

January 24, 2007

S 3. PROMOTE RENEWABLE ENERGY/ENERGY EFFICIENCY. Filed 1/24/07. *TO PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY AND ENERGY EFFICIENCY IN THE STATE THROUGH IMPLEMENTATION OF A TEN PERCENT RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD (REPS).* Amends GS 62-2(a) to declare it the policy of North Carolina to implement a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will diversify energy resources, provide greater energy security, encourage private investment in renewable energy and energy efficiency, and improve air quality. Enacts new GS 62-133.7 requiring that beginning on January 1, 2009, at least 1% of the kilowatt hours of electricity sold by an electricity supplier (includes public utilities, electric membership corporations, and municipalities that sell electricity to retail electric customers) to NC retail customers be generated from renewable energy resources (includes solar, wind, biomass, and others, but does not include a fossil fuel or nuclear energy resource), or saved through the use of energy efficiency measures. Percentage is to increase annually so that by January 1, 2018, at least 10% of the kilowatt hours of electricity sold to NC retail customers will be so generated. Allows the requirements to be met through one or a combination of: (1) generating power at a new renewable energy facility; (2) using energy efficiency to reduce consumption; and (3) purchasing power from a new renewable energy facility. Allows as a credit for the following year any renewable energy supplied, or energy saved through efficiency, that goes beyond the required amount for the current year. ¶ Requires NC Utilities Commission (Commission) to adopt rules, including (1) allowing a supplier to meet up to 25% of their REPS requirement through energy efficiency; (2) providing for the monitoring and enforcement of the REPS requirements; (3) considering giving multiple credits to preferred renewable energy resources; and (4) including a procedure as an alternative to the public utility rate-fixing procedure to annually adjust the rates due to the costs of complying with new statute. The Commission must report by January 15 of each year to the Governor, Joint Legislative Utility Review Committee, and Environmental Review Commission on the Commission's activities and on the power suppliers' progress in complying with the requirements. The first report must be submitted by January 15, 2008. Effective July 1, 2007.

Intro. by Albertson.

GS 62

June 26, 2007

S 3. PROMOTE RENEWABLE ENERGY/BASELOAD GENERATION (NEW). Filed 1/24/07. Senate committee substitute makes the following changes to 1st edition. Effective January 1, 2008, modifies proposed new GS 62-133.7 as follows. Adds definitions of *combined heat and power system*, *demand-side management*, *renewable energy certificate*, and *renewable energy facility*. Amends the definitions of *energy efficiency measure*, *new renewable energy facility*, and *renewable energy resource*.

Renewable energy requirements. Effective January 1, 2008, modifies proposed new GS 62-133.7 to establish schedules under which electric public utilities (was, electric power suppliers) and electric membership corporations or municipalities selling electricity must meet renewable energy and energy efficiency portfolio standards (REPS). Requires 3% of each electric public utility's 2011 retail sales to be provided from renewable energy resources by 2012 and increases the percentage every three years so that in 2021 and thereafter, 12.5% of the 2020 retail sales must be provided by renewable energy resources. Establishes ways in which these requirements may be met. Requires 3% of the 2011 retail sales of each electric membership corporation and municipality to be provided from renewable energy resources by 2012 and increases the percentage every three years so that in 2018 and thereafter, 10% of the 2017 retail sales must be provided by renewable energy resources. Establishes ways in which these requirements may be met. Also establishes requirements for the amount of electricity that must be supplied by solar energy, hog waste, and poultry waste.

Enacts new GS 62-133.8 requiring electric power suppliers to use demand-side management and energy efficiency measures to establish the least cost mix of demand reduction and generation measures that meet its customer energy needs. Also requires the NC Utilities Commission (commission) to approve a rider, when an electric public utility submits a petition, for

the recovery of implementation costs. Requires the commission to report on complaint proceedings concerning the validity of the notification of non-participation by industrial customers to the Governor and the Joint Legislative Utility Review Committee by September 1 of odd number years.

Rules and reporting. Modifies proposed new GS 62-133.7 to modify the requirements of the commission in adopting rules. Requires the commission to report on implementation by October 1 (was, January 15) of each year. Requires the report to include public comments on environmental impacts associated with implementation. Also requires the commission to consult with the Department of Environment and Natural Resources when developing the report. Requires the commission to adopt rules for the annual adjustment of electric public utilities rates for the recovery of compliance costs.

Charges to customers. Effective January 1, 2008, modifies proposed new GS 62-133.7 to allow electric power suppliers to charge an annual rider to residential, commercial, and industrial customers, not to exceed the amounts specified in the act, to cover the supplier's costs in complying with the REPS requirements that exceed the supplier's avoided costs, in complying with federal mandates that are similar to the REPS requirements in the act, and to fund renewable energy research.

Effective January 1, 2008, amends GS 62-133.2 to require (was, allow) the commission to allow an electric public utility that generates electric power by fossil fuel or nuclear fuel (was, an electric utility) to charge an increment or a decrement (was, a uniform rate) as a rider for changes in the cost of fuel and fuel related costs. Enumerates costs that are included as the cost of fuel and fuel-related costs and provides for the determination of the amount that may be charged to customers. Require the commission to conduct a hearing within 12 months of each electric public utility's (was, each electric utility engaged in the generation and production of electric power by fossil or nuclear fuels) last general rate case order to determine whether an increment or decrement rider is required to reflect changes in fuel costs and fuel related costs. Also expand the types of information that must be provided to the commission for the hearing. Provides that if the commission does not issue an order within 180 days (was, 120 days) after the utility submits the required information, the utility may place the requested adjustments into effect.

New electric and nuclear facilities. Effective January 1, 2008, amends GS 62-110.1 to prohibit a public utility from canceling the construction of a generating unit or facility once a construction certificate has been granted, without requesting and receiving approval from the commission. Modifies when the commission may modify or revoke a certificate for the construction of an electricity generating facility. Requires public utilities to submit a progress report and revisions of cost estimates for the construction during each year of construction. Also provides for when the construction costs may be recovered.

Effective January 1, 2008, enacts new GS 62-110.6 requiring the commission upon petition of a public utility to determine the need for, and if there is a need, approve an estimate of the construction costs and schedule for the construction of an electric generating facility in another state that is intended to serve customers in North Carolina. Requires that a public hearing be held and requires the commission to issue an order no later than 180 days after the petition is filed. Also provides for the recovery of construction costs.

Enacts new GS 62-110.7 allowing a public utility to request that the commission review the utility's decision to incur project development costs prior to the filing of an application for a construction certificate for a nuclear energy generating facility. Establishes issues to be considered by the commission and requires the commission to issue an order within 180 days of the request. Provides for the recovery of project development costs.

Effective January 1, 2008, amends GS 62-133(b) to allow construction work in progress to be included in rates if specified conditions are met.

Tax exemptions and credits. Repeals Section 24.19 of SL 2006-66, which would have lowered the sales tax on electricity to manufacturing industries and plants to 2.6%. Phases out the taxes on electricity, piped natural gas, and on fuel purchases for manufacturing industries and plants using the electricity, natural gas or fuel for operation and to farmers using the electricity, natural gas, or fuel for farming purposes by reducing the rates in 2007 and in 2008 and then by exempting these sales from the respective taxes effective July 1, 2009.

Effective beginning with the 2007 tax year, enacts new GS 105-130.49 and GS 105-151.31 allowing individual and corporate income tax credits for building or manufacturing an energy-efficient home. The credit is \$1,000 for a federally qualified home and \$2,000 for a state certified energy-efficient home. Unused portions of the credit may be carried forward for five years. The credit is repealed beginning with the 2012 tax year.

Effective beginning with the 2007 tax year, enacts new GS 105-129.16G allowing a tax credit for a contribution to a nonprofit organization designated for or used to invest in renewable energy property. The credit is equal to a portion of the credit that the nonprofit organization would have been allowed if it was subject to the tax. Makes a conforming change to GS 105-259(b).

Misc. Effective July 1, 2007, provides that the percentage rate used in calculating the public utility regulatory fee is 0.12% for each utility's North Carolina revenues earned during each quarter beginning on or after July 1, 2007. Also sets the electric membership corporation regulatory fee at \$200,000 for the 2007-08 fiscal year. Adds a severability clause.

July 24, 2007

S 3. PROMOTE RENEWABLE ENERGY/BASELOAD GENERATION. Filed 1/24/07. House committee substitute makes the following changes to 2nd edition. Modifies proposed new GS 62-133.7 as follows: (1) excludes peat from the definition of renewable energy resource. (2) Requires a biomass combustion process at any new renewable energy facility delivering electric power to an electric power supplier to meet Best Available Control Technology (BACT) and requires the Environmental Management Commission to determine the BACT for a facility on a case-by-case basis. (3) Requires the Utilities Commission, when adopting rules to implement the Renewable Energy and Energy Efficiency Portfolio Standard requirements, to ensure that the owner and operator of each renewable energy facility delivering electric power to an electric power supplier are in compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources.

Requires the Utilities Commission to prepare an analysis of whether rate structures, policies, and measures in place in other states promoting a mix of energy generation and demand reduction should be implemented and report to the Governor, the Joint Legislative Utility Review Committee, and the Environmental Review Commission by September 1, 2008. Modifies proposed amendments to GS 62-110.1 to provide that a certificate for the construction of a coal or nuclear facility is to be granted only if the Utilities Commission finds that energy efficiency measures, demand side management, renewable energy resource generation, combined heat and power generation, or any combination, would not establish a more cost-effective and reliable generation system and that the construction of the facility is in the public interest. Also provides that any costs of construction actually incurred when the construction of a facility is cancelled are recovered only if the Utilities Commission finds that the costs are reasonable and prudent. Makes technical changes.

July 28, 2007

S 3. PROMOTE RENEWABLE ENERGY/BASELOAD GENERATION. Filed 1/24/07. House committee substitute makes the following changes to 3rd edition.

Modifies new GS 62-133.7 (Renewable Energy and Energy Efficiency Portfolio Standard), subsection (g) (control of emissions) to (1) provide that the Environmental Management Commission (EMC) must determine on a case-by-case basis the BACT for a facility that would not otherwise be required to comply with BACT pursuant to the Prevention of Significant Deterioration Program (PSD) and (2) adds a provision requiring that in adopting rules, the EMC must provide for the manner in which a facility that would not otherwise be required to comply with BACT pursuant to the PSD emission programs must meet the BACT requirement. Adds a provision to subsection (i) of the statute requiring the EMC to develop procedures to track and account for renewable energy certificates. Adds a provision amending GS 143B-282(a) authorizing the EMC to take actions regarding renewable energy technologies.

Modifies proposed new GS 62-133.8 (cost recovery for demand-side management and energy efficiency measures) subsection (d) pertaining to the Utilities Commission's (Commission) determination of the amount of an annual rider to allow for the approval of other incentives for

implementing demand-side management and energy efficiency measures. Modifies subsection (f) pertaining to assignment of costs of new demand-side management or energy efficiency measures to provide that the subsection applies to certain commercial customers. Adds a new subsection providing that in certain circumstances, an electric public utility may not charge an industrial or commercial customer for the costs of installing demand-side management equipment on the customer's premises. Amends GS 62-133.2 (fuel and fuel-related charge adjustments for electric utilities) subsection (a3) pertaining to an electric public utility that has fewer than 150,000 North Carolina retail jurisdictional customers to modify how specified costs must be recovered. Adds a provision to GS 62-110.1 (certificate for construction of generating facility; analysis of long-range need for expansion of facilities; ongoing review of construction costs; inclusion of approved construction costs in rates) subsection (f3) providing that in the general rate case, the Commission shall make any adjustment that may be required because costs of construction previously added to the utility's base rate are now removed. Amends GS 62-133(b)(4) to make a conforming change pertaining to fixing rates for a public utility. Deletes proposed change to GS 105-164.4(a)(li).

Deletes the repeal of Section 24.19 of SL 2006-66, reduction of sales tax on electricity to manufacturers. Phases in reductions in the rate applying to the sales price of electricity in GS 105-164(a)(lj) and sunsets the tax on July 1, 2010. Changes the exemptions in GS 105-164.13, effective July 1, 2010. Amends GS 105-187.41(d), which sets out a reduced rate for piped natural gas received by a manufacturer for use in connection with the operation of a manufacturing facility or by a farmer for certain purposes to reduce the tax rates on July 1, 2008, and July 1, 2009, and to repeal the tax on July 1, 2010. Amends GS 105-187.51A to phase in different rates for the privilege tax imposed on manufacturing fuel. Deletes provision adding new GS 105-130.49 and 105-151.31, both pertaining to construction or improvement of an energy efficient home. Amends GS 105-187.51A to decrease the tax on manufacturing fuel on October 1, 2007, July 1, 2008, and July 1, 2009, and to repeal the tax on July 1, 2010 (was, 2009). Revises title of new GS 105-129.16G and, among other things, revises the credit that now applies for donating funds to a nonprofit organization to enable the nonprofit to acquire renewable energy property. Prohibits a taxpayer claiming the credit from also deducting the donation as a charitable contribution. Requires corresponding adjustments under GS 105-130.5(a) and GS 105-134.6(c).

Requires the Utilities Commission to report on the actual results of the cost allocations in specified statutes during the preceding two fiscal years on or before October 1 of odd-numbered years beginning in 2009. Changes effective dates.

August 27, 2007

SL 2007-397 (S 3). PROMOTE RENEWABLE ENERGY/BASELOAD GENERATION. AN ACT TO: (1) PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY AND ENERGY EFFICIENCY IN THE STATE THROUGH IMPLEMENTATION OF A RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD (REPS), (2) ALLOW RECOVERY OF CERTAIN NONFUEL UTILITY COSTS THROUGH THE FUEL CHARGE ADJUSTMENT PROCEDURE, (3) PROVIDE FOR ONGOING REVIEW OF CONSTRUCTION COSTS AND FOR RECOVERY OF COSTS IN RATES IN A GENERAL RATE CASE, (4) ADJUST THE PUBLIC UTILITY AND ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEES, (5) PROVIDE FOR THE PHASEOUT OF THE TAX ON THE SALE OF ENERGY TO NORTH CAROLINA FARMERS AND MANUFACTURERS, AND (6) ALLOW A TAX CREDIT TO CONTRIBUTORS TO 501(C)(3) ORGANIZATIONS FOR RENEWABLE ENERGY PROPERTY. Summarized in *Daily Bulletin* 1/24/07, 6/26/07, 7/24/07, and 7/28/07. Enacted August 20, 2007. Sections 1, 2, and 6–8 are effective January 1, 2008. Sections 3, 4, and 14–16 are effective August 20, 2007. Section 5 is effective January 1, 2008, provided that (i) the provisions of GS 62-133.2, as amended by Section 5, apply only to fuel and fuel-related costs incurred on and after January 1, 2008, regardless of the test period established by the Utilities Commission and (ii) the costs described in GS 62-133.2(a1)(3) that are incurred on and after the date this act becomes law shall be recoverable as provided in GS 62-133.2 as amended by Section 5. Sections 10–13 are effective as provided in those sections. Section 9 is effective July 1, 2007.