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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 public 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 electric public
25 utility to purchase the power, under rates and terms established as provided in ~~subsection (b) of~~
26 ~~this 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



1 subsection. Long-term contracts up to 10 years for the purchase of electricity
2 by the electric public utility from small power producers with a design
3 capacity up to and including 1,000 kilowatts (kW) shall be encouraged in
4 order to enhance the economic feasibility of these small power production
5 facilities-facilities; provided, however, that when an electric public utility,
6 pursuant to this subsection, has entered into power purchase agreements with
7 small power producers from facilities (i) in the aggregate capacity of 100
8 megawatts (MW) or more and (ii) which established a legally enforceable
9 obligation after November 15, 2016, the eligibility threshold for that utility's
10 standard offer shall be reduced to 100 kilowatts (kW).

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

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

33 (c) Rates to be paid by electric public utilities to small power producers not eligible for
34 the utility's standard contract pursuant to subsection (b) of this section shall be established
35 through good-faith negotiations between the utility and small power producer, subject to the
36 Commission's oversight as required by law. In establishing rates for purchases from such small
37 power producers, the utility shall design rates consistent with the most recent
38 Commission-approved avoided cost methodology for a fixed five-year term. Rates for such
39 purchases shall take into account factors related to the individual characteristics of the small
40 power producer, as well as the factors identified in subdivisions (2) and (3) of subsection (b) of
41 this section. Notwithstanding this subsection, small power producers that produce electric
42 energy primarily by the use of any of the following renewable energy resources may negotiate
43 for a fixed-term contract that exceeds five years: (i) swine or poultry waste; (ii) hydropower, if
44 the hydroelectric power facility total capacity is equal to or less than five megawatts (MW); or
45 (iii) landfill gas, manure digester gas, agricultural waste digester gas, sewage digester gas, or
46 sewer sludge digester gas.

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

1 **SECTION 1.(c)** A small power production facility which would otherwise be
2 eligible for the standard offer rate schedules and power purchase agreement terms and
3 conditions approved by the Commission in Docket No. E-100, Sub 140, but which fails to
4 commence delivering power to the utility on or before September 10, 2018, shall,
5 notwithstanding such failure, remain eligible for such rate schedules and terms and conditions,
6 unless the nameplate capacity of the generation facility when taken together with the nameplate
7 capacity of other generation facilities connected to the same substation transformer exceeds the
8 nameplate capacity of the substation transformer. The term of a power purchase agreement
9 eligible for such rate schedules and terms and conditions pursuant to this section shall
10 commence on September 10, 2018, and shall end on the date that is 15 years after the
11 commencement date. An electric public utility shall have the option in its discretion of electing
12 not to interconnect to its distribution system a solar photovoltaic facility with a nameplate
13 capacity of 10 megawatts (MW) or greater that had not executed an interconnection agreement
14 prior to July 1, 2017, and instead requiring such facility to interconnect to the utility's
15 transmission system.

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

22 23 **PART II. COMPETITIVE PROCUREMENT OF RENEWABLE ENERGY**

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

26 **"§ 62-110.8. Competitive procurement of renewable energy.**

27 (a) Each electric public utility shall file for Commission approval a program for the
28 competitive procurement of energy and capacity from renewable energy facilities with the
29 purpose of adding renewable energy to the State's generation portfolio in a manner that allows
30 the State's electric public utilities to continue to reliably and cost-effectively serve customers'
31 future energy needs. Renewable energy facilities eligible to participate in the competitive
32 procurement shall include those facilities that use renewable energy resources identified in
33 G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80
34 megawatts (MW) or less that are placed in service after the date of the electric public utility's
35 initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of
36 this section, the electric public utilities shall issue requests for proposals to procure and shall
37 procure, energy and capacity from renewable energy facilities in the aggregate amount of 2,200
38 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months
39 beginning when the Commission approves the program. The Commission shall require the
40 additional competitive procurement of renewable energy capacity by the electric public utilities
41 in an amount that includes all of the following: (i) any unawarded portion of the initial
42 competitive procurement required by this subsection; (ii) any deficit in renewable energy
43 capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any
44 capacity reallocated pursuant to G.S. 62-159.2. Unless authorized by this section, the
45 Commission shall not approve a program for any additional competitive procurement of energy
46 and capacity from renewable energy facilities.

47 (b) Electric public utilities may jointly or individually implement the aggregate
48 competitive procurement requirements set forth in subsection (a) of this section and may satisfy
49 such requirements for the procurement of renewable energy capacity to be supplied by
50 renewable energy facilities through any of the following: (i) renewable energy facilities to be
51 acquired from third parties and subsequently owned and operated by the soliciting public utility

1 or utilities; (ii) renewable energy facilities to be constructed, owned, and operated by the
2 soliciting public utility or utilities subject to the limitations of subdivision (4) of this
3 subsection; or (iii) the purchase of renewable energy, capacity, and environmental and
4 renewable attributes from renewable energy facilities owned and operated by third parties that
5 commit to allow the procuring public utility rights to dispatch, operate, and control the solicited
6 renewable energy facilities in the same manner as the utility's own generating resources.
7 Procured renewable energy capacity, as provided for in this section, shall be subject to the
8 following limitations:

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

45 (c) Subject to the aggregate competitive procurement requirements established by this
46 section, the electric public utilities shall have the authority to determine the location and
47 allocated amount of the competitive procurement within their respective balancing authority
48 areas, whether located inside or outside the geographic boundaries of the State, taking into
49 consideration (i) the State's desire to foster diversification of siting of renewable energy
50 resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional
51 renewable energy facilities in each public utility's service territory; and (iii) the potential for

1 increased delivered cost to a public utility's customers as a result of siting additional renewable
2 energy facilities in a public utility's service territory, including additional costs of ancillary
3 services that may be imposed due to the operational or locational characteristics of a specific
4 renewable energy resource technology, such as nondispatchability, unreliability of availability,
5 and creation or exacerbation of system congestion that may increase redispatch costs.

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

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

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

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

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

- 40 (1) Oversight of the competitive procurement program.
- 41 (2) To provide for a waiver of regulatory conditions or code of conduct
42 requirements that would unreasonably restrict a public utility or its affiliates
43 from participating in the competitive procurement process, unless the
44 Commission finds that such a waiver would not hold the public utility's
45 customers harmless.
- 46 (3) Establishment of a procedure for expedited review and approval of
47 certificates of public convenience and necessity, or the transfer thereof, for
48 renewable energy facilities owned by the public utility and procured
49 pursuant to this section. The Commission shall issue an order not later than
50 30 days after a petition for a certificate is filed by the public utility.

- 1 (4) Establishment of a methodology to allow an electric public utility to recover
2 its costs pursuant to subsection (g) of this section.
- 3 (5) Establishment of a procedure for the Commission to modify or delay
4 implementation of the provisions of this section in whole or in part if the
5 Commission determines that it is in the public interest to do so.
- 6 (i) The requirements of this section shall not apply to an electric public utility serving
7 fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

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

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

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

23

24 **PART III. RENEWABLE ENERGY PROCUREMENT FOR MAJOR MILITARY**

25 **INSTALLATIONS, PUBLIC UNIVERSITIES, AND OTHER LARGE CUSTOMERS**

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

28 "**§ 62-159.2. Direct renewable energy procurement for major military installations,**
29 **public universities, and large customers.**

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

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

47 (c) Each contracted amount of capacity shall be limited to no more than one hundred
48 twenty-five percent (125%) of the maximum annual peak demand of the eligible customer
49 premises. Each public utility shall establish reasonable credit requirements for financial
50 assurance for eligible customers that are consistent with the Uniform Commercial Code of

1 North Carolina. Major military installations and The University of North Carolina are exempt
2 from the financial assurance requirements of this section.

3 (d) The program shall be offered by the electric public utilities subject to this section for
4 a period of five years or until December 31, 2022, whichever is later, and shall not exceed a
5 combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section,
6 where a major military installation is located within its Commission-assigned service territory,
7 at least 100 megawatts (MW) of new renewable energy facility capacity offered under the
8 program shall be reserved for participation by major military installations. At least 250
9 megawatts (MW) of new renewable energy facility capacity offered under the programs shall
10 also be reserved for participation by The University of North Carolina. Major military
11 installations and The University of North Carolina must fully subscribe to all their allocations
12 prior to December 31, 2020, or a period of no more than three years after approval of the
13 program, whichever is later. If any portion of total capacity set aside to major military
14 installations or The University of North Carolina is not used, it shall be reallocated for use by
15 any eligible program participant. If any portion of the 600 megawatts (MW) of renewable
16 energy capacity provided for in this section is not awarded prior to the expiration of the
17 program, it shall be reallocated to and included in a competitive procurement in accordance
18 with G.S. 62-110.8(a).

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

27 **SECTION 3.(b)** This section is effective when it becomes law. The application
28 required to be filed with the Utilities Commission pursuant to G.S. 62-159.2, as enacted by
29 subsection (a) of this section, shall be filed by the electric public utility no later than 180 days
30 after the effective date of this section.
31

32 **PART IV. COST-RECOVERY FOR CERTAIN SMALL POWER PRODUCER** 33 **PURCHASES**

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

35 **"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

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

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

- 43 (1) The cost of fuel burned.
- 44 (2) The cost of fuel transportation.
- 45 (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and
46 catalysts consumed in reducing or treating emissions.
- 47 (4) The total delivered noncapacity related costs, including all related
48 transmission charges, of all purchases of electric power by the electric public
49 utility, that are subject to economic dispatch or economic curtailment.
- 50 (5) The capacity costs associated with all purchases of electric power from
51 qualifying cogeneration facilities and qualifying small power production

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

49"

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

51

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	\$34.00 \$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.

- 1 (5) Electric generator lessor. – The owner of solar energy facility that leases the
2 facility to a customer generator lessee, including any agents who act on
3 behalf of the electric generator lessor. For purposes of this Article, an
4 electric generator lessor shall not be considered a public utility under
5 G.S. 62-3(23).
- 6 (6) Electric power supplier. – A public utility, an electric membership
7 corporation, or a municipality that sells electric power to retail electric
8 customers in the State.
- 9 (7) Electric public utility. – A public utility as defined by G.S. 62-3(23) that
10 sells electric power to retail electric customers in the State.
- 11 (8) Maximum annual peak demand. – The maximum single hour of electric
12 demand actually occurring or estimated to occur at a premises.
- 13 (9) Net metering. – To use electrical metering equipment to measure the
14 difference between the electrical energy supplied to a retail electric customer
15 by an electric power supplier and the electrical energy supplied by the retail
16 electric customer to the electric power supplier over the applicable billing
17 period.
- 18 (10) Offering utility. – Any electric public utility as defined in G.S. 62-3(23)
19 serving at least 150,000 North Carolina retail jurisdictional customers as of
20 January 1, 2017. The term shall not include any other electric public utility,
21 electric membership corporation, or municipal electric supplier authorized to
22 provide retail electric service within the State. An offering utility's
23 participation in this Article as an electric generator lessor shall not otherwise
24 alter its status as a public utility with respect to any other provision of this
25 Chapter. An offering utility's participation in this Article shall be regulated
26 pursuant to the provisions of this Article.
- 27 (11) Person. – The same meaning as provided by G.S. 62-3(21).
- 28 (12) Premises. – The building, structure, farm, or facility to which electricity is
29 being or is to be furnished. Two or more buildings, structures, farms, or
30 facilities that are located on one tract or contiguous tracts of land and that are
31 utilized by one electric customer for commercial, industrial, institutional, or
32 governmental purposes shall constitute one "premises," unless the electric
33 service to the building, structures, farms, or facilities are separately metered
34 and charged.
- 35 (13) Property. – The tract of land on which the premises is located, together with
36 all the adjacent contiguous tracts of land utilized by the same retail electric
37 customer.
- 38 (14) Solar energy facility. – A electric generating facility leased to a customer
39 generator lessee that meets the following requirements:
- 40 a. Generates electricity from a solar photovoltaic system and related
41 equipment that uses solar energy to generate electricity.
- 42 b. Is limited to a capacity of (i) not more than the lesser of 1,000
43 kilowatts (kW) or one hundred percent (100%) of contract demand if
44 a nonresidential customer or (ii) not more than 20 kilowatts (kW) or
45 one hundred percent (100%) of estimated electrical demand if a
46 residential customer.
- 47 c. Is located on a premises owned, operated, leased, or otherwise
48 controlled by the customer generator lessee that is also the premises
49 served by the solar energy facility.
- 50 d. Is interconnected and operates in parallel phase and synchronization
51 with an offering utility authorized by the Commission to provide

1 retail electric service to the premises and has been approved for
2 interconnection and parallel operation by that public utility.

3 e. Is intended only to offset no more than one hundred percent (100%)
4 of the customer generator lessee's own retail electrical energy
5 consumption at the premises.

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

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

16 **"§ 62-126.4. Commission to establish net metering rates.**

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

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

24 (c) Until the rates have been approved by the Commission as required by this section,
25 the rate shall be the applicable net metering rate in place at the time the facility interconnects.
26 Retail customers that own and install an on-site renewable energy facility and interconnect to
27 the grid prior to the date the Commission approves new metering rates may elect to continue
28 net metering under the net metering rate in effect at the time of interconnection until January 1,
29 2027.

30 **"§ 62-126.5. Scope of leasing program in offering utilities' service areas.**

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

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

1 applicable net metering tariff or to engage in the sale of excess energy from the solar energy
2 facility to an offering utility.

3 (c) Any lease of a solar energy facility not entered into pursuant to this section is
4 prohibited and any electric generator lessor that enters into a lease outside of an offering
5 utility's program implemented pursuant to this section or otherwise enters into a contract or
6 agreement where payments are based upon the electric output of a solar energy facility shall be
7 considered a "public utility" under G.S. 62-3(23) and be in violation of the franchised service
8 rights of the offering utility or any other electric power supplier authorized to provide retail
9 electric service in the State. This section does not authorize the sale of electricity from solar
10 energy facilities directly to any customer of an offering utility or other electric power supplier
11 by the owner of a solar energy facility. The electrical output from any solar energy facility
12 leased pursuant to this program shall be the sole and exclusive property of the customer
13 generator lessee.

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

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

31 **"§ 62-126.6. Electric customer generator leasing requirements; disclosures; records.**

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

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

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

1 a solar energy facility, the marketing materials must contain an estimate of the retail electric
2 customer's estimated utility charges during the same period as impacted by potential utility rate
3 changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%)
4 annual increase from current utility costs.

5 **"§ 62-126.7. Commission authority over electric generator lessors.**

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

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

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

23 (1) The applicant will register with the Commission each solar energy facility
24 that the applicant leases to a customer generator lessee.

25 (2) That each lease of a solar energy facility that the applicant offers or accepts
26 will comply with the provisions of this Article.

27 (3) The applicant will consent to the auditing of its books and records by the
28 Public Staff insofar as those records relate to transactions with an offering
29 utility or a customer generator lessee that is located in the State.

30 (4) That the applicant will conduct its business in substantial compliance with
31 all federal and State laws, regulations, and rules for the protection of the
32 environment and conservation of natural resources, the provision of electric
33 service, and the protection of consumers.

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

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

45 (1) Solicit business as a lessor of solar energy facilities without a valid
46 certificate issued under this section or otherwise in violation of the terms of
47 this Article.

48 (2) Engage in any unfair or deceptive practice in the leasing of solar energy
49 facilities or otherwise violate the requirements of G.S. 62-126.6.

50 (3) Operate in violation of the terms of the certificate issued by this Article.

51 **"§ 62-126.8. Community solar energy facilities.**

1 (a) Each offering utility shall file a plan with the Commission to offer a community
2 solar energy facility program for participation by its retail customers. The community solar
3 energy facility program shall be designed so that each community solar energy facility offsets
4 the energy use of not less than five subscribers and no single subscriber has more than a forty
5 percent (40%) interest. The offering utility shall make its community solar energy facility
6 program available on a first-come, first-served basis until the total nameplate generating
7 capacity of those facilities equals 20 megawatts (MW).

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

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

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

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

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

30 (2) Be consistent with the public interest.

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

33 (4) Include a program implementation schedule.

34 (5) Identify all proposed rules and charges.

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

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

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

40 **§ 62-126.9. Scope of leasing program by municipalities.**

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

47 (b) Provided the municipality has elected to offer a leasing program, an electric
48 generator lessor that owns a solar energy facility within a municipality's service territory and
49 that is located on a premises owned or leased by a customer generator lessee shall be permitted
50 to lease such facility exclusively to a customer generator lessee pursuant to a lease under terms
51 and conditions approved by the municipality and holds a valid certificate issued by the

1 Commission pursuant to G.S. 62-126.7. Notwithstanding this subsection, a municipality acting
 2 as an electric generator lessor shall not be required to comply with G.S. 62-126.7.

3 (c) An electric generator lessor, including a municipality acting as an electric generator
 4 lessor, shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy
 5 facilities are only made available to a customer generator lessee under a lease that conforms to
 6 the requirements of G.S. 62-126.6 for the customer generator lessee's use of the customer
 7 generator lessee's premises where the solar energy facility is located to serve the electric energy
 8 requirements of that particular premises, including to enable the customer generator lessee to
 9 obtain a credit under an applicable net metering tariff or to engage in the sale of excess energy
 10 from the solar energy facility to the municipality; provided, however, that the provisions of
 11 G.S. 62-126.4 shall not apply to a municipality or other electric generator lessor that offers
 12 leases to solar energy facilities located within the municipality's service territory pursuant to
 13 this section. Any net metering tariffs adopted by such municipality shall be adopted by its
 14 governing council or commission in accordance with the rate-setting procedures set forth in
 15 Article 16 of Chapter 160A of the General Statutes.

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

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

26 **"§ 62-126.10. Rules.**

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

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

29 **"§ 62-3. Definitions.**

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

31 ...

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

48"

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

50 "(g) The certification requirements of this section shall not apply to (i) a
 51 nonutility-owned generating facility fueled by renewable energy resources under two

1 megawatts in ~~capacity or~~ capacity; (ii) to persons who construct an electric generating facility
2 primarily for that person's own use and not for the primary purpose of producing electricity,
3 heat, or steam for sale to or for the public for compensation; ~~provided, however, that such~~
4 ~~persons shall, nevertheless, be required to report to the Utilities Commission the proposed~~
5 ~~construction of such a facility before beginning construction thereof.~~ or (iii) a solar energy
6 facility or a community solar energy facility, as provided by and subject to the limitations of
7 Article 6B of this Chapter. However, such persons shall be required to report the proposed
8 construction of the facility and the completion of the facility to the Commission and the
9 interconnecting public utility. Such reports shall be for informational purposes only and shall
10 not require action by the Commission or the Public Staff."

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

15

16 **PART VII. EXPEDITED REVIEW OF INTERCONNECTION OF SWINE AND** 17 **POULTRY WASTE**

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

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

28

29 **PART VIII. SOLAR REBATE PROGRAM**

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

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

50 (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually
51 starting in January 1, 2018, and continuing until December 31, 2022, and

1 shall provide incentives to participating customers based upon the installed
2 alternating current nameplate capacity of the generators.

3 (2) Nonresidential installations will also be limited to 5,000 kilowatts (kW) in
4 aggregate for each of the years of the program.

5 (3) Two thousand five hundred kilowatts (kW) of the capacity for nonresidential
6 installations shall be set aside for use by nonprofit organizations; 50
7 kilowatts (kW) of the set aside shall be allocated to the NC Greenpower
8 Solar Schools Pilot or a similar program. Any set-aside rebates that are not
9 used by December 31, 2022, shall be reallocated for use by any customer
10 who otherwise qualifies. For purposes of this section, "nonprofit
11 organization" means an organization or association recognized by the
12 Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or
13 any bona fide branch, chapter, or affiliate of that organization.

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

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

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

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

24

25 **PART IX. DEMAND-SIDE MANAGEMENT FOR STATE-OWNED FACILITIES** 26 **PILOT PROJECT**

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

29 **"§ 62-351. Demand-side management policy; pilot project.**

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

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

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

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

45

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

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

48 "(l) The owner, including an electric power supplier, of each renewable energy facility
49 or new renewable energy facility, whether or not required to obtain a certificate of public
50 convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy
51 certificates it earns to be eligible for use by an electric power supplier to comply with

1 G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a
2 registration statement in the form prescribed by the Commission and remit to the Commission
3 the fee required pursuant to G.S. 62-300(a)(16)."

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

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

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

14 **PART XI. DECOMMISSIONING OF UTILITY SCALE SOLAR ENERGY** 15 **FACILITIES**

16 **SECTION 11.(a)** Article 17 of Chapter 62 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 62-351. Decommissioning and reclamation of utility-scale solar projects; financial**
19 **assurance requirements; recycling of project components required.**

20 (a) The owner or operator of a utility-scale solar project shall be responsible for proper
21 decommissioning of the project upon cessation of activities and reclamation of the property to
22 its condition prior to commencement of activities on the site, no later than one year following
23 completion of the operations. At a minimum, an owner or operator shall take all of the
24 following steps in decommissioning a project:

25 (1) Disconnect the solar project from the power grid.

26 (2) Disconnect all solar modules, collect, and ship them to another project for
27 reuse, or recycle all of the components thereof capable of being recycled, in
28 compliance with subsection (c) of this section.

29 (3) Remove all of the following and recycle all of the components thereof
30 capable of being recycled in compliance with subsection (c) of this section:
31 aboveground electrical interconnection and distribution cables that are no
32 longer deemed necessary; the entire solar module racking system; any metal
33 fencing; and electrical and electronic devices, including transformers and
34 inverters.

35 (b) Prior to commencement of construction of a utility-scale solar project, the owner or
36 operator of the project shall establish financial assurance in an amount acceptable to the
37 Department of Environmental Quality that will ensure that sufficient funds are available for
38 decommissioning of the facility and reclamation of the property to its condition prior to
39 commencement of activities on the site, even if the owner or operator becomes insolvent or
40 ceases to reside in, be incorporated, do business, or maintain assets in the State. To establish
41 sufficient availability of funds under this section, the owner or operator of a utility-scale solar
42 project may use insurance, financial tests, third-party guarantees by persons who can pass the
43 financial test, guarantees by corporate parents who can pass the financial test, irrevocable
44 letters of credit, trusts, surety bonds, or any other financial device, or any combination of the
45 foregoing, shown to provide protection equivalent to the financial protection that would be
46 provided by insurance if insurance were the only mechanism used. The Department of
47 Environmental Quality shall adopt rules establishing criteria to set the amount of financial
48 assurance required for utility-scale solar projects, which rules shall consider, at a minimum, the
49 solar technology to be employed, i.e., PV, CPV, or CSP; the approximate number and size of
50 solar panels included in the solar arrays to be constructed; any ancillary facilities to be
51 constructed in association with the project; the condition of the property prior to construction of

1 a utility-scale solar project; the amount of acreage that would be impacted by the proposed
2 project; and any other factors designed to enable establishment of adequate financial assurance
3 for decommissioning and reclamation on a site-by-site basis.

4 (c) In addition to the requirements for recycling components of utility-scale solar
5 projects established under subsection (a) of this section, an owner or operator of a utility-scale
6 solar project shall be responsible for properly recycling each solar panel used in the project at
7 the end of the panel's useful life. Recycling requirements established by this section shall be
8 conducted in compliance with environmentally sound management practices to transport and
9 recycle such items. An owner or operator shall conduct and document due diligence
10 assessments of the recyclers it contracts with, including an assessment of compliance with
11 environmentally sound recovery standards adopted by the Department.

12 (d) For purposes of this section, the term "utility-scale solar project" means a
13 ground-mounted photovoltaic (PV), concentrating photovoltaic (CPV), or concentrating solar
14 power (CSP or solar thermal) project capable of generating one megawatt (MW) directly
15 connected to the electrical grid for sale to wholesale customers. The term includes the solar
16 arrays, accessory buildings, transmission facilities, and any other infrastructure necessary for
17 the operation of the project."

18 **SECTION 11.(b)** The Department of Environmental Quality shall adopt temporary
19 rules implementing the requirements of G.S. 62-351(b), as enacted by subsection (a) of this
20 section, no later than September 1, 2017. Notwithstanding G.S. 150B-21.1(d), the temporary
21 rules shall remain in effect until the effective date of the permanent rule adopted to replace the
22 temporary rule.

23 **SECTION 11.(c)** Except as otherwise provided, this section is effective when it
24 becomes law and applies to utility-scale solar projects for which construction is initiated on or
25 after that date.

26 **PART XII. ENERGY STORAGE STUDY**

27 **SECTION 12.** The North Carolina Policy Collaboratory (Collaboratory) at the
28 University of North Carolina at Chapel Hill shall conduct a study on energy storage
29 technology. The study shall address how energy storage technologies may or may not provide
30 value to North Carolina consumers based on factors that may include capital investment, value
31 to the electric grid, net utility savings, net job creation, impact on consumer rates and service
32 quality, or any other factors related to deploying one or more of these technologies. The study
33 shall also address the feasibility of energy storage in North Carolina, including services energy
34 storage can provide that are not being performed currently, the economic potential or impact of
35 energy storage deployment in North Carolina, and the identification of existing policies and
36 recommended policy changes that may be considered to address a statewide coordinated energy
37 storage policy. The Collaboratory shall provide the results of this study no later than December
38 1, 2018, to the Energy Policy Council and the Joint Legislative Commission on Energy Policy.
39
40

41 **PART XIII. MORATORIUM ON PERMITS FOR WIND ENERGY FACILITIES**

42 **SECTION 13.(a)** Definitions. – The definitions set forth in Article 21C of Chapter
43 143 of the General Statutes apply throughout this section.

44 **SECTION 13.(b)** Moratorium Established. – There is hereby established a
45 moratorium on consideration of applications for a permit and on the issuance of permits for
46 wind energy facilities and wind energy facility expansions in this State. The purpose of this
47 moratorium is to allow the General Assembly ample time to study the extent and scope of
48 military operations in the State as directed in subsection (d) of this section and to consider the
49 impact of future wind energy facilities and energy infrastructure on military operations,
50 training, and readiness. Neither the Department of Environmental Quality nor the Coastal
51 Resources Commission shall consider a permit application nor issue a permit for a wind energy

1 facility or wind energy facility expansion for the period beginning January 1, 2017, and ending
2 on December 31, 2020.

3 **SECTION 13.(c)** Exception. – The moratorium established by subsection (b) of
4 this section shall not prohibit the consideration of an application or the issuance of a permit for
5 a wind energy facility or wind energy facility expansion for either of the following:

6 (1) Those facilities or facility expansions that received a written "Determination
7 of No Hazard to Air Navigation" issued by the Federal Aviation
8 Administration on or before May 17, 2013.

9 (2) If the applicant can show that a completed application, prepared in
10 accordance with the requirements set out in G.S. 143-215.119(a), was
11 submitted to the Department or the Commission on or before January 1,
12 2017.

13 **SECTION 13.(d)** Study. – The General Assembly shall study the extent and scope
14 of military operations in the State in order to create a suite of maps and other relevant data and
15 documentation that shall be employed to communicate the temporal and spatial use of land-,
16 air-, and water-based military operations. Upon completion, the suite of maps and other
17 relevant data and documentation may be utilized to identify areas of the State, both onshore and
18 offshore, where energy infrastructure and development poses a threat to, encroaches upon, or
19 otherwise reduces operations, training capabilities, or readiness. The Legislative Services
20 Officer shall issue a request for proposals for (i) the collection of geospatial and other relevant
21 data for land-, air-, and water-based military operations in the State and (ii) the creation of a
22 suite of maps and other relevant data and documentation that can be used to communicate the
23 temporal and spatial use of land-, air-, and water-based military operations in the State. In the
24 conduct of the study, the selected contractor shall consult with the base commander, or the base
25 commander's designee, of each major military installation in the State, United States
26 Department of Defense officials, retired military personnel with relevant and applicable
27 knowledge of training and operations in this State, the Military Affairs Commission, and any
28 other person, agency, or organization that may be able to define the footprint of military
29 operations in this State and identify, communicate, and relate the data necessary to prepare a
30 comprehensive suite of maps and other relevant data and documentation that illustrate temporal
31 and spatial use of land-, air-, and water-based military operations in the State.

32 **SECTION 13.(e)** Time Line. – The study directed by subsection (d) of this section
33 shall adhere to the following time line:

34 (1) The request for proposals (RFP) shall be issued on or before December 31,
35 2017.

36 (2) A contract to award the RFP shall be executed on or before June 30, 2018.

37 (3) The study, including the preparation of the suite of maps and other relevant
38 data and documentation that illustrate temporal and spatial use of land-, air-,
39 and water-based military operations in the State, findings, and
40 recommendations, if any, shall be completed and submitted to the
41 Legislative Services Officer on or before June 30, 2019, in order to inform
42 the development of policies pertaining to the protection and preservation of
43 major military installations during the 2019-2020 General Assembly.
44

45 **PART XIV. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

46 **SECTION 14.(a)** If any section or provision of this act is declared unconstitutional
47 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
48 than the part declared to be unconstitutional or invalid.

49 **SECTION 14.(b)** Except as otherwise provided, this act is effective when it
50 becomes law.