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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Reineke

Rocky Hernandez, Attorney

SUMMARY

Publicly available electric vehicle charging stations

Prohibition on EDU-ownership of EV charging stations

- Prohibits an electric distribution utility (EDU) from owning or operating a publicly available electric vehicle (EV) charging station except through a separate affiliate or subsidiary that is not subject to Public Utilities Commission (PUCO) jurisdiction and except under other circumstance explained below.
- Allows PUCO to approve a program, funded by revenues from EDU rates, to promote the creation of EV charging stations by EV charging providers or the purchase of any equipment used to charge an EV by residential customers.
- Prohibits an EDU from charging its affiliate or subsidiary a subsidized rate, fee, or charge for electric service distributed to the affiliate's or subsidiary's publicly available EV charging stations.
- Requires an EDU affiliate or subsidiary that owns or operates an EV charging station to be subject to the same rates, terms, and conditions that apply to EV charging providers located in the EDU's certified territory.

EDU's ownership of an EV charging station

- Allows an EDU, notwithstanding the prohibition stated above and under certain circumstances, to petition PUCO for approval of the installation and ownership of a publicly available EV charging station solely in an area of last resort, provided that approval is contingent on certain findings.
- Provides that no EDU is obligated to deploy equipment for a publicly available EV charging station without "timely and adequate cost recovery."

- Requires an EDU, when petitioning PUCO for approval installation and ownership, to file an installation/ownership proposal with PUCO that includes certain information describing the area of last resort and the proposed publicly available EV charging station.
- Requires an EDU, concurrently with the installation/ownership proposal filing, to provide conspicuous public proposal notice on the EDU's website and to each dealer of transportation fuel within a ten-mile radius of the location of the EDU's proposed publicly available EV charging station which must contain certain specified dates.
- Requires PUCO, prior to approving an EDU's installation and ownership of a publicly available EV charging station, to conduct a right of first refusal process unless there is a publicly available EV charging station within a ten-mile radius of the EDU-proposed location.
- Allows an EDU to submit to PUCO a notice of intent to proceed with installation of a publicly available EV charging station if, within 90 days after the proposal notice is provided, no EV charging providers are identified within ten miles of the EDU-proposed location.
- Allows an EDU, not earlier than 180 days after PUCO's approval, to proceed with the construction and operation of its proposed publicly available EV charging station unless PUCO determines that the construction and operation duplicates a publicly available EV charging station operated, or under construction, by another person.

Notice by another person to provide EV charging station

- Allows any person (except an EDU, electric cooperative, and municipal electric utility), not later than 90 days after the filing of the EV charging station installation/ownership proposal and proposal notice, to submit a notice to PUCO of intent to provide a publicly available EV charging station within a ten-mile radius of the EDU-proposed location, and that it intends to request make-ready infrastructure from the EDU.
- Requires the notice to include the person's firm commitment to place the charging station into service before the later of:
 - 18 months after the person submitted the notice; or
 - 12 months after the date installation of necessary make-ready infrastructure is completed.

Subsidizing EV charging stations

- Prohibits revenues received by an EDU for providing electric distribution service to not, directly or indirectly, subsidize investments in the ownership or operation of EV charging stations, except as part of a program approved by PUCO under the bill's provisions.

Cost recovery and EDU's use of EV charging stations

- Provides that nothing in the bill prohibits an EDU, or shall be construed to prohibit an EDU, from the following:

- Recovering the costs of make-ready infrastructure through rates or charges authorized under the EDU's distribution rate case under current law, so long as such subsidies for those costs are offered to EV charging providers on a nondiscriminatory basis;
- Operating, leasing, installing, or otherwise procuring service from an EV charging station on its own premises for the sole purpose of serving its own EVs.

DETAILED ANALYSIS

Overview

The bill creates a regulatory scheme, overseen by the Public Utilities Commission (PUCO), governing the installation, operation, ownership, and certain cost recovery regarding publicly available electric vehicle (EV) charging stations by electric distribution utilities (EDUs), their affiliates or subsidiaries, and nonelectric utility entities.

Discussion

Prohibition on EDU-ownership of EV charging stations

The bill prohibits an EDU from owning or operating a publicly available EV charging station except through a separate affiliate or subsidiary that is not subject to PUCO jurisdiction and except as discussed below (see, "**EV charging station ownership by an EDU**" below). The bill further provides it does not prohibit PUCO from approving a program, funded by revenues from EDU rates, to promote the creation of EV charging stations by EV charging providers (defined as owners and operators of an EV charging station, excluding EDUs and their affiliates and subsidiaries that own or operate a station) or the purchase of any equipment used to charge an EV by residential customers.

An "EV" is defined as a vehicle that is powered wholly by a system that can be recharged via an external source of electricity, including a vehicle for public or private use that is a passenger car, commercial car or truck, or a vehicle used in public transit, a vehicle used in a fleet, construction work, and industrial or warehouse work. An "EV charging station" is any nonresidential EV charging system that is: (1) capable of distributing electricity from a source outside an EV to the EV, and (2) a "direct current fast charging system" (an EV charging system capable of distributing 50 kilowatts or more of direct current to an EV's rechargeable battery at 200 volts or more) or a "level two charging station" (any EV charging system capable of distributing between three and 20 kilowatts of alternating current to an EV's rechargeable battery at 200 volts or more).¹

Subsidization prohibited

The bill prohibits EDUs from charging its affiliate or subsidiary a subsidized rate, fee, or charge for electric service distributed to the affiliate's or subsidiary's publicly available EV

¹ R.C. 4933.51(B) and (D) to (G) and 4933.53(A).

charging stations. Additionally, an EDU affiliate or subsidiary that owns or operates an EV charging station must be subject to the same rates, terms, and conditions that apply to EV charging providers located in the EDU's certified territory.²

EV charging station ownership by an EDU

Installation/ownership petition for area of last resort

The bill allows an EDU, five or more years after the bill's effective date, to petition PUCO for approval of the installation and ownership of a publicly available EV charging station in an area of last resort, but only if it can demonstrate that there is not at least one publicly available EV charging station in the area of last resort. PUCO may approve, modify and approve, or reject an EDU's installation and ownership of such a charging station in an area of last resort, provided that any approval must include a finding that there is no other publicly available EV charging stations in the area of last resort or another person has not provided PUCO with notice that they intend to construct a publicly available EV charging station in the area (see "**Notice by another person to provide EV charging station**" below).

"Area of last resort" is defined as an area within an EDU's designated service territory that is located in an Ohio county with a population of not more than 50,000, but excluding any areas of the county that are within a ten-mile radius of another publicly available EV charging station or any areas of the county that are within one mile of an "alternative fuel corridor" designated by the Federal Highway Administration.³

Cost recovery

The bill provides that no EDU is under an obligation to deploy equipment for a publicly available EV charging station without "timely and adequate cost recovery."⁴

Installation/ownership proposal

The bill requires an EDU that filed a petition for approval for the installation and ownership of a publicly available EV charging station, as described above, to also file a proposal with PUCO that includes:

- A description of the area of last resort;
- A statement certifying that there is not at least one publicly available EV charging station in the area of last resort;
- A description of the publicly available EV charging station it proposes to construct at the location.

² R.C. 4933.53(B).

³ R.C. 4933.51(A) and 4933.53(C)(1); for information about alternative fuel corridors, see the FHA's webpage regarding [national alternative fuels corridors](http://national.alternative.fuels.corridors), which is available on the FHA's website: afdc.energy.gov/laws.

⁴ R.C. 4933.53(C)(2).

Notice of the proposal

The bill further requires an EDU, concurrently with filing the proposal, to provide conspicuous public notice on the EDU's website and to each dealer of transportation fuel within a ten-mile radius of the location of the EDU's proposed publicly available EV charging station. The notice must contain:

- The date the EDU filed a proposal with PUCO to provide a publicly available EV charging station;
- The date by which a person may file a proposal to provide a publicly available EV charging station within a ten-mile radius of the proposed location (see "**Notice by another person to provide EV charging station**" below).⁵

Right of first refusal

The bill requires PUCO, prior to approving an EDU's installation and ownership of a publicly available EV charging station, to conduct a right of first refusal process. The bill, however, prohibits PUCO from conducting a right of first refusal process if there is a publicly available EV charging station within a ten-mile radius of the site from where the EDU proposes to locate such a charging station.⁶

Notice of intent to proceed with installation

The bill allows an EDU to submit to PUCO a notice of intent to proceed with installation of a publicly available EV charging station if, within 90 days after the EDU provides the notice of the proposal, no EV charging providers are identified within ten miles of the location proposed by the EDU (see "**Installation/ownership proposal**" and "**Notice of the proposal**" above).⁷

Construction and operation

The bill allows an EDU, not earlier than 180 days after PUCO's finding of public interest and approval of the proposal and installation, to proceed with the construction and operation of its proposed publicly available EV charging station. The bill, however, prohibits construction if PUCO determines that the construction and operation unreasonably duplicates a publicly available EV charging station operated, or under construction, by another person.⁸

Notice by another person to provide EV charging station

The bill, not later than 90 days after the filing of the installation/ownership proposal and notice of the proposal, allows any person (except an EDU, electric cooperative, or a municipal electric utility) to submit a notice to PUCO stating that it intends to provide a publicly available

⁵ R.C. 4933.53(D).

⁶ R.C. 4933.53(E).

⁷ R.C. 4933.53(F).

⁸ R.C. 4933.53(G).

EV charging station within a ten-mile radius of the location proposed by an EDU and intends to request the necessary make-ready infrastructure from the EDU. This notice must include the person's firm commitment to place the publicly available EV charging station into service before the later of the following dates:

- 18 months after the dates the person submits the notice to PUCO;
- 12 months after the date of completion of the installation of the necessary make-ready infrastructure.

The bill defines "make-ready infrastructure" as electrical infrastructure required to accommodate the electric load of an EV charging station, excluding an EV charging station.⁹

Subsidizing EV charging stations

The bill prohibits an EDU from using revenues received for providing electric distribution service to, directly or indirectly, subsidize investments in the ownership or operation of EV charging stations, except as part of a PUCO-approved program consistent with the bill's provisions.¹⁰

Cost recovery for make-ready infrastructure

The bill explicitly provides that none of the bill's provisions prohibit an EDU from recovering the costs of make-ready infrastructure through rates or charges authorized under the EDU's distribution rate case under continuing law, but only if such subsidies for the make-ready infrastructure are offered to EV charging providers on a nondiscriminatory basis.¹¹

EDU's use of EV charging stations

The bill states that none of the bill's provisions should be construed to prohibit an EDU from operating, leasing, installing, or otherwise procuring service from an EV charging station on its own premises for the sole purpose of serving its own EVs.¹²

HISTORY

Action	Date
Introduced	05-14-24

ANSB0266IN-135/ar

⁹ R.C. 4933.51(H) and 4933.54.

¹⁰ R.C. 4933.55.

¹¹ R.C. 4933.57; R.C. 4909.18, not in the bill.

¹² R.C. 4933.59.