

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 726
Apr 11, 2019
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30325-MH-110

Short Title: Repeal Renewable Energy Portfolio Standard. (Public)

Sponsors: Representative Pittman.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE BURDEN OF HIGH ENERGY COSTS ON THE CITIZENS OF
3 NORTH CAROLINA BY ELIMINATING RENEWABLE ENERGY PORTFOLIO
4 STANDARDS AND TO PROVIDE FOR COST RECOVERY BY PUBLIC UTILITIES
5 FOR CERTAIN COSTS OF COMPLIANCE WITH RENEWABLE ENERGY
6 PORTFOLIO STANDARDS.

7 The General Assembly of North Carolina enacts:

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

9 **"§ 62-2. Declaration of policy.**

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

- 15 (1) To provide fair regulation of public utilities in the interest of the public;
16 (2) To promote the inherent advantage of regulated public utilities;
17 (3) To promote adequate, reliable and economical utility service to all of the
18 citizens and residents of the State;
19 (3a) To assure that resources necessary to meet future growth through the provision
20 of adequate, reliable utility ~~service include use of the entire spectrum of~~
21 ~~demand-side options, service,~~ including but not limited to conservation, load
22 management and efficiency programs, as additional sources of energy supply
23 and/or energy demand reductions. To that end, to require energy planning and
24 fixing of rates in a manner to result in the least cost mix of generation and
25 demand-reduction measures which is achievable, including consideration of
26 appropriate rewards to utilities for efficiency and conservation which decrease
27 utility bills;
28 (4) To provide just and reasonable rates and charges for public utility services
29 without unjust discrimination, undue preferences or advantages, or unfair or
30 destructive competitive practices and consistent with long-term management
31 and conservation of energy resources by avoiding wasteful, uneconomic and
32 inefficient uses of energy;
33 (4a) To assure that facilities necessary to meet future growth can be financed by
34 the utilities operating in this State on terms which are reasonable and fair to
35 both the customers and existing investors of such utilities; and to that end to
36 authorize fixing of rates in such a manner as to result in lower costs of new



- 1 facilities and lower rates over the operating lives of such new facilities by
 2 making provisions in the rate-making process for the investment of public
 3 utilities in plants under construction;
 4 (5) To encourage and promote harmony between public utilities, their users and
 5 the environment;
 6 (6) To foster the continued service of public utilities on a well-planned and
 7 coordinated basis that is consistent with the level of energy needed for the
 8 protection of public health and safety and for the promotion of the general
 9 welfare as expressed in the State energy ~~policy;~~ policy; and
 10 ~~(7) To seek to adjust the rate of growth of regulated energy supply facilities~~
 11 ~~-serving the State to the policy requirements of statewide development;~~
 12 (8) To cooperate with other states and with the federal government in promoting
 13 and coordinating interstate and intrastate public utility service and reliability
 14 of public utility energy ~~supply;~~ supply.
 15 (9) To facilitate the construction of facilities in and the extension of natural gas
 16 service to unserved areas in order to promote the public welfare throughout
 17 the State and to that end to authorize the creation of expansion funds for
 18 natural gas local distribution companies or gas districts to be administered
 19 under the supervision of the North Carolina Utilities ~~Commission;~~
 20 ~~and~~ Commission.
 21 (10) To promote the development of ~~renewable energy and energy efficiency~~
 22 ~~through the implementation of a Renewable Energy and Energy Efficiency~~
 23 ~~Portfolio Standard (REPS) that will do all of the following:~~
 24 a. ~~Diversify the resources used to reliably meet the energy needs of~~
 25 ~~consumers in the State.~~
 26 b. ~~Provide greater energy security through the use of indigenous energy~~
 27 ~~resources available within the State.~~
 28 c. ~~Encourage private investment in renewable energy and energy~~
 29 ~~efficiency.~~
 30 d. ~~Provide improved air quality and other benefits to energy consumers~~
 31 ~~and citizens of the State.~~ the lowest cost electric power that will
 32 promote economic growth by providing public utilities the choice to
 33 use any type of energy resource free of State interference or control."

34 **SECTION 2.** G.S. 62-133.8 reads as rewritten:

35 "**§ 62-133.8. ~~Renewable Energy and Energy Efficiency Portfolio Standard~~**
 36 **~~(REPS), Renewable Energy.~~**

- 37 (a) Definitions. – As used in this section:
 38 (1) ~~"Combined heat and power system" means a system that uses waste heat to~~
 39 ~~produce electricity or useful, measurable thermal or mechanical energy at a~~
 40 ~~retail electric customer's facility.~~
 41 (2) "Demand-side management" means activities, programs, or initiatives
 42 undertaken by an electric power supplier with customer approval or by its
 43 customers to shift the timing of electricity use from peak to nonpeak demand
 44 periods. "Demand-side management" includes, but is not limited to, load
 45 management, electric system equipment and operating controls, direct load
 46 control, and interruptible load.
 47 (3) "Electric power supplier" means a public utility, an electric membership
 48 corporation, or a municipality that sells electric power to retail electric power
 49 customers in the State.
 50 (3a) "Electricity demand reduction" means a measurable reduction in the
 51 electricity demand of a retail electric customer that is voluntary, under the

1 real-time control of both the electric power supplier and the retail electric
 2 customer, and measured in real time, using two-way communications devices
 3 that communicate on the basis of standards.

4 (4) "Energy efficiency measure" means an equipment, physical, or program
 5 change implemented after January 1, 2007, that results in less energy used to
 6 perform the same function. "Energy efficiency measure" includes, but is not
 7 limited to, energy produced from a combined heat and power system that uses
 8 nonrenewable energy resources. "Energy efficiency measure" does not
 9 include demand-side management.

10 (5) "New renewable energy facility" means a renewable energy facility that
 11 either:

- 12 a. Was placed into service on or after January 1, 2007.
- 13 b. Delivers or has delivered electric power to an electric power supplier
 14 pursuant to a contract with NC GreenPower Corporation that was
 15 entered into prior to January 1, 2007.
- 16 c. Is a hydroelectric power facility ~~with a generation capacity of 10~~
 17 ~~megawatts or less~~ that delivers electric power to an electric power
 18 supplier.

19 (6) ~~"Renewable energy certificate" means a tradable instrument that is equal to~~
 20 ~~one megawatt hour of electricity or equivalent energy supplied by a renewable~~
 21 ~~energy facility, new renewable energy facility, or reduced by implementation~~
 22 ~~of an energy efficiency measure that is used to track and verify compliance~~
 23 ~~with the requirements of this section as determined by the Commission. A~~
 24 ~~"renewable energy certificate" does not include the related emission~~
 25 ~~reductions, including, but not limited to, reductions of sulfur dioxide, oxides~~
 26 ~~of nitrogen, mercury, or carbon dioxide.~~

27 (7) ~~"Renewable energy facility" means a facility, other than a hydroelectric power~~
 28 ~~facility with a generation capacity of more than 10 megawatts, facility that~~
 29 ~~either:~~

- 30 a. Generates electric power by the use of a renewable energy resource.
- 31 b. Generates useful, measurable combined heat and power derived from
 32 a renewable energy resource.
- 33 c. Is a solar thermal energy facility.

34 (8) "Renewable energy resource" means a solar electric, solar thermal, ~~wind,~~
 35 hydropower, geothermal, or ocean current or wave energy resource; a biomass
 36 resource, including agricultural waste, animal waste, wood waste, spent
 37 pulping liquors, combustible residues, combustible liquids, combustible
 38 gases, energy crops, or landfill methane; waste heat derived from a renewable
 39 energy resource and used to produce electricity or useful, measurable thermal
 40 energy at a retail electric customer's facility; or hydrogen derived from a
 41 renewable energy resource. ~~"Renewable energy resource" does not include~~
 42 ~~peat, a fossil fuel, or nuclear energy resource.~~ resource, peat, nuclear energy,
 43 or a fossil fuel.

44 (b) ~~Renewable Energy and Energy Efficiency Standards (REPS) for Electric Public~~
 45 ~~Utilities.~~

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

49 Calendar Year	REPS Requirement
50 2012	3% of 2011 North Carolina retail sales
51 2015	6% of 2014 North Carolina retail sales

- b. ~~Reduce energy consumption through the implementation of demand side management or energy efficiency measures.~~
- e. ~~Purchase electric power from a renewable energy facility or a hydroelectric power facility, provided that no more than thirty percent (30%) of the requirements of this section may be met with hydroelectric power, including allocations made by the Southeastern Power Administration.~~
- d. ~~Purchase renewable energy certificates derived from in State or out of state renewable energy facilities. An electric power supplier subject to the requirements of this subsection may use certificates derived from out of state renewable energy facilities to meet no more than twenty five percent (25%) of the requirements of this section.~~
- e. ~~Acquire all or part of its electric power through a wholesale purchase power agreement with a wholesale supplier of electric power whose portfolio of supply and demand options meets the requirements of this section.~~
- f. ~~Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of demand side management or energy efficiency measures that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated renewable energy certificates.~~
- g. ~~Electricity demand reduction.~~

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

Calendar Year	Requirement for Solar Energy Resources
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

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

~~Requirement for Swine~~

~~Calendar Year Waste Resources~~

2012	0.07%
2015	0.14%
2018	0.20%

~~(f) Compliance With REPS Requirement Through Use of Poultry Waste Resources.— For calendar year 2014 and for each calendar year thereafter, at least 900,000 megawatt hours of the total electric power sold to retail electric customers in the State or an 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:~~

~~Requirement for Poultry~~

~~Calendar Year Waste Resources~~

2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

~~(g) Control of Emissions. – As used in this subsection, Best Available Control Technology (BACT) means an emissions limitation based on the maximum degree a reduction in the emission of air pollutants that is achievable for a facility, taking into account energy, environmental, and economic impacts and other costs. A biomass combustion process at any new renewable energy facility that delivers electric power to an electric power supplier shall meet BACT. The Environmental Management Commission shall 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 (PSD) emissions program. The Environmental Management Commission ~~may~~ shall adopt rules to implement this subsection. In adopting rules, the Environmental Management Commission shall take into account cumulative and secondary impacts associated with the concentration of biomass facilities in close proximity to one another. In adopting rules the Environmental Management Commission shall provide for the manner in which a facility that would not otherwise be required to comply with BACT pursuant to the PSD emissions programs shall meet the BACT requirement. ~~This subsection shall not apply to a facility that qualifies as a new renewable energy facility under sub-subdivision b. of subdivision (5) of subsection (a) of this section.~~~~

~~(h) Cost Recovery and Customer Charges. –~~

- ~~(1) For the purposes of this subsection, the term "incremental costs" means all reasonable and prudent costs incurred prior to July 1, 2019, by an electric power supplier to:

 - ~~a. Comply with the requirements of former subsections (b), (c), (d), (e), and (f) of this section that are in excess of the electric power supplier's avoided costs other than those costs recovered pursuant to G.S. 62-133.9.~~
 - ~~b. Fund research that encourages the development of renewable energy, energy efficiency, or improved air quality, provided those costs do not exceed one million dollars (\$1,000,000) per year.~~
 - ~~c. Comply with any federal mandate that is similar to the requirements of former subsections (b), (c), (d), (e), and (f) of this section that exceed the costs that the electric power supplier would have incurred under those subsections in the absence of the federal mandate.~~
 - ~~d. Provide incentives to customers, including program costs, incurred pursuant to G.S. 62-155(f).~~~~
- ~~(2) All reasonable and prudent costs incurred prior to July 1, 2019, by an electric power supplier to comply with any federal mandate that is similar to the~~

requirements of former subsections (b), (c), (d), (e), and (f) of this section, including, but not limited to, the avoided costs associated with a federal mandate that exceeds the avoided costs that the electric power supplier would have incurred pursuant to former subsections (b), (c), (d), (e), and (f) of this section in the absence of the federal mandate, shall be recovered by the electric power supplier in an annual rider charge assessed in accordance with the schedule set out in subdivision (4) of this subsection increased by the Commission on a pro rata basis to allow for full and complete recovery of all reasonable and prudent costs incurred to comply with the federal mandate.

(3) Except as provided in subdivision (2) of this subsection, the total annual incremental cost to be incurred by an electric power supplier and recovered from the electric power supplier's retail customers shall not exceed an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of December 31 of the previous calendar year. ~~An electric power supplier shall be conclusively deemed to be in compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section if the electric power supplier's total annual incremental costs incurred equals an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of December 31 of the previous calendar year.~~ The total annual incremental cost recoverable by an electric power supplier from an individual customer shall not exceed the per-account charges set out in subdivision (4) of this subsection except as these charges may be adjusted in subdivision (2) of this subsection.

(4) An electric power supplier shall be allowed to recover the incremental costs incurred prior to July 1, 2019, to comply with the requirements of former 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:

	2008-2011	2012-2014	2015 and thereafter
Customer Class			
Residential per account	\$10.00	\$12.00	\$27.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00

(5) The Commission shall adopt rules to establish a procedure for the annual assessment of the per-account charges set out in this subsection to an electric public utility's customers to allow for timely recovery of all reasonable and prudent costs of compliance with the requirements of former subsections (b), (c), (d), (e), and (f) of this ~~section and to fund research as provided in subdivision (1) of this subsection.~~ section. The Commission shall ensure that the costs to be recovered from individual customers on a per-account basis pursuant to subdivisions (2) and (3) of this subsection are in the same proportion as the per-account annual charges for each customer class set out in subdivision (4) of this subsection.

(6) After July 1, 2019, the Commission shall allow recovery under the annual rider described in this subsection only for the reasonable and prudent costs incurred prior to July 1, 2019. For the purposes of this subsection, "costs incurred prior to July 1, 2019," include the following:

a. Costs under renewable energy purchase contracts entered into prior to July 1, 2019.

- 1 b. The costs of construction of renewable energy facilities for which a
2 certificate of public convenience and necessity has been issued by the
3 Commission prior to July 1, 2019.
- 4 (i) Adoption of Rules. – The Commission shall adopt rules to implement the provisions
5 of this section. In developing rules, the Commission shall:
- 6 (1) Provide for the monitoring of compliance with and enforcement of the
7 requirements of this section.
- 8 (2) ~~Include a procedure to modify or delay the provisions of subsections (b), (c),~~
9 ~~(d), (e), and (f) of this section in whole or in part if the Commission determines~~
10 ~~that it is in the public interest to do so. The procedure adopted pursuant to this~~
11 ~~subdivision shall include a requirement that the electric power supplier~~
12 ~~demonstrate that it made a reasonable effort to meet the requirements set out~~
13 ~~in this section.~~
- 14 (3) Ensure that energy credited toward compliance with the provisions former
15 renewable energy portfolio standards of this section not be credited toward
16 any other purpose, including another renewable energy portfolio standard or
17 voluntary renewable energy purchase program in this State or any other state.
- 18 (4) Establish standards for interconnection of renewable energy facilities and
19 other nonutility-owned generation with a generation capacity of 10 megawatts
20 or less to an electric public utility's distribution system; provided, however,
21 that the Commission shall adopt, if appropriate, federal interconnection
22 standards. ~~The standards adopted pursuant to this subdivision shall include an~~
23 ~~expedited review process for swine and poultry waste to energy projects of~~
24 ~~two megawatts (MW) or less and other measures necessary and appropriate to~~
25 ~~achieve the objectives of subsections (e) and (f) of this section.~~
- 26 (5) Ensure that the owner and operator of each renewable energy facility that
27 delivers electric power to an electric power supplier is in substantial
28 compliance with all federal and state laws, regulations, and rules for the
29 protection of the environment and conservation of natural resources.
- 30 (6) ~~Consider whether it is in the public interest to adopt rules for electric public~~
31 ~~utilities for net metering of renewable energy facilities with a generation~~
32 ~~capacity of one megawatt or less.~~
- 33 (7) Develop procedures to track and account for renewable energy certificates,
34 including ownership of renewable energy certificates that are derived from a
35 customer owned renewable energy facility as a result of any action by a
36 customer of an electric power supplier that is independent of a program
37 sponsored by the electric power supplier.
- 38 (j) ~~Report. – No later than October 1 of each year, the Commission shall submit a report~~
39 ~~on the activities taken by the Commission to implement, and by electric power suppliers to~~
40 ~~comply with, the requirements of this section to the Governor, the Environmental Review~~
41 ~~Commission, and the Joint Legislative Oversight Committee on Agriculture and Natural and~~
42 ~~Economic Resources, the Senate Appropriations Committee on Agriculture, Natural, and~~
43 ~~Economic Resources, and the chairs of the House of Representatives Appropriations Committee~~
44 ~~on Agriculture and Natural and Economic Resources. The report shall include any public~~
45 ~~comments received regarding direct, secondary, and cumulative environmental impacts of the~~
46 ~~implementation of the requirements of this section. In developing the report, the Commission~~
47 ~~shall consult with the Department of Environmental Quality.~~
- 48 (k) Tracking of Renewable Energy Certificates. ~~No later than July 1, 2010, the~~ The
49 Commission shall develop, implement, and maintain an Internet Web site for the online tracking
50 of renewable energy certificates ~~in order to verify the compliance of electric power suppliers with~~

1 the REPS requirements of this section and to facilitate the establishment of a market for the
2 purchase and sale of renewable energy certificates.

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

10 **SECTION 3.** This act becomes effective July 1, 2019.