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Short Title: Competitive Energy Solutions for NC.

(Public)

Sponsors:

Referred to:

April 6, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO REFORM NORTH CAROLINA'S APPROACH TO INTEGRATION OF  
3 RENEWABLE ELECTRICITY GENERATION THROUGH AMENDMENT OF LAWS  
4 RELATED TO ENERGY POLICY AND TO ENACT THE DISTRIBUTED  
5 RESOURCES ACCESS ACT.

6 The General Assembly of North Carolina enacts:

7  
8 **PART I. STANDARD CONTRACTS FOR SMALL POWER PRODUCERS**

9 **SECTION 1.(a)** G.S. 62-3(27a) reads as rewritten:

10 "(27a) "Small power producer" means a person or corporation owning or operating  
11 an electrical power production facility ~~with a power production capacity~~  
12 ~~which, together with any other facilities located at the same site, does not~~  
13 ~~exceed 80 megawatts of electricity and which depends upon renewable~~  
14 ~~resources for its primary source of energy. For the purposes of this section,~~  
15 ~~renewable resources shall mean: hydroelectric power. A small power~~  
16 ~~producer shall not include persons primarily engaged in the generation or~~  
17 ~~sale of electricity from other than small power production facilities that~~  
18 qualifies as a "small power production facility" under 16 U.S.C. § 796, as  
19 amended."

20 **SECTION 1.(b)** G.S. 62-156 reads as rewritten:

21 **"§ 62-156. Power sales by small power producers to public utilities.**

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

27 (b) ~~No later than March 1, 1981, and at~~ At least every two ~~years thereafter,~~ years, the  
28 ~~commission~~ Commission shall determine the standard contract avoided cost rates to be  
29 included within the tariffs of each electric public utility and paid by electric public utilities for  
30 power purchased from small power producers, according to the following standards:

31 (1) ~~Term of Contract.~~ Standard Contract for Small Power Producers up to  
32 1,000 kilowatts (kW). – The Commission shall approve a standard offer  
33 power purchase agreement to be used by the electric public utility in  
34 purchasing energy and capacity from small power producers subject to this  
35 subsection. Long-term contracts up to 10 years for the purchase of electricity



1 by the electric public utility from small power producers with a design  
2 capacity up to and including 1,000 kilowatts (kW) shall be encouraged in  
3 order to enhance the economic feasibility of these small power production  
4 facilities-facilities; provided, however, that when an electric public utility,  
5 pursuant to this subsection, has entered into power purchase agreements with  
6 small power producer facilities (i) with a total capacity of 100 megawatts  
7 (MW) or more and (ii) which established a legally enforceable obligation  
8 after November 15, 2016, the eligibility threshold for that utility's standard  
9 offer shall be reduced to 100 kilowatts (kW).

10 (2) Avoided Cost of Energy to the Utility. – The rates paid by a–an electric  
11 public utility to a small power producer for energy shall not exceed, over the  
12 term of the purchase power contract, the incremental cost to the electric  
13 public utility of the electric energy which, but for the purchase from a small  
14 power producer, the utility would generate or purchase from another source.  
15 A determination of the avoided energy costs to the utility shall include a  
16 consideration of the following factors over the term of the power contracts:  
17 the expected costs of the additional or existing generating capacity which  
18 could be displaced, the expected cost of fuel and other operating expenses of  
19 electric energy production which a utility would otherwise incur in  
20 generating or purchasing power from another source, and the expected  
21 security of the supply of fuel for the utilities' alternative power sources.

22 (3) Availability and Reliability of Power. – The rates to be paid by electric  
23 public utilities for ~~power~~ avoided capacity purchased from a small power  
24 producer shall be established with consideration of the reliability and  
25 availability of the power. A future capacity need shall only be avoided in a  
26 year where the utility's most recent biennial integrated resource plan filed  
27 with the Commission pursuant to G.S. 62-110.1(c) has identified a projected  
28 capacity need to serve system load and the identified need can be met by the  
29 type of small power producer resource based upon its availability and  
30 reliability of power, other than swine or poultry wastes for which a need is  
31 established consistent with G.S. 62-133.8(e) and (f).

32 (c) Rates to be paid by electric public utilities to small power producers not eligible for  
33 the utility's standard contract offer pursuant to subsection (b) of this section shall be established  
34 through good-faith negotiations between the utility and small power producer, subject to the  
35 Commission's oversight as required by law. In establishing rates for purchases from such small  
36 power producers, the utility shall design rates consistent with the Commission-approved  
37 avoided cost methodology for a fixed five-year term. Rates for such purchases shall take into  
38 account factors related to the individual characteristics of the small power producer, as well as  
39 the factors identified in subdivisions (2) and (3) of subsection (b) of this section.  
40 Notwithstanding this subsection, small power producers that produce electric energy solely by  
41 the use of swine or poultry waste may negotiate for a fixed-term contract that exceeds five  
42 years.

43 (d) Notwithstanding any other provision of this section, an electric public utility shall  
44 not be required to enter into a contract with or purchase power from a small power producer if  
45 the electric public utility's obligation to purchase from such small power producers has been  
46 terminated pursuant to 18 C.F.R. § 292.309."

47 **SECTION 1.(c)** A small power production facility which would otherwise be  
48 eligible for the standard offer rate schedules and power purchase agreement terms and  
49 conditions approved by the Commission in Docket No. E-100, Sub 140, but which fails to  
50 commence delivering power to the utility on or before September 10, 2018, shall,  
51 notwithstanding such failure, remain eligible for such rate schedules and terms and conditions,

1 unless the nameplate capacity of the generation facility when taken together with the nameplate  
2 capacity of other generation facilities connected to the same substation transformer exceeds the  
3 nameplate capacity of the substation transformer. The term of a power purchase agreement  
4 eligible for such rate schedules and terms and conditions pursuant to this section shall  
5 commence on September 10, 2018, and shall end on the date that is 15 years after the  
6 commencement date. An electric public utility shall have the option in its discretion of electing  
7 not to interconnect to its distribution system a solar photovoltaic facility with a nameplate  
8 capacity of 10 megawatts (MW) or greater that had not executed an interconnection agreement  
9 prior to July 1, 2017, and instead requiring such facility to interconnect to the utility's  
10 transmission system.

11 **SECTION 1.(d)** This section is effective when it becomes law. Subsection (b) of  
12 this section applies to any standard contract rates and terms approved by the Commission or  
13 nonstandard negotiated agreements entered into between a small power producer and the  
14 electric public utility on or after that date. Subsection (c) of this section applies to small power  
15 production facilities that established a legally enforceable obligation in accordance with the  
16 Commission's then applicable requirements on or before November 15, 2016.

## 17 18 **PART II. COMPETITIVE PROCUREMENT OF RENEWABLE ENERGY**

19 **SECTION 2.(a)** Article 6 of Chapter 62 of the General Statutes is amended by  
20 adding a new section to read:

### 21 **"§ 62-110.8. Competitive procurement of renewable energy.**

22 (a) Each electric public utility shall file for Commission approval a program for the  
23 competitive procurement of new renewable energy resources with the purpose of adding  
24 renewable energy resources to the State's generation resource portfolio in a manner that allows  
25 the State's electric public utilities to continue to reliably and cost-effectively serve customers'  
26 future energy needs. Renewable energy resources eligible to participate in the competitive  
27 procurement shall include resources identified in G.S. 62-133.8(a)(8), but shall be limited to  
28 facilities with a nameplate capacity rating of 80 megawatts (MW) or less that are placed in  
29 service after the date of the electric public utility's initial competitive procurement. Subject to  
30 the limitations set forth in subsections (b) and (c) of this section, the electric public utilities  
31 shall issue requests for proposals to procure, and shall procure, new renewable energy  
32 resources in the aggregate amount of 2,660 megawatts (MW), and the total amount shall be  
33 reasonably allocated over a term of 45 months beginning when the Commission approves the  
34 program. At the termination of the initial procurement period of 45 months, the offering of a  
35 new renewable energy resources competitive procurement and the amount to be procured shall  
36 be determined by the Commission, taking into consideration a showing of need evidenced by  
37 the electric public utility's most recent biennial integrated resource plan or annual update filed  
38 pursuant to G.S. 62-110.1(c). At a minimum, the Commission shall require the additional  
39 competitive procurement of renewable energy resources by the electric public utilities in an  
40 amount that includes all of the following: (i) any unawarded portion of the initial competitive  
41 procurement required by this subsection; (ii) any deficit in renewable energy capacity identified  
42 pursuant to subdivision (1) of subsection (b) of this section; and (iii) any capacity reallocated  
43 pursuant to G.S. 62-159.2.

44 (b) Electric public utilities may jointly or individually implement the aggregate  
45 competitive procurement requirements set forth in subsection (a) of this section and may satisfy  
46 such requirements for the procurement of new renewable energy resources through any of the  
47 following: (i) renewable energy facilities to be acquired from third parties and subsequently  
48 owned and operated by the soliciting public utility or utilities; (ii) renewable energy facilities to  
49 be constructed, owned, and operated by the soliciting public utility or utilities subject to the  
50 limitations of subdivision (4) of this subsection; or (iii) the purchase of renewable energy,  
51 capacity, and environmental and renewable attributes from renewable energy facilities owned

1 and operated by third parties that commit to allow the procuring public utility rights to dispatch,  
2 operate, and control the solicited renewable energy facilities in the same manner as the utility's  
3 own generating resources. Procured renewable energy resources shall be subject to the  
4 following limitations:

- 5 (1) If prior to the end of the initial 45-month competitive procurement period the  
6 public utilities subject to this section have executed power purchase  
7 agreements and interconnection agreements for renewable energy resource  
8 projects within their balancing authority areas that are not subject to  
9 economic dispatch or curtailment and were not procured pursuant to  
10 G.S. 62-159.2 and that have an aggregate capacity in excess of 3,500  
11 megawatts (MW), the Commission shall reduce the competitive procurement  
12 aggregate amount by the amount of such exceedance. If the capacity of such  
13 renewable energy resources is less than 3,500 megawatts (MW) at the end of  
14 the initial 45-month competitive procurement period, the Commission shall  
15 require the electric public utilities to conduct an additional competitive  
16 procurement in the amount of such deficit.
- 17 (2) To ensure the cost-effectiveness of procured new renewable energy  
18 resources, each public utility's procurement obligation shall be capped by the  
19 public utility's current forecast of its avoided cost calculated over the term of  
20 the power purchase agreement. The public utility's current forecast of its  
21 avoided cost shall be consistent with the Commission-approved avoided cost  
22 methodology.
- 23 (3) Each public utility shall submit to the Commission for approval and make  
24 publicly available at 30 days prior to each competitive procurement  
25 solicitation a pro forma contract to be utilized for the purpose of informing  
26 market participants of terms and conditions of the competitive procurement.  
27 Each pro forma contract shall define limits and compensation for resource  
28 dispatch and curtailments. The pro forma contract shall be for a term of 20  
29 years; provided, however, the Commission may approve a contract term of a  
30 different duration if the Commission determines that it is in the public  
31 interest to do so.
- 32 (4) No more than thirty percent (30%) of an electric public utility's competitive  
33 procurement requirement may be satisfied through the utility's own  
34 development of renewable energy facilities offered by the electric public  
35 utility or any subsidiary of the electric public utility that is located within the  
36 electric public utility's service territory. This limitation shall not apply to any  
37 renewable energy facilities acquired by an electric public utility that are  
38 selected through the competitive procurement and are located within the  
39 electric public utility's service territory.

40 (c) Subject to the aggregate competitive procurement requirements established by this  
41 section, the electric public utilities shall have the authority to determine the location and  
42 allocated amount of the competitive procurement within their respective balancing authority  
43 areas, whether located inside or outside the geographic boundaries of the State, taking into  
44 consideration (i) the State's desire to foster diversification of siting of renewable energy  
45 resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional  
46 renewable energy resources in each public utility's service territory; and (iii) the potential for  
47 increased delivered cost to a public utility's customers as a result of siting additional renewable  
48 energy resources in a public utility's service territory, including additional costs of ancillary  
49 services that may be imposed due to the operational or locational characteristics of a specific  
50 renewable energy resource technology, such as nondispatchability, unreliability of availability,  
51 and creation or exacerbation of system congestion that may increase redispatch costs.

1        (d) The competitive procurement of renewable energy resources established pursuant to  
2 this section shall be independently administered by a third-party entity to be approved by the  
3 Commission. The third-party entity shall develop and publish the methodology used to evaluate  
4 responses received pursuant to a competitive procurement solicitation and to ensure that all  
5 responses are treated equitably. All reasonable and prudent administrative and related expenses  
6 incurred to implement this subsection shall be recovered from market participants through  
7 administrative fees levied upon those that participate in the competitive bidding process, as  
8 approved by the Commission.

9        (e) An electric public utility may participate in any competitive procurement process,  
10 but shall only participate within its own assigned service territory. If the public utility uses  
11 nonpublicly available information concerning its own distribution or transmission system in  
12 preparing a proposal to a competitive procurement, the public utility shall make such  
13 information available to third parties that have notified the public utility of their intention to  
14 submit a proposal to the same request for proposals.

15        (f) For purposes of this section, the term "balancing authority" means the entity that  
16 integrates resource plans ahead of time, maintains load-interchange-generation balance within a  
17 balancing authority area, and supports interconnection frequency in real time, and the term  
18 "balancing authority area" means the collection of generation, transmission, and loads within  
19 the metered boundaries of the balancing authority, and the balancing authority maintains  
20 load-resource balance within this area.

21        (g) An electric public utility shall be authorized to recover the costs of all purchases of  
22 energy, capacity, and environmental and renewable attributes from third-party renewable  
23 energy resources and to recover the authorized revenue of any utility-owned assets that are  
24 procured pursuant to this section through an annual rider approved by the Commission and  
25 reviewed annually. Provided it is in the public interest, the authorized revenue for any  
26 renewable energy facilities owned by an electric public utility may be calculated on a market  
27 basis in lieu of cost-of-service based recovery, using data from the applicable competitive  
28 procurement to determine the market price in accordance with the methodology established by  
29 the Commission pursuant to subsection (h) of this section. The annual increase in the aggregate  
30 amount of these costs that are recoverable by an electric public utility pursuant to this  
31 subsection shall not exceed one percent (1%) of the electric public utility's total North Carolina  
32 retail jurisdictional gross revenues for the preceding calendar year.

33        (h) The Commission shall adopt rules to implement the requirements of this section, as  
34 follows:

- 35        (1) Oversight of the competitive procurement program.
- 36        (2) To provide for a waiver of regulatory conditions or code of conduct  
37 requirements that would unreasonably restrict a public utility or its affiliates  
38 from participating in the competitive procurement process, unless the  
39 Commission finds that such a waiver would not hold the public utility's  
40 customers harmless.
- 41        (3) Establishment of a procedure for expedited review and approval of  
42 certificates of public convenience and necessity, or the transfer thereof, for  
43 renewable energy facilities owned by the public utility and procured  
44 pursuant to this section. The Commission shall issue an order not later than  
45 30 days after a petition for a certificate is filed by the public utility.
- 46        (4) Establishment of a methodology to allow an electric public utility to recover  
47 its costs pursuant to subsection (g) of this section.
- 48        (5) Establishment of a procedure for the Commission to modify or delay  
49 implementation of the provisions of this section in whole or in part if the  
50 Commission determines that it is in the public interest to do so.

1       (i) The requirements of this section shall not apply to an electric public utility serving  
2 fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

3       **SECTION 2.(b)** G.S. 62-153(b) reads as rewritten:

4       "(b) No public utility shall pay any fees, commissions or compensation of any  
5 description whatsoever to any affiliated or subsidiary holding, managing, operating,  
6 constructing, engineering, financing or purchasing company or agency for services rendered or  
7 to be rendered without first filing copies of all proposed agreements and contracts with the  
8 Commission and obtaining its approval. Provided, however, that this subsection shall not apply  
9 to (i) motor carriers of ~~passengers~~ passengers or (ii) power purchase agreements entered into  
10 pursuant to the competitive renewable energy procurement process established pursuant to  
11 G.S. 62-110.8."

12       **SECTION 2.(c)** This section is effective when it becomes law. The program  
13 required to be filed with the Utilities Commission pursuant to G.S. 62-110.8(a), as enacted by  
14 subsection (a) of this section, shall be filed by the electric public utility no later than 120 days  
15 after the effective date of this section and the Commission shall issue an order to approve,  
16 modify, or deny the program no later than 90 days after the submission of the program by the  
17 electric public utility.

### 18       **PART III. RENEWABLE ENERGY PROCUREMENT FOR MAJOR MILITARY** 19 **INSTALLATIONS, PUBLIC UNIVERSITIES, AND OTHER LARGE CUSTOMERS**

20       **SECTION 3.(a)** Article 7 of Chapter 62 of the General Statutes is amended by  
21 adding a new section to read:

22       "**§ 62-159.2. Direct renewable energy procurement for major military installations,**  
23 **public universities, and large customers.**

24       (a) Each electric public utility providing retail electric service to more than 150,000  
25 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the  
26 Commission an application requesting approval of a new program applicable to major military  
27 installations, as that term is defined in G.S. 143-215.115(1), The University of North Carolina,  
28 as established in Article 1 of Chapter 116 of the General Statutes, and other new and existing  
29 nonresidential customers with either a contract demand (i) equal to or greater than one  
30 megawatt (MW) or (ii) at multiple service locations that, in aggregate, is equal to or greater  
31 than five megawatts (MW).

32       (b) Each public utility's program application required by this section shall provide  
33 standard contract terms and conditions for participating customers and for renewable energy  
34 suppliers from which the electric public utility procures energy and capacity on behalf of the  
35 participating customer. The application shall allow eligible customers to select the new  
36 renewable energy facility from which the electric public utility shall procure energy and  
37 capacity. The standard terms and conditions available to renewable energy suppliers shall  
38 provide a range of terms, between two years and 20 years, from which the participating  
39 customer may elect. Eligible customers shall be allowed to negotiate with renewable energy  
40 suppliers regarding price terms.

41       (c) Each contracted amount of capacity shall be limited to no more than one hundred  
42 twenty-five percent (125%) of the maximum annual peak demand of the eligible customer  
43 premises. Each public utility shall establish reasonable credit requirements for financial  
44 assurance for eligible customers that are consistent with the Uniform Commercial Code of  
45 North Carolina. Major military installations and The University of North Carolina are exempt  
46 from the financial assurance requirements of this section.

47       (d) The program shall be offered by the electric public utilities subject to this section for  
48 a period of five years or until December 31, 2022, whichever is later, and shall not exceed a  
49 combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section,  
50 where a major military installation is located within its Commission-assigned service territory,  
51

1 at least 100 megawatts (MW) of new renewable energy facility capacity offered under the  
2 program shall be reserved for participation by major military installations. At least 250  
3 megawatts (MW) of new renewable energy facility capacity offered under the programs shall  
4 also be reserved for participation by The University of North Carolina. Major military  
5 installations and The University of North Carolina must fully subscribe to all their allocations  
6 prior to December 31, 2020, or a period of no more than three years after approval of the  
7 program, whichever is later. If any portion of total capacity set aside to major military  
8 installations or The University of North Carolina is not used, it shall be reallocated for use by  
9 any eligible program participant. If any portion of the 600 megawatts (MW) of renewable  
10 energy capacity provided for in this section is not awarded prior to the expiration of the  
11 program, it shall be reallocated to and included in a competitive procurement in accordance  
12 with G.S. 62-110.8(a).

13 (e) In addition to the participating customer's normal retail bill, the total cost of any  
14 renewable energy and capacity procured by or provided by the electric public utility for the  
15 benefit of the program customer shall be paid by that customer. The electric public utility shall  
16 pay the owner of the renewable energy facility which provided the electricity. The program  
17 customer shall receive a bill credit for the energy as determined by the Commission; provided,  
18 however, that the bill credit shall not exceed utility's avoided cost. The Commission shall  
19 ensure that all other customers are held neutral, neither advantaged nor disadvantaged, from the  
20 impact of the renewable electricity procured on behalf of the program customer."

21 **SECTION 3.(b)** This section is effective when it becomes law. The application  
22 required to be filed with the Utilities Commission pursuant to G.S. 62-159.2, as enacted by  
23 subsection (a) of this section, shall be filed by the electric public utility no later than 180 days  
24 after the effective date of this section.  
25

#### 26 **PART IV. COST-RECOVERY FOR CERTAIN SMALL POWER PRODUCER** 27 **PURCHASES**

28 **SECTION 4.(a)** G.S. 62-133.2 reads as rewritten:

29 **"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

30 (a) The Commission shall permit an electric public utility that generates electric power  
31 by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for  
32 changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers  
33 with electricity from the cost of fuel and fuel-related costs established in the electric public  
34 utility's previous general rate case on the basis of cost per kilowatt hour.

35 (a1) As used in this section, "cost of fuel and fuel-related costs" means all of the  
36 following:

- 37 (1) The cost of fuel burned.
- 38 (2) The cost of fuel transportation.
- 39 (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and  
40 catalysts consumed in reducing or treating emissions.
- 41 (4) The total delivered noncapacity related costs, including all related  
42 transmission charges, of all purchases of electric power by the electric public  
43 utility, that are subject to economic dispatch or economic curtailment.
- 44 (5) The capacity costs associated with all purchases of electric power from  
45 qualifying cogeneration facilities and qualifying small power production  
46 facilities, as defined in 16 U.S.C. § 796, that are subject to economic  
47 dispatch by the electric public utility.
- 48 (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total  
49 delivered costs of all purchases of power from renewable energy facilities  
50 and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply

with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.

- (7) The fuel cost component of other purchased power.
- (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.
- (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.
- (10) The total delivered costs, including capacity and noncapacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recovered under subdivision (6) of this subsection.
- (11) All nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants.

(a2) For those costs identified in subdivisions (4), (5), ~~and (6)~~(6), (10), and (11) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed ~~two percent (2%)~~ two and one-half percent (2.5%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), ~~and (6)~~(6), (10), and (11) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

- (1) For the noncapacity costs described in subdivisions (4), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina energy usage for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.
- (2) For the capacity costs described in subdivisions (5) and (6)(5), (6), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina peak demand for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.

...."

**SECTION 4.(b)** This section is effective when it becomes law.

**PART V. AMEND COST CAPS FOR REPS COMPLIANCE**

**SECTION 5.1.(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:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	\$10.00	\$12.00	<del>\$34.00</del> \$27.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00"

**SECTION 5.1.(b)** This section becomes effective July 1, 2017, and applies to cost-recovery proceedings initiated on or after that date.

## **COST-RECOVERY HOLD HARMLESS**

**SECTION 5.2.** All reasonable and prudent incremental costs incurred by an electric power supplier prior to July 1, 2017, 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, reasonable and prudent incremental costs shall include all of the following:

- (1) Costs under purchase contracts for renewable energy entered into prior to July 1, 2017, for the purpose of complying with the renewable energy portfolio standards requirements amended by this act.
- (2) The costs of renewable energy facilities built or acquired by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2017.

## **PART VI. DISTRIBUTED RESOURCES ACCESS ACT**

**SECTION 6.(a)** Chapter 62 of the General Statutes is amended by adding a new Article to read:

"Article 6B.

"Distributed Resources Access Act.

### **"§ 62-126.1. Title.**

This Article may be cited as the "Distributed Resources Access Act."

### **"§ 62-126.2. Declaration of policy.**

The General Assembly of North Carolina finds that as a matter of public policy it is in the interest of the State to encourage the leasing of solar energy facilities for retail customers and subscription to shared community solar energy facilities. The General Assembly further finds and declares that in encouraging the leasing of and subscription to solar energy facilities pursuant to this act, cross-subsidization should be avoided by holding harmless electric public utilities' customers that do not participate in such arrangements.

### **"§ 62-126.3. Definitions.**

For purposes of this Article, the following definitions apply:

- (1) Affiliate. – Any entity directly or indirectly controlling or controlled by or under direct or indirect common control with an electric power supplier.
- (2) Commission. – The North Carolina Utilities Commission.
- (3) Community solar energy facility. – A solar energy facility whose output is shared through subscriptions.
- (4) Customer generator lessee. – A lessee of a solar energy facility.
- (5) Electric generator lessor. – The owner of an eligible electric generation facility that leases the facility to a customer generator lessee, including any agents who act on behalf of the solar electric generator lessor. For purposes of this Article, an electric generator lessor shall not be considered a public utility under G.S. 62-3(23).

- 1           (6)   Electric power supplier. – A public utility, an electric membership  
2           corporation, or a municipality that sells electric power to retail electric  
3           customers in the State.
- 4           (7)   Electric public utility. – A public utility as defined by G.S. 62-3(23) that  
5           sells electric power to retail electric customers in the State.
- 6           (8)   Maximum annual peak demand. – The maximum single hour of electric  
7           demand actually occurring or estimated to occur at a premises.
- 8           (9)   Net metering. – To use electrical metering equipment to measure the  
9           difference between the electrical energy supplied to a retail electric customer  
10           by an electric power supplier and the electrical energy supplied by the retail  
11           electric customer to the electric power supplier over the applicable billing  
12           period.
- 13          (10) Offering utility. – Any electric public utility as defined in G.S. 62-3(23)  
14           servicing at least 150,000 North Carolina retail jurisdictional customers as of  
15           January 1, 2017. The term shall not include any other electric public utility,  
16           electric membership corporation, or municipal electric supplier authorized to  
17           provide retail electric service within the State. An offering utility's  
18           participation in this Article as an electric generator lessor shall not otherwise  
19           alter its status as a public utility with respect to any other provision of this  
20           Chapter. An offering utility's participation in this Article shall be regulated  
21           pursuant to the provisions of this Article.
- 22          (11) Person. – The same meaning as provided by G.S. 62-3(21).
- 23          (12) Premises. – The building, structure, farm, or facility to which electricity is  
24           being or is to be furnished. Two or more buildings, structures, farms, or  
25           facilities that are located on one tract or contiguous tracts of land and that are  
26           utilized by one electric customer for commercial, industrial, institutional, or  
27           governmental purposes, shall constitute one "premises," unless the electric  
28           service to the building, structures, farms, or facilities are separately metered  
29           and charged.
- 30          (13) Property. – The tract of land on which the premises is located, together with  
31           all the adjacent contiguous tracts of land utilized by the same retail electric  
32           customer.
- 33          (14) Solar energy facility. – A solar energy facility leased to a customer generator  
34           lessee that meets the following requirements:
- 35           a.   Generates electricity from a solar photovoltaic system and related  
36           equipment that uses solar energy to generate electricity.
- 37           b.   Is limited to a capacity of (i) not more than the lesser of 1,000  
38           kilowatts (kW) or one hundred percent (100%) of contract demand if  
39           a nonresidential customer or (ii) not more than 20 kilowatts (kW) or  
40           one hundred percent (100%) of estimated electrical demand if a  
41           residential customer.
- 42           c.   Is located on a premises owned, operated, leased, or otherwise  
43           controlled by the customer generator lessee that is also the premises  
44           served by the solar energy facility.
- 45           d.   Is interconnected and operates in parallel phase and synchronization  
46           with an offering utility authorized by the Commission to provide  
47           retail electric service to the premises and has been approved for  
48           interconnection and parallel operation by that public utility.
- 49           e.   Is intended only to offset no more than one hundred percent (100%)  
50           of the customer generator lessee's own retail electrical energy  
51           consumption at the premises.

1           f.     Meets all applicable safety, performance, interconnection, and  
2                 reliability standards established by the Commission, the public  
3                 utility, the National Electrical Code, the National Electrical Safety  
4                 Code, the Institute of Electrical and Electronics Engineers,  
5                 Underwriters Laboratories, the Federal Energy Regulatory  
6                 Commission, and any local governing authorities.

7           (15) Subscription. – A contract between a subscriber and the owner of a  
8                 community solar energy facility that allows a subscriber to receive a bill  
9                 credit for the electricity generated by a community solar energy facility in  
10                proportion to the electricity generated.

11 **"§ 62-126.4. Commission to establish net metering rates.**

12           (a) Each electric public utility shall file for Commission approval revised net metering  
13 rates for electric customers that (i) own a renewable energy facility for that person's own  
14 primary use or (ii) are customer generator lessees.

15           (b) The rates shall be nondiscriminatory and established only after an investigation of  
16 the costs and benefits of customer-sited generation. The Commission shall establish net  
17 metering rates under all tariff designs that ensure that the net metering retail customer pays its  
18 full fixed cost of service. Such rates may include fixed monthly energy and demand charges.

19           (c) Until the rates have been approved by the Commission as required by this section,  
20 the rate shall be the applicable net metering rate in place at the time the facility interconnects.  
21 Retail customers that own and install an on-site renewable energy facility and interconnect to  
22 the grid prior to the date the Commission approves new metering rates may elect to continue  
23 net metering under the net metering rate in effect at the time of interconnection until January 1,  
24 2027.

25 **"§ 62-126.5. Scope of leasing program in offering utilities' service areas.**

26           (a) An offering utility and its affiliates may be deemed to be electric generator lessors  
27 and may offer leases to solar energy facilities only within the offering utility's own assigned  
28 service area or, in the case of an affiliate, the service area assigned to an affiliated offering  
29 utility. The costs an offering public utility incurs in marketing, installing, owning, or  
30 maintaining leases through its own leasing programs as a lessor shall not be recovered from  
31 other nonparticipating utility customers through rates, and the Commission shall not have any  
32 jurisdiction over the financial terms of such leases. An offering utility, and the customer  
33 generator lessees that lease facilities from it, may participate on an equal basis with other  
34 lessors and lessees and in any approved incentive program offered by the utility to its  
35 customers.

36           (b) An electric generator lessor that owns a solar energy facility within the assigned  
37 service area of an offering utility and that is located on a premises owned or leased by a  
38 customer generator lessee shall be permitted to lease such facility exclusively to a customer  
39 generator lessee under a lease, provided that the solar electric generator lessor complies with  
40 the terms, conditions, and restrictions set forth within this section and holds a valid certificate  
41 issued by the Commission pursuant to G.S. 62-126.7. An electric generator lessor shall not be  
42 considered a "public utility" under G.S. 62-3(23) if the solar energy facility is only made  
43 available to a customer generator lessee under a lease that conforms to the requirements of  
44 G.S. 62-126.6 for the customer generator lessee's use on its premises where the solar energy  
45 facility is located to serve the electric energy requirements of that particular premises, including  
46 to enable the customer generator lessee to obtain a credit for the electricity generated under an  
47 applicable net metering tariff or to engage in the sale of excess energy from the solar energy  
48 facility to an offering utility.

49           (c) Any lease of a solar energy facility not entered into pursuant to this section is  
50 prohibited, and any electric generator lessor that enters into a lease outside of an offering  
51 utility's program implemented pursuant to this section or otherwise enters into a contract or

1 agreement where payments are based upon the electric output of a solar energy facility shall be  
2 considered a "public utility" under G.S. 62-3(23) and be in violation of the franchised service  
3 rights of the offering utility or any other electric power supplier authorized to provide retail  
4 electric service in the State. This section does not authorize the sale of electricity from solar  
5 energy facilities directly to any customer of an offering utility or other electric power supplier  
6 by the owner of a solar energy facility. The electrical output from any solar energy facility  
7 leased pursuant to this program shall be the sole and exclusive property of the customer  
8 generator lessee.

9 (d) The total installed capacity of all solar energy facilities on an offering utility's  
10 system that are leased pursuant to this section shall not exceed one percent (1%) of the previous  
11 five-year average of the North Carolina retail contribution to the offering utility's coincident  
12 retail peak demand. The offering utility may refuse to interconnect customers that would result  
13 in this limitation being exceeded. Each offering utility shall establish a program for new  
14 installations of leased equipment to permit the reservation of capacity by customer generator  
15 lessees, whether participating in a public utility or nonutility lessor's leasing program, on its  
16 system, including provisions to prevent or discourage abuse of such programs. Such programs  
17 must provide that only prospective individual customer generator lessees may apply for,  
18 receive, and hold reservations to participate in the offering utility's leasing program. Each  
19 reservation shall be for a single customer premises only and may not be sold, exchanged,  
20 traded, or assigned except as part of the sale of the underlying premises.

21 (e) To comply with the terms of this section, each customer generator lessee's solar  
22 energy facility shall serve only one premises and shall not serve multiple customer generator  
23 lessees or multiple premises. The customer generator lessee must enroll in the applicable rate  
24 schedule made available by the interconnecting offering utility, subject to the participation  
25 limitations set forth in subsection (a) of this section.

26 **"§ 62-126.6. Electric customer generator leasing requirements; disclosures; records.**

27 (a) A lease agreement offered by an electric generator lessor must meet the following  
28 requirements:

- 29 (1) Be signed and dated by the retail electric customer. Any agreement that  
30 contains blank spaces when signed by the retail electric customer is voidable  
31 at the option of the retail electric customer until the solar energy facility is  
32 installed.
- 33 (2) Be in at least 12-point type.
- 34 (3) Include a provision granting the retail electric customer the right to rescind  
35 the agreement for a period of not less than three business days after the  
36 agreement is signed by the retail electric customer.
- 37 (4) Provide a description of the solar energy facility, including the make and  
38 model of the solar energy facility's major components, and a guarantee  
39 concerning energy production output that the solar energy facility will  
40 provide over the expected life of the agreement.
- 41 (5) Separately set forth the following items, as applicable:
  - 42 a. The total cost to the retail electric customer under the lease  
43 agreement for the solar energy facility over the life of the agreement.
  - 44 b. Any interest, installation fees, document preparation fees, service  
45 fees, or other costs to be paid by the retail electric customer.
  - 46 c. The total number of payments, including the interest, the payment  
47 frequency, the estimated amount of the payment expressed in dollars,  
48 and the payment due date over the leased term.
- 49 (6) Identify any state or federal tax incentives that are included in the calculation  
50 of lease payments.

- 1           (7)    Disclose whether the warranty or maintenance obligations related to the  
2           solar energy facility may be sold or transferred to a third party.
- 3           (8)    Include a disclosure, the receipt of which shall be separately acknowledged  
4           by the retail electric customer, if a transfer of the lease agreement is subject  
5           to any restrictions pursuant to the agreement on the retail electric customer's  
6           ability to modify or transfer ownership of a solar energy facility, including  
7           whether any modification or transfer is subject to review or approval by a  
8           third party. If the modification or transfer of the solar energy facility is  
9           subject to review or approval by a third party, the agreement must identify  
10           the name, address, and telephone number of, and provide for updating any  
11           change in, the entity responsible for approving the modification or transfer.
- 12           (9)    Include a disclosure, the receipt of which shall be separately acknowledged  
13           by the retail electric customer, if a modification or transfer of ownership of  
14           the real property to which the solar energy facility is or will be affixed is  
15           subject to any restrictions pursuant to the agreement on the retail electric  
16           customer's ability to modify or transfer ownership of the real property to  
17           which the solar energy facility is installed or affixed, including whether any  
18           modification or transfer is subject to review or approval by a third party. If  
19           the modification or transfer of the real property to which the solar energy  
20           facility is affixed or installed is subject to review or approval by a third  
21           party, the agreement must identify the name, address, and telephone number  
22           of, and provide for updating any change in, the entity responsible for  
23           approving the modification or transfer.
- 24           (10)   Provide a full and accurate summary of the total costs under the agreement  
25           for maintaining and operating the solar energy facility over the life of the  
26           solar energy facility, including financing, maintenance, and construction  
27           costs related to the solar energy facility.
- 28           (11)   If the agreement contains an estimate of the retail electric customer's future  
29           utility charges based on projected utility rates after the installation of a solar  
30           energy facility, provide an estimate of the retail electric customer's estimated  
31           utility charges during the same period as impacted by potential utility rate  
32           changes ranging from at least a five percent (5%) annual decrease to at least  
33           a five percent (5%) annual increase from current utility costs. The  
34           comparative estimates must be calculated based on the same utility rates.
- 35           (12)   Include a disclosure, the receipt of which shall be separately acknowledged  
36           by the retail electric customer that states: "Utility rates and utility rate  
37           structures are subject to change. These changes cannot be accurately  
38           predicted and projected savings from your solar energy facility are therefore  
39           subject to change. Tax incentives are subject to change or termination by  
40           executive, legislative, or regulatory action."

41           (b)    Before the maintenance or warranty obligations of a solar energy facility under an  
42           existing lease agreement are transferred, the person who is currently obligated to maintain or  
43           warrant the solar energy facility must disclose the name, address, and telephone number of the  
44           person who will be assuming the maintenance or warranty of the solar energy facility.

45           (c)    If the electric generator lessor's marketing materials contain an estimate of the retail  
46           electric customer's future utility charges based on projected utility rates after the installation of  
47           a solar energy facility, the marketing materials must contain an estimate of the retail electric  
48           customer's estimated utility charges during the same period as impacted by potential utility rate  
49           changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%)  
50           annual increase from current utility costs.

51           **§ 62-126.7. Commission authority over electric generator lessors.**

1       (a) No person shall engage in the leasing of a solar energy facility without having  
2 applied for and obtained a certificate authorizing those operations from the Commission. The  
3 application for a certificate of authority to engage in business as an electric generator lessor  
4 shall be made in a form prescribed by the Commission and accompanied by the fee required  
5 pursuant to G.S. 62-300(a)(16).

6       (b) In acting upon the application for a certificate of authority to engage in business as  
7 an electric generator lessor, the Commission shall take into account the State's interest in  
8 encouraging the leasing of solar electric generation facilities and avoidance of  
9 cross-subsidization as declared by the policy objectives of this Article as provided in  
10 G.S. 62-126.2, as well as the policy of the State, as provided in G.S. 62-2(a). The Commission  
11 shall issue a certificate of authority to engage in business as an electric generator lessor if the  
12 Commission finds that the applicant is fit, willing, and able to conduct that business in  
13 accordance with the provisions of this Article. The certificate shall be effective from the date  
14 issued unless otherwise specified therein and shall remain in effect until terminated under the  
15 terms thereof, or until suspended or revoked as herein provided.

16       (c) As a condition for issuance and continuation of a certificate of authority for an  
17 electric generator lessor, the applicant shall certify to the Commission all of the following:

- 18           (1) The applicant will register with the Commission each solar energy facility  
19 that the applicant leases to a customer generator lessee.
- 20           (2) That each lease of a solar energy facility that the applicant offers or accepts  
21 will comply with the provisions of this Article.
- 22           (3) The applicant will consent to the auditing of its books and records by the  
23 Public Staff insofar as those records relate to transactions with an offering  
24 utility or a customer generator lessee that is located in the State.
- 25           (4) That the applicant will conduct its business in substantial compliance with  
26 all federal and State laws, regulations, and rules for the protection of the  
27 environment and conservation of natural resources, the provision of electric  
28 service, and the protection of consumers.

29       (d) Upon the request of a public utility, an electric membership corporation, the Public  
30 Staff, a customer generator lessee, or person having an interest in the solar electric generator  
31 lessor's conduct of its business, the Commission may review the certificate to determine  
32 whether the solar electric generator lessor is conducting business in compliance with this  
33 Article. After notice to the electric generator lessor, the Commission may suspend the  
34 certificate and enter upon a hearing to determine whether the certificate should be revoked.  
35 After the hearing, and for good cause shown, the Commission may, in its discretion, reinstate a  
36 suspended certificate, continue a suspension of a certificate, or revoke a certificate.

37       (e) It shall be a violation of law punishable by a civil penalty of not more than ten  
38 thousand dollars (\$10,000) per occurrence for any person to either directly or indirectly do any  
39 of the following:

- 40           (1) Solicit business as a lessor of solar energy facilities without a valid  
41 certificate issued under this section or otherwise in violation of the terms of  
42 this Article.
- 43           (2) Engage in any unfair or deceptive practice in the leasing of solar energy  
44 facilities or otherwise violate the requirements of G.S. 62-126.6.
- 45           (3) Operate in violation of the terms of the certificate issued by this Article.

46 **"§ 62-126.8. Community solar energy facilities.**

47       (a) Each offering utility shall file a plan with the Commission to offer a community  
48 solar energy facility program for participation by its retail customers. The community solar  
49 energy facility program shall be designed so that each community solar energy facility offsets  
50 the energy use of not less than five subscribers and no single subscriber has more than a forty  
51 percent (40%) interest. The offering utility shall make its community solar energy facility

1 program available on a first-come, first-served basis until the total nameplate generating  
2 capacity of those facilities equals 20 megawatts (MW).

3 (b) A community solar energy facility shall have a nameplate capacity of no more than  
4 five megawatts (MW). Each subscription shall be sized to represent at least 200 watts (W) of  
5 the community solar energy facility's generating capacity and to supply no more than one  
6 hundred percent (100%) of the maximum annual peak demand of electricity of each subscriber  
7 at the subscriber's premises.

8 (c) A community solar energy facility must be located in the service territory of the  
9 offering utility filing the plan. Subscribers shall be located in the State of North Carolina and  
10 the same county or a county contiguous to where the facility is located. The electric public  
11 utility may file a request for Commission approval for an exemption from the location  
12 requirement of this subsection and the Commission may approve the request for a facility  
13 located up to 75 miles from the county of the subscribers, if the Commission deems the  
14 exemption to be in the public interest.

15 (d) The offering utility shall credit the subscribers to its community solar energy facility  
16 for all subscribed shares of energy generated by the facility at the avoided cost rate.

17 (e) The Commission may approve, disapprove, or modify a community solar energy  
18 facility program. The program shall meet all of the following requirements:

19 (1) Establish uniform standards and processes for the community solar energy  
20 facilities that allow the electric public utility to recover reasonable  
21 interconnection costs, administrative costs, fixed costs, and variable costs  
22 associated with each community solar energy facility, including purchase  
23 expenses if a power purchase agreement is elected as the method of energy  
24 procurement by the offering utility.

25 (2) Be consistent with the public interest.

26 (3) Identify the information that must be provided to potential subscribers to  
27 ensure fair disclosure of future costs and benefits of subscriptions.

28 (4) Include a program implementation schedule.

29 (5) Identify all proposed rules and charges.

30 (6) Describe how the program will be promoted.

31 (7) Hold harmless customers of the electric public utility who do not subscribe  
32 to a community solar energy facility.

33 (8) Allow subscribers to have the option to own the renewable energy  
34 certificates produced by the community solar energy facility.

35 **"§ 62-126.9. Scope of leasing program by municipalities.**

36 (a) A municipality that sells electric power to retail customers in the State may elect, by  
37 action of its governing council or commission, to be deemed to be an electric generator lessor  
38 and may offer leases to solar energy facilities located within the municipality's service territory.  
39 The costs a municipality incurs in marketing, installing, owning, or maintaining leases through  
40 its own leasing programs as a lessor shall not be recovered from other nonparticipating  
41 municipality retail customers through rates.

42 (b) Provided the municipality has elected to offer a leasing program, an electric  
43 generator lessor that owns a solar energy facility within a municipality's service territory and  
44 that is located on a premises owned or leased by a customer generator lessee shall be permitted  
45 to lease such facility exclusively to a customer generator lessee pursuant to a lease under terms  
46 and conditions approved by the municipality and holds a valid certificate issued by the  
47 Commission pursuant to G.S. 62-126.7. Notwithstanding this subsection, a municipality acting  
48 as an electric generator lessor shall not be required to comply with G.S. 62-126.7.

49 (c) An electric generator lessor, including a municipality acting as an electric generator  
50 lessor, shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy  
51 facilities are only made available to a customer generator lessee under a lease that conforms to

1 the requirements of G.S. 62-126.6 for the customer generator lessee's use of the customer  
 2 generator lessee's premises where the solar energy facility is located to serve the electric energy  
 3 requirements of that particular premises, including to enable the customer generator lessee to  
 4 obtain a credit under an applicable net metering tariff or to engage in the sale of excess energy  
 5 from the solar energy facility to the municipality; provided, however, that the provisions of  
 6 G.S. 62-126.4 shall not apply to a municipality or other electric generator lessor that offers  
 7 leases to solar energy facilities located within the municipality's service territory pursuant to  
 8 this section. Any net metering tariffs adopted by such municipality shall be adopted by its  
 9 governing council or commission in accordance with the rate-setting procedures set forth in  
 10 Article 16 of Chapter 160A of the General Statutes.

11 (d) Any lease of a solar energy facility in a municipal electric service area not entered  
 12 into pursuant to this section is prohibited. This section does not authorize the sale of electricity  
 13 from solar energy facilities directly to any customer of a municipality by the owner of a solar  
 14 energy facility. The electrical output from any eligible renewable electric generation facility  
 15 leased pursuant to this section shall be the sole and exclusive property of the customer  
 16 generator lessee.

17 (e) Each eligible solar energy facility shall serve only one premises and shall not serve  
 18 multiple customer generator lessees or multiple premises. The customer generator lessee must  
 19 enroll in the applicable rate schedule made available by the municipality, subject to the  
 20 participation limitations set forth in subsection (a) of this section.

21 **"§ 62-126.10. Rules.**

22 The Commission shall adopt rules to implement the provisions of this Article."

23 **SECTION 6.(b)** G.S. 62-3(23) reads as rewritten:

24 **"§ 62-3. Definitions.**

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

26 ...

- 27 (23) a. "Public utility" means a person, whether organized under the laws of  
 28 this State or under the laws of any other state or country, now or  
 29 hereafter owning or operating in this State equipment or facilities for:  
 30 1. Producing, generating, transmitting, delivering or furnishing  
 31 electricity, piped gas, steam or any other like agency for the  
 32 production of light, heat or power to or for the public for  
 33 compensation; provided, however, that the term "public  
 34 utility" shall not include persons who construct or operate an  
 35 electric generating facility, the primary purpose of which  
 36 facility is ~~for such either for (i) a person's own use and not for~~  
 37 ~~the primary purpose of producing electricity, heat, or steam~~  
 38 ~~for sale to or for the public for compensation; compensation or~~  
 39 (ii) a person who constructs or operates an eligible solar  
 40 energy facility on the site of a customer's property and leases  
 41 such facility to that customer, as provided by and subject to  
 42 the limitations of Article 6B of this Chapter;

43 ...."

44 **SECTION 6.(c)** G.S. 62-110.1(g) reads as rewritten:

45 "(g) The certification requirements of this section shall not apply to (i) a  
 46 nonutility-owned generating facility fueled by renewable energy resources under two  
 47 megawatts in ~~capacity or capacity;~~ (ii) to persons who construct an electric generating facility  
 48 primarily for that person's own use and not for the primary purpose of producing electricity,  
 49 heat, or steam for sale to or for the public for compensation; ~~provided, however, that such~~  
 50 ~~persons shall, nevertheless, be required to report to the Utilities Commission the proposed~~  
 51 ~~construction of such a facility before beginning construction thereof.~~ or (iii) a solar energy



1 facility or a community solar energy facility, as provided by and subject to the limitations of  
2 Article 6B of this Chapter. However, such persons shall be required to report the proposed  
3 construction of the facility and the completion of the facility to the Commission and the  
4 interconnecting public utility. Such reports shall be for informational purposes only and shall  
5 not require action by the Commission or the Public Staff."

6 **SECTION 6.(d)** This section is effective when it becomes law. The plan required to  
7 be filed with the Utilities Commission pursuant to G.S. 62-126.8(a), as enacted by subsection  
8 (a) of this section, shall be filed by the electric public utility no later than 180 days after the  
9 effective date of this section.

## 10 11 **PART VII. EXPEDITED REVIEW OF INTERCONNECTION OF SWINE AND** 12 **POULTRY WASTE**

13 **SECTION 7.** G.S. 62-133.8(i)(4) reads as rewritten:

14 "(4) Establish standards for interconnection of renewable energy facilities and  
15 other nonutility-owned generation with a generation capacity of 10  
16 megawatts or less to an electric public utility's distribution system; provided,  
17 however, that the Commission shall adopt, if appropriate, federal  
18 interconnection standards. The standards adopted pursuant to this  
19 subdivision shall include an expedited review process for swine and poultry  
20 waste to energy projects of two megawatts (MW) or less and other measures  
21 necessary and appropriate to achieve the objectives of subsections (e) and (f)  
22 of this section."

## 23 24 **PART VIII. SOLAR REBATE PROGRAM**

25 **SECTION 8.(a)** G.S. 62-155 is amended by adding a new subsection to read:

26 "(f) Each electric public utility serving more than 150,000 North Carolina retail  
27 jurisdictional customers as of January 1, 2017, shall file with the Commission an application  
28 requesting approval of a program offering reasonable incentives to residential and  
29 nonresidential customers for the installation of small customer owned or leased solar energy  
30 facilities participating in a public utility's net metering tariff, where the incentive shall be  
31 limited to 10 kilowatts alternating current (kW AC) for residential solar installations and 100  
32 kilowatts alternating current (kW AC) for nonresidential solar installations. Each public utility  
33 required to offer the incentive program pursuant to this subsection shall be authorized to  
34 recover all reasonable and prudent costs of incentives provided to customers and program  
35 administrative costs by amortizing the total program incentives distributed during a calendar  
36 year and administrative costs over a 20-year period, including a return component adjusted for  
37 income taxes at the utility's overall weighted average cost of capital established in its most  
38 recent general rate case, which shall be included in the costs recoverable by the public utility  
39 pursuant to G.S. 62-133.8(h). Nothing in this section shall prevent the reasonable and prudent  
40 costs of a utility's programs to incentivize customer investment in or leasing of solar energy  
41 facilities, including an approved incentive, from being reflected in a utility's rates to be  
42 recovered through the annual rider established pursuant to G.S. 62-133.8(h). The program  
43 incentive established by each public utility subject to this section shall meet all of the following  
44 requirements:

- 45 (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually  
46 starting in January 1, 2018, and continuing until December 31, 2022, and  
47 shall provide incentives to participating customers based upon the installed  
48 alternating current nameplate capacity of the generators.  
49 (2) Nonresidential installations will also be limited to 5,000 kilowatts (kW) in  
50 aggregate for each of the years of the program.

- 1           (3)    Two thousand five hundred kilowatts (kW) of the capacity for nonresidential  
2           installations shall be set aside for use by nonprofit organizations; 50  
3           kilowatts (kW) of the set aside shall be allocated to the NC Greenpower  
4           Solar Schools Pilot or a similar program. Any set-aside rebates that are not  
5           used by December 31, 2022, shall be reallocated for use by any customer  
6           who otherwise qualifies. For purposes of this section, "nonprofit  
7           organization" means an organization or association recognized by the  
8           Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or  
9           any bona fide branch, chapter, or affiliate of that organization.
- 10          (4)    If in any year a portion of the incentives goes unsubscribed, the utility may  
11          roll excess incentives over into a subsequent year's allocation."

12          **SECTION 8.(b)** G.S. 62-133.8(h)(1) is amended by adding a new sub-subdivision  
13 to read:

- 14                "d.    Provide incentives to customers, including program costs, incurred  
15                pursuant to G.S. 62-155(f)."

16          **SECTION 8.(c)** This section is effective when it becomes law. The application  
17 required to be filed with the Utilities Commission pursuant to G.S. 62-155(f), as enacted by  
18 subsection (a) of this section, shall be filed by the electric public utility no later than 180 days  
19 after the effective date of this section.

## 20

## 21 **PART IX. DEMAND-SIDE MANAGEMENT FOR STATE-OWNED FACILITIES**

## 22 **PILOT PROJECT**

23          **SECTION 9.** Article 17 of Chapter 62 of the General Statutes is amended by  
24 adding a new section to read:

### 25 **"§ 62-351. Demand-side management policy; pilot project.**

26          (a)    Declaration of Policy. – It is the policy of the State for government-owned facilities  
27          that have backup or emergency generators that meet the criteria of utility demand-side  
28          management programs or rates to enroll in such programs or rates to the extent those programs  
29          or rates are available without diminishing the purpose or use of the facility having the backup  
30          or emergency generator.

31          (b)    Department of Public Safety Pilot Program. – By no later than January 1, 2018, the  
32          Department of Public Safety shall designate a backup or emergency generator to enroll in the  
33          demand-side management program or rate available that would allow electricity load to be  
34          shifted to its generator in response to utility-administered programs.

35          (c)    Report. – The Department of Public Safety shall report to the Joint Legislative  
36          Commission on Energy Policy by January 31 of each year on the status of the designated  
37          backup or emergency generator and whether it is enrolled in the utility demand-side response  
38          program or rate.

39          (d)    Sunset. – The pilot program and report required by subsections (b) and (c) of this  
40          section shall expire on January 1, 2020."

## 41

## 42 **PART X. UPDATE UTILITIES COMMISSION CHARGES AND FEES**

43          **SECTION 10.(a)** G.S. 62-133.8 is amended by adding a new subsection to read:

44                "(l)    The owner, including an electric power supplier, of each renewable energy facility  
45                or new renewable energy facility, whether or not required to obtain a certificate of public  
46                convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy  
47                certificates it earns to be eligible for use by an electric power supplier to comply with  
48                G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a  
49                registration statement in the form prescribed by the Commission and remit to the Commission  
50                the fee required pursuant to G.S. 62-300(a)(16)."

1           **SECTION 10.(b)** G.S. 62-300(a) is amended by adding two new subdivisions to  
2 read:

3           "(16) Two hundred fifty dollars (\$250.00) with each application for a certificate of  
4           authority to engage in business as a solar electric generator lessor filed  
5           pursuant to G.S. 62-126.7 or each registration statement for a renewable  
6           energy facility or new renewable energy facility filed pursuant to  
7           G.S. 62-133.8(l).

8           (17) Fifty dollars (\$50.00) for each report of proposed construction filed by the  
9           owner of an electric generating facility that is exempt from the certification  
10           requirements of G.S. 62-110.1(a)."

11  
12 **PART XII. ENERGY STORAGE STUDY**

13           **SECTION 12.** The North Carolina Policy Collaboratory (Collaboratory) at the  
14 University of North Carolina at Chapel Hill shall conduct a study on energy storage  
15 technology. The study shall address how energy storage technologies may or may not provide  
16 value to North Carolina consumers based on factors that may include capital investment, value  
17 to the electric grid, net utility savings, net job creation, impact on consumer rates and service  
18 quality, or any other factors related to deploying one or more of these technologies. The study  
19 shall also address the feasibility of energy storage in North Carolina, including services energy  
20 storage can provide that are not being performed currently, the economic potential or impact of  
21 energy storage deployment in North Carolina, and the identification of existing policies and  
22 recommended policy changes that may be considered to address a statewide coordinated energy  
23 storage policy. The Collaboratory shall provide the results of this study no later than December  
24 1, 2018, to the Energy Policy Council and the Joint Legislative Commission on Energy Policy.

25  
26 **PART XIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

27           **SECTION 13.(a)** If any section or provision of this act is declared unconstitutional  
28 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
29 than the part declared to be unconstitutional or invalid.

30           **SECTION 13.(b)** Except as otherwise provided, this act is effective when it  
31 becomes law.