energy 94
efficiency programs provided through electric utility rates" 95
means the level of funds specifically included in an electric 96
utility's rates on October 5, 1999, pursuant to an order of the 97
public utilities commission issued under Chapter 4905. or 4909. 98
of the Revised Code and in effect on October 4, 1999, for the 99
purpose of improving the energy efficiency of housing for the 100
utility's low-income customers. The term excludes the level of 101
any such funds committed to a specific nonprofit organization or 102
organizations pursuant to a stipulation or contract. 103

(16) "Low-income customer assistance programs" means the 104
percentage of income payment plan program, the home energy 105

assistance program, the home weatherization assistance program,	106
and the targeted energy efficiency and weatherization program.	107
(17) "Market development period" for an electric utility	108
means the period of time beginning on the starting date of	109
competitive retail electric service and ending on the applicable	110
date for that utility as specified in section 4928.40 of the	111
Revised Code, irrespective of whether the utility applies to	112
receive transition revenues under this chapter.	113
(18) "Market power" means the ability to impose on	114
customers a sustained price for a product or service above the	115
price that would prevail in a competitive market.	116
(19) "Mercantile customer" means a commercial or	117
industrial customer if the electricity consumed is for	118
nonresidential use and the customer consumes more than seven	119
hundred thousand kilowatt hours per year or is part of a	120
national account involving multiple facilities in one or more	121
states.	122
(20) "Municipal electric utility" means a municipal	123
corporation that owns or operates facilities to generate,	124
transmit, or distribute electricity.	125
(21) "Noncompetitive retail electric service" means a	126
component of retail electric service that is noncompetitive as	127
provided under division (B) of this section.	128
(22) "Nonfirm electric service" means electric service	129
provided pursuant to a schedule filed under section 4905.30 of	130
the Revised Code or pursuant to an arrangement under section	131
4905.31 of the Revised Code, which schedule or arrangement	132
includes conditions that may require the customer to curtail or	133
interrupt electric usage during nonemergency circumstances upon	134

notification by an electric utility.	135
(23) "Percentage of income payment plan arrears" means	136
funds eligible for collection through the percentage of income	137
payment plan rider, but uncollected as of July 1, 2000.	138
(24) "Person" has the same meaning as in section 1.59 of	139
the Revised Code.	140
(25) "Advanced energy project" means any technologies,	141
products, activities, or management practices or strategies that	142
facilitate the generation or use of electricity or energy and	143
that reduce or support the reduction of energy consumption or	144
support the production of clean, renewable energy for	145
industrial, distribution, commercial, institutional,	146
governmental, research, not-for-profit, or residential energy	147
users, including, but not limited to, advanced energy resources	148
and renewable energy resources. "Advanced energy project" also	149
includes any project described in division (A), (B), or (C) of	150
section 4928.621 of the Revised Code.	151
(26) "Regulatory assets" means the unamortized net	152
regulatory assets that are capitalized or deferred on the	153
regulatory books of the electric utility, pursuant to an order	154
or practice of the public utilities commission or pursuant to	155
generally accepted accounting principles as a result of a prior	156
commission rate-making decision, and that would otherwise have	157
been charged to expense as incurred or would not have been	158
capitalized or otherwise deferred for future regulatory	159
consideration absent commission action. "Regulatory assets"	160
includes, but is not limited to, all deferred demand-side	161
management costs; all deferred percentage of income payment plan	162
arrears; post-in-service capitalized charges and assets	163
recognized in connection with statement of financial accounting	164

standards no. 109 (receivables from customers for income taxes); 165
future nuclear decommissioning costs and fuel disposal costs as 166
those costs have been determined by the commission in the 167
electric utility's most recent rate or accounting application 168
proceeding addressing such costs; the undepreciated costs of 169
safety and radiation control equipment on nuclear generating 170
plants owned or leased by an electric utility; and fuel costs 171
currently deferred pursuant to the terms of one or more 172
settlement agreements approved by the commission. 173

(27) "Retail electric service" means any service involved 174
in supplying or arranging for the supply of electricity to 175
ultimate consumers in this state, from the point of generation 176
to the point of consumption. For the purposes of this chapter, 177
retail electric service includes one or more of the following 178
"service components": generation service, aggregation service, 179
power marketing service, power brokerage service, transmission 180
service, distribution service, ancillary service, metering 181
service, and billing and collection service. 182

(28) "Starting date of competitive retail electric 183
service" means January 1, 2001. 184

(29) "Customer-generator" means a user of a net metering 185
system. 186

(30) "Net metering" means measuring the difference in an 187
applicable billing period between the electricity supplied by an 188
electric service provider and the electricity generated by a 189
customer-generator that is fed back to the electric service 190
provider. 191

(31) "Net metering system" means a facility for the 192
production of electrical energy that does all of the following: 193

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;	194 195
(b) Is located on a customer-generator's premises;	196
(c) Operates in parallel with the electric utility's transmission and distribution facilities;	197 198
(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection.	199 200 201 202 203 204 205 206
(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract.	207 208 209 210 211 212
(33) "Rate plan" means the standard service offer in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.	213 214 215
(34) "Advanced energy resource" means any of the following:	216 217
(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;	218 219 220 221 222

(b) Any distributed generation system consisting of	223
customer cogeneration technology;	224
(c) Clean coal technology that includes a carbon-based	225
product that is chemically altered before combustion to	226
demonstrate a reduction, as expressed as ash, in emissions of	227
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or	228
sulfur trioxide in accordance with the American society of	229
testing and materials standard D1757A or a reduction of metal	230
oxide emissions in accordance with standard D5142 of that	231
society, or clean coal technology that includes the design	232
capability to control or prevent the emission of carbon dioxide,	233
which design capability the commission shall adopt by rule and	234
shall be based on economically feasible best available	235
technology or, in the absence of a determined best available	236
technology, shall be of the highest level of economically	237
feasible design capability for which there exists generally	238
accepted scientific opinion;	239
(d) Advanced nuclear energy technology consisting of	240
generation III technology as defined by the nuclear regulatory	241
commission; other, later technology; or significant improvements	242
to existing facilities;	243
(e) Any fuel cell used in the generation of electricity,	244
including, but not limited to, a proton exchange membrane fuel	245
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	246
solid oxide fuel cell;	247
(f) Advanced solid waste or construction and demolition	248
debris conversion technology, including, but not limited to,	249
advanced stoker technology, and advanced fluidized bed	250
gasification technology, that results in measurable greenhouse	251
gas emissions reductions as calculated pursuant to the United	252

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

aggregate capacity of less than six megawatts;	280
(v) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;	281 282 283 284 285
(vi) Geothermal energy;	286
(vii) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion;	287 288 289 290
(viii) Biomass energy;	291
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census;	292 293 294 295 296 297 298 299 300 301
(x) Biologically derived methane gas;	302
(xi) Heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas;	303 304 305
(xii) Energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark,	306 307

wood chips, sawdust, and lignin in spent pulping liquors. 308

"Renewable energy resource" includes, but is not limited 309
to, any fuel cell used in the generation of electricity, 310
including, but not limited to, a proton exchange membrane fuel 311
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 312
solid oxide fuel cell; wind turbine located in the state's 313
territorial waters of Lake Erie; methane gas emitted from an 314
abandoned coal mine; waste energy recovery system placed into 315
service or retrofitted on or after the effective date of the 316
amendment of this section by S.B. 315 of the 129th general 317
assembly, September 10, 2012, except that a waste energy 318
recovery system described in division (A)(38)(b) of this section 319
may be included only if it was placed into service between 320
January 1, 2002, and December 31, 2004; storage facility that 321
will promote the better utilization of a renewable energy 322
resource; or distributed generation system used by a customer to 323
generate electricity from any such energy. 324

"Renewable energy resource" does not include a waste 325
energy recovery system that is, or was, on or after January 1, 326
2012, included in an energy efficiency program of an electric 327
distribution utility pursuant to requirements under section 328
4928.66 of the Revised Code. 329

(b) As used in division (A)(37) of this section, 330
"hydroelectric facility" means a hydroelectric generating 331
facility that is located at a dam on a river, or on any water 332
discharged to a river, that is within or bordering this state or 333
within or bordering an adjoining state and meets all of the 334
following standards: 335

(i) The facility provides for river flows that are not 336
detrimental for fish, wildlife, and water quality, including 337

seasonal flow fluctuations as defined by the applicable 338
licensing agency for the facility. 339

(ii) The facility demonstrates that it complies with the 340
water quality standards of this state, which compliance may 341
consist of certification under Section 401 of the "Clean Water 342
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 343
demonstrates that it has not contributed to a finding by this 344
state that the river has impaired water quality under Section 345
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 346
U.S.C. 1313. 347

(iii) The facility complies with mandatory prescriptions 348
regarding fish passage as required by the federal energy 349
regulatory commission license issued for the project, regarding 350
fish protection for riverine, anadromous, and catadromous fish. 351

(iv) The facility complies with the recommendations of the 352
Ohio environmental protection agency and with the terms of its 353
federal energy regulatory commission license regarding watershed 354
protection, mitigation, or enhancement, to the extent of each 355
agency's respective jurisdiction over the facility. 356

(v) The facility complies with provisions of the 357
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 358
to 1544, as amended. 359

(vi) The facility does not harm cultural resources of the 360
area. This can be shown through compliance with the terms of its 361
federal energy regulatory commission license or, if the facility 362
is not regulated by that commission, through development of a 363
plan approved by the Ohio historic preservation office, to the 364
extent it has jurisdiction over the facility. 365

(vii) The facility complies with the terms of its federal 366

energy regulatory commission license or exemption that are 367
related to recreational access, accommodation, and facilities 368
or, if the facility is not regulated by that commission, the 369
facility complies with similar requirements as are recommended 370
by resource agencies, to the extent they have jurisdiction over 371
the facility; and the facility provides access to water to the 372
public without fee or charge. 373

(viii) The facility is not recommended for removal by any 374
federal agency or agency of any state, to the extent the 375
particular agency has jurisdiction over the facility. 376

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 377
this section do not apply to a small hydroelectric facility 378
under division (A) (37) (a) (iv) of this section. 379

(38) "Waste energy recovery system" means either of the 380
following: 381

(a) A facility that generates electricity through the 382
conversion of energy from either of the following: 383

(i) Exhaust heat from engines or manufacturing, 384
industrial, commercial, or institutional sites, except for 385
exhaust heat from a facility whose primary purpose is the 386
generation of electricity; 387

(ii) Reduction of pressure in gas pipelines before gas is 388
distributed through the pipeline, provided that the conversion 389
of energy to electricity is achieved without using additional 390
fossil fuels. 391

(b) A facility at a state institution of higher education 392
as defined in section 3345.011 of the Revised Code that recovers 393
waste heat from electricity-producing engines or combustion 394
turbines and that simultaneously uses the recovered heat to 395

produce steam, provided that the facility was placed into 396
service between January 1, 2002, and December 31, 2004. 397

(39) "Smart grid" means capital improvements to an 398
electric distribution utility's distribution infrastructure that 399
improve reliability, efficiency, resiliency, or reduce energy 400
demand or use, including, but not limited to, advanced metering 401
and automation of system functions. 402

(40) "Combined heat and power system" means the 403
coproduction of electricity and useful thermal energy from the 404
same fuel source designed to achieve thermal-efficiency levels 405
of at least sixty per cent, with at least twenty per cent of the 406
system's total useful energy in the form of thermal energy. 407

(41) "Legacy generation resource" means all generating 408
facilities owned directly or indirectly by a corporation that 409
was formed prior to 1960 by investor-owned utilities for the 410
original purpose of providing power to the federal government 411
for use in the nation's defense or in furtherance of national 412
interests, including the Ohio valley electric corporation. 413

(42) "Prudently incurred costs related to a legacy 414
generation resource" means costs, including deferred costs, 415
allocated pursuant to a power agreement approved by the federal 416
energy regulatory commission that relates to a legacy generation 417
resource, less any revenues realized from offering the 418
contractual commitment for the power agreement into the 419
wholesale markets, provided that where the net revenues exceed 420
net costs, those excess revenues shall be credited to customers. 421
Such costs shall exclude any return on investment in common 422
equity and, in the event of a premature retirement of a legacy 423
generation resource, shall exclude any recovery of remaining 424
debt. Such costs shall include any incremental costs resulting 425

from the bankruptcy of a current or former sponsor under such 426
power agreement or co-owner of the legacy generation resource if 427
not otherwise recovered through a utility rate cost recovery 428
mechanism. 429

(43) "Green energy" means any energy generated by using an 430
energy resource that does one or more of the following: 431

(a) Releases reduced air pollutants, thereby reducing 432
cumulative air emissions; 433

(b) Is more sustainable and reliable relative to some 434
fossil fuels. 435

"Green energy" includes energy generated by using natural 436
gas as a resource. 437

(44) "Energy storage" means electrical generation and 438
storage performed by a distributed energy system connected 439
battery. 440

(B) For the purposes of this chapter, a retail electric 441
service component shall be deemed a competitive retail electric 442
service if the service component is competitive pursuant to a 443
declaration by a provision of the Revised Code or pursuant to an 444
order of the public utilities commission authorized under 445
division (A) of section 4928.04 of the Revised Code. Otherwise, 446
the service component shall be deemed a noncompetitive retail 447
electric service. 448

Sec. 4928.02. It is the policy of this state to do the 449
following throughout this state: 450

(A) Ensure the availability to consumers of adequate, 451
reliable, safe, efficient, nondiscriminatory, and reasonably 452
priced retail electric service; 453

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

(D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(F) Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;

(G) Recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;

(H) Ensure effective competition in the provision of

retail electric service by avoiding anticompetitive subsidies 483
flowing from a noncompetitive retail electric service to a 484
competitive retail electric service or to a product or service 485
other than retail electric service, and vice versa, including by 486
prohibiting the recovery of any generation-related costs through 487
distribution or transmission rates; 488

(I) Ensure retail electric service consumers protection 489
against unreasonable sales practices, market deficiencies, and 490
market power; 491

(J) Provide coherent, transparent means of giving 492
appropriate incentives to technologies that can adapt 493
successfully to potential environmental mandates; 494

(K) Encourage implementation of distributed generation 495
across customer classes through regular review and updating of 496
administrative rules governing critical issues such as, but not 497
limited to, interconnection standards, standby charges, and net 498
metering; 499

(L) Protect at-risk populations, including, but not 500
limited to, when considering the implementation of any new 501
advanced energy or renewable energy resource; 502

(M) Encourage the education of small business owners in 503
this state regarding the use of, and encourage the use of, 504
energy efficiency programs and alternative energy resources in 505
their businesses; 506

(N) Facilitate the state's effectiveness in the global 507
economy. 508

(O) Encourage cost-effective, timely, and efficient access 509
to and sharing of customer usage data with customers and 510
competitive suppliers to promote customer choice and grid 511

modernization. 512

(P) Ensure that a customer's data is provided in a 513
standard format and provided to third parties in as close to 514
real time as is economically justifiable in order to spur 515
economic investment and improve the energy options of individual 516
customers. 517

(Q) Encourage the development of community solar 518
facilities, as defined in section 4934.01 of the Revised Code, 519
for the benefit of customers in this state and to facilitate 520
participation by customers with the facilities. 521

(R) Establish a community solar pilot program, pursuant to 522
sections 4934.04 to 4934.17 of the Revised Code. 523

(S) Establish program evaluations and consumer protections 524
ensuring community solar subscribers are effectively and 525
equitably receiving guaranteed savings, as defined in section 526
4934.01 of the Revised Code, from participating in the community 527
solar pilot program. 528

In carrying out this policy, the commission shall consider 529
rules as they apply to the costs of electric distribution 530
infrastructure, including, but not limited to, line extensions, 531
for the purpose of development in this state. 532

Sec. 4934.01. As used in this chapter: 533

(A) "Bill credit" means the monetary value approved or 534
revised under section 4934.08 or 4934.09 of the Revised Code by 535
the public utilities commission for each kilowatt hour of 536
electricity generated by a community solar facility and 537
allocated to a subscriber's monthly electric bill to offset any 538
part of the subscriber's electric bill. 539

(B) "Certified territory," "electric distribution utility," and "retail electric service" have the same meanings as in section 4928.01 of the Revised Code. 540
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(C) "Community solar facility" means a single facility that generates electricity by means of a solar photovoltaic device and meets all of the following requirements: 543
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(1) The facility is located in this state and is directly connected to an electric distribution utility's distribution system. 546
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(2) The facility has at least three subscribers. 549

(3) The facility is located on one parcel of land and, except as provided in section 4934.011 of the Revised Code, there is no community solar facility or solar field on the same or a contiguous parcel that is developed, owned, or operated by the same entity, affiliated entity, or entity under common control. 550
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(4) No subscriber holds more than a forty per cent proportional interest in the output of the system, which shall be measured as the sum total of all meters on the subscriber's property. 556
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(5) Not less than sixty per cent of the facility capacity shall be subscribed by subscriptions of forty kilowatts or less based on the average annual demand for the prior twelve-month period. For purposes of this division, a multi-unit building served by a single meter shall be considered a single customer provided the average usage, based on the number of units, is forty kilowatts or less. 560
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(6) The facility has a nameplate capacity of ten or less megawatts, or twenty or less megawatts if the facility is on a 567
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<u>distressed site, as measured at the point of interconnection.</u>	569
<u>(7) The facility is not under the control of an electric distribution utility, but may be under the control of an affiliate of the utility.</u>	570 571 572
<u>(8) The facility provides retail electric service only to subscribers within the same electric distribution utility certified territory as the facility.</u>	573 574 575
<u>(D) "Community solar organization" means a for-profit or nonprofit entity that operates one or more community solar facilities.</u>	576 577 578
<u>(E) "Distressed site" means a site made up of one or more parcels of land, located within an electric distribution utility's certified territory, or located within a county in which such a utility operates, where the majority of the acreage is at least one or more of the following:</u>	579 580 581 582 583
<u>(1) A brownfield as defined in section 122.65 of the Revised Code;</u>	584 585
<u>(2) A parcel that is within an area where an investor may receive a new markets tax credit under section 45D of the Internal Revenue Code;</u>	586 587 588
<u>(3) A solid waste facility licensed by the environmental protection agency under section 3734.02 of the Revised Code;</u>	589 590
<u>(4) A parcel of land that is described by division (b) (11) (B) (iii) of section 45 of the Internal Revenue Code;</u>	591 592
<u>(5) Land or structure owned by a metropolitan housing authority, as described in section 3735.27 of the Revised Code;</u>	593 594
<u>(6) Land owned by a county land reutilization corporation</u>	595

as defined in section 1724.01 of the Revised Code. 596

(F) "Guaranteed savings" means the realized savings by the 597
subscriber as the difference between the cost of a subscription 598
to a community solar facility and the bill credit received for 599
the generation attributed to the subscription. 600

(G) "Large industrial customer" means any manufacturer 601
that uses electricity primarily in a process involving a change 602
of raw or unfinished materials into another form or product, and 603
that takes service from an electric distribution utility at 604
primary voltage, subtransmission voltage, or transmission 605
voltage. 606

(H) "Non-ministerial permit" means all necessary and 607
discretionary governmental permits and approvals to construct a 608
community solar facility or a solar field notwithstanding any 609
pending legal challenge to one or more permits or approvals. 610

(I) "Solar field" means a single facility that generates 611
electricity by means of a solar photovoltaic device that is 612
directly connected to an electric distribution utility's 613
distribution grid and is not a community solar facility, 614
regardless of the operational capacity that the facility is 615
designed for or capable of. 616

(J) "Subscriber" means any retail electric customer who 617
meets all of the following: 618

(1) The customer has a single unique tax identification 619
number; 620

(2) The customer has an electric meter on the customer's 621
property; 622

(3) The customer resides within the certified territory of 623

<u>an electric distribution utility;</u>	624
<u>(4) The customer purchases a subscription;</u>	625
<u>(5) The customer is not a large industrial customer.</u>	626
<u>(K) "Subscription" means the right to a share of the</u>	627
<u>output of a community solar facility located in an electric</u>	628
<u>distribution utility's certified territory purchased from a</u>	629
<u>community solar organization.</u>	630
<u>(L) "Value stack" means distributed generation</u>	631
<u>compensation calculated under section 4939.09 of the Revised</u>	632
<u>Code that recognizes the benefits that community solar</u>	633
<u>facilities bring to the electrical grid, including all of the</u>	634
<u>following:</u>	635
<u>(1) Avoided costs for generation, capacity, and</u>	636
<u>transmission;</u>	637
<u>(2) Deferred transmission distribution investments;</u>	638
<u>(3) Avoided line loss;</u>	639
<u>(4) Increased resiliency;</u>	640
<u>(5) Other benefits associated with locally produced</u>	641
<u>electricity.</u>	642
<u>Sec. 4934.011. A community solar facility may be placed on</u>	643
<u>the same parcel or a contiguous parcel of land as a community</u>	644
<u>solar facility or solar field that is developed, owned, or</u>	645
<u>operated by the same entity, affiliated entity, or entity under</u>	646
<u>common control if at least one of the following is met:</u>	647
<u>(A) The parcel or parcels of land are a distressed site,</u>	648
<u>and the total capacity of all community solar facilities and</u>	649
<u>solar fields on the parcel or parcels does not exceed twenty</u>	650

megawatts. 651

(B) All of the following are satisfied: 652

(1) The community solar facility is to be located on a 653
parcel of land, or multiple parcels of land, that were created 654
prior to the effective date of this section. 655

(2) The total capacity of all community solar facilities 656
and solar fields on the parcel or parcels of land does not 657
exceed ten megawatts. 658

(3) Each community solar facility has its own distinct 659
point of interconnection with the serving electric distribution 660
utility, including separate and distinct metering and the 661
ability to be directly connected to or disconnected from the 662
utility. 663

(4) The generation components of each community solar 664
facility are separate, including separate fencing, and not 665
connected with neighboring facilities other than by the 666
utility's distribution system. 667

(5) Each community solar facility shares only non- 668
operational infrastructure, including access roads, utility 669
poles, and other features necessary to provide utility and 670
physical access to each facility. 671

Sec. 4934.04. The public utilities commission shall 672
establish a community solar pilot program, as described in 673
sections 4934.05 to 4934.17 of the Revised Code, consisting of 674
one thousand five hundred megawatts to be implemented throughout 675
this state. 676

Sec. 4934.05. (A) The public utilities commission shall 677
annually certify two hundred fifty megawatts of community solar 678

facilities, based on nameplate capacity, until one thousand 679
megawatts from such facilities are certified. 680

(B) All megawatts certified pursuant to this section shall 681
be allocated proportionally based off of the size of each 682
utility's retail electric sales published by the energy 683
information administration. 684

(C) Any uncertified megawatts for a year carry over to the 685
subsequent year until all available megawatts are certified. 686

(D) All megawatts certified pursuant to this section shall 687
be certified in the order that the certification applications 688
were received. 689

(E) If applications for certification exceed the total 690
capacity available for the year, then the applications shall be 691
placed on a wait list as determined by the commission. Once 692
certification of one thousand megawatts for community solar 693
facilities has occurred, the wait list shall be eliminated. 694

(F) The commission shall ensure that certification under 695
this section is separate from a certification process required 696
under sections 4928.64 to 4928.645 of the Revised Code, or any 697
related rules in the Ohio Administrative Code. 698

Sec. 4934.06. (A) The public utilities commission shall 699
certify five hundred megawatts of community solar facilities, in 700
addition to the megawatts certified under section 4934.05 of the 701
Revised Code, which shall be reserved for community solar 702
facilities constructed exclusively on distressed sites. 703

(B) The commission shall ensure that certification under 704
this section is separate from a certification process required 705
under sections 4928.64 to 4928.645 of the Revised Code, or any 706
related rules in the Administrative Code. 707

(C) After all megawatts are certified pursuant to this 708
section, a community solar facility on a distressed site may be 709
certified from the megawatts allocated under section 4934.05 of 710
the Revised Code. 711

Sec. 4934.07. (A) An electric distribution utility with a 712
community solar facility in its certified territory shall 713
purchase all electricity generated by the facility that is 714
attributable to a subscriber's bill credit. 715

(B) An electric distribution utility with a community 716
solar facility in its certified territory shall purchase the 717
unsubscribed electricity from a community solar facility at the 718
utility's wholesale energy cost as approved by the public 719
utilities commission. 720

Sec. 4934.071. (A) As used in this section: 721

(1) "Regional governmental aggregator" means a regional 722
council of governments established under Chapter 167. of the 723
Revised Code with members in at least seventeen counties that is 724
also a governmental aggregator under section 4928.20 of the 725
Revised Code. 726

(2) "Renewable attributes" means any of the following that 727
are attributable to a community solar facility or solar field or 728
the electricity generated by a facility or field provided by the 729
federal or state government or any other legislative authority 730
of a political subdivision in the state: 731

(a) Any credits, certificates, benefits, or offsets and 732
allowances computed on the basis of a community solar facility's 733
or solar field's displacement of fossil fuel-derived, or other 734
conventional, electric generation; 735

(b) Any renewable energy credits or any other 736

environmental certificates issued or administered in connection 737
with electricity generated from a community solar facility or 738
solar field; 739

(c) Any voluntary emission reduction credits obtained, or 740
obtainable, in connection with the electric generation from a 741
community solar facility or solar field. 742

(B) A regional governmental aggregator may purchase the 743
following: 744

(1) Any amount of renewable attributes from a community 745
solar facility or a solar field; 746

(2) Any amount of electricity generated by a solar field. 747

Sec. 4934.072. A large industrial customer shall not 748
participate in the community solar pilot program or be charged, 749
directly or indirectly, for any costs related to the community 750
solar pilot program. 751

Sec. 4934.08. (A) As used in this section, "retail rate" 752
means all costs of providing generation service, transmission 753
service, and distribution service that may be charged by an 754
electric distribution utility. 755

(B) A subscriber to a community solar facility shall be 756
eligible for a bill credit from the subscriber's electric 757
distribution utility for the proportional output of a community 758
solar facility attributable to the subscriber. 759

(C) The public utilities commission shall establish the 760
bill credit for each subscriber, subject to divisions (C) and 761
(D) of this section, in either of the following amounts: 762

(1) If the community solar facility is not on a distressed 763
site, the subscriber shall receive a non-distressed site bill 764

credit that is equal to the utility's retail rate on a per- 765
customer class basis, minus only the utility's base charge for 766
distribution service approved under Chapter 4909. of the Revised 767
Code. 768

(2) If the community solar facility is on a distressed 769
site, the subscriber shall receive a distressed site bill credit 770
that is equal to the utility's retail rate on a per-customer 771
class basis. 772

(D) When determining the bill credit for each utility, the 773
commission shall ensure that the bill credit is set at a 774
reasonably compensatory level to create a financeable community 775
solar market. 776

(E) When determining the bill credit for each utility, the 777
commission shall consider all of the following: 778

(1) The costs and benefits provided by community solar 779
facilities participating in the community solar pilot program; 780

(2) All proposed rules, fees, and charges; 781

(3) Any other item that the commission determines is 782
necessary. 783

(F) The bill credit initially established under this 784
section shall not be modified unless the commission determines, 785
after the community solar pilot program review under section 786
4934.26 of the Revised Code is completed, that such changes are 787
necessary to adjust for unallocated community solar capacity. 788
Upon making such determination, the bill credit shall be 789
modified pursuant to section 4934.09 of the Revised Code. 790

(G) The utility shall publish new tariffs or update 791
existing tariffs based on the bill credit set under this section 792

not later than nine months after the effective date of this 793
section. 794

Sec. 4934.09. (A) If the public utilities commission 795
determines that a bill credit modification is necessary pursuant 796
to division (F) of section 4934.08 of the Revised Code, the 797
commission shall calculate the value stack for each electric 798
distribution utility and use it to revise the bill credit. 799

(B) The commission shall approve a tariff based on the 800
revised bill credit rate not later than twelve months after the 801
report under section 4934.26 of the Revised Code is submitted. 802

Sec. 4934.10. Any bill credit exceeding a subscriber's 803
monthly bill amount shall carry forward until fully allocated to 804
the subscriber's bill or until the termination of the 805
subscriber's community solar organization subscription. 806

Sec. 4934.11. (A) No subscriber may subscribe to a share 807
of a community solar facility representing more than one hundred 808
per cent of the subscriber's average annual electricity usage. 809

(B) A subscriber whose community solar subscription 810
provides less than one hundred per cent of the subscriber's 811
monthly electric usage may shop for the subscriber's remaining 812
monthly electric usage as provided under Chapter 4928. of the 813
Revised Code. 814

(C) A subscriber whose community solar subscription 815
provides less than one hundred per cent of the subscriber's 816
monthly electric usage and who chooses not to shop shall be 817
provided the subscriber's remaining monthly electricity usage 818
under the electric distribution utility's current standard 819
service offer approved by the public utilities commission under 820
Chapter 4928. of the Revised Code. 821

Sec. 4934.12. The purchase of a subscription shall be 822
considered one of the following: 823

(A) A consumer transaction subject to Chapter 1345. of the 824
Revised Code regarding the enrollment of residential subscribers 825
to purchase their shares; 826

(B) Goods subject to Chapter 1302. of the Revised Code 827
regarding the enrollment of nonresidential subscribers to 828
purchase such shares. 829

Sec. 4934.13. An electric distribution utility shall 830
interconnect a community solar facility that is in that 831
utility's certified territory to its distribution system within 832
a reasonable time after the facility is constructed and shall 833
ensure such interconnections are made efficiently, safely, and 834
in compliance with any applicable federal and state regulations 835
and standards. 836

Sec. 4934.14. An electric distribution utility shall not 837
discriminate against community solar facilities or their 838
subscribers, which includes adding extraordinary fees and 839
charges not applied to similar facilities. 840

Sec. 4934.15. (A) A community solar organization that 841
constructs a community solar facility on a distressed site that 842
is a brownfield, as defined in section 122.65 of the Revised 843
Code, shall be eligible to receive a grant awarded by the 844
department of development from the brownfield remediation 845
program under section 122.6511 of the Revised Code for costs 846
associated with construction and remediation. 847

(B) The department of development shall promulgate rules 848
for awarding grants described in this section. 849

Sec. 4934.16. (A) The public utilities commission shall 850

convene and facilitate an ongoing stakeholder working group to 851
assist commission staff with effectively and efficiently 852
promulgating rules for the community solar pilot program. 853

(B) The working group shall consist of the following: 854

(1) Electric distribution utilities; 855

(2) Consumer advocates; 856

(3) Community solar industry representatives; 857

(4) Other interested parties. 858

Sec. 4934.17. Not later than six months after the 859
effective date of this section, the public utilities commission, 860
with assistance from the working group established by section 861
4934.16 of the Revised Code shall promulgate rules to implement 862
the community solar pilot program, which shall include rules for 863
the creation and establishment of community solar facilities, 864
and the following: 865

(A) The certification of community solar facilities, which 866
shall include rules for the commission to approve or deny each 867
facility application within ninety days, unless good cause is 868
shown for not meeting the deadline, as determined by the 869
commission; 870

(B) Prohibit removing a subscriber from the subscriber's 871
applicable customer class because of the subscriber's 872
subscription to a community solar facility; 873

(C) Reasonably allow for the transfer and portability of 874
subscriptions, including allowing a subscriber to retain a 875
subscription to a facility if the subscriber moves within the 876
same electric distribution utility's service territory; 877

(D) Modify existing interconnection standards, fees, and processes as needed to facilitate the efficient and cost-effective interconnection of community solar facilities that allow an electric distribution utility to recover reasonable interconnection costs for each facility; 878
879
880
881
882

(E) Require each electric distribution utility to efficiently connect a community solar facility to its electrical distribution grid and not to discriminate against facilities or subscribers; 883
884
885
886

(F) Provide for consumer protection in accordance with existing laws and regulations, including any protections against disconnection of service; 887
888
889

(G) Establish robust consumer protections for subscribers, including at least the following: 890
891

(1) A standardized customer disclosure form for residential subscribers; 892
893

(2) Prohibiting upfront sign-on fees or credit checks; 894

(3) Preventing early termination charges to any subscriber who unsubscribes. 895
896

(H) Allow an electric distribution utility to recover reasonable costs associated with administering the community solar pilot program; 897
898
899

(I) Ensure that costs associated with the community solar pilot program only be recovered from customer classes participating in the program and that no cross-subsidization of costs between customer classes occurs; 900
901
902
903

(J) Ensure facilities qualifying for the community solar pilot program have a signed interconnection agreement or a 904
905

system impact study, as determined by the commission, can 906
demonstrate site control, and have received all applicable non- 907
ministerial permits; 908

(K) Require each community solar organization to send a 909
notice in a standardized format containing information related 910
to subscriber enrollment to the electric distribution utility 911
that services the area where the organization's community solar 912
facility is sited; 913

(L) Not later than nine months after the effective date of 914
this section, require each electric distribution utility to 915
publish new tariffs or update existing tariffs to implement the 916
community solar pilot program; 917

(M) Establish community solar pilot program evaluations 918
and consumer protections to ensure that subscribers are 919
effectively and equitably receiving guaranteed savings from 920
participating in the community solar pilot program; 921

(N) Require a community solar organization to be 922
responsible for the decommissioning of a community solar 923
facility pursuant to sections 4934.24 and 4934.25 of the Revised 924
Code. 925

Sec. 4934.24. (A) Not later than eighteen months after a 926
community solar facility has ceased generating electricity, a 927
community solar organization shall commence decommissioning of 928
the facility. 929

(B) The decommissioning described in division (A) of this 930
section shall include the following, to be mutually agreed to in 931
writing by the property owner or owners and the organization: 932

(1) The removal, and potential reuse and recycling, of the 933
solar panels, and the remediation of the site; 934

(2) The removal of all non-utility-owned equipment, 935
graveled areas, and access roads; 936

(3) The replacement of any topsoil that was removed for 937
the construction of the facility and reseeding of the cleared 938
area. 939

(C) Not more than twenty per cent of the total combined 940
mass of the community solar facility may enter a landfill. 941

Sec. 4934.25. (A) A community solar organization shall 942
maintain sufficient financial assurances, in the form of a bond, 943
through the life of a community solar facility's operation to 944
provide for decommissioning as described in section 4934.24 of 945
the Revised Code. 946

(B) The amount of the bond shall be calculated by a third- 947
party professional engineer obtained by the organization. Every 948
five years from the date of the initial assessment, the bond 949
amount shall be recalculated in the same manner. 950

(C) The board of county commissioners where the project is 951
located shall be the obligee of the bond. 952

Sec. 4934.26. (A) The public utilities commission shall 953
conduct reviews of the community solar pilot program forty-eight 954
months after the rules for the program have been promulgated and 955
submit a report to the general assembly with the following 956
information: 957

(1) The number and location of operating community solar 958
facilities; 959

(2) The amount of nameplate capacity certified; 960

(3) The number of subscribers, how much energy was 961
subscribed to by those subscribers, and the types of customer 962

<u>classes that subscribed;</u>	963
<u>(4) Whether guaranteed savings were achieved by the subscribers.</u>	964
<u>(B) The commission shall promulgate rules to require community solar organizations and electric distribution utilities to provide the commission with a report containing the relevant information described in division (A) of this section.</u>	965
<u>Sec. 4934.27. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under sections 4934.15, 4934.17, and 4934.26 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.</u>	966
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<u>Section 2. That existing sections 4928.01 and 4928.02 of the Revised Code are hereby repealed.</u>	975
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