## GENERAL ASSEMBLY OF NORTH CAROLINA
### SESSION 2015

**H**

**HOUSE DRH10297-TDx-23D (03/09)**

<table>
<thead>
<tr>
<th>Short Title:</th>
<th>NC Energy Ratepayers Protection Act. (Public)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refereed to:</td>
<td><em>DRH10297-TDx-23D</em></td>
</tr>
</tbody>
</table>

### A BILL TO BE ENTITLED

**AN ACT TO AMEND VARIOUS PROVISIONS OF THE GENERAL STATUTES RELATED TO DISTRIBUTED GENERATION AND TO DIRECT THE ENERGY POLICY COUNCIL TO PERFORM AN ASSESSMENT OF THE COSTS AND BENEFITS OF DISTRIBUTED GENERATION.**

The General Assembly of North Carolina enacts:

### PART I. CLARIFY DISTRIBUTED GENERATION MUST BE CONSIDERED IN RESOURCE PLANNING.

**SECTION 1.(a) G.S. 62-2(a) reads as rewritten:**

"(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

…

(3a) To assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of generation, including generation from renewable energy sources, and include the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills;

…

(10) To promote the development of renewable energy and energy efficiency in a manner that is consistent with the development of the least cost mix of generation through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will do all of the following:

- a. Diversify the resources used to reliably meet the energy needs of consumers in the State.
- b. Provide greater energy security through the use of indigenous energy resources available within the State.
c. Encourage private investment in renewable energy and energy efficiency.

d. Provide improved air quality and other benefits to energy consumers and citizens of the State.

PART II. AMEND CONTRACTS FOR QUALIFYING FACILITIES AND CLARIFY AVOIDED COST REQUIREMENTS.

SECTION 2.(a) G.S. 62-3(27a) reads as rewritten:

"(27a) "Small power producer" means a person or corporation owning or operating an electrical power production facility with a power production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy. For the purposes of this section, renewable resources shall mean: hydroelectric power, solar electric, solar thermal, wind, geothermal, ocean current, wave energy resources, and biomass derived from agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, liquids, or gases not derived from fossil fuel, energy crops, or landfill methane. A small power producer shall not include persons primarily engaged in the generation or sale of electricity from other than small power production facilities."

SECTION 2.(b) G.S. 62-156 reads as rewritten:

"§ 62-156. Power sales by small power producers to public utilities."

(a) In the event that a small power producer and an electric utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric utility, the commission shall require the utility to purchase the power, under rates and terms established as provided in subsection (b) of this section.

(b) No later than March 1, 1981, and at least every two years thereafter, the Commission shall determine the rates to be paid by electric utilities for power purchased from small power producers, according to the following standards:

(1) Term of Contract. – The Commission shall approve standard contracts for the purchase of power from small power producers and shall require electric utilities to provide standard contracts to small power facilities that do not exceed 100 kilowatts of capacity. Long-term contracts for the purchase of electricity by the utility from small power producers shall be encouraged in order to enhance the economic feasibility of small power production facilities, but the term of a contract may not be for a period of greater than 15 years.

(2) Avoided Cost of Energy to the Utility. – The rates paid by a utility to a small power producer shall not exceed, over the term of the purchase power contract, the incremental cost to the electric utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the known and measurable expected costs of the additional or existing generating capacity which could be displaced, the known and measurable expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.
(3) Availability and Reliability of Power. – The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.

(4) Avoided Cost of Capacity. – The contract shall not require payment for capacity to the extent the electric utility lacks a capacity need during the term of the contract, as demonstrated through the electric public utility’s most recent integrated resource plan approved by the Commission under G.S. 62-110.1(c)."

SECTION 2.(c) This section becomes effective July 1, 2015, and applies to rates approved by the Commission on or after that date.

PART III. ENERGY EFFICIENCY FOR REPS COMPLIANCE.

SECTION 3.(a) G.S. 62-133.8(b)(2)c. reads as rewritten:
"c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) or fifty percent (50%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures."

SECTION 3.(b) This section becomes effective July 1, 2015.

PART IV. AMEND COST CAPS FOR REPS COMPLIANCE.

SECTION 4.(a) G.S. 62-133.8(h)(4) reads as rewritten;
"(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

<table>
<thead>
<tr>
<th>Customer Class</th>
<th>2008-2011</th>
<th>2012-2014</th>
<th>2015 and thereafter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential per account</td>
<td>$10.00</td>
<td>$12.00</td>
<td>$34.00</td>
</tr>
<tr>
<td>Commercial per account</td>
<td>$50.00</td>
<td>$150.00</td>
<td>$150.00</td>
</tr>
<tr>
<td>Industrial per account</td>
<td>$500.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

SECTION 4.(b) This section becomes effective July 1, 2015, and applies to cost recovery proceedings that occur on or after that date.

PART V. SUNSET REPS REQUIREMENTS

SECTION 5. G.S. 62-133.8 reads as rewritten:

(b) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>REPS Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3% of 2011 North Carolina retail sales</td>
</tr>
</tbody>
</table>
(c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>REPS Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3% of 2011 North Carolina retail sales</td>
</tr>
<tr>
<td>2015 through 2018</td>
<td>6% of 2014 North Carolina retail sales</td>
</tr>
<tr>
<td>2018 and thereafter</td>
<td>10% of 2017 North Carolina retail sales</td>
</tr>
</tbody>
</table>

(d) Compliance With REPS Requirement Through Use of Solar Energy Resources. –

For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State, or an equivalent amount of energy, shall be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities that use one or more of the following applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar industrial process heat. The terms of any contract entered into between an electric power supplier and a new solar electric facility or new metered solar thermal energy facility shall be of sufficient length to stimulate development of solar energy; provided, the Commission shall develop a procedure to determine if an electric power supplier is in compliance with the provisions of this subsection if a new solar electric facility or a new metered solar thermal energy facility fails to meet the terms of its contract with the electric power supplier. As used in this subsection, "new" means a facility that was first placed into service on or after January 1, 2007. The electric power suppliers shall comply with the requirements of this subsection according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Requirement for Solar Energy Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>0.02%</td>
</tr>
<tr>
<td>2012</td>
<td>0.07%</td>
</tr>
<tr>
<td>2015 through 2018</td>
<td>0.14%</td>
</tr>
<tr>
<td>2018</td>
<td>0.20%</td>
</tr>
</tbody>
</table>

(e) Compliance With REPS Requirement Through Use of Swine Waste Resources. –

For calendar year 2014 and for each calendar year thereafter, through 2018, at least 900,000 megawatt hours of the total electric power sold to retail electric customers in the State or an equivalent amount of energy shall be supplied, or contracted for supply in each year, by swine waste. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Requirement for Swine Waste Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>0.07%</td>
</tr>
<tr>
<td>2015 through 2018</td>
<td>0.14%</td>
</tr>
<tr>
<td>2018</td>
<td>0.20%</td>
</tr>
</tbody>
</table>

(f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. –

For calendar year 2014 and for each calendar year thereafter through 2018, at least 900,000 megawatt hours of the total electric power sold to retail electric customers in the State or an equivalent amount of energy shall be supplied, or contracted for supply in each year, by poultry waste.

...
waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Requirement for Poultry Waste Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>170,000 megawatt hours</td>
</tr>
<tr>
<td>2013</td>
<td>700,000 megawatt hours</td>
</tr>
<tr>
<td>2014 through 2018</td>
<td>900,000 megawatt hours</td>
</tr>
</tbody>
</table>

PART VI. REPEAL PROPERTY TAX EXCLUSION FOR SOLAR ENERGY ELECTRIC SYSTEMS.

SECTION 6.(a) G.S. 105-275(45) is repealed.

SECTION 6.(b) This section is effective for taxable years beginning on or after July 1, 2015.

PART VII. TO PROVIDE A COMPREHENSIVE STUDY OF THE COSTS AND BENEFITS OF DISTRIBUTED GENERATION.

SECTION 7.(a) No later than May 1, 2016, the Energy Policy Council shall provide to the Joint Legislative Commission on Government Operations and the North Carolina Utilities Commission a comprehensive assessment of known and measurable cost and benefits to the electrical grid of distributed generation, including the comprehensive costs of and benefits of net metering from distributed solar generation in this State. The Energy Policy Counsel may contract with a consultant to perform the assessment.

The assessment shall include an analysis of, and recommendations with respect to, the following:

1. The impact of current and future non-dispatchable distributed generation on the affordability, reliability, resiliency, and safety of North Carolina’s electric grid.
2. Whether changes to existing State law, regulations, policies, and incentives are appropriate considering the cost and operational impacts of current and future non-dispatchable distributed generation on North Carolina’s electric grid.
3. Whether standby, generation, transmission, or other charges and credits are necessary to recognize the costs and benefits associated with non-dispatchable distributed generation to ensure the protection of North Carolina electric customers.
4. The costs and benefits of distributed solar generation to the State, customer-generators who participate in net metering, customers of a utility who do not participate in net metering, and each utility that offers net metering. The costs and benefits of solar distributed generation considered in the study shall include all of the following to the extent they are known and measurable:
   a. Value of energy at the time of generation.
   b. Market price effects on other fuel sources for energy production.
   c. Effects on utility delivery systems, generation capacity, transmission capacity, and transmission and distribution line losses.
   d. Environmental impacts of energy production.
   e. Effects on reliability of the electric system.
   f. Any fixed distribution costs that the utility recovers from its customers on a volumetric basis.
g. Any other costs or benefits the Energy Policy Council believes are appropriate.

SECTION 7.(b) Each public utility, electric membership corporation, and municipality that distributes electricity in this State shall to the fullest extent possible cooperate with the Energy Policy Council and furnish the Energy Policy Council with any information it requests in the course of completing the assessment provided for in this act.

PART VIII. COST RECOVERY HOLD HARMLESS

SECTION 8.(a) Incremental costs incurred by an electric power supplier prior to July 1, 2015, to comply with any requirement repealed or amended by this act may be recovered as provided in G.S. 62-133.8(h), as amended by this act. For the purposes of cost recovery under this act, costs incurred prior to July 1, 2015, include all of the following:

1. Costs under purchase contracts for renewable energy entered into prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this act.
2. The costs of renewable energy facilities built by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2015, for the purpose of complying with REPS requirements repealed or amended by this act.
3. Other costs the Utilities Commission determines are reasonable and prudent costs incurred prior to July 1, 2015, to comply with the REPS requirements repealed or amended by this act.

PART IX. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 9.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and to this end the provisions of this act are severable.

SECTION 9.(b) Unless otherwise provided, this act is effective when it becomes law.