

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S

D

SENATE BILL 678
PROPOSED COMMITTEE SUBSTITUTE S678-PCS45319-RI-11

Short Title: Promote Clean Energy.

(Public)

Sponsors:

Referred to:

April 10, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REDEFINE "RENEWABLE ENERGY" AS "CLEAN ENERGY," TO PROVIDE
3 THAT THE TERM INCLUDES NUCLEAR RESOURCES AND FUSION ENERGY, AND
4 TO ELIMINATE LANGUAGE IMPEDING CPCN ISSUANCE FOR NUCLEAR
5 FACILITIES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1.(a) G.S. 62-133.8 reads as rewritten:

8 "§ 62-133.8. ~~Renewable~~ Clean Energy and Energy Efficiency Portfolio Standard
9 ~~(REPS),(CEPS).~~

10 (a) Definitions. – As used in this section:

11 (1) "Combined heat and power system" means a system that uses waste heat to
12 produce electricity or useful, measurable thermal or mechanical energy at a
13 retail electric customer's facility.

14 (2) "Demand-side management" means activities, programs, or initiatives
15 undertaken by an electric power supplier or its customers to shift the timing
16 of electricity use from peak to nonpeak demand periods. "Demand-side
17 management" includes, but is not limited to, load management, electric system
18 equipment and operating controls, direct load control, and interruptible load.

19 (3) "Electric power supplier" means a public utility, an electric membership
20 corporation, or a municipality that sells electric power to retail electric power
21 customers in the State.

22 (3a) "Electricity demand reduction" means a measurable reduction in the
23 electricity demand of a retail electric customer that is voluntary, under the
24 real-time control of both the electric power supplier and the retail electric
25 customer, and measured in real time, using two-way communications devices
26 that communicate on the basis of standards.

27 (4) "Energy efficiency measure" means an equipment, physical, or program
28 change implemented after January 1, 2007, that results in less energy used to
29 perform the same function. "Energy efficiency measure" includes, but is not
30 limited to, energy produced from a combined heat and power system that uses
31 ~~nonrenewable-non-clean~~ energy resources. "Energy efficiency measure" does
32 not include demand-side management.

33 (4a) "Fusion" means a reaction in which at least one heavier, more stable nucleus
34 is produced from two lighter, less stable nuclei, typically through high
35 temperatures and pressures, emitting energy as a result.



* S 6 7 8 - P C S 4 5 3 1 9 - R I - 1 1 *

- 1 (4b) "Fusion energy" means the product of fusion reactions inside a "fusion
 2 device," used for the purpose of generating electricity or other commercially
 3 usable forms of energy.
 4 (5) "New ~~renewable~~-clean energy facility" means a ~~renewable~~-clean energy
 5 facility that either:
 6 a. Was placed into service on or after January 1, 2007.
 7 b. Delivers or has delivered electric power to an electric power supplier
 8 pursuant to a contract with NC GreenPower Corporation that was
 9 entered into prior to January 1, 2007.
 10 c. Is a hydroelectric power facility with a generation capacity of 10
 11 megawatts or less that delivers electric power to an electric power
 12 supplier.
 13 (6) "Renewable energy certificate" means a tradable instrument that is equal to
 14 one megawatt hour of electricity or equivalent energy supplied by a renewable
 15 clean energy facility, new ~~renewable~~-clean energy facility, or reduced by
 16 implementation of an energy efficiency measure that is used to track and
 17 verify compliance with the requirements of this section as determined by the
 18 Commission. A "renewable energy certificate" does ~~not~~ include the related
 19 emission reductions, including, but not limited to, reductions of sulfur dioxide,
 20 oxides of nitrogen, mercury, or carbon dioxide.
 21 (7) "~~Renewable~~-Clean energy facility" means a facility, other than a
 22 hydroelectric power facility with a generation capacity of more than 10
 23 megawatts, that either:
 24 a. Generates electric power by the use of a renewable-clean energy
 25 resource.
 26 b. Generates useful, measurable combined heat and power derived from
 27 a renewable-clean energy resource.
 28 c. Is a solar thermal energy facility.
 29 (8) "~~Renewable~~-Clean energy resource" means a solar electric, solar thermal,
 30 wind, hydropower, geothermal, or ocean current or wave energy resource; a
 31 biomass resource, including agricultural waste, animal waste, wood waste,
 32 spent pulping liquors, combustible residues, combustible liquids, combustible
 33 gases, energy crops, or landfill methane; waste heat derived from a ~~renewable~~
 34 clean energy resource and used to produce electricity or useful, measurable
 35 thermal energy at a retail electric customer's facility; nuclear energy resources,
 36 including an uprate to a nuclear energy facility; fusion energy; or hydrogen
 37 derived from a ~~renewable~~-clean energy resource. "~~Renewable~~-Clean energy
 38 resource" does not include peat, a ~~fossil fuel, or nuclear energy resource.~~ or a
 39 ~~fossil fuel.~~
 40 (b) Renewable-Clean Energy and Energy Efficiency Standards (~~REPS~~)-(CEPS) for
 41 Electric Public Utilities. –
 42 (1) Each electric public utility in the State shall be subject to a Renewable-Clean
 43 Energy and Energy Efficiency Portfolio Standard (~~REPS~~)-CEPS according to
 44 the following schedule:
 45
 46 Calendar Year REPS-CEPS Requirement
 47 2012 3% of 2011 North Carolina retail sales
 48 2015 6% of 2014 North Carolina retail sales
 49 2018 10% of 2017 North Carolina retail sales
 50 2021 and thereafter 12.5% of 2020 North Carolina retail sales

- 1 (2) An electric public utility may meet the requirements of this section by any one
- 2 or more of the following:
- 3 a. Generate electric power at a new ~~renewable clean~~ energy facility.
- 4 b. Use a ~~renewable clean~~ energy resource to generate electric power at a
- 5 generating facility other than the generation of electric power from
- 6 waste heat derived from the combustion of fossil fuel.
- 7 c. Reduce energy consumption through the implementation of an energy
- 8 efficiency measure; provided, however, an electric public utility
- 9 subject to the provisions of this subsection may meet up to twenty-five
- 10 percent (25%) of the requirements of this section through savings due
- 11 to implementation of energy efficiency measures. Beginning in
- 12 calendar year 2021 and each year thereafter, an electric public utility
- 13 may meet up to forty percent (40%) of the requirements of this section
- 14 through savings due to implementation of energy efficiency measures.
- 15 d. Purchase electric power from a new ~~renewable clean~~ energy facility.
- 16 Electric power purchased from a new ~~renewable clean~~ energy facility
- 17 located outside the geographic boundaries of the State shall meet the
- 18 requirements of this section if the electric power is delivered to a
- 19 public utility that provides electric power to retail electric customers
- 20 in the State; provided, however, the electric public utility shall not sell
- 21 the renewable energy certificates created pursuant to this paragraph to
- 22 another electric public utility.
- 23 e. Purchase renewable energy certificates derived from in-State or
- 24 out-of-state new ~~renewable clean~~ energy facilities. Certificates derived
- 25 from out-of-state new ~~renewable clean~~ energy facilities shall not be
- 26 used to meet more than twenty-five percent (25%) of the requirements
- 27 of this section, provided that this limitation shall not apply to an
- 28 electric public utility with less than 150,000 North Carolina retail
- 29 jurisdictional customers as of December 31, 2006.
- 30 f. Use electric power that is supplied by a new ~~renewable clean~~ energy
- 31 facility or saved due to the implementation of an energy efficiency
- 32 measure that exceeds the requirements of this section for any calendar
- 33 year as a credit towards the requirements of this section in the
- 34 following calendar year or sell the associated renewable energy
- 35 certificates.
- 36 g. Electricity demand reduction.
- 37 (c) ~~Renewable Clean Energy and Energy Efficiency Standards (REPS)-(CEPS)~~ for
- 38 Electric Membership Corporations and Municipalities. –
- 39 (1) Each electric membership corporation or municipality that sells electric power
- 40 to retail electric power customers in the State shall be subject to a ~~Renewable~~
- 41 ~~Clean Energy and Energy Efficiency Portfolio Standard (REPS)-(CEPS)~~
- 42 according to the following schedule:
- 43
- 44

Calendar Year	REPS-CEPS Requirement
45 2012	3% of 2011 North Carolina retail sales
46 2015	6% of 2014 North Carolina retail sales
47 2018 and thereafter	10% of 2017 North Carolina retail sales
- 48 (2) An electric membership corporation or municipality may meet the
- 49 requirements of this section by any one or more of the following:
- 50 a. Generate electric power at a new ~~renewable clean~~ energy facility.

- 1 b. Reduce energy consumption through the implementation of
- 2 demand-side management or energy efficiency measures.
- 3 c. Purchase electric power from a ~~renewable-clean~~ energy facility or a
- 4 hydroelectric power facility, provided that no more than thirty percent
- 5 (30%) of the requirements of this section may be met with
- 6 hydroelectric power, including allocations made by the Southeastern
- 7 Power Administration.
- 8 d. Purchase renewable energy certificates derived from in-State or
- 9 out-of-state ~~renewable-clean~~ energy facilities. An electric power
- 10 supplier subject to the requirements of this subsection may use
- 11 certificates derived from out-of-state ~~renewable-clean~~ energy facilities
- 12 to meet no more than twenty-five percent (25%) of the requirements
- 13 of this section.
- 14 e. Acquire all or part of its electric power through a wholesale purchase
- 15 power agreement with a wholesale supplier of electric power whose
- 16 portfolio of supply and demand options meets the requirements of this
- 17 section.
- 18 f. Use electric power that is supplied by a new ~~renewable-clean~~ energy
- 19 facility or saved due to the implementation of demand-side
- 20 management or energy efficiency measures that exceeds the
- 21 requirements of this section for any calendar year as a credit towards
- 22 the requirements of this section in the following calendar year or sell
- 23 the associated renewable energy certificates.
- 24 g. Electricity demand reduction.

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

40	Requirement for Solar
41 Calendar Year	Energy Resources
42 2010	0.02%
43 2012	0.07%
44 2015	0.14%
45 2018	0.20%

46 (e) Compliance With ~~REPS-CEPS~~ Requirement Through Use of Swine Waste Resources.
 47 – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent
 48 (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State
 49 shall be supplied, or contracted for supply in each year, by swine waste. The electric power
 50 suppliers, in the aggregate, shall comply with the requirements of this subsection according to
 51 the following schedule:

1		
2		Requirement for Swine
3	Calendar Year	Waste Resources
4	2012	0.07%
5	2015	0.14%
6	2018	0.20%

7 (f) Compliance With ~~REPS~~ CEPS Requirement Through Use of Poultry Waste
 8 Resources. – For calendar year 2014 and for each calendar year thereafter, at least 900,000
 9 megawatt hours of the total electric power sold to retail electric customers in the State or an
 10 equivalent amount of energy shall be supplied, or contracted for supply in each year, by poultry
 11 waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric
 12 power suppliers, in the aggregate, shall comply with the requirements of this subsection
 13 according to the following schedule:

14		
15		Requirement for Poultry
16	Calendar Year	Waste Resources
17	2012	170,000 megawatt hours
18	2013	700,000 megawatt hours
19	2014	900,000 megawatt hours

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

36 ...
 37 (i) Adoption of Rules. – The Commission shall adopt rules to implement the provisions
 38 of this section. In developing rules, the Commission shall:

- 39 (1) Provide for the monitoring of compliance with and enforcement of the
 40 requirements of this section.
- 41 (2) Include a procedure to modify or delay the provisions of subsections (b), (c),
 42 (d), (e), and (f) of this section in whole or in part if the Commission determines
 43 that it is in the public interest to do so. The procedure adopted pursuant to this
 44 subdivision shall include a requirement that the electric power supplier
 45 demonstrate that it made a reasonable effort to meet the requirements set out
 46 in this section.
- 47 (3) Ensure that energy credited toward compliance with the provisions of this
 48 section not be credited toward any other purpose, including another ~~renewable~~
 49 clean energy portfolio standard or voluntary ~~renewable~~ clean energy purchase
 50 program in this State or any other state.

- 1 (4) Establish standards for interconnection of ~~renewable-clean~~ energy facilities
 2 and other nonutility-owned generation with a generation capacity of 10
 3 megawatts or less to an electric public utility's distribution system; provided,
 4 however, that the Commission shall adopt, if appropriate, federal
 5 interconnection standards. The standards adopted pursuant to this subdivision
 6 shall include an expedited review process for swine and poultry waste to
 7 energy projects of two megawatts (MW) or less and other measures necessary
 8 and appropriate to achieve the objectives of subsections (e) and (f) of this
 9 section.
- 10 (5) Ensure that the owner and operator of each ~~renewable-clean~~ energy facility
 11 that delivers electric power to an electric power supplier is in substantial
 12 compliance with all federal and state laws, regulations, and rules for the
 13 protection of the environment and conservation of natural resources.
- 14 (6) Consider whether it is in the public interest to adopt rules for electric public
 15 utilities for net metering of ~~renewable-clean~~ energy facilities with a generation
 16 capacity of one megawatt or less.
- 17 (7) Develop procedures to track and account for renewable energy certificates,
 18 including ownership of renewable energy certificates that are derived from a
 19 customer owned ~~renewable-clean~~ energy facility as a result of any action by a
 20 customer of an electric power supplier that is independent of a program
 21 sponsored by the electric power supplier.
- 22 (j) Repealed by Session Laws 2021-23, s. 16, effective May 17, 2021.
- 23 (k) Tracking of Renewable Energy Certificates. – No later than July 1, 2010, the
 24 Commission shall develop, implement, and maintain an Internet Web site for the online tracking
 25 of renewable energy certificates in order to verify the compliance of electric power suppliers with
 26 the ~~REPS-CEPS~~ requirements of this section and to facilitate the establishment of a market for
 27 the purchase and sale of renewable energy certificates.
- 28 (l) The owner, including an electric power supplier, of each ~~renewable-clean~~ energy
 29 facility or new ~~renewable-clean~~ energy facility, whether or not required to obtain a certificate of
 30 public convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy
 31 certificates it earns to be eligible for use by an electric power supplier to comply with
 32 G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a
 33 registration statement in the form prescribed by the Commission and remit to the Commission
 34 the fee required pursuant to G.S. 62-300(a)(16)."

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

36 "**§ 62-2. Declaration of policy.**

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

42 ...

- 43 (10) To promote the development of ~~renewable-clean~~ energy and energy efficiency
 44 through the implementation of a ~~Renewable-Clean~~ Energy and Energy
 45 Efficiency Portfolio Standard (~~REPS~~)-(CEPS) that will do all of the following:
- 46 a. Diversify the resources used to reliably meet the energy needs of
 47 consumers in the State.
 - 48 b. Provide greater energy security through the use of indigenous energy
 49 resources available within the State.
 - 50 c. Encourage private investment in ~~renewable-clean~~ energy and energy
 51 efficiency.

- d. Provide improved air quality and other benefits to energy consumers and citizens of the State."

SECTION 1.(c) G.S. 62-110.8 reads as rewritten:

"§ 62-110.8. Competitive procurement of ~~renewable-clean~~ energy.

(a) Each electric public utility shall file for Commission approval a program for the competitive procurement of energy and capacity from ~~renewable-clean~~ energy facilities with the purpose of adding ~~renewable-clean~~ energy to the State's generation portfolio in a manner that allows the State's electric public utilities to continue to reliably and cost-effectively serve customers' future energy needs. ~~Renewable-Clean~~ energy facilities eligible to participate in the competitive procurement shall include those facilities that use ~~renewable-clean~~ energy resources identified in G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80 megawatts (MW) or less that are placed in service after the date of the electric public utility's initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of this section, the electric public utilities shall issue requests for proposals to procure and shall procure, energy and capacity from ~~renewable-clean~~ energy facilities in the aggregate amount of 2,660 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months beginning when the Commission approves the program. The Commission shall require the additional competitive procurement of ~~renewable-clean~~ energy capacity by the electric public utilities in an amount that includes all of the following: (i) any unawarded portion of the initial competitive procurement required by this subsection; (ii) any deficit in ~~renewable-clean~~ energy capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any capacity reallocated pursuant to G.S. 62-159.2.

(b) Electric public utilities may jointly or individually implement the aggregate competitive procurement requirements set forth in subsection (a) of this section and may satisfy such requirements for the procurement of ~~renewable-clean~~ energy capacity to be supplied by ~~renewable-clean~~ energy facilities through any of the following: (i) ~~renewable-clean~~ energy facilities to be acquired from third parties and subsequently owned and operated by the soliciting public utility or utilities; (ii) ~~renewable-clean~~ energy facilities to be constructed, owned, and operated by the soliciting public utility or utilities subject to the limitations of subdivision (4) of this subsection; or (iii) the purchase of ~~renewable-clean~~ energy, capacity, and environmental and ~~renewable-clean~~ attributes from ~~renewable-clean~~ energy facilities owned and operated by third parties that commit to allow the procuring public utility rights to dispatch, operate, and control the solicited ~~renewable-clean~~ energy facilities in the same manner as the utility's own generating resources. Procured ~~renewable-clean~~ energy capacity, as provided for in this section, shall be subject to the following limitations:

- (1) If prior to the end of the initial 45-month competitive procurement period the public utilities subject to this section have executed power purchase agreements and interconnection agreements for ~~renewable-clean~~ energy capacity within their balancing authority areas that are not subject to economic dispatch or curtailment and were not procured pursuant to G.S. 62-159.2 having an aggregate capacity in excess of 3,500 megawatts (MW), the Commission shall reduce the competitive procurement aggregate amount by the amount of such exceedance. If the aggregate capacity of such ~~renewable clean~~ energy facilities is less than 3,500 megawatts (MW) at the end of the initial 45-month competitive procurement period, the Commission shall require the electric public utilities to conduct an additional competitive procurement in the amount of such deficit.

...

- (4) No more than thirty percent (30%) of an electric public utility's competitive procurement requirement may be satisfied through the utility's own development of ~~renewable-clean~~ energy facilities offered by the electric public

1 utility or any subsidiary of the electric public utility that is located within the
2 electric public utility's service territory. This limitation shall not apply to any
3 ~~renewable-clean~~ energy facilities acquired by an electric public utility that are
4 selected through the competitive procurement and are located within the
5 electric public utility's service territory.

6 (c) Subject to the aggregate competitive procurement requirements established by this
7 section, the electric public utilities shall have the authority to determine the location and allocated
8 amount of the competitive procurement within their respective balancing authority areas, whether
9 located inside or outside the geographic boundaries of the State, taking into consideration (i) the
10 State's desire to foster diversification of siting of ~~renewable-clean~~ energy resources throughout
11 the State; (ii) the efficiency and reliability impacts of siting of additional ~~renewable-clean~~ energy
12 facilities in each public utility's service territory; and (iii) the potential for increased delivered
13 cost to a public utility's customers as a result of siting additional ~~renewable-clean~~ energy facilities
14 in a public utility's service territory, including additional costs of ancillary services that may be
15 imposed due to the operational or locational characteristics of a specific ~~renewable-clean~~ energy
16 resource technology, such as nondispatchability, unreliability of availability, and creation or
17 exacerbation of system congestion that may increase redispatch costs.

18 (d) The competitive procurement of ~~renewable-clean~~ energy capacity established
19 pursuant to this section shall be independently administered by a third-party entity to be approved
20 by the Commission. The third-party entity shall develop and publish the methodology used to
21 evaluate responses received pursuant to a competitive procurement solicitation and to ensure that
22 all responses are treated equitably. All reasonable and prudent administrative and related
23 expenses incurred to implement this subsection shall be recovered from market participants
24 through administrative fees levied upon those that participate in the competitive bidding process,
25 as approved by the Commission.

26 ...

27 (g) An electric public utility shall be authorized to recover the costs of all purchases of
28 energy, capacity, and environmental and ~~renewable-clean~~ attributes from third-party ~~renewable~~
29 ~~clean~~ energy facilities and to recover the authorized revenue of any utility-owned assets that are
30 procured pursuant to this section through an annual rider approved by the Commission and
31 reviewed annually. Provided it is in the public interest, the authorized revenue for any ~~renewable~~
32 ~~clean~~ energy facilities owned by an electric public utility may be calculated on a market basis in
33 lieu of cost-of-service based recovery, using data from the applicable competitive procurement
34 to determine the market price in accordance with the methodology established by the
35 Commission pursuant to subsection (h) of this section. The annual increase in the aggregate
36 amount of these costs that are recoverable by an electric public utility pursuant to this subsection
37 shall not exceed one percent (1%) of the electric public utility's total North Carolina retail
38 jurisdictional gross revenues for the preceding calendar year.

39 (h) The Commission shall adopt rules to implement the requirements of this section, as
40 follows:

- 41 (1) Oversight of the competitive procurement program.
- 42 (2) To provide for a waiver of regulatory conditions or code of conduct
43 requirements that would unreasonably restrict a public utility or its affiliates
44 from participating in the competitive procurement process, unless the
45 Commission finds that such a waiver would not hold the public utility's
46 customers harmless.
- 47 (3) Establishment of a procedure for expedited review and approval of certificates
48 of public convenience and necessity, or the transfer thereof, for ~~renewable~~
49 ~~clean~~ energy facilities owned by the public utility and procured pursuant to
50 this section. The Commission shall issue an order not later than 30 days after
51 a petition for a certificate is filed by the public utility.

- 1 (4) Establishment of a methodology to allow an electric public utility to recover
2 its costs pursuant to subsection (g) of this section.
3 (5) Repealed by Session Laws 2021-165, s. 2(b), effective October 13, 2021.
4 (i) The requirements of this section shall not apply to an electric public utility serving
5 fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

6 **SECTION 1.(d)** G.S. 62-126.4 reads as rewritten:

7 **"§ 62-126.4. Commission to establish net metering rates.**

8 (a) Each electric public utility shall file for Commission approval revised net metering
9 rates for electric customers that (i) own a ~~renewable~~-clean energy facility for that person's own
10 primary use or (ii) are customer generator lessees.

11 ...

12 (c) Until the rates have been approved by the Commission as required by this section, the
13 rate shall be the applicable net metering rate in place at the time the facility interconnects. Retail
14 customers that own and install an on-site ~~renewable~~-clean energy facility and interconnect to the
15 grid prior to the date the Commission approves new metering rates may elect to continue net
16 metering under the net metering rate in effect at the time of interconnection until January 1,
17 2027."

18 **SECTION 1.(e)** G.S. 62-126.8 reads as rewritten:

19 **"§ 62-126.8. Community solar energy facilities.**

20 ...

21 (e) The Commission may approve, disapprove, or modify a community solar energy
22 facility program. The program shall meet all of the following requirements:

23 ...

- 24 (8) Allow subscribers to have the option to own the renewable energy certificates
25 produced by the community solar energy facility."

26 **SECTION 1.(f)** G.S. 62-133.2 reads as rewritten:

27 **"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

28 (a) The Commission shall permit an electric public utility that generates electric power
29 by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes
30 in the cost of fuel and fuel-related costs used in providing its North Carolina customers with
31 electricity from the cost of fuel and fuel-related costs established in the electric public utility's
32 previous general rate case on the basis of cost per kilowatt hour.

33 (a1) As used in this section, "cost of fuel and fuel-related costs" means all of the following:

34 ...

- 35 (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total
36 delivered costs of all purchases of power from ~~renewable~~-clean energy
37 facilities and new ~~renewable~~-clean energy facilities pursuant to G.S. 62-133.8
38 or to comply with any federal mandate that is similar to the requirements of
39 subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.

40 ...

- 41 (11) All nonadministrative costs related to the ~~renewable~~-clean energy procurement
42 pursuant to G.S. 62-159.2 not recovered from the program participants.

43"

44 **SECTION 1.(g)** G.S. 62-133.16 reads as rewritten:

45 **"§ 62-133.16. Performance-based regulation authorized.**

46 ...

47 (d) Commission Action on Application. –

48 ...

- 49 (2) In reviewing any such PBR application under this section, the Commission
50 may consider whether the PBR application:

51 a. Encourages peak load reduction or efficient use of the system.

1 b. Encourages utility-scale ~~renewable clean~~ energy and storage.

2"

3 **SECTION 1.(h)** G.S. 62-133.20 reads as rewritten:

4 "**§ 62-133.20. Cleanfields ~~renewable clean~~ energy demonstration parks.**

5 (a) Criteria for Designation. – A parcel or tract of land, or any combination of contiguous
6 parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields
7 ~~renewable clean~~ energy demonstration park:

8 ...

9 (7) The creation of the park is for the purpose of featuring clean-energy facilities,
10 laboratories, and companies, thereby spurring economic growth by attracting
11 ~~renewable clean~~ energy and alternative fuel industries.

12 (8) The development plan for the park must include at least three ~~renewable clean~~
13 energy or alternative fuel facilities.

14 (9) The development plan for the park must include a biomass ~~renewable clean~~
15 energy facility that utilizes refuse derived fuel, including yard waste, wood
16 waste, and waste generated from construction and demolition, but not
17 including wood directly derived from whole trees, as the primary source for
18 generating energy. The refuse derived fuel shall undergo an enhanced
19 recycling process before being utilized by the biomass ~~renewable clean~~ energy
20 facility.

21 (10) The initial biomass ~~renewable clean~~ energy facility will not be a major source,
22 as that term is defined in 40 C.F.R. § 70.2 (July 1, 2009 edition), for air quality
23 purposes. The biomass ~~renewable clean~~ energy facility will remain in
24 compliance with all applicable State and federal emissions requirements
25 throughout its operating life.

26 (b) Certification. – The owner of a parcel or tract of land that seeks to establish a
27 cleanfields ~~renewable clean~~ energy demonstration park shall submit to the Secretary of State an
28 application for designation. The Secretary shall examine the application and may request any
29 additional information from the owner of the parcel or tract of land or the Department of
30 Environment and Natural Resources needed to verify that the project meets all of the criteria for
31 designation. The Secretary may rely on certifications provided by the owner or the Department
32 of Environment and Natural Resources that the criteria are met. If the Secretary determines that
33 the project meets all of the criteria, the Secretary shall make and issue a certificate designating
34 the parcel or tract of land as a cleanfields ~~renewable clean~~ energy demonstration park to the
35 owner and shall file and record the application and certificate in an appropriate book of record.
36 The parcel or tract of land shall be designated as a cleanfields ~~renewable clean~~ energy
37 demonstration park on the date the certificate is filed and recorded.

38 (c) ~~Renewable Clean~~ Energy Generation. – The definitions in G.S. 62-133.8 apply to this
39 section. If the Utilities Commission determines that a biomass ~~renewable clean~~ energy facility
40 located in the cleanfields ~~renewable clean~~ energy demonstration park is a new ~~renewable clean~~
41 energy facility, the Commission shall assign triple credit to any electric power or renewable
42 energy certificates generated from ~~renewable clean~~ energy resources at the biomass ~~renewable~~
43 ~~clean~~ energy facility that are purchased by an electric power supplier for the purposes of
44 compliance with G.S. 62-133.8. The additional credits assigned to the first 10 megawatts of
45 biomass ~~renewable clean~~ energy facility generation capacity shall be eligible for use to meet the
46 requirements of G.S. 62-133.8(f). The additional credits assigned to the first 10 megawatts of
47 biomass ~~renewable clean~~ energy facility generation capacity shall first be used to satisfy the
48 requirements of G.S. 62-133.8(f). Only when the requirements of G.S. 62-133.8(f) are met, shall
49 the additional credits assigned to the first 10 megawatts of biomass ~~renewable clean~~ energy
50 facility generation capacity be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit

1 shall apply only to the first 20 megawatts of biomass ~~renewable-clean~~ energy facility generation
2 capacity located in all cleanfields ~~renewable-clean~~ energy demonstration parks in the State."

3 **SECTION 1.(i)** G.S. 62-153 reads as rewritten:

4 "**§ 62-153. Contracts of public utilities with certain companies and for services.**

5 ...

6 (b) No public utility shall pay any fees, commissions or compensation of any description
7 whatsoever to any affiliated or subsidiary holding, managing, operating, constructing,
8 engineering, financing or purchasing company or agency for services rendered or to be rendered
9 without first filing copies of all proposed agreements and contracts with the Commission and
10 obtaining its approval. Provided, however, that this subsection shall not apply to (i) motor carriers
11 of passengers or (ii) power purchase agreements entered into pursuant to the competitive
12 ~~renewable-clean~~ energy procurement process established pursuant to G.S. 62-110.8."

13 **SECTION 1.(j)** G.S. 62-156 reads as rewritten:

14 "**§ 62-156. Power sales by small power producers to public utilities.**

15 ...

16 (c) Rates to be paid by electric public utilities to small power producers not eligible for
17 the utility's standard contract pursuant to subsection (b) of this section shall be established
18 through good-faith negotiations between the utility and small power producer, subject to the
19 Commission's oversight as required by law. In establishing rates for purchases from such small
20 power producers, the utility shall design rates consistent with the most recent
21 Commission-approved avoided cost methodology for a fixed five-year term. Rates for such
22 purchases shall take into account factors related to the individual characteristics of the small
23 power producer, as well as the factors identified in subdivisions (2) and (3) of subsection (b) of
24 this section. Notwithstanding this subsection, small power producers that produce electric energy
25 primarily by the use of any of the following ~~renewable-clean~~ energy resources may negotiate for
26 a fixed-term contract that exceeds five years: (i) swine or poultry waste; (ii) hydropower, if the
27 hydroelectric power facility total capacity is equal to or less than five megawatts (MW); or (iii)
28 landfill gas, manure digester gas, agricultural waste digester gas, sewage digester gas, or sewer
29 sludge digester gas.

30"

31 **SECTION 1.(k)** G.S. 62-159.2 reads as rewritten:

32 "**§ 62-159.2. Direct ~~renewable-clean~~ energy procurement for major military installations,
33 public universities, and large customers.**

34 ...

35 (b) Each public utility's program application required by this section shall provide
36 standard contract terms and conditions for participating customers and for ~~renewable-clean~~
37 energy suppliers from which the electric public utility procures energy and capacity on behalf of
38 the participating customer. The application shall allow eligible customers to select the new
39 ~~renewable-clean~~ energy facility from which the electric public utility shall procure energy and
40 capacity. The standard terms and conditions available to ~~renewable-clean~~ energy suppliers shall
41 provide a range of terms, between two years and 20 years, from which the participating customer
42 may elect. Eligible customers shall be allowed to negotiate with ~~renewable-clean~~ energy suppliers
43 regarding price terms.

44 (c) Each contracted amount of capacity shall be limited to no more than one hundred
45 twenty-five percent (125%) of the maximum annual peak demand of the eligible customer
46 premises. Each public utility shall establish reasonable credit requirements for financial
47 assurance for eligible customers that are consistent with the Uniform Commercial Code of North
48 Carolina. Major military installations and The University of North Carolina are exempt from the
49 financial assurance requirements of this section. The requirements of this subsection shall apply
50 except as otherwise provided by law.

1 (d) The program shall be offered by the electric public utilities subject to this section for
2 a period of five years or until December 31, 2022, whichever is later, and shall not exceed a
3 combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section,
4 where a major military installation is located within its Commission-assigned service territory,
5 at least 100 megawatts (MW) of new ~~renewable-clean~~ energy facility capacity offered under the
6 program shall be reserved for participation by major military installations. At least 250
7 megawatts (MW) of new ~~renewable-clean~~ energy facility capacity offered under the programs
8 shall also be reserved for participation by The University of North Carolina. Major military
9 installations and The University of North Carolina must fully subscribe to all their allocations
10 prior to December 31, 2020, or a period of no more than three years after approval of the program,
11 whichever is later. If any portion of total capacity set aside to major military installations or The
12 University of North Carolina is not used, it shall be reallocated for use by any eligible program
13 participant. If any portion of the 600 megawatts (MW) of ~~renewable-clean~~ energy capacity
14 provided for in this section is not awarded prior to the expiration of the program, it shall be
15 reallocated to and included in a competitive procurement in accordance with G.S. 62-110.8(a).
16 The requirements of this subsection shall apply except as otherwise provided by law.

17 (e) In addition to the participating customer's normal retail bill, the total cost of any
18 ~~renewable-clean~~ energy and capacity procured by or provided by the electric public utility for the
19 benefit of the program customer shall be paid by that customer. The electric public utility shall
20 pay the owner of the ~~renewable-clean~~ energy facility which provided the electricity. The program
21 customer shall receive a bill credit for the energy as determined by the Commission; provided,
22 however, that the bill credit shall not exceed utility's avoided cost. The Commission shall ensure
23 that all other customers are held neutral, neither advantaged nor disadvantaged, from the impact
24 of the ~~renewable-clean~~ electricity procured on behalf of the program customer."

25 **SECTION 1.(l)** G.S. 62-300 reads as rewritten:

26 "**§ 62-300. Particular fees and charges fixed; payment.**

27 (a) The Commission shall receive and collect the following fees and charges in
28 accordance with the classification of utilities as provided in rules and regulations of the
29 Commission, and no others:

30 ...

31 (16) Two hundred fifty dollars (\$250.00) with each application for a certificate of
32 authority to engage in business as an electric generator lessor filed pursuant
33 to G.S. 62-126.7 or each registration statement for a ~~renewable-clean~~ energy
34 facility or new ~~renewable-clean~~ energy facility filed pursuant to
35 G.S. 62-133.8(l).

36"

37 **SECTION 1.(m)** G.S. 143-213 reads as rewritten:

38 "**§ 143-213. Definitions.**

39 Unless the context otherwise requires, the following terms as used in this Article and Articles
40 21A and 21B of this Chapter are defined as follows:

41 ...

42 (12a) The term "farm digester system" means a system, including all associated
43 equipment and lagoon covers, by which gases are collected and processed
44 from an animal waste management system for the digestion of animal biomass
45 for use as a ~~renewable-clean~~ energy resource. A farm digester system shall be
46 considered an agricultural feedlot activity within the meaning of "animal
47 operation" and shall also be considered a part of an "animal waste
48 management system" as those terms are defined in G.S. 143-215.10B.

49 ...

1 (14a) The term "~~renewable~~-clean animal biomass energy resource" means any
2 ~~renewable~~-clean energy resource, as defined in G.S. 62-133.8(a)(8), that
3 utilizes animal waste as a biomass resource, including a farm digester system.
4"

5 **SECTION 1.(n)** G.S. 143B-282 reads as rewritten:

6 "**§ 143B-282. Environmental Management Commission – creation; powers and duties.**

7 (a) There is hereby created the Environmental Management Commission of the
8 Department of Environmental Quality with the power and duty to promulgate rules to be followed
9 in the protection, preservation, and enhancement of the water and air resources of the State.

10 ...

11 (6) The Commission may establish a procedure for evaluating renewable energy
12 technologies that are, or are proposed to be, employed as part of a ~~renewable~~
13 clean energy facility, as defined in G.S. 62-133.8; establish standards to
14 ensure that ~~renewable~~-clean energy technologies do not harm the environment,
15 natural resources, cultural resources, or public health, safety, or welfare of the
16 State; and, to the extent that there is not an environmental regulatory program,
17 establish an environmental regulatory program to implement these protective
18 standards.

19"

20 **SECTION 1.(o)** G.S. 160A-272 reads as rewritten:

21 "**§ 160A-272. Lease or rental of property.**

22 ...

23 (c) Notwithstanding subsection (b1) of this section, the council may approve a lease
24 without treating that lease as a sale of property for any of the following reasons:

25 (1) For the siting and operation of a ~~renewable~~-clean energy facility, as that term
26 is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.

27"

28 **SECTION 1.(p)** G.S. 160D-1320 reads as rewritten:

29 "**§ 160D-1320. Program to finance energy improvements.**

30 (a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North
31 Carolina to promote and encourage ~~renewable~~-clean energy and energy efficiency within the
32 State in order to conserve energy, promote economic competitiveness, and expand employment
33 in the State. The General Assembly also finds that a local government has an integral role in
34 furthering this purpose by promoting and encouraging ~~renewable~~-clean energy and energy
35 efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a
36 local government may establish a program to finance the purchase and installation of distributed
37 generation ~~renewable~~-clean energy sources or energy efficiency improvements that are
38 permanently affixed to residential, commercial, or other real property.

39 (b) Financing Assistance. – A local government may establish a revolving loan fund and
40 a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase
41 and installation of distributed generation ~~renewable~~-clean energy sources or energy efficiency
42 improvements that are permanently fixed to residential, commercial, or other real property. A
43 local government may establish other local government energy efficiency and distributed
44 generation ~~renewable~~-clean energy source finance programs funded through federal grants. A
45 local government may use State and federal grants and loans and its general revenue for this
46 financing. The annual interest rate charged for the use of funds from the revolving fund may not
47 exceed eight percent (8%) per annum, excluding other fees for loan application review and
48 origination. The term of any loan originated under this section may not be greater than 20 years.

49 (c) Definition. – As used in this Article, "~~renewable~~-clean energy source" has the same
50 meaning as "~~renewable~~-clean energy resource" in G.S. 62-133.8."

51 **SECTION 2.** G.S. 62-110.1 reads as rewritten:

1 "§ 62-110.1. Certificate for construction of generating facility; analysis of long-range needs
2 for expansion of facilities; ongoing review of construction costs; inclusion of
3 approved construction costs in rates.

4 ...

5 (e) As a condition for receiving a certificate, the applicant shall file an estimate of
6 construction costs in such detail as the Commission may require. The Commission shall hold a
7 public hearing on each application and no certificate shall be granted unless the Commission has
8 approved the estimated construction costs and made a finding that construction will be consistent
9 with the Commission's plan for expansion of electric generating capacity. A certificate for the
10 construction of a coal ~~or nuclear~~ facility shall be granted only if the applicant demonstrates and
11 the Commission finds that energy efficiency measures; demand-side management; ~~renewable~~
12 clean energy resource generation; combined heat and power generation; or any combination
13 thereof, would not establish or maintain a more cost-effective and reliable generation system and
14 that the construction and operation of the facility is in the public interest. In making its
15 ~~determination, determination whether to grant a certificate for any generating facility,~~ the
16 Commission shall consider resource and fuel ~~diversity—diversity,~~ power quality, resource
17 availability, dispatchability, capacity, and reasonably anticipated future ~~operating—operating,~~
18 maintenance, and decommissioning costs. Once the Commission grants a certificate, no public
19 utility shall cancel construction of a generating unit or facility without approval from the
20 Commission based upon a finding that the construction is no longer in the public interest.

21 ...

22 (g) The certification requirements of this section shall not apply to (i) a nonutility-owned
23 generating facility fueled by ~~renewable—clean~~ energy resources under two megawatts in capacity;
24 (ii) to persons who construct an electric generating facility primarily for that person's own use
25 and not for the primary purpose of producing electricity, heat, or steam for sale to or for the
26 public for compensation; or (iii) a solar energy facility or a community solar energy facility, as
27 provided by and subject to the limitations of Article 6B of this Chapter. However, such persons
28 shall be required to report the proposed construction of the facility and the completion of the
29 facility to the Commission and the interconnecting public utility. Such reports shall be for
30 informational purposes only and shall not require action by the Commission or the Public Staff.

31 (h) Expired pursuant to its own terms, effective January 1, 2011."

32 **SECTION 3.** This act is effective when it becomes law.