

GENERAL ASSEMBLY OF NORTH CAROLINA  
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Short Title: Competitive Energy Solutions for NC.

(Public)

Sponsors:

Referred to:

April 6, 2017

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

The General Assembly of North Carolina enacts:

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

**SECTION 1.1.** 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 that qualifies as a "small power production facility" under 16 U.S.C. § 796, as amended, 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. 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 1.2.** 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 public utility, the ~~commission~~ Commission shall require the public utility to purchase the power, under rates and terms established as provided in ~~subsection (b) of this section~~ subsections (b) or (c) of this section.

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

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



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

(2) Avoided Cost of Energy to the Utility. – The rates paid by ~~a~~an electric public utility to a small power producer for energy shall not exceed, over the term of the purchase power contract, the incremental cost to the electric public 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 expected costs of the additional or existing generating capacity which could be displaced, the 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 public utilities for ~~power~~avoided capacity purchased from a small power producer shall be established with consideration of the reliability and availability of the power. A future capacity need shall only be avoided in a year where the utility's most recent biennial integrated resource plan filed with the Commission pursuant to G.S. 62-110.1(c) has identified a projected capacity need to serve system load and the identified need can be met by the type of small power producer resource based upon its availability and reliability of power, other than swine or poultry wastes for which a need is established consistent with G.S. 62-133.8(e) and (f).

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

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

**SECTION 1.3** A small power production facility which would otherwise be eligible for the standard offer rate schedules and power purchase agreement terms and conditions approved by the Commission in Docket No. E-100, Sub 140, but which fails to commence delivering power to the utility on or before September 10, 2018, shall, notwithstanding such failure, remain eligible for such rate schedules and terms and conditions, unless the nameplate capacity of the generation facility when taken together with the nameplate

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

**SECTION 1.4.** This section is effective when it becomes law. Section 1.2 applies to any standard contract rates and terms approved by the Commission or non-standard negotiated agreements entered into between a small power producer and the electric public utility on or after that date. Section 1.3 applies to small power production facilities that established a legally enforceable obligation in accordance with the Commission's then applicable requirements on or before November 15, 2016.

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

**SECTION 2.1** Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

### **"§ 62-110.8. Competitive Procurement of Renewable Energy.**

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

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

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

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

(c) Subject to the aggregate competitive procurement requirements established by this section, the electric public utilities shall have the authority to determine the location and allocated amount of the competitive procurement within their respective balancing authority areas, whether located inside or outside the geographic boundaries of the State, taking into consideration the State's desire to (i) foster diversification of siting of renewable energy resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional renewable energy resources in each public utility's service territory; and (iii) the potential for increased delivered cost to a public utility's customers as a result of siting additional renewable energy resources in a public utility's service territory, including additional costs of ancillary services that may be imposed due to the operational or locational characteristics of a specific

renewable energy resource technology, such as non-dispatchability, unreliability of availability, and creation or exacerbation of system congestion that may increase redispatch costs.

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

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

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

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

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

- (1) Oversight of the competitive procurement program.
- (2) To provide for a waiver of regulatory conditions or code of conduct requirements that would unreasonably restrict a public utility or its affiliates from participating in the competitive procurement process, unless the Commission finds that such a waiver would not hold the public utility's customers harmless.
- (3) Establishment of a procedure for expedited review and approval of certificates of public convenience and necessity, or the transfer thereof, for renewable energy facilities owned by the public utility and procured pursuant to this section. The Commission shall issue an order not later than thirty (30) days after a petition for a certificate is filed by the public utility.
- (4) Establishment of a methodology to allow an electric public utility to recover its costs pursuant to subsection (g) of this section.

(5) Establishment of a procedure for the Commission to modify or delay implementation of the provisions of this section in whole or in part if the Commission determines that it is in the public interest to do so.

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

**SECTION 2.2** G.S. 62-153(b) reads as rewritten:

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

**SECTION 2.3** This section is effective when it becomes law. The program required to be filed with the Utilities Commission pursuant to G.S. 62-110.8(a) shall be filed by the electric public utility no later than 120 days after the effective date of this section and the Commission shall issue an order to approve, modify, or deny the program no later than 90 days after the submission of the program by the electric public utility.

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

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

#### **"§ 62-159.2. Direct Renewable Energy Procurement for Major Military Installations, Public Universities, and Large Customers.**

(a) Each electric public utility providing retail electric service to more than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the Commission an application requesting approval of a new program applicable to major military installations, as that term is defined in G.S. 143-215.115(1), The University of North Carolina, as established in Article 1 of Chapter 116 of the General Statutes, and other new and existing non-residential customers with either a contract demand (i) equal to or greater than one megawatt (1 MW) or (ii) a contract demand at multiple service locations that, in aggregate, is equal to or greater than five megawatts (5 MW).

(b) Each public utility's program application required by this section shall provide standard contract terms and conditions for participating customers and for renewable energy suppliers from which the electric public utility procures energy and capacity on behalf of the participating customer. The application shall allow eligible customers to select the new renewable energy facility from which the electric public utility shall procure energy and capacity. The standard terms and conditions available to renewable energy suppliers shall provide a range of terms, between two (2) years and twenty (20) years from which the participating customer may elect. Eligible customers shall be allowed to negotiate with renewable energy suppliers regarding price terms.

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

(d) The program shall be offered by the electric public utilities subject to this section for a period of five years or until December 31, 2022, whichever is later, and shall not exceed a

combined six hundred megawatts (600 MW) of total capacity. For the public utilities subject to this section where a major military installation is located within its Commission-assigned service territory, at least one hundred megawatts (100 MW) of new renewable energy facility capacity offered under the program shall be reserved for participation by major military installations. At least two hundred and fifty megawatts (250 MW) of new renewable energy facility capacity offered under the programs shall also be reserved for participation by The University of North Carolina. Major military installations and The University of North Carolina must fully subscribe to all its allocation prior to December 31, 2020 or a period of no more than three years after approval of the program, whichever is later. If any portion of total capacity set aside to major military installations or The University of North Carolina is not used, it shall be reallocated for use by any eligible program participant. If any portion of the six hundred megawatts (600 MW) of renewable energy capacity provided for in this section is not awarded prior to the expiration of the program, it shall be reallocated to and included in a competitive procurement in accordance with G.S. 62-110.8(a).

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

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

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

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

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

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

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

- (1) The cost of fuel burned.
- (2) The cost of fuel transportation.
- (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.
- (5) The capacity 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 subject to economic dispatch by the electric public utility.
- (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply

- 1 with any federal mandate that is similar to the requirements of subsections  
2 (b), (c), (d), (e), and (f) of G.S. 62-133.8.
- 3 (7) The fuel cost component of other purchased power.
- 4 (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or  
5 losses resulting from any sales by the electric public utility of fuel and other  
6 fuel-related costs components.
- 7 (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or  
8 losses resulting from any sales by the electric public utility of by-products  
9 produced in the generation process to the extent the costs of the inputs  
10 leading to that by-product are costs of fuel or fuel-related costs.
- 11 (10) The total delivered costs, including capacity and noncapacity costs,  
12 associated with all purchases of electric power from qualifying cogeneration  
13 facilities and qualifying small power production facilities, as defined in 16  
14 U.S.C. § 796, that are not subject to economic dispatch or economic  
15 curtailment by the electric public utility and not otherwise recovered under  
16 subdivision (6) of this subsection.
- 17 (11) All non-administrative costs related to the renewable energy procurement  
18 pursuant to G.S. 62-159.2, not recovered from the program participants.
- 19 (a2) For those costs identified in subdivisions (4), (5), ~~and (6)~~(6), (10), and (11) of  
20 subsection (a1) of this section, the annual increase in the aggregate amount of these costs that  
21 are recoverable by an electric public utility pursuant to this section shall not exceed ~~two percent~~  
22 ~~(2%)~~two and one-half percent (2.5%) of the electric public utility's total North Carolina retail  
23 jurisdictional gross revenues for the preceding calendar year. The costs described in  
24 subdivisions (4), (5), ~~and (6)~~(6), (10), and (11) of subsection (a1) of this section shall be  
25 recoverable from each class of customers as a separate component of the rider as follows:
- 26 (1) For the ~~noncapacity~~ costs described in ~~subdivision (4)~~subdivisions (4), (10),  
27 ~~and (11)~~ of subsection (a1) of this section, the specific component for each  
28 class of customers shall be determined by allocating these costs among  
29 customer classes based on the ~~electric public utility's North Carolina energy~~  
30 ~~usage for the prior year~~method used in the electric public utility's most  
31 recently filed fuel proceeding commenced on or before January 1, 2017, as  
32 determined by the Commission, until the Commission determines how these  
33 costs shall be allocated in a general rate case for the electric public utility  
34 commenced on or after January 1, 2008-2017.
- 35 (2) For the capacity costs described in subdivisions (5), (6), (10), and (11) ~~(5)~~  
36 ~~and (6)~~ of subsection (a1) of this section, the specific component for each  
37 class of customers shall be determined by allocating these costs among  
38 customer classes based on the ~~electric public utility's North Carolina peak~~  
39 ~~demand for the prior year~~method used in the electric public utility's most  
40 recently filed fuel proceeding commenced on or before January 1, 2017, as  
41 determined by the Commission, until the Commission determines how these  
42 costs shall be allocated in a general rate case for the electric public utility  
43 commenced on or after January 1, 2008-2017.

44 "..."

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

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

47 **SECTION 5.1 (a)** G.S. 62-133.8(h)(4) reads as rewritten:

- 48 "(4) An electric power supplier shall be allowed to recover the incremental costs  
49 incurred to comply with the requirements of subsections (b), (c), (d), (e), and  
50 (f) of this section and fund research as provided in subdivision (1) of this  
51



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 6.1.** 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 act 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).

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

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

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

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

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

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

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

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

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

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

(c) Any lease of a solar energy facility not entered into pursuant to this section is prohibited, and any electric generator lessor that enters into a lease outside of an offering 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 (1.0%) of the  
11 previous five year average of the North Carolina retail contribution to the offering utility's  
12 coincident retail peak demand. The offering utility may refuse to interconnect customers that  
13 would result in this limitation being exceeded. Each offering utility shall establish a program  
14 for new installations of leased equipment to permit the reservation of capacity by customer  
15 generator lessees, whether participating in a public utility or non-utility lessor's leasing  
16 program, on its system including provisions to prevent or discourage abuse of such programs.  
17 Such programs must provide that only prospective individual customer generator lessees may  
18 apply for, receive, and hold reservations to participate in the offering utility's leasing program.  
19 Each 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 twelve 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 (3) 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.

- (7) Disclose whether the warranty or maintenance obligations related to the solar energy facility may be sold or transferred to a third-party.
- (8) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a transfer of the lease agreement is subject to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of a solar energy facility, including whether any modification or transfer is subject to review or approval by a third-party. If the modification or transfer of the solar energy facility is subject to review or approval by a third-party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.
- (9) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a modification or transfer of ownership of the real property to which the solar energy facility is or will be affixed is subject to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of the real property to which the solar energy facility is installed or affixed, including whether any modification or transfer is subject to review or approval by a third-party. If the modification or transfer of the real property to which the solar energy facility is affixed or installed is subject to review or approval by a third-party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.
- (10) Provide a full and accurate summary of the total costs under the agreement for maintaining and operating the solar energy facility over the life of the solar energy facility, including financing, maintenance, and construction costs related to the solar energy facility.
- (11) If the agreement contains an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, provide an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs. The comparative estimates must be calculated based on the same utility rates.
- (12) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer that states:  
"Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted and projected savings from your solar energy facility are therefore subject to change. Tax incentives are subject to change or termination by executive, legislative, or regulatory action."
- (b) Before the maintenance or warranty obligations of a solar energy facility under an existing lease agreement are transferred, the person who is currently obligated to maintain or warrant the solar energy facility must disclose the name, address, and telephone number of the person who will be assuming the maintenance or warranty of the solar energy facility.
- (c) If the electric generator lessor's marketing materials contain an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, the marketing materials must contain an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs.

**"§ 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

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

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

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

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

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

- (1) Establish uniform standards and processes for the community solar energy facilities that allow the electric public utility to recover reasonable interconnection costs, administrative costs, fixed costs, and variable costs associated with each community solar energy facility, including purchase expenses if a power purchase agreement is elected as the method of energy procurement by the offering utility.
- (2) Be consistent with the public interest.
- (3) Identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions.
- (4) Include a program implementation schedule.
- (5) Identify all proposed rules and charges.
- (6) Describe how the program will be promoted.
- (7) Hold harmless customers of the electric public utility who do not subscribe to a community solar energy facility.
- (8) Allow subscribers to have the option to own the renewable energy certificates produced by the community solar energy facility.

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

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

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

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

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

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

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

#### **"§ 62-126.10. Rules.**

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

**SECTION 6.2.** 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 facility is either for (i) for such a 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; or (ii) a person who constructs or operates an eligible solar energy facility on the site of a customer's property and leases such facility to that customer, as provided by and subject to the limitations of Article 6B of this Chapter;

...."

**SECTION 6.3.** G.S. 62-110.1(g) reads as rewritten:

"(g) The certification requirements of this section shall not apply ~~to~~ to: (i) a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in ~~capacity or capacity~~; (ii) to persons who construct an electric generating facility primarily for that 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; ~~provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed 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 6.4.** 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) shall be filed by the electric  
8 public utility no later than 180 days after the effective date of this section.  
9

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

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

13 "(4) Establish standards for interconnection of renewable energy facilities and  
14 other nonutility-owned generation with a generation capacity of 10  
15 megawatts or less to an electric public utility's distribution system; provided,  
16 however, that the Commission shall adopt, if appropriate, federal  
17 interconnection standards. The standards adopted pursuant to this  
18 subdivision shall include an expedited review process for swine and poultry  
19 waste to energy projects of two megawatts (2 MW) or less and other  
20 measures necessary and appropriate to achieve the objectives of subsection  
21 (e) and (f) of this section."  
22

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

24 **SECTION 8.1** G.S. 62-155 is amended by adding a new subsection to read:

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

- 44 (1) Shall be limited to ten thousand kilowatts (10,000 kW) of installed capacity  
45 annually starting in January 1, 2018 and continuing until December 31,  
46 2022, and shall provide incentives to participating customers based upon the  
47 installed alternating current nameplate capacity of the generators.
- 48 (2) Non-residential installations will also be limited to five thousand kilowatts  
49 (5,000 kW) in aggregate for each of the years of the program.
- 50 (3) Twenty five hundred kilowatts (2,500 kW) of the capacity for  
51 non-residential installations shall be set-aside for use by non-profit

organizations; fifty kilowatts (50 kW) of the set-aside shall be allocated to the NC Greenpower Solar Schools Pilot or a similar program. Any set-aside rebates that are not used by December 31, 2022 shall be reallocated for use by any customer who otherwise qualifies. For purposes of this section, "nonprofit organization" means an organization or association recognized by the Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization.

(4) If in any year a portion of the incentives goes unsubscribed, the utility may roll excess incentives over into a subsequent year's allocation."

**SECTION 8.2** G.S. 62-133.8(h)(1) is amended by adding a new sub-subdivision to read:

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

**SECTION 8.3** This section is effective when it becomes law. The application required to be filed with the Utilities Commission pursuant to G.S. 62-155(f) shall be filed by the electric public utility no later than 180 days after the effective date of this section.

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

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

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

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

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

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

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

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

**SECTION 10.1.** G.S. 62-133.8 is amended by adding a new subsection to read:

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

**SECTION 10.2.** G.S. 62-300(a) is amended by adding two new subdivisions to read:

"(16) Two hundred and fifty dollars (\$250.00) with each application for a certificate of authority to engage in business as a solar electric generator

lessor filed pursuant to G.S. 62-126.7 or each registration statement for a renewable energy facility or new renewable energy facility filed pursuant to G.S. 62-133.8(l).

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

**PART XI. DIRECT THE JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY TO STUDY PROPERTY TAX EXCLUSIONS FOR SOLAR ENERGY ELECTRIC SYSTEMS AND FACILITIES UTILIZING SWINE OR POULTRY WASTE RESOURCES.**

**SECTION 11.1** The Joint Legislative Commission on Energy Policy is directed to study the property tax exclusions for the creation of renewable energy through solar energy electric systems and energy and biogas facilities utilizing swine or poultry waste resources. As part of its study, the Commission shall consider the following:

- (1) The economic impact of the property tax exclusion for solar energy electric systems under G.S. 105-275(45).
- (2) Whether there should be a property tax exclusion for facilities utilizing swine or poultry waste resources to generate electricity or biogas.
- (3) How much the property tax exclusion for facilities utilizing swine or poultry waste resources to generate electricity or biogas should be.

**SECTION 11.2** The Joint Legislative Commission on Energy Policy may request any information necessary to complete the study created under this section from any county tax office in this State, including at a minimum:

- (1) The value of any property that currently qualifies for the property tax exclusion under G.S. 105-275(45) prior to the installation of a solar energy electric system.
- (2) The value of any property that currently qualifies for the property tax exclusion under G.S. 105-275(45) after the installation of a solar energy electric system.
- (3) The amount of property taxes collected from a property that currently qualifies for the property tax exclusion under G.S. 105-275(45) prior to the installation of a solar energy electric system.
- (4) The amount of property taxes collected from a property that currently qualifies for the property tax exclusion under G.S. 105-275(45) after the installation of a solar energy electric system.
- (5) The value of any property that abuts a property that currently qualifies for the property tax exclusion under G.S. 105-275(45) prior to the installation of a solar energy electric system.
- (6) The value of any property that abuts a property that currently qualifies for the property tax exclusion under G.S. 105-275(45) after the installation of a solar energy electric system.
- (7) The observed economic impact of solar energy electric systems, if available.

**SECTION 11.3** The Joint Legislative Commission on Energy Policy may request information from the Department of Revenue regarding system and nonsystem property owned by any public service company in this State to complete the study created under this section. For the purposes of this section, the terms "system property", "nonsystem property", and "public service company" shall have the same meanings as defined in G.S. 105-333.

**SECTION 11.4** The Joint Legislative Commission on Energy Policy shall complete this study and report its findings and recommendations, including any legislative proposals, to the General Assembly by March 1, 2018.

**PART XII. ENERGY STORAGE STUDY**

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

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

**SECTION 13.1.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**SECTION 13.2.** Except as otherwise provided, this act is effective when it becomes law.