

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**HOUSE BILL 681**

Short Title: NC Energy Ratepayers Protection Act. (Public)

Sponsors: Representatives Millis, Hager, Collins, and Warren (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Environment, if favorable, Public Utilities, if favorable, Finance.

April 14, 2015

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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



- 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 contract shall not require payment for capacity to the extent the electric utility lacks a capacity need during the term of the contract, 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. SUNSET REPS REQUIREMENTS**

**SECTION 5.** 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>through 2018</u>	6% of 2014 North Carolina retail sales
2	2018	<del>10% of 2017 North Carolina retail sales</del>
3	<del>2021 and thereafter</del>	<del>12.5% of 2020 North Carolina retail sales</del>

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

15 ...  
 16 (d) Compliance With REPS Requirement Through Use of Solar Energy Resources. –  
 17 For calendar year 2018 ~~and for each calendar year thereafter~~, at least two-tenths of one percent  
 18 (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State,  
 19 or an equivalent amount of energy, shall be supplied by a combination of new solar electric  
 20 facilities and new metered solar thermal energy facilities that use one or more of the following  
 21 applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally  
 22 driven refrigeration, and solar industrial process heat. The terms of any contract entered into  
 23 between an electric power supplier and a new solar electric facility or new metered solar  
 24 thermal energy facility shall be of sufficient length to stimulate development of solar energy;  
 25 provided, the Commission shall develop a procedure to determine if an electric power supplier  
 26 is in compliance with the provisions of this subsection if a new solar electric facility or a new  
 27 metered solar thermal energy facility fails to meet the terms of its contract with the electric  
 28 power supplier. As used in this subsection, "new" means a facility that was first placed into  
 29 service on or after January 1, 2007. The electric power suppliers shall comply with the  
 30 requirements of this subsection according to the following schedule:

31	<b>Calendar Year</b>	<b>Requirement for Solar Energy Resources</b>
32	2010	0.02%
33	2012	0.07%
34	2015 <u>through 2018</u>	0.14%
35	<del>2018</del>	<del>0.20%</del>

36 ...  
 37 (e) Compliance With REPS Requirement Through Use of Swine Waste Resources. –  
 38 For calendar year 2018 ~~and for each calendar year thereafter~~, at least two-tenths of one percent  
 39 (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State  
 40 shall be supplied, or contracted for supply in each year, by swine waste. The electric power  
 41 suppliers, in the aggregate, shall comply with the requirements of this subsection according to  
 42 the following schedule:

43	<b>Calendar Year</b>	<b>Requirement for Swine Waste Resources</b>
44	2012	0.07%
45	2015 <u>through 2018</u>	0.14%
46	<del>2018</del>	<del>0.20%</del>

47 ...  
 48 (f) Compliance With REPS Requirement Through Use of Poultry Waste Resources. –  
 49 For calendar year 2014 and for each calendar year ~~thereafter~~, through 2018, at least 900,000  
 50 megawatt hours of the total electric power sold to retail electric customers in the State or an  
 51 equivalent amount of energy shall be supplied, or contracted for supply in each year, by poultry

waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014 through 2018	900,000 megawatt hours

...."

**PART VI. REPEAL PROPERTY TAX EXCLUSION FOR SOLAR ENERGY ELECTRIC SYSTEMS.**

**SECTION 6.(a)** G.S. 105-275(45) is repealed.

**SECTION 6.(b)** This section is effective for taxable years beginning on or after July 1, 2015.

**PART VII. TO PROVIDE A COMPREHENSIVE STUDY OF THE COSTS AND BENEFITS OF DISTRIBUTED GENERATION.**

**SECTION 7.(a)** No later than May 1, 2016, the Energy Policy Council shall provide to the Joint Legislative Commission on Government Operations and the North Carolina Utilities Commission a comprehensive assessment of known and measurable cost and benefits to the electrical grid of distributed generation, including the comprehensive costs of and benefits of net metering from distributed solar generation in this State. The Energy Policy Counsel may contract with a consultant to perform the assessment.

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

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

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

3                   **SECTION 7.(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 VIII. COST RECOVERY HOLD HARMLESS**

9                   **SECTION 8.(a)** Incremental costs incurred by an electric power supplier prior to  
10 July 1, 2015, to comply with any requirement repealed or amended by this act may be  
11 recovered as provided in G.S. 62-133.8(h), as amended by this act. For the purposes of cost  
12 recovery under 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 IX. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

25                   **SECTION 9.(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 9.(b)** Unless otherwise provided, this act is effective when it becomes  
30 law.