

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 245  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH20093-MH-10C (11/02)

Short Title: Utilities/The Energy Freedom Act. (Public)

Sponsors: Representatives Szoka, Dollar, McGrady, and L. Johnson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT A PERSON WHO CONSTRUCTS OR OPERATES AN ELECTRIC GENERATING FACILITY ON A CUSTOMER'S PROPERTY FOR THE PRIMARY PURPOSE OF PRODUCING ELECTRICITY, HEAT, OR STEAM FOR SALE TO OR FOR THE USE BY THE CUSTOMER IS NOT A PUBLIC UTILITY AND IS NOT SUBJECT TO REGULATION BY THE UTILITIES COMMISSION SO LONG AS THE FACILITY IS SIZED TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY-FIVE PERCENT OF THE AVERAGE ANNUAL ENERGY CONSUMPTION OF THE CUSTOMER AT THAT SITE.

Whereas, it is the policy of the State of North Carolina to diversify the resources used to reliably meet the energy needs of consumers in the State; and

Whereas, the development of renewable and distributed energy resources in the State will provide greater energy security and reduce dependence on unreliable and unstable foreign resources to meet the energy needs of consumers in the State; and

Whereas, the development of renewable and distributed energy resources in the State will encourage and result in private investment in new generating facilities and ancillary businesses, creating new tax bases, jobs, and economic opportunities throughout the State; and

Whereas, an increased use of renewable and distributed energy resources to serve the State's energy needs will improve the quality of life in the State by reducing generation from sources that cause harm to the public health; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** This act shall be known and may be cited as "The Energy Freedom Act of 2015."

**SECTION 2.** G.S. 62-3(23) reads as rewritten:

**"§ 62-3. Definitions.**

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

...

- (23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:
1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which



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facility is either (i) for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for ~~compensation~~; compensation or (ii) a person who constructs or operates a renewable energy facility on the site of a customer's property and sells the electricity produced by such facility to that customer, as provided by and subject to the limitations of G.S. 62-119;

...."

**SECTION 3.** Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

**"§ 62-119. Third-party sales of electricity from on-site renewable energy facilities.**

(a) The sale of electricity to a customer from a renewable energy facility, as defined in G.S. 62-133.8, owned and operated by a third party and located on the customer's property where such electricity will be consumed, shall not subject the third-party owner or operator of the on-site generating equipment to any restrictions on such sales under G.S. 62-110.2 or to regulation as a public utility under this Chapter so long as (i) the facility is sized to supply no more than one hundred twenty-five percent (125%) of the average annual consumption of electricity by the customer at that site and (ii) the third-party owner reports to the Utilities Commission the proposed construction of such a facility prior to the beginning of construction.

(b) For purposes of this section, the customer's site includes all contiguous property owned or leased by the customer, without regard to easements, public thoroughfares, transportation or utility rights-of-way, or other similar interruptions that may divide parcels of property under common ownership.

(c) For purposes of net metering as regulated by the Commission, renewable energy facilities owned or operated by a third party under this section shall be eligible to participate in net metering arrangements with applicable public utilities.

(d) The Commission may approve a new schedule of fees or credits for customers who choose to use distributed energy resources, whether through ownership, lease, or through power purchase agreement, with a utility or nonutility provider. Such fees and credits shall be nondiscriminatory and applied only after an investigation of the costs and benefits of customer-sited generation."

**SECTION 4.** G.S. 62-300(a) is amended by adding a new subdivision to read:

"(16) Twenty-five dollars (\$25.00) for each report of proposed construction filed by a person who constructs or operates a renewable energy facility on the site of a customer's property and sells the electricity produced by such facility to such customer, as provided by and subject to the limitations of G.S. 62-119."

**SECTION 5.** This act becomes effective July 1, 2015.