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Short Title: Renewable Energy Amends.

(Public)

Sponsors:

Referred to:

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A BILL TO BE ENTITLED

AN ACT TO (I) EXEMPT ELECTRIC VEHICLE CHARGING STATIONS FROM REGULATION AS PUBLIC UTILITIES, (II) REQUIRE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT RULES TO ESTABLISH A REGULATORY PROGRAM TO GOVERN THE MANAGEMENT OF END-OF-LIFE PHOTOVOLTAIC MODULES AND ENERGY STORAGE SYSTEM BATTERIES, AND DECOMMISSIONING OF UTILITY-SCALE SOLAR PROJECTS AND WIND ENERGY FACILITIES, AND REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ESTABLISH A STAKEHOLDER PROCESS TO SUPPORT DEVELOPMENT OF THE RULES, AND (III) PROVIDE SMALL HYDROELECTRIC POWER FACILITIES CERTAIN TREATMENT SIMILAR TO THAT GIVEN TO SMALL POWER PRODUCERS THAT PRODUCE ENERGY FROM SWINE AND POULTRY WASTE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 62-3 is amended by adding a new subdivision to read:

"(21a) Plug-in electric vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:

- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
- b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
- c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
- d. Has a maximum speed capability of at least 65 miles per hour.
- e. Draws electricity from a battery that has all of the following characteristics:
 1. A capacity of not less than four kilowatt hours.
 2. Capable of being recharged from an external source of electricity."

SECTION 1.(b) G.S. 62-3(23) is amended by adding a new sub-subdivision to read:

"n. The term "public utility" shall not include a person who uses an electric vehicle charging station to resell electricity to the public for compensation, provided that all of the following apply:

1. The reseller has procured the electricity from an electric power supplier, as defined in G.S. 62-133.8(a)(3), that is authorized



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1 to engage in the retail sale of electricity within the territory in
2 which the electric vehicle charging service is provided.

3 2. All resales are exclusively for the charging of plug-in electric
4 vehicles.

5 3. The charging station is immobile.

6 4. Utility service to an electric vehicle charging station shall be
7 provided subject to the electric power supplier's terms and
8 conditions.

9 Nothing in this sub-subdivision shall be construed to limit the ability
10 of an electric power supplier to use electric vehicle charging stations
11 to furnish electricity for charging electric vehicles. Any increases in
12 customer demand or energy consumption associated with
13 transportation electrification shall not constitute found revenues for an
14 electric public utility."

15 **SECTION 2.(a)** No later than January 1, 2022, the Environmental Management
16 Commission shall adopt rules to establish a regulatory program to govern (i) the management of
17 end-of-life photovoltaic modules and energy storage system batteries and (ii) decommissioning
18 of utility-scale solar projects and wind energy facilities. In the development of these rules, the
19 Department of Environmental Quality shall consider all of the following matters:

- 20 (1) Whether or not any photovoltaic modules, energy storage system batteries, or
21 the constituent materials thereof, or other equipment used in utility-scale solar
22 projects or wind energy facilities, exhibit any of the characteristics of
23 hazardous waste identified in 40 C.F.R. Part 261, or under rules adopted
24 pursuant to G.S. 130A-294(c), or whether or not any such equipment is
25 properly characterized as solid waste under State and federal law.
- 26 (2) Preferred methods to responsibly manage end-of-life photovoltaic modules,
27 energy storage system batteries, or the constituent materials thereof, or other
28 equipment used in utility-scale solar projects or wind energy facilities,
29 including the extent to which such equipment may be:
- 30 a. Reused, if not damaged or in need of repair, for a similar purpose.
 - 31 b. Refurbished, if not substantially damaged, and reused for a similar
32 purpose.
 - 33 c. Recycled with recovery of materials for similar or other purposes.
 - 34 d. Safely disposed of in construction and demolition or municipal solid
35 waste landfills for material that does not exhibit any of the
36 characteristics of hazardous waste under State or federal law.
 - 37 e. Safely disposed of in accordance with State and federal requirements
38 governing hazardous waste for materials that exhibit any of the
39 characteristics of hazardous waste under State or federal law.
- 40 (3) Economic and environmental costs and benefits associated with each method
41 identified in subdivision (2) of this section to manage end-of-life photovoltaic
42 modules, energy storage system batteries, or the constituent materials thereof,
43 and other equipment used in utility-scale solar projects or wind energy
44 facilities.
- 45 (4) The data-based expected economically productive life cycle of various types
46 of photovoltaic modules, wind turbines, and energy storage system batteries
47 currently in use in the State.
- 48 (5) The volume of photovoltaic modules, wind turbines, and energy storage
49 system batteries currently in use in the State, and projections, based upon the
50 data on life cycle identified in subdivision (2) of this section, on impacts that

1 may be expected to the State's landfill capacity if landfill disposal is permitted
2 for such equipment at end-of-life.

3 (6) A survey of federal and other states' and countries' regulatory requirements
4 relating to (i) management of end-of-life photovoltaic modules, energy
5 storage system batteries, and other equipment used in utility-scale solar
6 projects and wind energy projects, including identification of states' laws
7 governing reuse, refurbishment, disposal, or recycling of such equipment, (ii)
8 decommissioning of utility-scale solar projects and wind energy facilities, and
9 (iii) financial assurance to be established by owners or operators of
10 utility-scale solar projects and wind energy facilities to ensure responsible
11 decommissioning.

12 (7) Whether or not adequate financial assurance requirements are necessary to
13 ensure proper decommissioning of utility-scale solar projects upon cessation
14 of operations.

15 (8) Infrastructure that may be needed to develop a practical, effective, and
16 cost-efficient means to collect and transport end-of-life photovoltaic modules,
17 energy storage system batteries, and other equipment used in utility-scale solar
18 projects and wind energy facilities, for reuse, refurbishment, recycling, or
19 disposal.

20 (9) Whether or not manufacturer stewardship programs for the recycling of
21 end-of-life photovoltaic modules and energy storage system batteries should
22 be established for applications other than utility-scale solar project
23 installations, and if so, fees that should be established for manufacturers that
24 sell such photovoltaic modules, or energy storage system batteries, in or into
25 the State, in an amount adequate to support the implementation of such
26 requirements.

27 **SECTION 2.(b)** For purposes of this act, the following definitions apply:

28 (1) "End-of-life" means photovoltaic modules, energy storage system batteries,
29 and other equipment used in utility-scale solar and wind energy projects that
30 are removed and taken out of service, that will not be reused.

31 (2) "Energy storage system battery" means a battery that is part of a system used
32 to store chemical energy that was once electrical energy, for use in a process
33 that contributes to end user demand management or grid operation and
34 reliability. The term does not include energy storage system batteries: (i) that
35 are part of a consumer electronic device for which it provides electricity
36 needed to make the consumer electronic device function or (ii) that are part of
37 a plug-in electric vehicle as defined in G.S. 20-4.01(28a), or an alternative
38 fuel vehicle (AFV) as that term is defined in G.S. 143-58.4(a)(1).

39 (3) "Photovoltaic module" means the smallest nondivisible, environmentally
40 protected assembly of photovoltaic cells or other photovoltaic collector
41 technology and ancillary parts intended to generate electrical power under
42 sunlight, except that "photovoltaic module" does not include a photovoltaic
43 cell that is part of a consumer electronic device for which it provides
44 electricity needed to make the consumer electronic device function.
45 "Photovoltaic module" includes interconnections, terminals, and protective
46 devices such as diodes that: (i) are installed on, connected to, or integral with
47 buildings or (ii) are used as components of freestanding, off-grid, power
48 generation systems, such as for powering water pumping stations, electric
49 vehicle charging stations, fencing, street and signage lights, and other
50 commercial or agricultural purposes.

1 (4) "Utility-scale solar project" means a ground-mounted photovoltaic (PV),
2 concentrating photovoltaic (CPV), or concentrating solar power (CSP or solar
3 thermal) project directly connected to the electrical grid that generates
4 electricity for sale. The term includes the solar arrays, accessory buildings,
5 transmission facilities, and any other infrastructure necessary for the operation
6 of the project. The term does not include renewable energy facilities owned
7 or leased by a retail electric customer intended primarily for the customer's
8 own use to offset the customer's own retail electrical energy consumption at
9 the premises.

10 (5) "Wind energy facility" means the turbines, accessory buildings, transmission
11 facilities, and any other equipment necessary for the operation of the facility
12 that cumulatively, with any other wind energy facility whose turbines are
13 located within one-half mile of one another, have a rated capacity of one
14 megawatt or more of energy.

15 **SECTION 2.(c)** The Department shall, within 60 days following the effective date
16 of this act, establish a stakeholder process for development of the regulatory program required
17 pursuant to Section 2(a) of this act.

18 **SECTION 2.(d)** The Department and the Commission shall submit joint interim
19 reports on activities conducted pursuant to this act on a quarterly basis beginning December 1,
20 2019, and shall submit a joint final report with findings, including stakeholder input, to the
21 Environmental Review Commission and the General Assembly no later than January 1, 2021.
22 The interim report due April 1, 2020, shall include a recommendation to the General Assembly
23 regarding the resources needed to implement the requirements of this act.

24 **SECTION 3.(a)** G.S. 62-156(b)(3) reads as rewritten:

25 "(b) At least every two years, the Commission shall determine the standard contract
26 avoided cost rates to be included within the tariffs of each electric public utility and paid by
27 electric public utilities for power purchased from small power producers, according to the
28 following standards:

29 ...
30 (3) Availability and Reliability of Power. – The rates to be paid by electric public
31 utilities for capacity purchased from a small power producer shall be
32 established with consideration of the reliability and availability of the power.
33 A future capacity need shall only be avoided in a year where the utility's most
34 recent biennial integrated resource plan filed with the Commission pursuant
35 to G.S. 62-110.1(c) has identified a projected capacity need to serve system
36 load and the identified need can be met by the type of small power producer
37 resource based upon its availability and reliability of power, other ~~than~~ than
38 for (i) swine or poultry waste for which a need is established consistent with
39 G.S. 62-133.8(e) and ~~(f)~~ and (ii) hydropower small power producers with
40 power purchase agreements with an electric public utility in effect as of July
41 27, 2017, and the renewal of such a power purchase agreement, if the
42 hydroelectric small power producer's facility total capacity is equal to or less
43 than five megawatts (MW)."

44 **SECTION 3.(b)** The exception for hydropower small power producers from
45 limitations on capacity payments established in G.S. 62-156(b)(3), as amended by Section 3(a)
46 of this act, shall not be construed in any manner to affect the applicability of G.S. 62-156(b)(3)
47 as it relates to any other small power producer.

48 **SECTION 4.** This act is effective when it becomes law.