

Utilities

H.B. 6

Primary Sponsors: Reps. Callender and Wilkin

Effective date: October 22, 2019

Payments for in-state nuclear and in-state renewable resources

Customer charges

- Requires each electric distribution utility (EDU) to collect a per-customer monthly charge from all of its retail electric customers in Ohio beginning January 1, 2021, and ending December 31, 2027, that is sufficient to produce:
 - \$150 million annually for total disbursements from the Nuclear Generation Fund; and
 - \$20 million annually for total disbursements from the Renewable Generation Fund.
- Requires the Public Utilities Commission (PUCO) to determine the method by which the revenue is allocated or assigned to each EDU for billing and collection, provided that the method is based on (1) the relative number of customers, (2) the relative quantity of kilowatt hour sales, or (3) a combination of the two.
- Requires the level and structure of the charge to be authorized by PUCO through a process that PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental.
- Requires the charge to be for bills rendered beginning January 1, 2021, and ending December 31, 2027, not to exceed the following:
 - Residential: 85¢;
 - Industrial customers that exceeded 45 million kilowatt hours of electricity at one location in the preceding year, \$2,400.
- Requires the level and design of the charge or charges for nonresidential customers that do *not* exceed 45 million kilowatt hours of electricity to be established in a way that avoids abrupt or excessive bill impacts for typical customers.
- Requires authorized charges to be subject to reconciliation of actual revenue collected with revenue needed to meet the revenue requirements.
- Authorizes EDUs to adopt accounting practices to facilitate reconciliation of revenue collected.
- Authorizes the charges to be extended beyond December 31, 2027, for purposes of reconciliation.

- Creates the Nuclear Generation Fund and the Renewable Generation Fund, where the above charges are to be deposited (88.25% of charges into the Nuclear Generation Fund and 11.75% into the Renewable Generation Fund).
- Requires the State Treasurer to distribute the money from the Nuclear Generation Fund and Renewable Generation Fund in accordance with directions provided by the Ohio Air Quality Development Authority, who must consult with PUCO.
- Requires any amount remaining in the Nuclear Generation Fund or Renewable Generation Fund as of December 31, 2027, minus remittances that are required to be made by January 21, 2028, to be refunded to customers in a manner determined by the Authority in consultation with PUCO.

In-state nuclear

- Permits an owner or operator of an in-state nuclear resource to apply, not later than February 1, 2020, to the Authority to receive quarterly payments from the Nuclear Generation Fund for nuclear resource credits it earned.
- Requires the application to include certain financial, operational, and risk information pertaining to the resource.
- Requires the Authority to review and approve the application by March 31, 2020, if the resource meets the act's definition, if the application meets the application requirements, and if the resource's operator maintains both a principal place of business in Ohio and a substantial presence in Ohio with regard to its business operations, offices, and transactions.
- Specifies that all financial and proprietary information, including trade secrets, submitted to the Authority for application purposes is confidential and is not a public record.
- Requires the owner or operator of the nuclear resource to report its electricity production not later than seven days after the close of each quarter.
- Requires the reported production to be in accordance with data from the generation attribute tracking system designated by the Authority.
- Requires the Authority to issue one nuclear resource credit to the nuclear resource for each megawatt hour reported and approved by the Authority.
- Sets the price of a nuclear resource credit at \$9 per megawatt hour, subject to reduction as provided in the act.
- Beginning April 2021 and ending January 2028, requires the Authority every quarter and by the 21st of the month, to direct the State Treasurer to remit money from the Nuclear Generation Fund to pay for the credits earned by the resource during the previous quarter.

- If money in the Nuclear Generation Fund is insufficient, requires the Authority to direct the State Treasurer to remit money from the fund not later than 21 days after the close of any quarter in which an owner or operator was not fully compensated, to pay for the unpaid credits.
- Requires a retrospective management and financial review of the owner or operator of a nuclear resource to be conducted annually beginning in 2021 and ending in 2027 not later than May 1 each year.
- Permits PUCO to retain consultants and advisors to perform all or any portion of the annual review, the cost of which is to be paid from the Nuclear Generation Fund.
- Allows the owner or operator of a nuclear resource to provide PUCO or PUCO's consultants or advisors with any information the owner or operator chooses.
- Requires the owner or operator to respond promptly and fully to any document, information, data, or other request by PUCO or PUCO's consultants or advisors, and provides that material failure to do so will result in suspension of payments for nuclear resource credits until the failure is cured to PUCO's satisfaction.
- Requires PUCO to submit a report of each annual retrospective management and financial review to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, and the Authority.
- Requires the report submission to include a copy of the owner's or operator's certified annual audit.
- Provides for the report to be made publicly available, provided it does not reveal any confidential or proprietary information.
- Requires the Authority in consultation with PUCO to consider the findings in the report, and permits the Authority to reduce or cease payments for nuclear resource credits if it makes certain determinations relating to need, continued resource operation, resource qualification, and reasonableness of credit funding.
- If the Authority, based on the review, determines it necessary to make reductions, requires PUCO to reduce the revenue requirement, reduce the credit price, reduce the customer charge or charges, and adjust percentages for customer charge allocation.
- Requires that any revisions made by PUCO, as described above, be made through a process that PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything to the contrary in Ohio's Public Utility Law.
- Requires PUCO to instruct EDUs to suspend or cease billing and collection of customer charges if payments for nuclear resource credits are suspended or ceased under the act.
- Exempts the review process from continuing law governing PUCO hearing procedure.

In-state renewable resources

- Permits an owner or operator of a qualifying renewable resource to apply, by February 1, 2020, to the Authority to receive quarterly payments from the Renewable Generation Fund for renewable energy credits earned by the resource.
- Defines “qualifying renewable resource” as in-state electric generating facility that:
 - Uses or will use solar energy as its primary energy resource;
 - Obtained a certificate for construction of a major utility facility from the Power Siting Board prior to June 1, 2019; and
 - Is interconnected with the transmission grid that is subject to the operational control of PJM interconnection, L.L.C., or its successor.
- Requires the Authority to review and approve the application by March 31, 2020, if the resource meets the act’s definition.
- Specifies that all financial and proprietary information, including trade secrets, submitted to the Authority for application purposes is confidential and is not a public record.
- Requires the owner or operator of the resource to report its electricity production not later than seven days after the close of each quarter.
- Requires the reported production to be in accordance with data from the generation attribute tracking system designated by the Authority.
- Requires the Authority to issue one renewable energy credit to the resource for each megawatt hour reported and approved by the Authority.
- Sets the price of a renewable energy credit at \$9 per megawatt hour.
- Beginning April 2021 and ending January 2028, requires the Authority every quarter, and by the 21st of the month, to direct the State Treasurer to remit money from the Renewable Generation Fund to pay for the credits earned by the resource during the previous quarter.
- If money in the Renewable Generation Fund is insufficient, requires the Authority to both:
 - Direct the State Treasurer, not later than 21 days after the close of the quarter in which charges collected were insufficient, to prorate payments from the total amount available in the fund based on the number of credits earned by a resource during the quarter that ended 12 months prior to the last day of the previous quarter; and
 - Direct the State Treasurer, not later than 21 days after the close of a quarter in which an owner or operator received prorated payments, to remit money from the fund to pay the unpaid credits.

- Requires unpaid renewable energy credits to be paid before other remittances for renewable energy credits are made from the Renewable Generation Fund.

Administrative provisions

- Permits the Authority to make use of PUCO staff and experts in the manner provided by mutual arrangement between it and PUCO, and requires PUCO's information, data, and equipment to be placed at the Authority's disposal.
- Provides that if any information, data, or equipment is not a public record because the Authority or PUCO possesses it, the grant of authority to use PUCO staff and experts and to access the information, data, and equipment cannot be construed to make it a public record, notwithstanding anything to the contrary under the Revised Code.
- Requires the Authority to adopt rules, by January 1, 2020, for implementing the act's provisions regarding payments to nuclear and renewable resources.

Changes to renewable energy requirements

- Reduces the renewable energy benchmarks for EDUs and electric services companies (ESCs) to 8.5% of electricity supply, with no solar portion, by the end of 2026, and eliminates further requirements after that.
- Requires PUCO to reduce the number of kilowatt hours to comply with the renewable energy requirements for all EDUs and ESCs in Ohio, by application of a formula that reduces the compliance amount using the kilowatt hours produced by the qualifying renewable resources receiving renewable energy credits.
- Reduces the baselines for purposes of the renewable energy requirements of EDUs and ESCs to exclude the load and usage of mercantile customers that are self-assessing purchasers of electricity (45 million kilowatt hours a year) to facilitate competitiveness of those customers.
- Requires both of the following after the baseline has been reduced by excluding mercantile customers that are self-assessing purchasers:
 - Relieves EDUs and ESCs of the amount of compliance with the renewable energy requirements that would be required but for the baseline reduction;
 - Exempts those mercantile customers self-assessing purchasers from any bypassable charge imposed for compliance with the renewable energy requirements.
- Specifies that ongoing costs for certain renewable energy contracts, which may be recovered under continuing law, may continue to be recovered regardless of the act's amendments to the renewable energy requirements.
- Beginning January 1, 2020, prohibits a qualifying renewable resource receiving renewable energy credits under the act from being eligible to obtain a renewable energy credit to meet the renewable energy requirements regarding any megawatt of electricity for which the resource has been issued a renewable energy credit.

Changes to energy efficiency requirements

- Replaces the energy efficiency benchmarks for years 2021 through 2027 with the 17.5% compliance process discussed below, and terminates energy efficiency/peak demand reduction portfolio plans on December 31, 2020.
- Extends to December 31, 2020, the expiration date for all portfolio plans in effect on the act's effective date.
- If a portfolio plan is extended beyond its PUCO-approved term, requires the existing plan's budget to be increased to include an amount equal to the annual average of the approved budget for all years of the portfolio plan in effect as of the act's effective date.
- Maintains all other terms and conditions of a portfolio plan extended beyond its PUCO-approved term unless changes are authorized by PUCO.
- Permits mercantile customers to opt out and later opt back into an EDU's energy efficiency/peak demand reduction portfolio plan.
- Requires PUCO to determine the cumulative energy savings collectively achieved by all EDUs in Ohio since 2009, as of December 31, 2020, using both:
 - Energy savings estimated by PUCO to be achieved as of December 31, 2020, and banked under continuing law; and
 - An energy savings baseline that is the average of total kilowatt hours sold by all EDUs in Ohio in calendar years 2018 through 2020.
- Provides that energy efficiency compliance must be deemed achieved if the energy savings collectively achieved is at least 17.5% of the energy savings baseline.
- If the energy savings collectively achieved is less than 17.5% of the baseline:
 - Requires PUCO to determine how further implementation of energy efficiency programs is to occur as reasonably necessary for a collective achievement of energy savings of 17.5% of the energy savings baseline; and
 - Provides that full compliance is to be deemed achieved as of a date certain established by PUCO, notwithstanding any contrary provision of the energy savings changes in the act.
- Provides that once full compliance is deemed achieved, any cost recovery mechanisms authorized by PUCO for compliance with energy efficiency terminates except as necessary for reconciliation, and prohibits a cost recovery mechanism beyond the time necessary to complete that final reconciliation.
- Repeals the requirement that customers opting out of an EDU's energy efficiency/peak demand reduction portfolio plan submit initial and updated reports to PUCO staff regarding energy intensity reduction projects, actions, policies, and practices, and cumulative energy-intensity reductions achieved.

Legacy generation resource cost recovery

- Defines “legacy generation resource” as all generating facilities owned directly or indirectly by a corporation formed before 1960 by investor-owned utilities for the original purpose of providing power for use in defense of the United States or furtherance of national interests, and includes the Ohio Valley Electric Corporation.
- Replaces, on January 1, 2020, any mechanism approved by PUCO, prior to the act’s effective date, for retail recovery of prudently incurred costs associated with contractual commitments related to a legacy generation resource, with a nonbypassable rate mechanism for recovery through December 31, 2030, from customers of all EDUs in Ohio.
- Requires the nonbypassable rate mechanism to be established through a process that PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental, notwithstanding anything contrary in Ohio’s Public Utility Law.
- Caps monthly charges for the nonbypassable rate mechanism at \$1.50 per month for residential customers and \$1,500 per month for all other customer classes.
- Requires PUCO to determine in 2021 (for 2020) and in 2024, 2027, and 2030 (for the three years preceding each determination year) the prudence and reasonableness of the actions of EDUs with ownership interests in the legacy generation resource, including their decisions related to the contractual commitment into the wholesale markets.
- Requires PUCO to exclude from recovery those costs that it determines imprudent and unreasonable.
- If prudently incurred costs exceed the monthly caps, requires an EDU to defer any remaining prudently incurred costs as a regulatory asset or liability to be recovered as determined by PUCO subject to the monthly caps.
- Requires PUCO to provide for discontinuation, subject to final reconciliation, of the nonbypassable rate mechanism on December 31, 2030, including recovery of any deferrals existing at that time.
- Requires PUCO to determine the manner in which charges collected by EDUs with no ownership in a legacy generation resource are remitted to EDUs with an ownership interest, in direct proportion to each EDU’s sponsorship interest.
- Requires an EDU, including all EDUs in the same holding company, to bid all output from the legacy generation resource into the wholesale market.
- Prohibits an EDU from using the legacy generation resource output to supply the EDU’s standard service offer.

Wind farms of 5-20 megawatts

- Subjects to local control wind farms of 5-20 megawatts that are primarily dedicated to providing electricity to a single customer at a single location.

Net metering system

- Qualifies the definition of “net metering system” by specifying that, for an industrial customer-generator with a net metering system that has a capacity of less than 20 megawatts and uses wind as energy, it satisfies the definition if it was sized so as to not exceed 100% of the customer-generator’s annual requirements for electric energy at the time of interconnection.

Agreements for customer-sited renewable energy resources

- Permits an EDU, on a nondiscriminatory basis and subject to PUCO approval, to enter into an agreement, having a term of three years or more, with a mercantile customer or group of mercantile customers for constructing a customer-sited renewable energy resource in Ohio that will provide the customer or group with a material portion of its electricity requirements.
- Requires any direct or indirect costs, including costs for infrastructure development or generation, associated with the customer-sited renewable energy resource to be paid for solely by the EDU and the mercantile customer or group of customers.

County fair and agricultural societies

- Requires an EDU to file with PUCO a new rate schedule for county fairs and agricultural societies that includes a fixed monthly service fee or an energy charge on a kilowatt-hour basis.
- Prohibits the minimum monthly charge from exceeding the fixed monthly service fee and prohibits a fair or society from being subject to any demand-based rider.
- Requires an EDU to be eligible to recover any revenue loss associated with the migration of customers to the new rate schedule.

Home energy assistance programs (HEAP)

- Requires the Director of Development Services annually to submit, beginning in FY 2021, a waiver request to spend 25% of federal low-income HEAP funds from the home energy assistance block grants for weatherization services.

Decoupling

- Allows certain electric distribution utilities to file an application for a decoupling mechanism with PUCO.

Property tax exemption for energy projects

- Permits energy projects of up to 20 megawatts to be exempted from property taxation without the formal approval of a board of county commissioners (the prior threshold was 5 megawatts).
- Releases such energy projects from other prerequisites for tax exemption, including repair of affected public infrastructure, training and equipping emergency responders, and career training.

Tangible personal property (TPP)

- Disallows future reductions in the taxable value of TPP of an electric company receiving nuclear resource credit payments.