

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 681
PROPOSED COMMITTEE SUBSTITUTE H681-CSTD-18 [v.4]

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Short Title: NC Energy Ratepayers Protection Act.

(Public)

Sponsors:

Referred to:

April 14, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS PROVISIONS OF THE GENERAL STATUTES
3 RELATED TO DISTRIBUTED GENERATION AND TO DIRECT THE ENERGY
4 POLICY COUNCIL TO PERFORM AN ASSESSMENT OF THE COSTS AND
5 BENEFITS OF DISTRIBUTED GENERATION.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. CLARIFY DISTRIBUTED GENERATION MUST BE CONSIDERED IN**
9 **RESOURCE PLANNING.**

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

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

16 ...

17 (3a) To assure that resources necessary to meet future growth through the
18 provision of adequate, reliable utility service include use of the entire
19 spectrum of generation, including generation from renewable energy
20 sources, and include the entire spectrum of demand-side options, including
21 but not limited to conservation, load management and efficiency programs,
22 as additional sources of energy supply and/or energy demand reductions. To
23 that end, to require energy planning and fixing of rates in a manner to result
24 in the least cost mix of generation and demand-reduction measures which is
25 achievable, including consideration of appropriate rewards to utilities for
26 efficiency and conservation which decrease utility bills;

27 ...

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

- 32 a. ~~Diversify the resources used to reliably meet the energy needs of~~
33 ~~consumers in the State.~~
34 b. ~~Provide greater energy security through the use of indigenous energy~~
35 ~~resources available within the State.~~



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- 1 e. ~~Encourage private investment in renewable energy and energy~~
2 ~~efficiency.~~
3 d. ~~Provide improved air quality and other benefits to energy consumers~~
4 ~~and citizens of the State."~~
5

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

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

9 "(27a) "Small power producer" means a person or corporation owning or operating
10 an electrical power production facility with a power production capacity
11 which, together with any other facilities located at the same site, does not
12 exceed 80 megawatts of electricity and which depends upon renewable
13 resources for its primary source of energy. For the purposes of this section,
14 renewable resources shall mean: hydroelectric power, solar electric,
15 solar thermal, wind, geothermal, ocean current, wave energy resources, and
16 biomass derived from agricultural waste, animal waste, wood waste, spent
17 pulping liquors, combustible residues, liquids, or gases not derived from
18 fossil fuel, energy crops, or landfill methane. A small power producer shall
19 not include persons primarily engaged in the generation or sale of electricity
20 from other than small power production facilities."

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

22 **"§ 62-156. Power sales by small power producers to public utilities.**

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

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

- 30 (1) Term of Contract. – The Commission shall approve standard contracts for
31 the purchase of power from small power producers and shall require electric
32 utilities to provide standard contracts to small power facilities that do not
33 exceed 100 kilowatts of capacity. Long-term contracts for the purchase of
34 electricity by the utility from small power producers shall be encouraged in
35 order to enhance the economic feasibility of small power production
36 ~~facilities-facilities,~~ but the term of a contract may not be for a period of
37 greater than 15 years.
- 38 (2) Avoided Cost of Energy to the Utility. – The rates paid by a utility to a small
39 power producer shall not exceed, over the term of the purchase power
40 contract, the incremental cost to the electric utility of the electric energy
41 which, but for the purchase from a small power producer, the utility would
42 generate or purchase from another source. A determination of the avoided
43 ~~energy~~ costs to the utility shall include a consideration of the following
44 factors over the term of the power contracts: the known and measurable
45 expected costs of the additional or existing generating capacity which could
46 be displaced, the known and measurable expected cost of fuel and other
47 operating expenses of electric energy production which a utility would
48 otherwise incur in generating or purchasing power from another source, and
49 the expected security of the supply of fuel for the utilities' alternative power
50 sources.

- (3) Availability and Reliability of Power. – The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.
- (4) Avoided Cost of Capacity. – The standard contract shall not require payment for capacity during the years in which the electric utility lacks a capacity need, as demonstrated through the electric public utility's most recent integrated resource plan approved by the Commission under G.S. 62-110.1(c)."

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

PART III. ENERGY EFFICIENCY FOR REPS COMPLIANCE.

SECTION 3.(a) G.S. 62-133.8(b)(2)c. reads as rewritten:

"c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to ~~twenty five percent (25%)~~ fifty percent (50%) of the requirements of this section through savings due to implementation of energy efficiency measures. ~~Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.~~"

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

PART IV. AMEND COST CAPS FOR REPS COMPLIANCE.

SECTION 4.(a) G.S. 62-133.8(h)(4) reads as rewritten;

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

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

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

PART V. FREEZE REPS REQUIREMENTS

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

"§ 62-133.8. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).

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

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

Calendar Year	REPS Requirement
2012	3% of 2011 North Carolina retail sales

1	2015 <u>and thereafter</u>	6% of 2014 North Carolina retail sales
2	2018	10% of 2017 North Carolina retail sales
3	2021 and thereafter	12.5% of 2020 North Carolina retail sales

4 ...

5 (c) Renewable Energy and Energy Efficiency Standards (REPS) for Electric
6 Membership Corporations and Municipalities. –

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

11	Calendar Year	REPS Requirement
12	2012	3% of 2011 North Carolina retail sales
13	2015 <u>and thereafter</u>	6% of 2014 North Carolina retail sales
14	2018 and thereafter	10% of 2017 North Carolina retail sales

15 ...

16 (d) Compliance With REPS Requirement Through Use of Solar Energy Resources. –
17 For calendar year ~~2018–2015~~ and for each calendar year thereafter, at least ~~two tenths of one~~
18 ~~percent (0.2%)~~ fourteen one-hundredths of one percent (0.14%) of the total electric power in
19 kilowatt hours sold to retail electric customers in the State, or an equivalent amount of energy,
20 shall be supplied by a combination of new solar electric facilities and new metered solar
21 thermal energy facilities that use one or more of the following applications: solar hot water,
22 solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar
23 industrial process heat. The terms of any contract entered into between an electric power
24 supplier and a new solar electric facility or new metered solar thermal energy facility shall be
25 of sufficient length to stimulate development of solar energy; provided, the Commission shall
26 develop a procedure to determine if an electric power supplier is in compliance with the
27 provisions of this subsection if a new solar electric facility or a new metered solar thermal
28 energy facility fails to meet the terms of its contract with the electric power supplier. As used in
29 this subsection, "new" means a facility that was first placed into service on or after January 1,
30 2007. The electric power suppliers shall comply with the requirements of this subsection
31 according to the following schedule:

32		Requirement for Solar
33	Calendar Year	Energy Resources
34	2010	0.02%
35	2012	0.07%
36	2015	0.14%
37	2018	0.20%

38 (e) Compliance With REPS Requirement Through Use of Swine Waste Resources. –
39 For calendar year ~~2018–2015~~ and for each calendar year thereafter, at least fourteen
40 one-hundredths of one percent (0.14%) ~~two tenths of one percent (0.2%)~~ of the total electric
41 power in kilowatt hours sold to retail electric customers in the State shall be supplied, or
42 contracted for supply in each year, by swine waste. The electric power suppliers, in the
43 aggregate, shall comply with the requirements of this subsection according to the following
44 schedule:

45		Requirement for Swine
46	Calendar Year	Waste Resources
47	2012	0.07%
48	2015	0.14%
49	2018	0.20%

50 (f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. –
51 For calendar year 2014 and for each calendar year thereafter, at least 900,000 megawatt hours

1 of the total electric power sold to retail electric customers in the State or an equivalent amount
 2 of energy shall be supplied, or contracted for supply in each year, by poultry waste combined
 3 with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers,
 4 in the aggregate, shall comply with the requirements of this subsection according to the
 5 following schedule:

6 7 Calendar Year	Requirement for Poultry Waste Resources
8 2012	170,000 megawatt hours
9 2013	700,000 megawatt hours
10 2014	900,000 megawatt hours

11 "

12 **SECTION 5.(b)** The revisions in this act do not amend the modification or delay of
 13 a set-aside under G.S. 62-133.8 by the North Carolina Utilities Commission prior to the
 14 effective date of this act.

15
 16 **PART VI. TO PROVIDE A COMPREHENSIVE STUDY OF THE COSTS AND**
 17 **BENEFITS OF DISTRIBUTED GENERATION.**

18 **SECTION 6.(a)** No later than May 1, 2016, the Energy Policy Council shall
 19 provide to the Joint Legislative Commission on Government Operations and the North Carolina
 20 Utilities Commission a comprehensive assessment of known and measurable cost and benefits
 21 to the electrical grid of distributed generation, including the comprehensive costs of and
 22 benefits of net metering from distributed solar generation in this State. The Energy Policy
 23 Council may contract with a consultant to perform the assessment.

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

- 26 (1) The impact of current and future non-dispatchable distributed generation on
 27 the affordability, reliability, resiliency, and safety of North Carolina's
 28 electric grid.
- 29 (2) Whether changes to existing State law, regulations, policies, and incentives
 30 are appropriate considering the cost and operational impacts of current and
 31 future non-dispatchable distributed generation on North Carolina's electric
 32 grid.
- 33 (3) Whether standby, generation, transmission, or other charges and credits are
 34 necessary to recognize the costs and benefits associated with
 35 non-dispatchable distributed generation to ensure the protection of North
 36 Carolina electric customers.
- 37 (4) The costs and benefits of distributed solar generation to the State,
 38 customer-generators who participate in net metering, customers of a utility
 39 who do not participate in net metering, and each utility that offers net
 40 metering. The costs and benefits of solar distributed generation considered in
 41 the study shall include all of the following to the extent they are known and
 42 measurable:
 - 43 a. Value of energy at the time of generation.
 - 44 b. Market price effects on other fuel sources for energy production.
 - 45 c. Effects on utility delivery systems, generation capacity, transmission
 46 capacity, and transmission and distribution line losses.
 - 47 d. Environmental impacts of energy production.
 - 48 e. Effects on reliability of the electric system.
 - 49 f. Any fixed distribution costs that the utility recovers from its
 50 customers on a volumetric basis.

- 1 g. Any other costs or benefits the Energy Policy Council believes are
2 appropriate.

3 **SECTION 6.(b)** Each public utility, electric membership corporation, and
4 municipality that distributes electricity in this State shall to the fullest extent possible cooperate
5 with the Energy Policy Council and furnish the Energy Policy Council with any information it
6 requests in the course of completing the assessment provided for in this act.
7

8 **PART VII. COST RECOVERY HOLD HARMLESS**

9 **SECTION 7.** Incremental costs incurred by an electric power supplier prior to July
10 1, 2015, to comply with any requirement repealed or amended by this act may be recovered as
11 provided in G.S. 62-133.8(h), as amended by this act. For the purposes of cost recovery under
12 this act, costs incurred prior to July 1, 2015, include all of the following:

- 13 (1) Costs under purchase contracts for renewable energy entered into prior to
14 July 1, 2015, for the purpose of complying with REPS requirements repealed
15 or amended by this act.
16 (2) The costs of renewable energy facilities built by a public utility for which a
17 certificate of public convenience and necessity has been issued by the
18 Commission prior to July 1, 2015, for the purpose of complying with REPS
19 requirements repealed or amended by this act.
20 (3) Other costs the Utilities Commission determines are reasonable and prudent
21 costs incurred prior to July 1, 2015, to comply with the REPS requirements
22 repealed or amended by this act.
23

24 **PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

25 **SECTION 8.(a)** If any provision of this act or its application is held invalid, the
26 invalidity does not affect other provisions or applications of this act that can be given effect
27 without the invalid provisions or application and to this end the provisions of this act are
28 severable.

29 **SECTION 8.(b)** Unless otherwise provided, this act is effective when it becomes
30 law.