

Community Solar Legislation Introduced in Ohio General Assembly

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To date, community solar has not been available in the territories of the electric distribution utilities (EDUs) due to the inability for customers to participate in aggregate or virtual net metering. However, on October 12, 2021, members of the Ohio House of Representatives introduced House Bill 450 to allow for the development of community solar projects in EDU territories.

If enacted, the legislation will authorize the Public Utilities Commission of Ohio (PUCO) to certify up to 2,000 MW of community solar projects. The PUCO may also certify an additional 1,000 MW of a community solar project constructed exclusively on “distressed sites” as long as the majority of these projects are located in the Appalachian region.

In part, the legislation will require that a “community solar project” must meet the following requirements:

- The facility has at least three subscribers. No subscriber can hold more than a 40% proportional interest in the output of the facility, and at least 60% of the facility capacity must be subscribed by subscriptions of 40 kW or less.
- Community solar projects cannot have a nameplate capacity of more than 10 MW, *unless* the project is located on a “distressed site,” in which case projects may have a nameplate capacity of up to 45 MW.
- The facility is located on one or more adjacent or contiguous parcels of land and is not located within one mile of solar facilities under the control of the same entity.
- An EDU cannot control a community solar project but an EDU affiliate may control the facility.

A “distressed site” is a site of contiguous parcels in an electric distribution utility’s certified territory or in a county where such utility operates, where the majority of the acreage is: (1) a “brownfield” as defined by Ohio Rev. Code § 122.65; (2) within an area where an investor may receive a new markets tax credit under § 45D of the Internal Revenue Code; or (3) a closed solid waste facility licensed by the Environmental Protection Agency under Ohio Rev. Code § 3734.02. In addition to the increased nameplate capacity referenced above, community solar projects located on distressed sites will be eligible to receive grants from the Ohio Department of Development from the brownfield remediation program under Ohio Rev. Code § 122.6511 for costs associated with construction and remediation.

A subscriber to a community solar project will be eligible for net metering under Ohio Rev. Code § 4928.67. However, a subscriber’s share in a community solar project cannot represent more than 120% of their average annual electricity use.

The legislation requires the PUCO to promulgate rules within six months of the legislation's effective date. The rules must establish a process by which community solar project certification applications are approved or denied within 90 days, unless good cause is shown for not meeting the deadline. The rules must also establish a process to reasonably allow the transfer and portability of subscriptions. The PUCO will also be required to provide an annual report to the General Assembly with information about the number of projects and usage details.