A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THIRD-PARTY SALES FROM RENEWABLE ENERGY
FACILITIES WITH TWO MEGAWATTS OR LESS CAPACITY BY AMENDING THE
DEFINITION OF PUBLIC UTILITY TO EXCLUDE A THIRD PARTY THAT OWNS
OR OPERATES THE EQUIPMENT OF A RENEWABLE ENERGY FACILITY WITH
TWO MEGAWATTS OR LESS CAPACITY WHEN THE RENEWABLE ENERGY
FACILITY IS LOCATED ON A CUSTOMER'S PROPERTY.
Whereas, it is the policy of the State of North Carolina to promote the development
of renewable energy and thereby diversify the resources used to reliably meet the energy needs
of consumers in the State; and
Whereas, one way to promote the development of renewable energy is to open and
allow competition in markets that heretofore have been closed and served exclusively by an
energy supplier assigned to serve such market; and
Whereas, the development of renewable energy in the State will provide greater
energy security through the use of indigenous resources available within the State and thereby
reduce dependence on unreliable and unstable foreign resources to meet energy needs of
consumers in the State; and
Whereas, increasing the amount of on-peak generation generated through third-party
sales could result in lower costs for all utility customers; and
Whereas, the development of renewable energy in the State will encourage and
result in private investment in new generating facilities and ancillary businesses creating new
tax bases and jobs throughout the State; and
Whereas, the generation of energy to meet the State's energy needs in part from
renewable resources will improve the quality of life in the State by reducing generation from
sources that have the known potential to cause harm to public health; Now, therefore,
The General Assembly of North Carolina enacts:
SECTION 1. G.S. 62-3(23) is amended by adding a new sub-subdivision to read:
"(23) a. "Public utility" means a person, whether organized under the laws of
this State or under the laws of any other state or country, now or
hereafter owning or operating in this State equipment or facilities for:
1. Producing, generating, transmitting, delivering or furnishing
electricity, piped gas, steam or any other like agency for the
production of light, heat or power to or for the public for
compensation; provided, however, that the term "public
utility” shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;

1. The term “public utility” shall not include a third party that sells electricity from a customer's on-site renewable energy facility as provided under G.S. 62-5."

SECTION 2. Article 1 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-5. Third-party sales of electricity from small on-site renewable energy facilities.
(a) The sale of electricity to a customer from a renewable energy facility, as defined in G.S. 62-133.8, located on the site of the customer's property using such electricity shall not subject the third-party owner or operator of the on-site generating equipment to any restrictions on such sales under G.S. 62-110.2 or to regulation as a public utility under this Chapter so long as the electric generation capacity of the renewable energy facility at the site is two megawatts or less.
(b) For purposes of this section, the customer's site includes all contiguous property owned or leased by the customer, without regard to easements, public thoroughfares, transportation rights-of-way, utility rights-of-way, or other similar interruptions that may divide parcels of property under common ownership.
(c) The Commission may adopt rules necessary to implement this section. In developing rules necessary to implement this section, the Commission may consider doing any one or more of the following:

1. Establishing as the maximum capacity size of an on-site renewable energy facility the approximate peak load of the customer on whose site the facility is located.
2. If the North Carolina Utilities Commission determines it is necessary, requiring any on-site renewable energy facility of 500-kilowatt capacity or greater to conduct a utility feasibility study that is similar to the feasibility study regarding the interconnection standard for facilities of two megawatts capacity or greater.
3. For the purpose of studying the impact on utility distribution and retail sales, creating pilot projects for types of on-site renewable energy facilities other than solar facilities."

SECTION 3. This act becomes effective October 1, 2011.