

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 958  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40413-RIa-25

Short Title: Electric Utilities/Allow and Study RTE. (Public)

Sponsors: Representatives Strickland, Goodwin, and Saine (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO (I) ALLOW THE UTILITIES COMMISSION TO REQUIRE ELECTRIC  
3 PUBLIC UTILITIES TO PARTICIPATE IN OR ESTABLISH A REGIONAL  
4 TRANSMISSION ENTITY AND (II) STUDY THE PUBLIC BENEFITS ASSOCIATED  
5 WITH PARTICIPATION IN OR ESTABLISHMENT OF SUCH AN ENTITY.

6 Whereas, electric service in North Carolina is currently provided by vertically  
7 integrated monopoly providers of electric distribution and transmission services; and

8 Whereas, new and innovative sources of energy production are emerging which are  
9 transforming the electric industry for the benefit of consumers in the State by promoting retail  
10 service reliability and affordability; and

11 Whereas, the State has adopted measures to diversify the resources used to reliably  
12 meet the energy needs of consumers in the State; and

13 Whereas, the development of new, low-cost generation resources in the State has  
14 encouraged private investment in new generating facilities and ancillary businesses, creating new  
15 tax bases and economic opportunities throughout the State; and

16 Whereas, access to new, low-cost generation resources throughout the country is now  
17 accessible to consumers in the State; and

18 Whereas, the adoption of measures to reform the structure of the existing electric  
19 transmission service may further promote the development of and access to low-cost, reliable  
20 resources for the benefit of North Carolina consumers; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 SECTION 1. Article 3 of Chapter 62 of the General Statutes is amended by adding  
23 a new section to read:

24 "**§ 62-30.1 Authority to require regional transmission entities for certain electric public**  
25 **utilities.**

26 (a) In exercising its supervisory authority over electric public utilities, the Commission  
27 is authorized to require any electric public utility providing retail electric service to at least  
28 150,000 North Carolina retail jurisdictional customers as of January 1, 2019, to submit for  
29 approval to the Federal Energy Regulatory Commission an application for establishing or joining  
30 a regional transmission entity (RTE) and to transfer the management and control of its  
31 transmission assets to such RTE. The Commission shall exercise such authority upon finding that  
32 participation in an RTE is in the public interest, taking into consideration expected consumer  
33 benefits of RTE participation, and is otherwise consistent with the provision of reliable and safe  
34 electric service to retail customers in North Carolina.

35 (b) In any proceeding under subsection (a) of this section, the Commission shall establish  
36 requirements that:



- 1           (1) Promote: (i) the reliable planning, operating, maintaining, and upgrading of  
2 the transmission systems and any necessary additions thereto, (ii) the safe,  
3 reliable, and efficient operation of transmission systems, and (iii) policies for  
4 the pricing and access for service over such systems that are not unduly  
5 discriminatory and consistent with the orderly development of competition in  
6 the State;  
7           (2) Are consistent with lawful requirements of the Federal Energy Regulatory  
8 Commission regarding the establishment of an RTE; and  
9           (3) Generally promote the public interest and are consistent with: (i) ensuring that  
10 consumers' needs for economic and reliable transmission are met and (ii)  
11 meeting the transmission needs of electric generation suppliers both within  
12 and without this State, including those that do not own, operate, control, or  
13 have an entitlement to transmission capacity.  
14       (c) The establishment of an RTE under this section shall not be deemed to modify the  
15 Commission's authority over any of the following:  
16           (1) Sales of electric energy to retail customers within the State.  
17           (2) Transmission line or facility construction, enlargement, or acquisition within  
18 the State, as set forth in Article 5A of this Chapter.  
19           (3) Distribution line or facility construction, or investments in the distribution  
20 system.  
21       (d) This section shall not apply to any electric membership corporation, municipal  
22 electric supplier, joint municipal power agency, or any other entity that does not own  
23 transmission assets but is authorized to provide retail electric service within the State.  
24       (e) For purposes of this section, "regional transmission entity" or "RTE" means an entity,  
25 such as a Regional Transmission Organization, established for the purpose of promoting the  
26 efficiency and reliability in the operation and planning of the electric transmission grid and  
27 ensuring nondiscrimination in the provision of electric transmission services meeting the  
28 minimum criteria established by the Federal Energy Regulatory Commission under 18 C.F.R. §  
29 35.34."

30           **SECTION 2.(a)** The North Carolina Utilities Commission (Commission) shall  
31 solicit an independent, duly qualified, third-party to conduct a study on participation by North  
32 Carolina electric utilities in regional transmission entities (RTEs), including Regional  
33 Transmission Organizations, that satisfy the minimum criteria established by the Federal Energy  
34 Regulatory Commission under 18 C.F.R. § 35.34. The study shall address how North Carolina  
35 retail electric consumers would benefit from investor-owned utilities in North Carolina joining  
36 or establishing an RTE based on factors including generation production cost savings,  
37 transmission cost savings, reliability and resiliency improvements, generation resource diversity,  
38 the integration of demand response and energy efficiency, deployment of renewable resources,  
39 impact on consumer rates and service quality, and any other factors related to joining or creating  
40 an RTE.

41           **SECTION 2.(b)** The Commission shall, within 90 days following the effective date  
42 of this Act, establish a stakeholder process to support and provide comment on the third-party  
43 study specified in Section 2.(a). The stakeholder process shall, to the extent feasible, include:

- 44           (1) The State Energy Director of the Department of Environment Quality;  
45           (2) A representative of the North Carolina Energy Policy Council;  
46           (3) The North Carolina President of Duke Energy or the President's designee;  
47           (4) A designee from Dominion North Carolina Power;  
48           (5) Representatives of commercial consumers of electricity in investor-owned  
49 utility service territory in North Carolina;  
50           (6) Representatives of residential consumers of electricity in investor-owned  
51 utility service territory in North Carolina;

- 1 (7) Representatives of industrial consumers of electricity in investor-owned
- 2 utility service territory in North Carolina;
- 3 (8) Representatives of the environmental community;
- 4 (9) Representatives of a national electric power marketer;
- 5 (10) Representatives of existing, national RTEs;
- 6 (11) Representatives of the NC Clean Energy Technology Center;
- 7 (12) Representatives of institutions of higher learning in IOU service territory in
- 8 North Carolina;
- 9 (13) Representatives of the North Carolina Electric Cooperatives and Electricities
- 10 of North Carolina;
- 11 (14) Representatives of North Carolina's renewable energy industry; and
- 12 (15) Representatives of the North Carolina merchant generation industry.

13 **SECTION 2.(c)** The Commission shall establish the final scope and parameters of  
14 the study, including the issues specified in subsection (a) of this section, taking into consideration  
15 comment from participating stakeholders on these matters. At a minimum, the study shall address  
16 the following issues:

- 17 (1) The legal and procedural requirements associated with an electric utility's
- 18 participation in an existing RTE as compared with the requirements associated
- 19 with the establishment of a newly formed RTE, including identification of
- 20 existing laws, regulations, and policies that may need to be amended in order
- 21 for an investor-owned utility to join an existing RTE or establish an RTE.
- 22 (2) The potential costs and benefits to North Carolina retail electric consumers
- 23 and ratepayers of an electric utility's participation in an existing RTE as
- 24 compared with the establishment of a newly formed RTE based on the
- 25 following factors: generation production cost savings, fuel savings,
- 26 transmission cost savings, reliability, resiliency, generation resource diversity,
- 27 generator availability, the integration of demand response and energy
- 28 efficiency, deployment of renewable resources, deferral of capital
- 29 investments, transmission infrastructure necessary to participate in or
- 30 establish an RTE, and impact on consumer rates and service quality in the
- 31 short- and long-term.
- 32 (3) Recommendations concerning additional unbundling of electric power
- 33 generation, transmission, and distribution services associated with the
- 34 establishment of an RTE.
- 35 (4) The experience of other states with electric utility restructuring in connection
- 36 with establishment of an RTE.

37 **SECTION 2.(d)** The Commission shall submit a final report of the study's findings  
38 and recommendations, including stakeholder input, to the Joint Legislative Commission on  
39 Energy Policy and the North Carolina Energy Policy Council no later than March 1, 2020.

40 **SECTION 2.(e)** There is appropriated from the General Fund to the Utilities  
41 Commission the sum of seven hundred fifty thousand dollars (\$750,000) to implement the  
42 requirements of this section.

43 **SECTION 3.** The North Carolina Utilities Commission shall open a docket and  
44 begin proceedings to determine if participation in or establishment of an RTE is in the public  
45 interest within 30 days of submission of the study. If the Commission determines that  
46 participation in or the establishment of an RTE satisfies the standard established in G.S. 62-30.1,  
47 the Commission shall issue an order requiring the affected IOUs to submit a proposal for  
48 participation in or establishment of an RTE. The Commission shall issue an order with its  
49 determination on this matter no later than September 31, 2020.

50 **SECTION 4.** This act is effective when it becomes law.