GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H **D**

HOUSE BILL 329
PROPOSED SENATE COMMITTEE SUBSTITUTE H329-PCS10672-RI-19

Short Title: Renewable Energy Amends. (Public)

Sponsors:

Referred to:

March 12, 2019

A BILL TO BE ENTITLED

AN ACT TO (I) EXEMPT ELECTRIC VEHICLE CHARGING STATIONS FROM REGULATION AS PUBLIC UTILITIES, (II) REQUIRE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT RULES TO ESTABLISH A REGULATORY PROGRAM TO GOVERN THE MANAGEMENT OF END-OF-LIFE PHOTOVOLTAIC MODULES AND ENERGY STORAGE SYSTEM BATTERIES, AND DECOMMISSIONING OF UTILITY-SCALE SOLAR PROJECTS AND WIND ENERGY FACILITIES, AND REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ESTABLISH A STAKEHOLDER PROCESS TO SUPPORT DEVELOPMENT OF THE RULES, AND (III) PROVIDE SMALL HYDROELECTRIC POWER FACILITIES CERTAIN TREATMENT SIMILAR TO THAT GIVEN TO SMALL POWER PRODUCERS THAT PRODUCE ENERGY FROM SWINE AND POULTRY WASTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-3(23) is amended by adding a new sub-subdivision to read:

"n. The term "public utility" shall not include a person who uses an electric vehicle charging station to resell electricity to the public for compensation, provided that all of the following apply:

1. The reseller has procured the electricity from an electric power supplier, as defined in G.S. 62-133.8(a)(3), that is authorized to engage in the retail sale of electricity within the territory in which the electric vehicle charging service is provided.
2. All resales are exclusively for the charging of plug-in electric vehicles, as defined in G.S. 20-4.01(28a).
3. The charging station is immobile.
4. Utility service to an electric vehicle charging station shall be provided subject to the electric power supplier's terms and conditions.

Nothing in this sub-subdivision shall be construed to limit the ability of an electric power supplier to use electric vehicle charging stations to furnish electricity for charging electric vehicles. Any increases in customer demand or energy consumption associated with transportation electrification shall not constitute found revenues for an electric public utility."

SECTION 2.(a) No later than January 1, 2022, the Environmental Management Commission shall adopt rules to establish a regulatory program to govern (i) the management of end-of-life photovoltaic modules and energy storage system batteries and (ii) decommissioning

of utility-scale solar projects and wind energy facilities. In the development of these rules, the Department of Environmental Quality shall consider all of the following matters:

(1) Whether or not any photovoltaic modules, energy storage system batteries, or the constituent materials thereof, or other equipment used in utility-scale solar projects or wind energy facilities, exhibit any of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, or under rules adopted pursuant to G.S. 130A-294(c), or whether or not any such equipment is properly characterized as solid waste under State and federal law.

(2) Preferred methods to responsibly manage end-of-life photovoltaic modules, energy storage system batteries, or the constituent materials thereof, or other equipment used in utility-scale solar projects or wind energy facilities, including the extent to which such equipment may be:

a. Reused, if not damaged or in need of repair, for a similar purpose.

b. Refurbished, if not substantially damaged, and reused for a similar purpose.

c. Recycled with recovery of materials for similar or other purposes.

d. Safely disposed of in construction and demolition or municipal solid waste landfills for material that does not exhibit any of the characteristics of hazardous waste under State or federal law.

e. Safely disposed of in accordance with State and federal requirements governing hazardous waste for materials that exhibit any of the characteristics of hazardous waste under State or federal law.

(3) Economic and environmental costs and benefits associated with each method identified in subdivision (2) of this section to manage end-of-life photovoltaic modules, energy storage system batteries, or the constituent materials thereof, and other equipment used in utility-scale solar projects or wind energy facilities.

(4) The data-based expected economically productive life cycle of various types of photovoltaic modules, wind turbines, and energy storage system batteries currently in use in the State.

(5) The volume of photovoltaic modules, wind turbines, and energy storage system batteries currently in use in the State, and projections, based upon the data on life cycle identified in subdivision (2) of this section, on impacts that may be expected to the State's landfill capacity if landfill disposal is permitted for such equipment at end-of-life.

(6) A survey of federal and other states' and countries' regulatory requirements relating to (i) management of end-of-life photovoltaic modules, energy storage system batteries, and other equipment used in utility-scale solar projects and wind energy projects, including identification of states' laws governing reuse, refurbishment, disposal, or recycling of such equipment, (ii) decommissioning of utility-scale solar projects and wind energy facilities, and (iii) financial assurance to be established by owners or operators of utility-scale solar projects and wind energy facilities to ensure responsible decommissioning.

(7) Whether or not adequate financial assurance requirements are necessary to ensure proper decommissioning of utility-scale solar projects upon cessation of operations.

(8) Infrastructure that may be needed to develop a practical, effective, and cost-efficient means to collect and transport end-of-life photovoltaic modules, energy storage system batteries, and other equipment used in utility-scale solar

projects and wind energy facilities, for reuse, refurbishment, recycling, or disposal.

(9) Whether or not manufacturer stewardship programs for the recycling of end-of-life photovoltaic modules and energy storage system batteries not otherwise addressed by utility-scale solar project decommissioning rules adopted by the Commission should be established for applications other than utility-scale solar project installations, and if so, fees that should be established for manufacturers that sell such photovoltaic modules, or energy storage system batteries, in or into the State, in an amount adequate to support the implementation of such requirements.

SECTION 2.(b) For purposes of this act, the following definitions apply:

(1) "End-of-life" means photovoltaic modules, energy storage system batteries, and other equipment used in utility-scale solar and wind energy projects that are removed and taken out of service, that will not be reused.

(2) "Energy storage system battery" means a battery that is part of a system used to store chemical energy that was once electrical energy, for use in a process that contributes to end user demand management or grid operation and reliability. The term does not include energy storage system batteries: (i) that are part of a consumer electronic device for which it provides electricity needed to make the consumer electronic device function or (ii) that are part of a plug-in electric vehicle as defined in G.S. 20-4.01(28a), or an alternative fuel vehicle (AFV) as that term is defined in G.S. 143-58.4(a)(1).

(3) "Photovoltaic module" means the smallest nondivisible, environmentally protected assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended to generate electrical power under sunlight, except that "photovoltaic module" does not include a photovoltaic cell that is part of a consumer electronic device for which it provides electricity needed to make the consumer electronic device function. "Photovoltaic module" includes interconnections, terminals, and protective devices such as diodes that: (i) are installed on, connected to, or integral with buildings or (ii) are used as components of freestanding, off-grid, power generation systems, such as for powering water pumping stations, electric vehicle charging stations, fencing, street and signage lights, and other commercial or agricultural purposes.

(4) "Utility-scale solar project" means a ground-mounted photovoltaic (PV), concentrating photovoltaic (CPV), or concentrating solar power (CSP or solar thermal) project directly connected to the electrical grid that generates electricity for sale. The term includes the solar arrays, accessory buildings, transmission facilities, and any other infrastructure necessary for the operation of the project. The term does not include renewable energy facilities owned or leased by a retail electric customer intended primarily for the customer's own use to offset the customer's own retail electrical energy consumption at the premises.

(5) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

SECTION 2.(c) The Department shall, within 60 days following the effective date of this act, establish a stakeholder process for development of the regulatory program required pursuant to Section 2(a) of this act.

SECTION 2.(d) The Department and the Commission shall submit joint interim reports on activities conducted pursuant to this act on a quarterly basis beginning December 1, 2019, and shall submit a joint final report with findings, including stakeholder input, to the Environmental Review Commission and the General Assembly no later than January 1, 2021. The interim report due April 1, 2020, shall include a recommendation to the General Assembly regarding the resources needed to implement the requirements of this act.

SECTION 3. G.S. 62-156(b)(3) reads as rewritten:

"(b) At least every two years, the Commission shall determine the standard contract avoided cost rates to be included within the tariffs of each electric public utility and paid by electric public utilities for power purchased from small power producers, according to the following standards:

…

(3) Availability and Reliability of Power. – The rates to be paid by electric public utilities for capacity purchased from a small power producer shall be established with consideration of the reliability and availability of the power. A future capacity need shall only be avoided in a year where the utility's most recent biennial integrated resource plan filed with the Commission pursuant to G.S. 62-110.1(c) has identified a projected capacity need to serve system load and the identified need can be met by the type of small power producer resource based upon its availability and reliability of power, other ~~than~~ than for (i) swine or poultry waste for which a need is established consistent with G.S. 62-133.8(e) and ~~(f).~~(f) and (ii) hydropower small power producers with power purchase agreements with an electric public utility in effect as of July 27, 2017, and the renewal of such a power purchase agreement, if the hydroelectric small power producer's facility total capacity is equal to or less than five megawatts (MW)."

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