

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 590

Short Title: Utilities/The Military Good Neighbor Act. (Public)

Sponsors: Senators Stein, Brunstetter (Primary Sponsors); Bryant, Clark, D. Davis, McLaurin, and Parmon.

Referred to: Rules and Operations of the Senate.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT A PERSON WHO CONSTRUCTS OR OPERATES AN ELECTRIC GENERATING FACILITY FOR THE PRIMARY PURPOSE OF PRODUCING ELECTRICITY, HEAT, OR STEAM FOR SALE TO OR FOR THE USE OF THE ARMED FORCES OF THE UNITED STATES IS NOT A PUBLIC UTILITY AND IS NOT SUBJECT TO REGULATION BY THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-3 reads as rewritten:

"§ 62-3. Definitions.

As used in this Chapter, unless the context otherwise requires, the term:

(1) "Armed Forces of the United States" means the Army, Navy, Air Force, Marine Corps, Coast Guard, and functions under the control or supervision of the Secretary of Defense. The term shall include installations and activities of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States, the North Carolina Army National Guard, and the North Carolina Air National Guard.

...  
(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 either (i) 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;~~ compensation or (ii) for producing electricity, heat, or steam for sale to or for the use of the Armed Forces of the United States;

...."

SECTION 2. G.S. 62-3(1), (1a), and (1b) are recodified as G.S. 62-3(1a), (1b), and (1c), respectively.

SECTION 3. G.S. 62-110.1 reads as rewritten:



1 "§ 62-110.1. Certificate for construction of generating facility; analysis of long-range  
2 needs for expansion of facilities; ongoing review of construction costs; inclusion  
3 of approved construction costs in rates.

4 ...

5 (g) The certification requirements of this section shall not apply to a nonutility-owned  
6 generating facility fueled by renewable energy resources under two megawatts in capacity or to  
7 persons who construct an electric generating facility ~~primarily~~ primarily (i) for that person's  
8 own use and not for the primary purpose of producing electricity, heat, or steam for sale to or  
9 for the public for compensation; compensation or (ii) for producing electricity, heat, or steam  
10 for sale to or for the use of the Armed Forces of the United States; provided, however, that such  
11 persons shall, nevertheless, be required to report to the Utilities Commission the proposed  
12 construction of such a facility before beginning construction thereof.

13 ...."

14 **SECTION 4.** G.S. 62-110.2 reads as rewritten:

15 "§ 62-110.2. Electric service areas outside of municipalities.

16 ...

17 (f) Nothing in this section shall prevent the construction or operation of an electricity  
18 generating facility that is not a public utility under G.S. 62-3(23)a.1."

19 **SECTION 5.** G.S. 62-140 reads as rewritten:

20 "§ 62-140. Discrimination prohibited.

21 ...

22 (d) No electric public utility under G.S. 62-3(23)a.1. shall apply for or charge any  
23 person a discriminatory monthly fee or discriminatory standby charge or impose any  
24 discriminatory requirement related to equipment, insurance, or any other aspect of the  
25 construction or operation of an electricity generating facility when the primary purpose of the  
26 facility is for producing electricity, heat, or steam for sale to or for the use of the Armed Forces  
27 of the United States."

28 **SECTION 6.** No later than October 1 of each year up to and including 2018, the  
29 North Carolina Utilities Commission shall submit to the Governor and the Joint Legislative  
30 Commission on Governmental Operations a report on the activities taken by any person to  
31 construct or operate electricity generating facilities for the primary purpose of producing  
32 electricity, heat, or steam for sale to or for the use of the Armed Forces of the United States.  
33 The report shall include an evaluation of the activities of these persons on the operations of the  
34 incumbent suppliers and the Armed Forces of the United States. In preparing the report, the  
35 Commission shall consult with electric suppliers and the Armed Forces of the United States.

36 **SECTION 7.** This act is effective when it becomes law.